



## **Byelaw 16**

### **Members' Complaints Procedure**

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#### **1. General**

- 1.1. This procedure outlines the steps AUSA will take to address alleged misconduct by any member, or student of the University of Aberdeen who has exercised the right not to be a member.
- 1.2. Procedures exist for resolving disputes which arise within AUSA venues, elections, and other activities at the frontline. Issues relating to conduct within AUSA venues, elections, or other activities should only be addressed to this Disciplinary Procedure where such frontline procedures have failed to provide satisfactory resolution, or where the matter is considered serious enough to warrant immediate referral to this level. The Chief Executive or their nominee may refer a matter back for consideration at the frontline where this has not been attempted.
- 1.3. Referral for consideration under this procedure may also be an outcome of a complaint received via AUSA's complaints procedure.
- 1.4. AUSA will use this procedure to consider reports or allegations made by any person against any member in respect of the Members' Code of Conduct.
  - 1.4.1. Threats of, or actual, physical or verbal abuse or harassment of students, staff, elected officers, or members of the public on AUSA premises, or at events or activities organised by AUSA (including AUSA societies) elsewhere;
  - 1.4.2. Damage to AUSA property, or property of others while on AUSA premises, or at activities organised by AUSA (including AUSA societies);
  - 1.4.3. Actions contrary to AUSA's Constitution;
  - 1.4.4. Any other conduct which may be considered detrimental to the interests, operation, or reputation of AUSA.

#### **2. Temporary Exclusion of Members**

- 2.1. Any AUSA Sabbatical Officer, or an authorised member of AUSA staff, may temporarily exclude a member from any or all AUSA premises, services, or activities in respect of actions specified under clause 1.4 and the Members' Code of Conduct
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of this Regulation. The Sabbatical Officer or member of AUSA staff who imposed the exclusion shall then make a report to the President or their nominee regarding the matter. The exclusion shall be upheld pending a decision under clause 3.2 of this regulation.

- 2.2. The President or their nominee may also temporarily exclude a member from any or all AUSA premises, services, or activities where the member is under investigation for, or has been penalised for, misconduct under the University's Code of Student Conduct, or subject to a charge in a court of law. Such exclusion will be upheld until the conclusion of University or legal proceedings.
- 2.3. Temporary exclusion shall only be imposed upon a member where it is deemed necessary to protect members, staff, or other interests of the Students' Association.

### **3. Initial Consideration**

- 3.1. On receipt of a report relating to misconduct by a member, the President or their nominee shall refer the matter to the AUSA Chief Executive or their nominee. Where there has been an allegation of harassment, or where reported misconduct indicates a potential risk to the safety or wellbeing of members or AUSA staff, the Chief Executive or their nominee may exclude a member from any or all AUSA premises or activities, pending the conclusion of disciplinary proceedings. Where a member is already subject to a temporary exclusion under clause 2.1 of this Regulation, the Chief Executive or their nominee may extend the exclusion pending the conclusion of disciplinary proceedings, reduce the exclusion, or terminate the exclusion.
- 3.2. Following consideration of any reported misconduct, the Chief Executive or their nominee shall then take one or more of the following actions:
  - 3.2.1. Dismiss the matter;
  - 3.2.2. Investigate the matter further and take action as at section 4.5 of this procedure;
  - 3.2.3. Refer the matter to the Discipline Panel;
  - 3.2.4. Refer the matter to the University under the Code of Student Conduct.
- 3.3. The Chief Executive or their nominee shall contact the subject of the report of misconduct in writing to notify them of the decision taken under section 3.3, above

### **4. Investigation**

- 4.1. Where the Chief Executive or their nominee decides further investigation is required, they will contact the member to whom the report of misconduct relates, requiring them to meet them, giving at least five working days' during term-time notice of the meeting unless otherwise agreed by both parties. The respondent shall be entitled to bring to the meeting, or send as their representative, another member, student, or staff member of the University of Aberdeen.
- 4.2. The Chief Executive or their nominee may also contact or seek to meet with other relevant parties in order to gather further information on the matter, prior or subsequent to meeting with the respondent.

- 4.3. At the meeting, the Chief Executive or their nominee shall inform the respondent of the content of the report of misconduct relating to them, and any other information on the matter gathered as part of their investigation. The respondent shall then be given the opportunity to comment.
- 4.4. If the respondent fails to attend the meeting, the Chief Executive or their nominee may choose to consider the case in their absence.
- 4.5. The Chief Executive or their nominee shall then take one or more of the following actions:
  - 4.5.1. Dismiss the matter;
  - 4.5.2. Caution the respondent on their future conduct;
  - 4.5.3. Require the respondent to pay compensation in order to make good any loss or damage arising from the offence;
  - 4.5.4. Exclude the respondent from any, or all, AUSA premises, services, or activities for a period not exceeding one month;
  - 4.5.5. Remove the respondent's right to stand as a candidate for all or any of the positions in AUSA's Leadership and Ordinary Elections, By-Elections, or NUS Conference delegate elections;
  - 4.5.6. Refer the matter to the Discipline Panel;
  - 4.5.7. Refer the matter to the University under the Code of Student Conduct.
- 4.6. The Chief Executive shall contact the respondent in writing within 3 working days during term-time following the meeting to inform them of their decision, and the respondent's right to appeal.

## **5. Discipline Panel**

- 5.1. The President shall convene a Discipline Panel as required by the Chief Executive or their nominee within 15 working days during term-time of the request being received by the President.
- 5.2. The Discipline Panel for each case shall consist of one AUSA Sabbatical Officer (as Chair), and two students drawn from Student Council, who have received the appropriate training, with at least one of whom must be a woman. No member of the panel shall have been involved in the matter under consideration.
- 5.3. The Chief Executive or their nominee shall attend the hearing to present the evidence relating to alleged misconduct on the part of the respondent.
- 5.4. The Chair of the Discipline Panel shall contact the respondent at least 10 working days during term-time in advance of the hearing requiring them to attend, including details of the time and location for the hearing, and advising them of their right to provide any written statements, evidence or witnesses, to bring to the meeting, or send as their representative, another member, student, or staff member of the University of Aberdeen. It shall be the responsibility of the respondent to make arrangements for the attendance of any witnesses whom they wish to call, or any member they wish to bring in support or as their representative.

- 5.5. Any written statements or evidence shall be provided to the Chair of the Discipline Panel at least five working days during term-time prior to the hearing. The Chair shall ensure that these are provided to all parties due to attend the hearing three working days during term-time prior to the hearing. In order to comply with Data Protection legislation, it may not always be possible to provide every item of evidence to all parties.
- 5.6. A summary of the proceedings and the decision of the Discipline Panel shall be recorded by a member of AUSA staff, who shall attend the hearing. The summary shall be made available to the respondent.
- 5.7. If the respondent and/or their representative fails to attend the hearing, the Discipline Panel may consider the matter in their absence.
- 5.8. The hearing shall operate in accordance with the following procedure:
  - 5.8.1. The Chair shall introduce all present, outline the procedure for the hearing, and state the allegation(s) against the respondent;
  - 5.8.2. The Chair shall ask the respondent whether they wish to challenge the allegation of misconduct as outlined. If the respondent does not wish to challenge the allegation of misconduct, the Discipline Panel should move immediately to the stage outlined in 5.8.9 of this procedure. If the respondent wishes to challenge the allegation, the hearing shall proceed as below;
  - 5.8.3. The Chief Executive or their nominee shall present the evidence relating to the matter, and introduce any supporting statements or witnesses;
  - 5.8.4. The Discipline Panel, the respondent, and their representative shall have the opportunity to question the Chief Executive or their nominee, and any witnesses presented;
  - 5.8.5. The respondent shall be given an opportunity to contest the allegation of misconduct, and introduce any supporting statements or witnesses;
  - 5.8.6. The Discipline Panel and the Chief Executive or their nominee shall have an opportunity to question the respondent, their representative, or witnesses;
  - 5.8.7. The Chief Executive or their nominee shall be given the opportunity to make a final statement;
  - 5.8.8. The respondent shall be given the opportunity to make a final statement;
  - 5.8.9. The Discipline Panel, the appellant and their representative, shall be given an opportunity to question the Chair of the Discipline Panel whose decision is the subject of the appeal, or witnesses;
  - 5.8.10. The Discipline Panel shall reach a decision as to whether to dismiss the matter, or uphold the allegation of misconduct against the respondent;
  - 5.8.11. If the Discipline Panel upholds the allegation of misconduct, they may then be informed of any previous offences committed by the respondent- no information about

- 5.8.12. any such offences shall have been made available to the Discipline Panel prior to this stage;
- 5.9. In upholding the allegation of misconduct, the Discipline Panel will decide what course of action to take from the options listed in 5.10, below. The hearing shall be adjourned for not more than 30 minutes if requested by the respondent or any member of the Discipline Panel. The hearing may be adjourned for not more than 5 working days during term-time, in order to obtain further information or hear further witnesses, with the agreement of the Discipline Panel.
- 5.10. On upholding an allegation of misconduct, the Discipline Panel shall take one or more of the following courses of action:
- 5.10.1. Caution the respondent on their future conduct;
- 5.10.2. Require the respondent to pay compensation in order to make good any loss or damage arising from the offence;
- 5.10.3. Exclude the respondent from any, or all, AUSA premises, services, or activities for such a period as is deemed appropriate, or permanently;
- 5.10.4. Remove the respondent's right to stand as a candidate for all or any of the positions in AUSA's Leadership and Ordinary Elections, By-Elections, or NUS Conference delegate elections;
- 5.10.5. Refer the matter to the University for Consideration under the Code of Student Conduct.
- 5.11. The respondent shall be given written notification of the Discipline Panel's decision, and of their right to appeal against that decision, within five days working days during term-time of the hearing.

## **6. Appeals**

- 6.1. The respondent may appeal against the decision of the Discipline Panel, or of the Chief Executive or their nominee, on one or more of the following grounds:
- 6.1.1. New evidence is available in relation to the misconduct offence which for good reason was not available at the time of the hearing;
- 6.1.2. Evidence of irregular procedure or improper conduct in pursuing the disciplinary process;
- 6.1.3. The penalty was disproportionate to the offence for which the respondent was found responsible.
- 6.2. If the respondent wishes to appeal, they should send written notification providing information about their grounds to the President within five working days during term time of receiving the Discipline Panel's decision in writing.
- 6.3. On receipt of written notification of appeal, the President shall convene a Discipline Appeals Panel. The Discipline Appeals Panel shall be convened within 15 working days during term time of the request being received by the President.
- 6.4. The Discipline Appeals Panel shall consist of one AUSA sabbatical officer (as Chair), and four students drawn by lot from the pool constituted according to clause

- 7.1 of this procedure, at least two of whom must be women. No member of the Discipline Appeals Panel shall have been involved in the matter under consideration, or in the Discipline Panel whose decision is the subject of the appeal.
- 6.5. The Chair of the Discipline Appeals Panel shall contact the appellant at least 10 working days during term time in advance of the hearing requiring them to attend, including details of the time and location for the hearing, and advising them of their right to provide any written statements, evidence or witnesses, to bring to the meeting, or send as their representative, another member, student, or staff member of the University of Aberdeen. It shall be the responsibility of the appellant to make arrangements for the attendance of any witnesses whom they wish to call, or any member they wish to bring in support or as their representative.
- 6.6. The Chair of the Discipline Panel whose decision is the subject of the appeal shall also be invited to attend the hearing, or to send a representative.
- 6.7. Any written statements or evidence shall be provided to the Chair of the Discipline Appeals Panel at least five working days during term time prior to the hearing. The Chair shall ensure that these are provided to all parties due to attend the hearing three working days during term-time prior to the hearing. In order to comply with Data Protection legislation, it may not always be possible to provide every item of evidence to all parties.
- 6.8. A summary of the proceedings and the decision of the Discipline Appeals Panel shall be recorded by a member of AUSA staff, who shall attend the hearing. The summary shall be made available to the appellant.
- 6.9. A hearing of the Discipline Appeals Panel shall operate in accordance with the following procedure:
- 6.9.1. The Chair shall introduce all present, outline the procedure for the hearing, and state the grounds for appeal;
  - 6.9.2. The appellant or their representative shall present details of the appeal, and introduce any supporting statements or witnesses;
  - 6.9.3. The Discipline Appeals Panel, and the Chair of the Discipline Panel whose decision is the subject of the appeal, shall have the opportunity to question the appellant, their representative, or witnesses;
  - 6.9.4. The Chair of the Discipline Panel whose decision is the subject of the appeal shall be given an opportunity to contest the appeal, and introduce any supporting statements or witnesses;
  - 6.9.5. The Discipline Appeals Panel, the appellant and their representative, shall be given an opportunity to question the Chair of the Discipline Panel whose decision is the subject of the appeal, or witnesses;
  - 6.9.6. The appellant shall be given an opportunity to make a final statement;
  - 6.9.7. The Chair shall ask the appellant and the Chair of the Discipline panel whose decision is the subject of the appeal to leave the hearing, and explain that they will be notified of the Panel's decision in writing;
  - 6.9.8. The Discipline Appeals Panel shall reach a decision on the appeal;

- 6.10. The Panel may accept or reject the appeal in full or in part and, as a consequence, may remove or reduce any penalties imposed by the Discipline Panel, but may not increase the penalties imposed by the Discipline Panel.
- 6.11. The hearing shall be adjourned for not more than 30 minutes if requested by the appellant or any member of the Discipline Appeals Panel. The hearing may be adjourned for not more than five working days during term-time, in order to obtain further information or hear further witnesses, with the agreement of the Discipline Appeals Panel.
- 6.12. The appellant shall be given written notification of the Discipline Appeals Panel's decision within five working days during term-time of the hearing.
- 6.13. The decision of the Discipline Appeals Panel shall be final.

## **7. Selection of Panels**

- 7.1. Discipline Panel and Discipline Appeals Panel members shall be drawn from Student Council
- 7.2. Members of Student Council shall put themselves forward to become members of the Discipline Panel and the Discipline Appeals Panel and selected by the Chair on a first come, first serve basis.
- 7.3. The respondent or appellant may request reconsideration of any Discipline Panel or Discipline Appeals Panel member on grounds of partiality. Such a request shall be considered by the Chair of the Discipline Panel or the Chair of the Discipline Appeals Panel, who shall decide to replace the member, or to reject the request; this decision shall be final.

## **8. Jurisdiction of Panels**

- 8.1. If any respondent refuses to accept the jurisdiction of the Discipline Panel or Discipline Appeals Panel, the President may refer the case to the appropriate University authority for consideration under the University's Code of Student Conduct.
- 8.2. If any member breaches the terms of any exclusion from premises, services, or activities of the Students' Association, the President shall be empowered to extend the exclusion for a period not exceeding the full length of the original exclusion.

## **9. General Arrangements for Panels**

- 9.1. Members may be accompanied by another member, or a student or staff member of the University of Aberdeen, at Discipline Panel or Discipline Appeals Panel hearings, but may not have external or legal representation.
- 9.2. The summary of proceedings of the Discipline Panel and Discipline Appeals panel shall be confidential to those in attendance at the hearing. Anonymised data about the decisions of Discipline Panels and Discipline Appeals Panels may be published in such a way as they determine.