



Disciplinary Procedure for DSU Members

Document Control

Title : Disciplinary Procedure for DSU Members

Applicable to : Elected Officers

Date last reviewed : Oct 2018

Procedure Owner : Operations Manager

Contents

Introduction..... 3

Roles and responsibilities 3

Breaches of discipline 4

 Gross misconduct 4

 Other misconduct 5

Informal stage..... 5

Investigation 5

Suspension 6

Formal disciplinary hearing..... 7

Disciplinary sanctions..... 8

 Formal written warning 8

 Final written warning 8

 Suspension of benefits or other action 9

 Termination of all membership entitlements 9

Appeal..... 9

Review of the procedure 10

Appendix A: DSU Licensed Premises 11

1 Introduction

- 1.1 This procedure sets out the steps to be followed where issues concerning the conduct of an individual member(s) are raised.
- 1.2 The Union believes that rules and procedures are necessary for promoting orderly relations as well as fairness and consistency in the treatment of individuals. It is important that all members understand the standards of conduct and performance that are expected of them and full details of this procedure will be given to members as appropriate.
- 1.3 For the purpose of this procedure, members are defined in accordance with the De Montfort Students' Union Memorandum and Articles being students of De Montfort University.
- 1.4 For the avoidance of doubt, it does not include DSU staff members or DSU Elected Officers (full or part time) who are covered by separate procedures. For matters relating to DSU Elected Officers please refer to the Disciplinary Procedure for DSU Elected Officers.
- 1.5 The Union reserves the right to implement this procedure at any stage as set out below taking into account the seriousness of the alleged misconduct of an individual member.
- 1.6 Where time limits are referred to in the course of this procedure they may be varied by agreement between the member and the Union.

2 Roles and responsibilities

Trustee Board

- 2.1 The Trustee Board shall appoint a lay Trustee to supervise the operation of this procedure, the 'Supervising Trustee'.

Supervising Trustee

- 2.2 The Supervising Trustee (or their nominated representative):
 - will maintain an overview of the procedure and produce an annual report for the Trustee Board on the operation of this procedure;
 - will appoint an appropriate Investigating Officer which can be a member of DSU staff;
 - can act as the Deciding Officer or appoint an appropriate Deciding Officer in accordance with the procedure;
 - will make decisions on the suspension of membership pending a disciplinary investigation in accordance with this procedure.

Internal support

2.3 The Voice team is responsible for advising members on the operation of this procedure.

Investigating Officer

2.4 The Investigating Officer will:

- Promptly investigate all potential breaches of discipline in accordance with this procedure and prepare a factual report for the Supervising Trustee;
- Attend, as required, any disciplinary hearings in order to answer questions on the investigation process and the content of the investigation report.

Deciding Officer

2.5 The Deciding Officer will hear the case(s) of alleged misconduct, convene and chair the disciplinary hearing, and reach a decision on appropriate disciplinary sanctions in accordance with this procedure.

Adviser

2.6 The Adviser will provide advice to the Deciding Officer on the operation of the procedure and the reasonableness and consistency of disciplinary outcomes.

3 Breaches of discipline

3.1 Disciplinary action may be taken in respect of any breach of discipline:

- On Union or University premises;
- While the member is using Union facilities or at a Union event; or
- While a member is representing or acting on behalf of the Union at any event of whatever kind and wherever held including DMU Global trips;
- Incidents where a member could be perceived to be representing or acting on behalf of the Union on social media or within correspondence.

3.2 The Union has set out within this procedure the types of misconduct and gross misconduct it considers to constitute breaches of discipline (see Gross Misconduct and Other Misconduct). These lists are illustrative and not exhaustive.

Gross misconduct

3.3 Gross misconduct is misconduct of such a serious nature that the Union will be entitled to terminate the member's membership entitlements. Examples of gross misconduct include, but are not limited to:

- Dishonesty, theft, fraud and falsification of records, whether or not for personal gain;
- Physical violence or threats;
- Deliberate or serious damage to, or misuse of, Union or personal property;
- Misuse of the Union's name;
- Any action which brings the Union or the University into serious disrepute;
- Acceptance of bribes or other corrupt practices;
- Representing the Union whilst under the influence of alcohol or the use of recreational drugs;
- Possession, custody or control of illegal drugs on the Union's premises;
- Serious breach of the Union's rules, including, but not restricted to, health and safety rules and rules on IT use;

- Deliberate unauthorised disclosure of confidential information (including breaches of Data Protection legislation);
- Misuse of email, social media or the internet including deliberately accessing internet sites containing pornographic, offensive, obscene, defamatory, malicious discriminatory or protected copyright material. This applies to whether or not this is within normal working hours or over University IT systems
- Gross negligence;
- Acts of incitement or deliberate/malicious acts of harassment or discrimination of an individual or groups of individuals for example, on the grounds of sex, transgender status, marital or civil partnership status, pregnancy, colour, race, nationality, national origins, ethnic origins, religion or belief, religious practices, sexual orientation, disability, age, previous criminal convictions or trade union membership;
- Serious bullying or intimidation of an individual or groups of individuals, including threatening behaviour;
- Sexual misconduct;
- Serious infringement of equal opportunities, safe space, no platform, safeguarding or staff protocol policies;
- Conviction of a criminal offence that impacts on the member's ability to remain a DSU member and/or office holder and that in the Unions opinion affects its reputation or its relationships.

Other misconduct

3.4 The great majority of breaches of discipline will not be sufficiently serious to warrant termination of all membership entitlements. Certain types of offences will however warrant the issue of a warning or some other disciplinary sanction as set out in this procedure, and examples of such breaches are listed below. In addition, if such breaches are committed and if a final warning (for this or another type of misconduct) is still in force, then unless there are acceptable mitigating circumstances, the member may face termination of all membership entitlements.

3.5 Examples of the types of misconduct that may warrant some form of disciplinary action include (but are not limited to):

- Harassment or discrimination of an individual or groups of individuals on the grounds of sex, transgender status, marital or civil partnership status, pregnancy, colour, race, nationality, national origins, ethnic origins, religion or belief, religious practices, sexual orientation, disability, age, previous criminal convictions or trade union membership;
- Bullying or intimidating behaviour;
- Breach of health and safety rules;
- Failure to follow the Union's rules;
- Misuse of computer facilities including misuse of email and Internet access;
- Failure to take proper care of the Union's property;
- Rudeness or offensive behaviour including the use of abusive language to individuals or groups of individuals.

4 Informal stage

4.1 In considering whether it is appropriate to apply this procedure, the CEO should first consider whether it would be more appropriate to deal with the concerns informally. Minor cases of misconduct and poor performance are best dealt with informally. It may be necessary to issue an informal warning, but the CEO will ensure that these areas are discussed with the objective of helping the member to make appropriate improvements. At this stage the member will be made fully aware of what steps need to be taken to address the conduct issue. They will also be told when this will be reviewed and relevant timescales.

5 Investigation

5.1 Where a potential disciplinary matter arises concerning an individual member, the CEO shall determine whether the matter should be investigated in accordance with this procedure or whether the matter should

be dealt with in some other way or informally (see Informal Stage). Depending on the nature of the alleged breach, the CEO will also consider whether the matter needs to be referred to the police, or to the university's disciplinary procedures.

- 5.2 If this procedure is deemed appropriate, the CEO will appoint an appropriate person to act as Investigating Officer to carry out an investigation into the facts of the case. The Investigating Officer will usually be the Manager for the area that the disciplinary relates to eg Commercial, Activities etc or any other Manager as deemed appropriate. The Investigating Officer will be unbiased with no prior involvement in the matters to be investigated. The Investigating Officer will usually have a maximum of 15 working days within which to conclude all interviews and write up the report. Only the CEO or Supervising Trustees is at liberty to extend this timeframe.
- 5.3 At the start of the investigation, the member will receive a letter detailing the allegations that are to be investigated. This letter will advise them of the name and, where appropriate, the contact details of the Investigating Officer.
- 5.4 The investigation is to establish the facts and, where appropriate, obtain statements from relevant available witnesses. Having carried out an investigation, the Investigating Officer will prepare a report for the CEO.
- 5.5 As part of the investigation, the member will be given the opportunity to submit a written statement in response to the allegations within five working days of being notified of the investigation. The statement should be signed and dated, and the member should attach copies of any other documents on which they wish to rely at any subsequent disciplinary hearing. This statement will form part of the Investigating Officer's report.
- 5.6 Despite all reasonable endeavours of the Investigating Officer, should the member not respond to communications or refuse to engage with the investigation process, they will be deemed to have nothing to add to the investigation. For the avoidance of doubt, the Investigating Officer may request to meet with the member(s), witness(s) or complaint(s) more than once if further matters / details arise during the process. This will be done in the interests of gathering all relevant facts and in a timely fashion.
- 5.7 On receipt of the Investigating Officer's report, the CEO will determine whether the matter should be handled informally, whether there is a case for the individual Officer to answer at a formal disciplinary hearing, or whether there is no case to answer.
- 5.8 The member, and other interested parties as appropriate, will be advised of the outcome of the investigation in writing normally within five working days of the investigation concluding, unless there are reasons why this is not reasonably practicable.

6 Suspension

- 6.1 In certain circumstances, for example cases involving gross misconduct, where relationships have broken down or where it is considered there are risks to property or the Union's reputation or responsibilities to other parties or where conduct fails to improve, the CEO will consider whether a period of suspension of some or all membership rights is necessary whilst an unhindered investigation is conducted.
- 6.2 Such a suspension should only be imposed after careful consideration and should be reviewed regularly to ensure that it is not unnecessarily protracted. Excluding a member from participation in Union activities is not in itself a form of disciplinary sanction whilst the investigation is progressing.

7 Formal disciplinary hearing

- 7.1 Where, upon receipt of the Investigating Officer's report, the CEO determines that there is a case to answer, the member will be invited to attend a disciplinary hearing.
- 7.2 The case will be heard by a panel, appointed by the Supervising Trustee and will comprise:
- The **Supervising Trustee** – who will chair the panel
 - a **Deciding Officer** – who will normally be a member of the Executive Committee other than the President;
 - an **Adviser** – who will normally be the Operations Manager or other nominated staff member of DSU appointed to advise the Deciding Officer on the operation of the procedure.
- 7.3 The member will be notified in writing of the date and time of the disciplinary hearing, at least two days in advance. Hearings will be arranged as far as possible at a mutually convenient time and place.
- 7.4 The letter inviting the member to a disciplinary hearing will:
- Advise the member of the purpose of the hearing and that it will be held under the Disciplinary Procedure for DSU Members;
 - Explain the member's right to be accompanied at the hearing by a fellow member of DSU (Legal representation will not be permitted.);
 - Give the member written details of the nature of the allegations;
 - Advise the member of who will be in attendance at the hearing including any witnesses the panel intends to call; and
 - Provide to the member all relevant information that is to be used at the hearing including the Investigating Officer's report, any witness statements taken as part of the investigation and a copy of the disciplinary procedure.

Where the member objects to a panel member, the objection must be submitted in writing to the Supervising Trustee within two days of receiving confirmation of the hearing. The Supervising Trustee will consider the objection and will determine its validity. The decision of the Supervising Trustee is final.

- 7.5 Where the member is unable to attend a disciplinary hearing and provides a good reason for failing to attend, the hearing will be adjourned to another day (usually within 5 days of the original date). Unless there are special circumstances mitigating against it, if the member is unable to attend the rearranged hearing, the rearranged hearing may take place in the member's absence. The member's chosen representative (see 7.4 above) may attend in such circumstances and will be allowed the opportunity to present the member's case. The member will also be allowed to make written submissions in such a situation.
- 7.6 Where the member's chosen representative is unavailable on the day scheduled for the hearing, it will be rescheduled, provided that the member proposes an alternative time within five working days of the scheduled date.
- 7.7 The Investigating Officer will be in attendance at the hearing to present the findings of their investigation and to answer any questions either from the panel or from the member/their representative.
- 7.8 The member will be permitted to set out their case and answer any allegations. The member will be given a reasonable opportunity to ask questions, present evidence and call relevant witnesses. They will also be given the opportunity to raise points about any information provided by witnesses. Where the union intends to call relevant witnesses it will give the member advance notice of this. The member must also give advance notice if they intend to call relevant witnesses.

- 7.9 The member will have a full and fair opportunity to state their case before any decision on disciplinary sanctions (if any) is taken. All decisions will be reached based on a review of the balance of probabilities.
- 7.10 The panel may adjourn the disciplinary hearing if it appears necessary or desirable to do so (including for the purpose of gathering further information). The member will be informed of the period of any adjournment. If further information is gathered, the member will be allowed a reasonable period of time (usually not less than 2 days), together with their representative (if applicable), to consider the new information prior to reconvening the disciplinary hearing.

Role of the chosen representative

- 7.11 The member's chosen representative has the right to address the hearing to put the member's case, sum up the case and respond on the member's behalf to any view expressed at the hearing. The representative may also confer with the member during the hearing. However, there is no requirement for the panel to permit the representative to answer questions on behalf of the member, or to address the hearing where the member indicates that they do not wish this.

8 Disciplinary sanctions

- 8.1 The Deciding Officer will convey the decision of the panel to the member and will also inform the member what disciplinary sanction, if any, is to be imposed within three working days after the conclusion of the disciplinary hearing. The decision will be confirmed in writing. The member will be notified of their right of appeal under this procedure.
- 8.2 Where a disciplinary sanction is to be imposed, the letter will detail:
- The misconduct that resulted in the disciplinary sanction;
 - The level of disciplinary sanction to be imposed and the duration that any formal warnings will remain 'live' (if applicable);
 - Any recommendations/action required in order to prevent future disciplinary action;
 - The potential consequences of any future misconduct;
 - Details of the appeal mechanism and the timescales for appeal.
- 8.3 The Deciding Officer may decide that no disciplinary sanction is necessary. Alternatively, the Deciding Officer may take any of the following disciplinary sanctions after having regard to all the circumstances of the case and the seriousness of the breach.
- 8.4 In addition to any disciplinary sanction, the Deciding Officer may also recommend that the member should undergo training.

Formal written warning

- 8.5 For minor breaches of discipline where an informal approach is deemed inappropriate, or where previous informal action has failed, the Deciding Officer may issue a formal written warning.
- 8.6 The Union will keep a record of the warning for a period of six months, subject to the member's conduct being satisfactory, the warning will be treated as 'spent' for future disciplinary purposes.
- 8.7 The formal written warning must set out the nature of the misconduct and inform the member that further misconduct is liable to result in further disciplinary action of a more serious nature.

Final written warning

- 8.8 For serious misconduct which might otherwise justify suspension or termination of membership benefits, but where the Deciding Officer determines that a lesser penalty is appropriate in the circumstances; or for an

offence after a formal written warning has been given and is live, or where a member's conduct or omission is such as to warrant a final written warning.

8.9 The Union will keep a record of the warning for a period of twelve months after which time, subject to the member's conduct being satisfactory, the warning will be treated as 'spent' for future disciplinary purposes.

8.10 The final written warning must set out the nature of the offence and inform the member that further misconduct could render them liable to disciplinary action of a more serious nature up to and including full termination of membership benefits.

Suspension of benefits or other action

8.11 Where a member's misconduct is deemed to be sufficiently serious or their conduct fails to improve, or where further misconduct is committed while a written warning is still 'live', the Deciding Officer may determine to impose either of the following disciplinary sanctions:

- Partial suspension of some of membership entitlements; or
- Partial suspension of all membership entitlements.

8.12 The above sanctions may be imposed in conjunction with other forms of disciplinary sanction (i.e. a formal written warning), or as an alternative to full termination of membership benefits.

8.13 The letter confirming the decision must set out the nature of the offence and inform the member that further misconduct could render them liable to disciplinary action of a more serious nature up to and including full termination of membership benefits.

Termination of all membership entitlements

8.14 In serious misconduct cases amounting to gross misconduct, the member's entitlements may be summarily terminated.

8.15 The letter confirming the decision must set out the nature of the offence and inform the member of the reasons for the termination of all membership entitlements and the date on which the agreement between the union and the member will terminate.

9 Appeal

9.1 Members have the right of appeal against disciplinary sanctions under this procedure. The appeal must be registered in writing to the Supervising Trustee within ten working days of receipt of the written decision.

9.2 In lodging an appeal against a disciplinary sanction, the member is required to set out the grounds for their appeal in writing.

9.3 An appeal hearing will normally be held within ten working days of receipt of the letter of appeal. An appeal will be heard by a panel (see below) who have had no previous involvement in the case. The panel shall normally comprise the following:

- An Executive Officer
- A member of the Trustee Board
- Chief Executive Officer or their nominated representative to act in an advisory capacity

9.4 The member will be given a minimum of two working days' notice in writing in advance of the time and place of the appeal hearing and will be advised of their right to be accompanied as set out in 7.4 of this procedure. At the appeal hearing the Deciding Officer will attend in order to answer any questions which may arise. The member, or their representative, will be entitled to ask any questions and be given full opportunity to state

their case.

9.5 The purpose of an appeal is not to repeat the detailed investigation of the disciplinary hearing or rehear the case, but to focus on specific factors which the member feels have been dealt with unfairly or which have received insufficient consideration, such as:

- an inconsistent, inappropriate or excessively harsh penalty;
- extenuating circumstances;
- alleged bias of the Deciding Officer;
- alleged unfairness in the conduct of the disciplinary hearing;
- new evidence subsequently coming to light.

9.6 The possible outcomes from an appeal are:

- The appeal is upheld and the disciplinary sanction reduced or removed;
- The appeal is upheld and there is a request for a re-investigation or re-hearing;
- The appeal is denied and the original decision is upheld.

9.7 At the completion of the hearing, the appeals panel will adjourn to consider their decision. The panel will deliberate in private only recalling the member and/or witnesses to clear points of uncertainty on evidence already given.

9.8 If recall is necessary, the member and their representative (if applicable) must return even if the panel wishes to clarify the evidence of a witness.

9.9 The member will be notified of the results of the appeal in writing within five working days of the hearing.

9.10 There will be no further right of appeal other than those described above.

10 **Review of the procedure**

This policy will be revised periodically, giving due consideration to any legislative changes where necessary amendments may be made and approved by the Trustee Board. Any amendment to it will be notified to members as appropriate.

Appendix A: DSU Licensed Premises

- 1 This appendix is to be read in addition to, and in conjunction with, chapter two of the De Montfort University General Regulations and Procedures Affecting Students and the Disciplinary Procedure for DSU Members.
- 2 Responsibility for dealing with crime, disorder and anti-social behaviour within DSU licensed premises or, behaviour that occurs as a direct result of an event within DSU licensed premises, will be addressed by the union's Designated Premises Supervisor as defined by the Licensing Act (2003).
- 3 The Designated Premises Supervisor will conduct their duties at all times in accordance with the Licensing Act (2003), guidance on the Act issued by government departments and reasonable advice and guidance received from the local police and the local licensing authority.
- 4 The Designated Premises Supervisor will act in keeping with the values of the De Montfort University Students' Union.
- 5 A completed Incident Report Form (IRF) must be submitted by each member of staff involved in dealing with an incident the next university day after an incident has occurred. Copies will be given to the Designated Premises Supervisor, and the Chief Executive Officer.
- 6 Where staff in DSU licensed premises believe or reasonably suspect that a disciplinary offence has been committed they shall retain the students(s) union card(s) and issue them with an official receipt. This shall inform the student that they have committed an offence and require them to make an appointment with the Designated Premises Supervisor within two days.
- 7 Where the identity of a student is not known, and no other course of action is open, the Designated Premises Supervisor will retain any evidence including CCTV footage and witness statements, and may use whatever time is necessary to identify the student accused.
- 8 Upon receipt of an IRF, the Designated Premises Supervisor will have responsibility for investigating all allegations against Union members emanating from DSU licensed premises. They will also decide when to involve the police to investigate allegations.
- 9 The Designated Premises Supervisor has authority to exclude members or their guests from DSU licensed premises on a temporary or permanent basis if they conclude that an offence has been committed. They may also request that the student involved make reasonable reparation of damages to the organisation or of personal belongings to the person(s) involved.
- 10 There will be no formal right of appeal against a decision of the Designated Premises Supervisor.
- 11 Union members who have been excluded on a temporary or permanent basis or asked to make reparations who believe their treatment has been unfair, may ask the Vice President Student Activities to meet with an Executive panel consisting of the President, Chief Executive Officer and a Union Sabbatical Officer. This request must be made in writing within two working days of receiving notification of disciplinary sanctions. The Union member may present their case to the panel. Having heard the member's case, the panel will make representations on behalf of the Union member to the Designated Premises Supervisor, if they believe the conclusions of the investigation or the sanctions subsequently imposed are unfair.
- 12 Union members may be accompanied by a friend at a panel hearing.
- 13 Once the Designated Premises Supervisor has heard representations on behalf of the Union member they will make a final decision regarding the allegations and any sanctions imposed. This decision will be final.
- 14 The Designated Premises Supervisor will record all decisions made in relation to disciplinary matters and will

also produce quarterly reports of aggregate statistics on disciplinary investigations and consequent sanctions imposed. These reports will be provided for the Executive Committee on request. Reports will include monitoring data, including, for example, the gender and ethnicity of those involved in disciplinary cases.

- 15 The procedure outlined within this appendix does not preclude the right of the Designated Premises Supervisor or other DSU venue staff working with their authority, the right to refuse admission to the Union's licensed premises without giving a reason.
- 16 The Designated Premises Supervisor may at their discretion notify DMU/DSU of any incidents which may breach either the university's or the DSU disciplinary procedures. The Designated Premises Supervisor will have the authority to make evidence available to DMU staff in order that investigations and disciplinary hearings can be conducted.