



Student Officer Disciplinary Procedure

Introduction

This procedure is designed to help and encourage all Full-time and Part-time Officers to achieve and maintain standards of conduct. The aim of this procedure is to ensure consistent and fair treatment for everyone within the organisation.

Definitions

Disciplinary Meetings: Any meeting which is held as part of disciplinary proceedings, including investigatory meetings, disciplinary hearings and appeal meetings.

Disciplinary Action: Formal action taken against an officer, for example issuing a written warning for misconduct, up to dismissal for gross misconduct.

Conduct: An Officer's behaviour within the work environment and/or when representing the Students' Union.

Gross Misconduct: An act which is so serious it may justify possible dismissal.

Disciplinary Sanction: An action taken against an officer as a result of misconduct. Sanctions may be a written warning, a final written warning or dismissal. They may also include actions short of dismissal such as reduction of duties.

Summary Dismissal: Dismissal without notice, usually only justifiable for acts of gross misconduct where the facts are not in dispute.

Scope

This procedure applies to all Full-time and Part-time Officers of York St John Students' Union and can only be initiated by staff members or Trustees.

Policy

1. Principles

- 1.1 Where appropriate, informal action will be considered to resolve problems.
- 1.2 No disciplinary action will be taken against an officer until the case has been fully investigated and a disciplinary meeting has taken place. The officer will

be advised in writing of the nature of the complaint against them and the arrangements for the meeting.

- 1.3 The officer will be given the opportunity to state their case before any decision is made.
- 1.4 At all stages of these procedures, the officer will have the right to be accompanied by a friend, work colleague or trade union representative but excluding a practising lawyer or HR professional. This includes investigation, disciplinary and appeal meetings.
- 1.5 Matters covered in the disciplinary procedure will be dealt with without unreasonable delay and in accordance with the timescales indicated, unless there are extenuating circumstances. However, York St John Students' Union reserves the right to amend these timescales in the interests of fairness and justice, such as a further investigation being required, or the timescale for holding a meeting extended to accommodate the availability of witnesses or companions.
- 1.6 In reaching decisions on appropriate disciplinary sanctions, decision makers under this Procedure will take into account any mitigating circumstances.
- 1.7 No officer will be dismissed for a first breach of discipline, except in the case of gross misconduct.
- 1.8 The officer will have the right to appeal against any disciplinary sanction imposed.

2. Types of Disciplinary Issues

- 2.1 There are a number of problems which can be dealt with through this disciplinary procedure. Some examples have been listed below as guidance. These lists are designed to provide guidance on the types of matters that could be covered but are not intended to be exclusive or exhaustive. Capability examples have also been provided, to show what would be deemed as a capability issue and what would be deemed as a disciplinary issue. If the issue is one of capability and poor performance, the capability procedure should be followed, please refer to Student Officer Capability Procedure.

2.2 Capability

A failure to achieve or maintain an acceptable level of performance in the duties of the role for reasons not directly within the officer's control. This may be due to a number of factors such as:

- poor performance due to insufficient skill or aptitude
- ill-health, including frequent short term, or long-term sickness absences

2.3 Misconduct

Examples in this category could include:

- Unauthorised absence
- Failure to follow the correct absence reporting procedure
- Persistent unsatisfactory timekeeping
- Intoxication at work
- Failure to comply with a reasonable request from the President or Chief Executive Officer
- Careless damage, destruction or waste of Students' Union property
- Failure to follow Students' Union regulations, procedures and practices
- Misuse of Students' Union facilities (for example Internet or telephone)
- Demonstrating behaviour towards colleagues, students or other stakeholders which causes difficult relationships or damages the Students' Union's reputation

2.4 Gross Misconduct

Examples in this category could include:

- Theft or misuse of funds
- Bringing York St John Students' Union into disrepute
- Maliciously divulging confidential information
- Unlawful or unethical use of the internet
- Violence or vandalism
- Harassment or bullying
- Breach of Health and Safety regulations
- Failure to adhere to the Students' Union's financial procedures
- Wilful refusal to carry out the duties of the post

2.5 Criminal Offence or Conviction

Conviction or being charged with a criminal offence outside the workplace and normal working hours may be deemed as misconduct or gross misconduct depending on the nature of the offence, effect of the charge on the officer's suitability to do the role and their relationship with the Students' Union, colleagues, students and those external to York St John and the sentence incurred.

3. External Trustee

3.1 The Board of Trustees shall annually appoint an External Trustee to supervise this procedure, "the Supervising Trustee". This Supervising Trustee shall usually be the External Trustee elected to sit on the Staffing Committee, a sub-committee of the Trustee Board.

3.2 The Trustee Board shall also appoint a Disciplinary Panel to hear disciplinary hearings. There may be a need for an Appeals Panel, which shall be made up

from people who have not previously been involved in the matter under appeal. The Panels will each consist of three people including:

- One Officer Trustee
- One Student Trustee
- One External Trustee

3.3 The Panels will appoint their own Chairs from within their number.

3.4 A member of the Senior Management Team will provide administrative support for the Panels.

3.5 No person involved in the case or who has a conflict of interest can be on the Disciplinary Panel or Appeals Panel.

3.6. No person involved in the Disciplinary Panel can be on the Appeals Panel.

3.7 If, due to previous involvement and/or conflicts of interest, there are no trustees who can participate in the Disciplinary Panel or Appeals Panel then trustees from another Students' Union can be called upon.

4. Officer Accountability Procedure

Concerns regarding the political performance in the role as Full-time or Part-time Officer are primarily to be dealt with under the Student Officer Accountability Procedure by Senate. However, matters raised under the procedure that result in Motions of No Confidence will be referred to the Board of Trustees. They will consider whether the matters complained of under that procedure ought to give rise to disciplinary action.

Procedure

5. Informal Action

5.1 If an officers' conduct in post is considered to be unsatisfactory, the issue should be raised with either the President or the Chief Executive in the first instance who will pass it on to the External Trustee if they feel that this is the appropriate course of action.

5.2 It is hoped that an informal discussion with the External Trustee will solve any problems in the first instance.

5.3 If informal action is taken, the External Trustee will discuss with the officer the reason for taking action, the consequences of the officers' conduct not meeting expected standards, the improvements required in the future and the expected timescale for improvement. This conversation will be confirmed in writing to the officer.

- 5.4 If informal action fails to resolve the problem, or it is of a more serious nature, formal action may be taken.
- 5.5 Problems relating to misconduct will normally be dealt with through the Student Officer Disciplinary Procedure, problems relating to performance will normally be dealt with through the Student Officer Capability Procedure. If there is any doubt as to which procedure applies to a particular circumstance, guidance should be sought from the Chief Executive.

6. Disciplinary Procedure

Investigation

- 6.1 The first stage of the formal disciplinary process is to conduct an investigation. The purpose of the investigation is to gather evidence and decide whether the matter needs to be taken further, and allegation of misconduct put to the officer. The investigation process may involve gathering witness statements where required.
- 6.2 The External Trustee will normally appoint an impartial third party to investigate the matter, the "Investigating Officer", to carry out the disciplinary investigation. The Investigating Officer will usually be a member of the Senior Management Team of the Students' Union. Their findings will be set out in the investigation report and the External Trustee's decision on whether or not to progress to a disciplinary hearing will be based on the information and evidence gathered during the investigation.
- 6.3 As part of the investigation, the officer may be invited to attend an investigatory meeting to help establish the facts of the case. The officer will be given advance notice of the meeting and what is to be discussed.

Invitation to Disciplinary Hearing

- 6.4 If the outcome of the investigation is to invite the officer to attend a disciplinary hearing the officer will be informed in writing. They will be given reasonable notice of the date and time of the hearing, which will usually be at least 48 hours, except where this is not practical due to extenuating circumstances.

Disciplinary Hearing

- 6.5 Where a matter is to proceed to a disciplinary hearing, the External Trustee will appoint a Disciplinary Panel. A member of the Senior Management Team (not the same member acting as the Investigating Officer) will also be in attendance to take notes.
- 6.6 During the meeting, the Investigating Officer will explain the allegation against the officer and outline the findings of the investigation. The officer will then be given the opportunity to respond to the allegations, put their case

across, and ask questions and make the Disciplinary Panel aware of any mitigating factors or extenuating circumstances which may be relevant.

- 6.7 The hearing will then be adjourned to allow the Disciplinary Panel to consider whether it is appropriate to take any formal disciplinary action. The adjournment will normally be for a short period of time and the officer will be asked to wait nearby so that they can be informed of the outcome quickly.
- 6.8 On occasion it may be necessary to adjourn the hearing for a longer period of time, to allow further investigations to take place.
- 6.9 If formal disciplinary action is taken, the Disciplinary Panel will confirm the decision in writing to the officer after the hearing.
- 6.10 After the hearing the officer will receive written confirmation of any warning issued to them, along with an outline of the improvements expected of them, the timeframe within which the improvements are expected and the length of time the warning will remain on the officer's file.

7. Potential Outcomes

7.1 No Action Taken

If the Disciplinary Panel feels that no formal disciplinary action needs to be taken, the officer will be informed of this decision and the notes from the investigation and hearing will be held on their file for six months.

Alternatively the Disciplinary Panel may decide that further training, support or coaching is the most appropriate action under the circumstances.

7.2 First Written Warning

Issued generally for a first breach of disciplinary standard, or where the issue is less serious in nature. The officer will be notified that any further breach may lead to further disciplinary action being taken. A first written warning will normally remain on file for six months from the date of issue, or for a length of time considered appropriate in the circumstances.

7.3 Final Written Warning

Issued for repetition of a breach of disciplinary standards whilst a first written warning is still on file, or for a first offence that is more serious in nature. The officer will be notified that any further breach at this stage may lead to their dismissal. A final written warning will normally remain on the officers' file for twelve months from the date of issue, or for a length of time considered appropriate in the circumstances.

7.4 Dismissal and other Sanctions

If performance or conduct does not improve to the levels required and there is a repeated breach of disciplinary standards whilst a final written warning is on file, or in a case of gross misconduct, the appropriate disciplinary sanction could be dismissal. Other sanctions short of dismissal could include reduction of duties.

If the Officer is dismissed they will normally receive the notice as stipulated by the Employment Agreement for Full Time Officers, or payment in lieu of notice except in the case of summary dismissal.

7.5 Summary Dismissal without Notice

Summary dismissal without notice will only be considered in serious cases of gross misconduct, where the facts are not in dispute, and there are no apparent mitigating circumstances.

7.6 Suspension

In cases of gross misconduct the officer may be instantly suspended on full pay while the matter is being investigated, until the disciplinary hearing can be held. This is to enable a full investigation into the allegations to be carried out. Suspension is not regarded as a disciplinary sanction and should not be taken as an indication of guilt on the officer's part. The officer will be paid as normal during the period of suspension.

8. Right to appeal

8.1 The officer has the right to appeal at any stage of the disciplinary procedure. Should the officer wish to appeal they should do so in writing to the External Trustee, within five working days of the issue of any warning, dismissal or other disciplinary sanctions being taken. The officer should clearly set out the grounds for their appeal, which should include one or more of the following:

- Why the officer feels the decision taken was not a reasonable response to the facts of the case
- Why the officer finds the decision unfair
- Additional evidence or information which has come to light since the hearing which the officer feels should affect the original decision (the officer should include details of this new evidence/information)

8.2 A meeting will be convened at which the appeal will be heard. This meeting will normally be held within five working days of the written appeal being received, unless this is not practical due to circumstances beyond the control of the Students' Union.

8.3 At this meeting, the officer will be given the opportunity to state the case for their appeal, and present any new evidence or information. The facts of the case will be considered again and a final decision made.

8.4 The decision of the Appeal Panel shall be final and will be confirmed to the officer in writing. There is no further right of appeal.

9. Right to be Accompanied

9.1 At all stages of this procedure, the officer will have the right to be accompanied by either a friend, work colleague or trade union representative but excluding a practising lawyer or HR professional. This includes investigation, disciplinary and appeal meetings.

9.2 'Trade union representative' means any employee who is also a trade union official, or an official of a trade union who is not an employee of York St John Students' Union, but who has been certified by their union as being competent to accompany an employee.

9.3 The companion has the right to confer with the officer before and during the meeting and address the hearing but not to answer any questions on the officers' behalf.

9.4 Any York St John Students' Union employee, or full time or part-time officer, who is required to act in the capacity of a companion at a disciplinary meeting will be entitled to a reasonable period of paid time off from work duties to complete this role. This will include a reasonable period of time off to familiarise themselves with the case and confer with the officer being dealt with under this Procedure.

10. Rescheduling Disciplinary Meetings

Any meetings arranged in accordance with this procedure may be postponed if the officer, or another key person, is unexpectedly unable to attend with good reason. Should a second meeting be arranged, and the officer fail to attend without good reason and a third date is arranged, the Students' Union reserves the right to proceed with the meeting on the third occasion in the officer's absence and to reach a decision on the evidence available. Special circumstances will be taken into account, such as serious illness.

11. Sickness absence during a Disciplinary Process

11.1 The ill health of an officer will not usually be ground for abandoning any ongoing disciplinary procedure.

11.2 Where the absence is likely to be short, the Students' Union will wait until the officer recovers and is able to take a full part in the process.

- 11.3 When the absence is ongoing and it appears to the Students' Union that the officer is likely to remain off sick for an extended period, the Students' Union may require the officer to co-operate with an occupational health specialist in determining whether or not the officer is sufficiently fit to take part in the disciplinary process.
- 11.4 Any officer who is signed off sick during a period of suspension will have their suspension cancelled until such time as they become fit for work.
- 11.5 If, following consultation with the occupational health specialist, it appears that the officer is fit to take part in the disciplinary process, the process will continue, although the Students' Union may use its discretion with making reasonable adjustments if required, to continue the process.

12. Confidentiality

Disciplinary proceedings, witness statements and records will, as far as is practicable, be kept confidential.

13. Miscellaneous

- 13.1 No officer, staff member or trustee should comment publicly on any matter that is being dealt with under the procedure. Failure to observe this requirement may result in disciplinary action.
- 13.2 The President or the Chief Executive will deal with any media enquiries relating to the outcomes of this procedure.
- 13.2 It should be noted that disqualification and removal as a trustee is a matter for the Trustee Board and will fall to be decided in accordance with Article 37 of the Students' Union's Articles of Association.