

University of Cumbria Students' Union

(the "Union")

Code of Conduct

("the Code")

1. About the Code

1.1 This Code has been established by the Board of Trustees in accordance with the Union's Constitution. It aims to provide a framework within which the Union can work with Members to maintain satisfactory standards of conduct (and where appropriate, performance) and to encourage improvement where necessary.

1.2 It is the Union's policy to ensure that all matters are dealt with fairly and that steps are taken to establish the facts and to give Members the opportunity to respond before any formal action is taken.

1.3 A vast majority of Members do not hold any office. Some Members however are also Officers or Representatives and in respect of those Members it is appropriate to modify the applicable framework. To that end this Code is divided into two sections.

- Section 1 deals with all Members; and
- Section 2 deals with Officers and Representatives.

1.4 Section 2 is further divided into three parts (A, B and C).

- Part A sets out the informal procedures applicable to Officers and Representatives;
- Part B deals with misconduct by Officers and Representatives;
- Part C deals with performance of Officers and Representatives.

1.5 For the purpose of Section 1, Members are defined as per the Union Constitution and include each and every Student who has not opted out.

1.6 The standards of conduct expected of Officers and Representatives are set out in Appendix 1.

1.7 This Code does not form part of any Officer's contract of employment and it may be amended at any time.

1.8 If a Member has difficulty at any stage of a procedure instigated under this Code because of a disability, the Member should discuss the situation with the Chief Executive as soon as possible.

2. Confidentiality

- 2.1 The Union's aim is to deal with all matters under this Code sensitively and with due respect for the privacy of any individuals involved. All those involved must treat as confidential any information communicated to them in connection with an investigation or disciplinary matter, and no such information should be placed in any publicly accessible forum, including, but not limited to, social media websites.
- 2.2 Members, anyone accompanying them and witnesses, must not make electronic recordings of any meetings or hearings conducted under this Code.
- 2.3 Breach of this part of the Code may be treated as gross misconduct.
- 2.4 Members will normally be told the names of any witnesses whose evidence is relevant to disciplinary proceedings against them, unless the Union reasonably believes that a witness's identity should remain confidential.

3. Scope

- 3.1 Action under this Code may be taken in respect of any conduct at any place or time including (without limitation):
 - (a) on the Union's premises;
 - (b) while the Member is using the Union's facilities or at a Union event;
 - (c) while the Member is representing or acting on behalf of the Union at any event of whatever kind and wherever held;
 - (d) in relation to actions or incidents between two or more representatives of the Union in any or none of the settings above, or in relation to actions or incidents between Union representatives and staff or stakeholders where the Member is participating in Union activity, even online;
 - (e) in the case of Officers and Representatives during the course of carrying out their duties;
 - (f) in the case of Officers and Representatives outside of the course of their duties, where it is appropriate to do so.

4. Making a Complaint about Misconduct

- 4.1 Any person may make a complaint about the conduct of a Member.
- 4.2 The complaint should be made in writing to the External Trustee appointed by the Board of Trustees to supervise the procedures set out in this Code ("Supervising Trustee").
- 4.3 The Supervising Trustee may be assisted by the Chief Executive in carrying out his or her functions under this Code.

- 4.4 The complaint should give details of the name(s) of the person(s) involved, together with details of the allegation(s) (including the date and place at which the alleged action(s) took place), and be delivered as soon as possible after the event(s) complained of (and ideally within ten working days of the occurrence).
- 4.5 Anonymous complains may still be investigated and dealt with. In such cases, the Union will endeavour to take such extra steps and precautions as are appropriate to ensure fairness.
- 4.6 Once a complaint has been made the Union may deal with it even if the Member subsequently asks the Union not to do so. In such cases the Union will endeavour to act sensitively and will take into account, so far as it is reasonable to do so, the complainant's wishes.
- 4.7 Complaints subsequently found to be spurious may be treated as an act of misconduct.
- 4.8 Following receipt of a complaint the Supervising Trustee will determine any necessary further action.
- 4.9 The Supervising Trustee shall report annually to the Board of Trustees on disciplinary matters and the operation of this Code.

5. Criminal Allegations

- 5.1 Where a Member's conduct is the subject of a criminal investigation, charge or conviction the Union will investigate the facts before deciding whether to take formal disciplinary action.
- 5.2 The Union will not usually wait for the outcome of any prosecution before deciding what action, if any, to take. Where a Member is unable or has been advised not to attend a disciplinary hearing or say anything about a pending criminal matter, the Union may have to take a decision based on the available evidence.
- 5.3 In the case of Officers a criminal investigation, charge or conviction relating to conduct outside work may be treated as a disciplinary matter if the Union considers that it is relevant to the Officer's employment.

6. Suspension

- 6.1 If applicable, it may be necessary to suspend the Officer on full pay while any investigation is carried out. Any such suspension will not:
- (a) affect the Officer's trustee status, but he or she may be excluded from some or all of the Union's premises;
 - (b) constitute or be considered a disciplinary action; or
 - (c) imply that any decision has already been made about the allegations.
- 6.2 While suspended, the Officer or Representative should not visit the Union's premises or contact any of the Union's stakeholders including suppliers,

contractors, Members involved with the matter(s) being investigated or staff, unless authorised to do so by the Supervising Trustee.

6.3 The Officer will continue to receive full basic salary and benefits during the period of suspension.

7. Right to be Accompanied

7.1 An Officer or Representative may bring a companion to any disciplinary hearing or appeal hearing held under this Code. If they are an Officer, they may be a trade union representative or a colleague. The Officer or Representative must give advance notification of their chosen companion is, in good time before the hearing.

7.2 A companion is allowed reasonable time off from duties without loss of pay but no-one is obliged to act as a companion if they do not wish to do so.

7.3 If a companion is unavailable at the time a hearing is scheduled and will not be available for more than five working days afterwards, the Officer or Representatives may be asked to choose someone else.

7.4 The Union may, at its discretion, allow the Officer or Representative to bring a companion who is not a colleague or union representative (for example, a member of their family) if this will help overcome a disability.

SECTION 1: Members

1. General Behaviour

- 1.1 Members shall act with reasonable consideration for all Members, Union staff, and other persons connected to the Students' Union and to those in organisations in which students undertake any Union activity outside of the Unions premises.
- 1.2 Members shall not act in a way that threatens, either physically or mentally, the well being of any Members, Union staff, and other persons connected to the Students' Union.
- 1.3 Members shall comply with any reasonable instructions issued by an authorised Officer, member of Union staff or any other agent of the Union.
- 1.4 Members shall not deliberately obstruct, disrupt or interfere with the legitimate functions or activities of any Members, any Officer or member of Union staff.
- 1.5 Members shall not commit any action which causes or is likely to cause injury or impair health or safety to any person.
- 1.6 Members shall not take away, misuse, deface or damage any property belonging to any Members, Union staff, and other persons or organisations connected to the Students' Union.
- 1.7 Members are required to produce appropriate identification, on request, from any Officer, member of Union staff, or agent of the Union.
- 1.8 Members will be held responsible for any breach of the Union Code of Conduct committed by any person whom they have invited into Union managed premises or to take part in Union activities.

2. Discriminatory Behaviour

- 2.1 Members shall not engage in, incite the use of, or produce and/or distribute materials promoting discrimination on the grounds of:
 - 2.1.1 Age;
 - 2.1.2 Disability;
 - 2.1.3 Gender Reassignment;
 - 2.1.4 Marriage or Civil Partnership;
 - 2.1.5 Pregnancy or Maternity;
 - 2.1.6 Race;
 - 2.1.7 Religion or belief;

2.1.8 Sex;

2.1.9 Sexual Orientation.

In accordance with Union policy and the law.

2.2 Members will respect and refrain from obstructing the rights of others to freedom of belief and freedom of speech, in accordance with Union Policy and the law.

3. Use of Building, Grounds & Equipment

3.1 Members shall not misappropriate, remove, deface, misuse or damage any furniture, fittings, furnishings, equipment or property belonging to or under the control of the Union or external organisations at which members may be participating in a Union activity.

3.2 Members shall not intentionally or recklessly interfere with or misuse any equipment provided to them by the Union.

3.3 Members shall not behave in a careless or negligent manner that leads to the activating of a fire or smoke alarm or otherwise misuse fire safety equipment.

4. Compliance with the Union Constitution, Bye-Laws, Code of Conduct, Policies and those External to the Union

4.1 Members shall abide by the Union Constitution, Bye-Laws and Policies.

4.2 Members shall abide by the Union Code of Conduct.

4.3 Members shall comply with codes of conduct or similar regulations drawn up by external professional or external Union affiliated bodies and or to which they are required to subscribe as part of their participation in a Union activity or event.

4.4 Members shall not breach any other rules, policies or regulations from time to time issued by Student Council, Executive Committee, or Board of Trustees.

5. Bringing the Union into Disrepute

5.1 Members shall not display any behaviour or engage in any activity, whether within Union managed premises or elsewhere, which is likely to damage the good name of the Union.

6. Compliance with the Union Code of Conduct

6.1 Members shall not do anything which constitutes an attempt to breach any part of this Code of Conduct.

6.2 Members shall not assist, encourage or incite any other person to behave in a way which constitutes a breach of the Union Code of Conduct.

6.3 Members shall co-operate with the procedures for implementing the Union Code of Conduct.

6.4 Members shall comply with the rulings of the Disciplinary Committee.

7. Potential Legal Implications for Members

7.1 Members shall not engage in conduct which constitutes a criminal offence within Union managed premises, or at organisations at which students are placed or visiting as part of a Union activity, or elsewhere.

7.2 Members shall not attempt to or forge, alter or misuse any Union documents or records.

7.3 Members shall not invade, abuse or attempt to abuse the security, integrity or privacy of any files or confidential material (including those held within the Union's or the University's Computer System).

7.4 Members shall not provide or withhold information with intent to deceive or commit fraud in any application for any benefit or service managed by the Union.

7.5 Members shall not behave in a disorderly, abusive, threatening, intimidating, indecent, slanderous, libellous, offensive, or violent manner (whether expressed through actions or the spoken or written word, including electronic messages).

7.6 Members shall not keep, carry on their person, use or threaten to use any offensive weapons, firearms, fireworks, explosives or any highly combustible materials or any article deemed to be an offensive weapon even if properly licensed, on Union managed premises.

7.7 In accordance with current government legislation Members shall not use, produce, trade, store or transport illegal substances on Union managed premises or while participating in a Union activity.

SECTION 2: Officers and Representative

PART A: Informal Procedure for Minor Misconduct

1. Minor cases of misconduct will be dealt with informally, usually by the Executive Committee discussing the concerns with the Officer or Representative.
2. These discussions should be held in private and without undue delay whenever there is cause for concern.
3. The Executive Committee will determine what further action to take in relation to the matter, and will inform the complainant (where appropriate) and the Officer or Representative of what action, if any, is to be taken. The Executive Committee may seek appropriate advice from Union staff, External Trustees, or external experts regarding the Human Resources and legal implications of any agreed action.
4. Where appropriate, the Officer or Representative will be advised of the standard required to improve his or her behaviour and, where appropriate, the timescale within which the Officer or Representative should improve.
5. A note of any such informal discussions may be made.
6. An informal verbal warning may be given or counselling offered.
7. Informal verbal warnings and/or counselling are not part of the formal disciplinary procedure under Part B. They may though lead to formal action under Part B and/or be referred to and relied upon during the course of any such action.
8. Where there is a more serious case of misconduct the Officer or Representative fails to improve and maintain that improvement, formal action may be taken and the formal procedure outlined in Part B may be invoked.

SECTION 2: Officers and Representatives

PART B: Misconduct

1. About Part B

- 1.1 This Part B will be invoked for all alleged misconduct where it is not appropriate to invoke (or to continue invoking) Part A.
- 1.2 It is impossible to specify all the circumstances that would warrant invoking Part B, but typical cases of misconduct and gross misconduct are set out in Appendix 1.

2. Investigations

- 2.1 Where Part B is to be invoked, an Investigations Committee will be established.
- 2.2 The Investigations Committee will usually include an Officer and a senior member of the Union's staff. A member of the Union's staff with responsibility for Human Resources may attend meetings of the Investigations Committee to act as an advisor to the Investigations Committee and to take a note of the meetings. For the avoidance of doubt, the Investigations Committee may (in appropriate circumstances) consist of one person. In such cases the Investigations Committee shall be called the Investigations Officer and the remainder of this Code shall be construed accordingly.
- 2.3 The purpose of an investigation is to establish a fair and balanced view of the acts relating to any disciplinary allegations against the Officer or Representative, before deciding whether to proceed with a disciplinary hearing. The amount of investigation required will depend on the nature of the allegations and will vary from case to case. It may involve interviewing and taking statements from the Officer or Representatives, the complainant and any witnesses, and/or reviewing relevant documents.
- 2.4 Investigative interviews are solely for the purpose of fact-finding and no decision on disciplinary action will be taken until after a disciplinary hearing has been held.
- 2.5 Officer or Representatives do not normally have the right to bring a companion to an investigative interview. However, the Union may allow a companion if it helps overcome any disability.
- 2.6 The Officer or Representative must co-operative fully and promptly in any investigation. This will include informing the Investigations Committee of the names of any relevant witnesses, disclosing any relevant documents and attending investigative interviews if required.
- 2.7 It is recognised that being the subject of a complaint can be a difficult time for an Officer or Representative, and so the investigation will be undertaken with appropriate discretion, care and consideration.
- 2.8 Having carried out an investigation, the Investigating Committee will report its findings. The Investigations Committee will then decide what further action (if any) to take. The Investigations Committee may:

- (a) take no further action and bring the matter to a close;
- (b) arrange informal coaching, advice or counselling for the [Elected Officer];
- (c) if it considers that disciplinary action may be required, establish a Disciplinary Panel; or
- (d) inform the University so that further action may be taken either by the University or some other body that is deemed appropriate.

2.9 The Investigations Committee will aim to confirm its decision in writing to the Officer or Representatives, the complainant, and any other interested parties within 14 working days of concluding its report. If it is not practicable to comply with these deadlines, for example due to relevant parties being on holiday, they may be extended at the discretion of the Investigations Committee.

2.10 Where disciplinary action may be required the Officer or Representative will be informed in writing of the allegations, the basis for those allegations, and what the likely range of consequences will be if it is decided that the allegations are true. The Officer or Representative will also receive the following where appropriate:

- (a) a summary of relevant information gathered during the investigation;
- (b) a copy of any relevant documents which will be used at any disciplinary hearing; and
- (c) a copy of any relevant witness statements, except where a witness's identity is to be kept confidential, in which case the Officer or Representative will be given as much information as possible while maintaining confidentiality.

3. The Disciplinary and Appeals Panels

3.1 The Disciplinary and Appeals Panels shall be convened as and when required by the Investigations Committee.

3.2 The Disciplinary Panel shall include:

- (a) the Wellbeing Officer (unless the allegations are against the Wellbeing Officer);
- (b) two Trustees (at least one which shall be an External Trustee);
- (c) a member of the Union's Student Council; and
- (d) a member of the Union's staff.

3.3 The quorum of the Disciplinary Panel shall be three and the Chair shall be the Wellbeing Officer or, if the allegations are against the Wellbeing Officer, one of the Trustees.

- 3.4 A member of the Union's staff with responsibility for Human Resources may attend meetings of the Disciplinary Panel to act as an advisor to the Disciplinary Panel and to take a note of the meetings.
- 3.5 The Appeal Panel shall include the following:
- (a) a Student Trustee;
 - (b) an External Trustee;
 - (c) a senior member of the Union's staff; and
 - (d) an independent individual from an external organisation, usually the NUS or another Students' Union.

provided that each member of the Appeal Panel shall be independent and shall not have any (or have had any) substantive involvement with the investigation or the disciplinary hearing.

- 3.6 The quorum of the Appeal Panel shall be three and the Chair shall be the External Trustee.
- 3.7 The External Trustee shall appoint an independent individual from an external organisation to sit on the Appeal Panel. They should have relevant experience and be of appropriate senior standing within their organisation.

4. Procedure of Disciplinary Hearings

- 4.1 If the Officer or Representative or their companion cannot attend the hearing, the Officer or Representative should inform the Disciplinary Panel immediately and it will arrange an alternative time. The Officer or Representative must make every effort to attend the hearing, and failure to attend without good reason may be treated as misconduct in itself. If the Officer or Representative fails to attend without good reason, or is persistently unable to do so (for example for health reasons), a decision may be taken based on the available evidence.
- 4.2 The hearing will be chaired by the Chair of the Disciplinary Panel. A representative of the Investigating Committee and/or a member of the Union's staff with responsibility for Human Resources may also be present. The Officer or Representative may be accompanied by a companion to the disciplinary hearing.
- 4.3 At the disciplinary hearing the Disciplinary Panel will go through the allegations against the Officer or Representative and the evidence that has been gathered. The Officer or Representative will be able to respond and present any evidence of their own. The companion may make representations and ask questions, but should not answer questions on the Officer or Representative's behalf. The Officer or Representative may confer privately with their companion at any time during the hearing.

4.4 The Officer or Representative may ask relevant witnesses to appear at the hearing, provided sufficient advance notice to arrange their attendance is given. The Officer or Representative will be given the opportunity to respond to any information given by a witness. However, the Officer or Representative will not normally be permitted to cross-examine witnesses unless, in exceptional circumstances, the Disciplinary panel decide that a fair hearing could not be held otherwise.

4.5 The disciplinary hearing may be adjourned by the Disciplinary Panel if it is deemed necessary to carry out any further investigations such as re-interviewing witnesses in the light of any new points raised at the hearing. The Officer or Representative will be given a reasonable opportunity to consider any new information obtained before the hearing is reconvened.

4.6 The Disciplinary Panel will inform the Officer or Representative in writing of its decision and its reasons for it, usually within one week of the disciplinary hearing. Where possible it will also explain this information to the Officer or Representative in person.

5. Disciplinary Penalties

5.1 The usual penalties for misconduct are set out below. No penalty should be imposed without a hearing and all Officer or Representative should be treated fairly and consistently, and a penalty imposed on another Officer or Representative for similar misconduct will usually be taken into account but should not be treated as a precedent. Each case will be assessed on its own merits. **Stage 1 - First Written**

5.2 **Warning.** Will usually be appropriate for a first act of misconduct where there are no other active written warnings on the Officer or Representative's disciplinary record.

5.3 **Stage 2 - Final Written Warning.** Will usually be appropriate for:

- (a) misconduct where there is already an active written warning on the Officer or Representative's record; or
- (b) misconduct that is considered sufficiently serious to warrant a final written warning, even though there are no other active warnings on the Officer or Representative's record.

5.4 **Stage 3 (a) – Referral to Student Council.** Will usually only be appropriate for further misconduct where there is an active final written warning on the Officer or Representative's record.

5.5 **Stage 3 (b) – Immediate Removal from Office.** Will usually only be appropriate for gross misconduct or gross negligence.

6. Effect of a Warning

- 6.1 Written Warnings will set out the nature of the misconduct, the change in behaviour required, the period for which the warning will remain active, and the likely consequences of further misconduct in that active period.
- 6.2 A First Written Warning will usually remain active for six months and a Final Written Warning will usually remain active for twelve months. In exceptional cases verging on gross misconduct a Final Written Warning may state that it will remain active indefinitely. The Officer or Representative conduct may be reviewed by the Disciplinary Panel at the end of a warning's active period and if it has not improved sufficiently the active period may be extended.
- 6.3 After the active period, the warning will remain permanently on the Officer or Representative's personnel file but will be disregarded in deciding the outcome of future disciplinary proceedings, unless there is very good reason not to disregard it.

7. Appeals

- 7.1 An Officer or Representative who wishes to appeal against a decision of a Disciplinary Panel should do so in writing within five working days of receiving the letter which confirms the action taken. The appeal should state the grounds upon which the appeal is being made.
- 7.2 An appeal hearing shall be held as soon as possible and normally within ten working days of receipt of the letter of appeal.
- 7.3 The Chair shall inform the Officer or Representative of the date and time of the appeal hearing. The Officer or Representative shall have the right to attend the hearing and be accompanied by a companion
- 7.4 The Appeal Panel should attempt to reach a unanimous decision, but if a vote is required then a simple majority vote will suffice. The decision of the Appeal Panel is final.
- 7.5 The Chair will inform the Officer or Representative and the complainant of the Appeal Panel's decision in writing and will aim to do so within five working days of the hearing.

8. Effect of a Referral to Student Council

- 8.1 A referral to Student Council may be made at Stage 3(a) of this Part B.
- 8.2 Any such referral will be made under clause 22 of the Union Constitution.
- 8.3 In the event of a motion of no confidence held in accordance with the Constitution and Bye-Laws, the Officer or Representative shall cease to be an Officer or a Representative. In the case of Officers, they shall cease to be a Trustee and a Member.
- 8.4 There shall be no appeal against a decision of the Student Council.

8.5 A motion of no-confidence confidence held in accordance with the Constitution and Bye-Laws will lead to the Disciplinary Panel reconvening to consider whether to remove the Officer or Representative from office. In such circumstances the (former) Officer or Representative will be invited to a hearing to consider matters. The Officer or Representative shall be entitled to be accompanied to such a hearing.

9. Effect of Removal from Office

9.1 An removal from Office may be effected at Stage 3(b) of this Part B, see clause 5.5.

9.2 Any such removal from Office will be under clause 24 of the Union Constitution.

9.3 In the event of an removal from Office, the Officer shall cease to be an employee of the Union with immediate effect and without notice or a payment in lieu of notice, shall cease to be a Trustee and shall cease to be a Member.

9.4 The Officer or Representative may appeal any such decision in accordance with clause 7 (Appeals)

SECTION 2: Officers and Representatives

PART C: Performance

1. About this Part C

1.1 The aim of this Part C is to provide a framework within which the Union can work with Officer or Representative to maintain satisfactory performance standards and to encourage improvement where necessary.

1.2 It is the Union's policy to ensure that concerns over performance are dealt with fairly and that steps are taken to establish the facts and to give Officer or Representative the opportunity to respond at a hearing before any formal action is taken.

1.3 This Part C does not apply to cases involving misconduct to which Sections 2 Part B will apply.

This Part C applies to all Officers and Representatives.

1.4

2. Identifying Performance Issues and Informal Management

2.1 In the first instance, performance issues will normally be dealt with informally between the Officer or Representative and appropriate members of the Union's staff. Where appropriate, a note of any such informal discussions may be made.

Such notes though will be ignored for the purposes of any future capability hearings.

The formal part of this Part C should be used for more serious cases, or in any case where an earlier informal discussion has not resulted in a satisfactory improvement. Informal discussions may help:

- (a) clarify the required standards;
- (b) identify areas of concern;
- (c) establish the likely causes of poor performance and identify any training needs; and/or
- (d) set targets for improvement and a time-scale for review.

2.2 If the Union has concerns about an Officer or Representative performance, it will undertake an assessment to decide if there are grounds for taking formal action under this procedure. The procedure involved will depend on the circumstances but may involve gathering any relevant documents, monitoring the Officer or Representative work and, if appropriate, interviewing the Officer or Representative and/or other individuals confidentially regarding their work.

3. Disabilities

3.1 Consideration will be given to whether poor performance may be related to a disability and, if so, whether reasonable adjustments could be made, including providing additional equipment or training. The Union may also consider making adjustments to this Part C in appropriate cases.

3.2 If an Officer or Representative wishes to discuss this or inform the Union of any medical condition they consider relevant, they should contact the Chief Executive.

4. Capability Hearing

4.1 If the Union considers that there are grounds for taking formal action over alleged poor performance, the Officer or Representative will usually be required to attend a Stage 1 capability hearing.

4.2 The hearing will normally be held by the Wellbeing Officer and Chief Executive and will normally be attended by a member of the Union's staff with responsibility for Human Resources. The Member may bring a companion to the hearing. In case of conflicts of interest, the hearing may be conducted by any other Officer and any other senior member of staff.

4.3 The Officer or Representative will be notified in writing of the concerns, the reasons for those concerns, and the likely outcome if it decided after the hearing that the Officer or Representative's performance has been unsatisfactory. The Union will also include the following where appropriate:

- (a) a summary of relevant information gathered as part of any investigation.
- (b) a copy of any relevant documents which will be used at the capability hearing.
- (c) a copy of any relevant witness statements, except where a witness's identity is to be kept confidential, in which case the Officer or Representative will be given as much information as possible while maintaining confidentiality.

4.4 The Officer or Representative will be given written notice of the date, time and place of the capability hearing. The hearing will be held as soon as reasonably practicable, but the Officer or Representative will be given a reasonable amount of time to prepare their case based on the information provided to them.

5. Procedure at Capability Hearings

5.1 If the Officer or Representative or their companion cannot attend the hearing they should inform the Union immediately and the Union will usually arrange an alternative time. The Officer or Representative must make every effort to attend the hearing, and failure to attend without good reason may be treated as misconduct. If the Officer or Representative fails to attend without good reason, or are persistently unable to do so (for example, for health reasons), the Union may have to take a decision based on the available evidence

including any written representations the Officer or Representative has made.

- 5.2 The Officer or Representative may ask relevant witnesses to appear at the hearing, provided sufficient advance notice to arrange their attendance is given. The Officer or Representative will be given the opportunity to respond to any information given by a witness. However, the Officer or Representative will not normally be permitted to cross-examine witnesses unless, in exceptional circumstances, it is decided that a fair hearing could not be held otherwise.

The aims of a capability hearing will usually include:

5.3

- (a) setting out the required standards it is believed the Officer or Representative may have failed to meet, and going through any relevant evidence.
- (b) allowing the Officer or Representative to ask questions, present evidence, call witnesses, respond to evidence and make representations.
- (c) establishing the likely causes of poor performance including any reasons why any measures taken so far have not led to the required improvement.
- (d) identifying whether there are further measures, such as additional training or supervision, which may improve performance.
- (e) where appropriate, discussing targets for improvement and a time-scale for review.
- (f) establishing whether there is any likelihood of a significant improvement being made within a reasonable time.

- 5.4 A hearing may be adjourned if there is a need to gather any further information or give consideration to matters discussed at the hearing. The Officer or Representative will be given a reasonable opportunity to consider any new information obtained before the hearing is reconvened.

- 5.5 The Officer or Representative will be informed in writing of any decision and the reasons for them, usually within [one week] of the capability hearing. Where possible this will also be explained in person.

6. Stages of Action:

- 6.1 Following a Stage 1 capability hearing, if it is decided that the Officer or Representative's performance is unsatisfactory, an Improvement Note may be issued, which will set out:

- (a) the areas in which the Officer or Representative has not met the required performance standards.
- (b) targets for improvement.

- (c) any measures, such as additional training or supervision, which will be taken with a view to improving performance.
 - (d) a period for review.
 - (e) the consequences of failing to improve within the review period, or of further unsatisfactory performance.
- 6.2 The improvement note will normally remain active for three months. After the active period the warning will remain permanently on the Officer or Representative personnel file but will be disregarded in deciding the outcome of any future capability proceedings.
- 6.3 The Officer or Representative performance will be monitored during the review period and they will be informed of the outcome if the Wellbeing Officer and Chief Executive (or replacements in accordance with clause 4.2):
- (a) is satisfied with the [Officer Member's] performance, in which case no further action will be taken;
 - (b) is not satisfied, the matter may be progressed to a Stage 2 capability hearing; or
 - (c) feels that there has been a substantial but insufficient improvement, the review period may be extended.
- 6.4 If the Officer or Representative performance does not improve within the review period set out in an Improvement Note, or if there is further evidence of poor performance while it is still active, a Stage 2 capability hearing may be held. The Officer or Representative will be sent written notification as set out in clause 6.1.
- 6.5 Following a Stage 2 capability hearing, if the Wellbeing Officer and Chief Executive (or replacements in accordance with clause 4.2) decide that the Officer or Representative performance is unsatisfactory, the Wellbeing Officer and Chief Executive (or replacements in accordance with clause 4.2) will give the Officer or representative a Final Written Warning, setting out:
- (a) the areas in which the Officer or Representative has not met the required performance standards;
 - (b) targets for improvement;
 - (c) any measures, such as additional training or supervision, which will be taken with a view to improving performance;
 - (d) a period for review; and
 - (e) the consequences of failing to improve within the review period, or of further unsatisfactory performance.

- 6.6 A final written warning will normally remain active for six months. After the active period, the warning will remain permanently on the Officer or Representative personnel file but will be disregarded in deciding the outcome of future capability proceedings.
- 6.7 The Officer or Representative performance will be monitored during the review period and they will be informed of the outcome if the Wellbeing Officer and Chief Executive (or replacements in accordance with clause 4.2):
- (a) is satisfied with their performance, in which case no further action will be taken;
 - (b) is not satisfied, the matter may be progressed to a Stage 3 capability hearing; or
 - (c) feels that there has been a substantial but insufficient improvement, the review period may be extended.
- 6.8 A Stage 3 capability hearing may be held if there is reason to believe:
- (a) the Officer or Representative's performance has not improved sufficiently within the review period set out in a final written warning;
 - (b) the Officer or Representative's performance is unsatisfactory while a final written warning is still active; or
 - (c) the Officer or Representative's performance has been grossly negligent such as to warrant dismissal/referral to Student Council without the need for any previous warnings or a Stage 1 or 2 capability hearing.
- 6.9 Written notification of the hearing will be sent as set out in clause 6.5.
- 6.10 Following the Stage 3 hearing, if it is found that the Officer or Representative's performance is unsatisfactory, a range of options will be considered including:
- (a) Referring the matter to Student Council for a vote on removal from Office and, if applicable, removal as Sabbatical Trustee;
 - (b) Extending an active final written warning and setting a further review period (in exceptional cases where we believe a substantial improvement is likely within the review period).
 - (c) Giving a final written warning (where no final written warning is currently active).

7. Appeals against action for poor performance

- 7.1 If the Officer or Representative feels that a decision about poor performance under this procedure is wrong or unjust they should appeal in writing,

stating their full grounds of appeal, to Appeals Committee within one week of the date on which the Officer or Representative were informed in writing of the decision.

- 7.2 If the Officer or Representative raises any new matters in their appeal, it may be necessary to carry out further investigation. If any new information comes to light the Officer or Representative will be provided with a summary including, where appropriate, copies of additional relevant documents and witness statements. The Officer or Representative will have a reasonable opportunity to consider this information before the hearing.
- 7.3 The Officer or Representative will be given written notice of the date, time and place of the appeal hearing. This will normally be two to seven days after they receive the written notice.
- 7.4 The appeal hearing may be a complete re-hearing of the matter or it may be a review of the fairness of the original decision in the light of the procedure that was followed and any new information that may have come to light. This will be at the Union's discretion depending on the circumstances of the case. In any event the appeal will be dealt with as impartially as possible.
- 7.5 Where possible, the appeal hearing will be conducted by Appeals Committee, whose members have not been previously involved in the case. A member of the Union's staff with responsibility for Human Resources and/or the manager who conducted the capability hearing will also usually be present. The Officer or Representative may bring a companion with them to the appeal hearing.
- 7.6 A hearing may be adjourned if it is necessary to gather any further information or give consideration to matters discussed at the hearing. The Officer or Representative will be given a reasonable opportunity to consider any new information obtained before the hearing is reconvened.
- 7.7 Following the appeal hearing Appeals Committee may:
 - (a) confirm the original decision;
 - (b) revoke the original decision; or
 - (c) substitute a different penalty.
- 7.8 The Officer or Representative will be informed in writing of the final decision as soon as possible, usually within one week of the appeal hearing. Where possible a member of Appeals Committee will also explain this to the Officer or Representative in person. There will be no further right of appeal.

8. Effect of a Referral to Student Council

- 8.1 A referral to Student Council may be made following the Stage 3 hearing.
- 8.2 Any such referral will be made under clause 22 of the Union Constitution.

- 8.3 In the event of a motion of no confidence held in accordance with the Constitution and Bye-Laws the Officer or Representative and shall cease to be a Officer or Representative, in the case of Officers they shall cease to be a Trustee and Member.
- 8.4 There shall be no appeal against a decision of the Student Council.
- 8.5 A motion of no-confidence will lead to the Disciplinary Panel reconvening to consider whether to remove the Officer or Representative from office. In such circumstances the (former) Officer or Representative will be invited to a hearing to consider matters. The Officer or Representative shall be entitled to be accompanied to such a hearing.

APPENDIX 1

1. Policy Statement

- 1.1 These Rules should be read in conjunction with Section 2 of the Code.
- 1.2 It is the Union's policy to ensure that any disciplinary matter is dealt with fairly and in accordance with the Code
- 1.3 If a Member is in any doubt as to their responsibilities or the standards of conduct expected you should speak to the Chief Executive or other senior member of Union staff.
- 1.4 The Union may amend the Rules at any time by the Board of Trustees, in accordance with the Union Constitution and Bye-Laws.
- 1.5 Failure to maintain satisfactory standards of conduct may result in action being taken under the Code.

2. Misconduct

The following are examples of matters that will normally be regarded as misconduct and will be dealt with under Section 1 of the Code:

- (a) Minor breaches of our policies;
- (b) Minor breaches of your contract;
- (c) Damage to, or unauthorised use of, our property;
- (d) Poor timekeeping;
- (e) Time wasting;
- (f) Unauthorised absence from work;
- (g) Refusal to follow instructions;
- (h) Excessive use of our telephones for personal calls;
- (i) Excessive personal e-mail or internet usage;
- (j) Obscene language or other offensive behaviour;
- (k) Negligence in the performance of your duties;
- (l) Smoking in no-smoking areas;
- (m) Spurious complaints under this Code;
- (n) Failure to attend meetings under this Code without good reason.

This list is intended as a guide and is not exhaustive.

3. Gross Misconduct

- 3.4 Gross misconduct is a serious breach of contract and includes misconduct which, in the Union's opinion, is likely to prejudice its business or reputation or irreparably damage the working relationship and trust between you and it. Gross misconduct will be dealt with under Section 2 of the Code and will normally lead to (if applicable) dismissal without notice or pay in lieu of notice, removal from office, removal as a Trustee, removal as a Member.
- 3.5 The following are examples of matters that are normally regarded as gross misconduct:
- (a) Theft or fraud;
 - (b) Physical violence or bullying;
 - (c) Deliberate and serious damage to property;
 - (d) Serious misuse of Union property or name;
 - (e) Deliberately accessing internet sites containing pornographic, offensive or obscene material;
 - (f) Serious insubordination;
 - (g) Unlawful discrimination or harassment;
 - (h) Bringing the Union into serious disrepute;
 - (i) Serious incapability at work brought on by alcohol or illegal drugs;
 - (j) Causing loss, damage or injury through serious negligence;
 - (k) Serious or repeated breach of health and safety rules;
 - (l) Unauthorised use or disclosure of confidential information or failure to ensure that confidential information in your possession is kept secure;
 - (m) Accepting or offering a bribe or other secret payment;
 - (n) Conviction for a criminal offence that in the Union's opinion may affect its reputation or its relationships with its staff, Members, or the public, or otherwise affects your suitability to continue to work for it;
 - (o) Possession, use, supply or attempted supply of illegal drugs;
 - (p) Serious neglect of duties, or a serious or deliberate breach of your contract or operating procedures;
 - (q) Knowing breach of statutory rules affecting your work;

- (r) Unauthorised use, processing or disclosure of personal data contrary to the Union's Data Protection Policy;
- (s) Harassment of, or discrimination against, employees, contractors, clients or members of the public, related to gender, marital or civil partner status, gender reassignment, race, colour, nationality, ethnic or national origin, disability, religion or belief or age contrary to the Union's Equal Opportunities Policy;
- (t) Refusal to disclose any of the information required by your employment or any other information that may have a bearing on the performance of your duties;
- (u) Giving false information as to qualifications or entitlement to work (including immigration status) in order to gain employment or other benefits;
- (v) Knowingly taking parental, paternity or adoption leave when not eligible to do so or for a purpose other than supporting a child;
- (w) Making a disclosure of false or misleading information under our Whistleblowing Policy maliciously, for personal gain, or otherwise in bad faith;
- (x) Making untrue allegations in bad faith against a colleague;
- (y) Victimising a colleague who has raised concerns, made a complaint or given evidence or information under our Whistleblowing Policy, Grievance Procedure, Disciplinary Procedure or otherwise;
- (z) Serious misuse of the Union's information technology systems (including misuse of developed or licensed software, use of unauthorised software and misuse of e-mail and the internet);
- (aa) Undertaking unauthorised paid or unpaid employment during your working hours;
- (bb) Unauthorised entry into an area of the premises to which access is prohibited;
- (cc) Breach of the confidentiality rules set out in this Code.

This list is intended as a guide and is not exhaustive.