



Disciplinary Policy

The Union takes the safety of its Student Members seriously, so it's essential we have a plan to handle dangerous, unacceptable, or inappropriate behaviour quickly, fairly, and effectively. This policy outlines the principles the Union follows in its disciplinary procedures – as well as our policy surrounding suspension.

See also Members Code of Conduct

The **Trustee Board** shall have the lead responsibility for this Policy.

1. Principles and responsibilities

This Policy sets out the procedures to be followed in the case of disciplinary action in respect of any Member of the Union, as defined at Articles 8 and 13 of the Articles of Association. It will not apply to students who have opted out of the Union.

The Trustee Board shall keep updated a set of disciplinary procedures. They shall include:

1. Members Code of Conduct
2. Procedure for Members, Clubs and Societies
3. Procedure relating to Licensed Areas
4. Any other procedures as they feel necessary

It is the responsibility of all Members to familiarise themselves with the Union's Code of Conduct which shall be published online. It is the responsibility of all Elected Officers and Trustees to also maintain reasonable standards of behavior, performance, and attendance in carrying out their duties and responsibilities. Trustees of the Union are required to abide by the Trustees' Code of Conduct for which the CEO and the Director of People are responsible.

The Union's disciplinary procedures consist of a clear set of rules that promote fairness and consistency of treatment, that comply with the law where relevant and comply with the Articles of Association of the Union as well as other relevant Bye-laws.

2. Policy Principles

In any case where a disciplinary hearing takes place, a Member or student group will be given the opportunity to state their case during the Disciplinary Hearing and before the Disciplinary Panel's decision is made.

A Member or student group wanting to provide evidence should do so no later than 48 hours before a disciplinary hearing and should be submitted to the investigating Manager / Officer.

No disciplinary action will be taken against a Member or student group until an investigation has been carried out, a Stage 2 complaint has been referred under the Complaints Policy or a referral is made through the CEO.

Individuals or student groups may be subject to a Precautionary Suspension while an investigation is taking place, depending on the circumstances. During a period of Precautionary Suspension an Elected Officer may not act on behalf of the Union. Precautionary suspension is not disciplinary action.

Some of the rights and benefits of Members may be suspended while an investigation is taking place (but not the right to receive notice of, attend, speak at or vote at a Company Law Meeting). Precautionary Suspension of these rights is not a disciplinary action.

There will be a right of appeal in any disciplinary process.

In cases which involve the President of the Union, a nominated deputy approved by the Governance and Appointments Committee, will preside over decisions. In cases which involve the President as the Chair of the Board of Trustees, references to their involvement should be read as the Deputy Chair of the Board.

3. Procedure

Any person, including the Union acting through its Chief Executive or a Trustee, can make a complaint against a Member, club or society whose behaviour contravenes the Union's Members Code of Conduct or Bye-laws. The Complaints Policy describes the process that will be followed.

If the initial information submitted suggests that there may have been a serious breach of the Members Code of Conduct, or the outcome of a Stage 2 investigation is referred under the Complaints Policy the matter will be dealt with under the Disciplinary Procedure. The decision to refer the matter to the Disciplinary Procedure will be at the instruction of the President or Chief Executive acting on behalf of the Board.

4. Record Keeping

The Union shall ensure that notes are taken of all interviews or meetings during the disciplinary process. Notes from a Stage 2 complaint submitted under the Complaints Policy will also be made available. All parties to the procedure may have access to these should they require them once they are available. Notes will be made available within 5 working days.

Evidence to be used in the decision-making process should be made available to all parties prior to any decision being taken. Evidence to be referred to in any hearing will be made available at least 48 hours before the hearing, wherever practicable.

5. Confidentiality

At all times during investigations, confidentiality and discretion must be maintained by all those involved. Any breach of confidentiality will be investigated as a disciplinary matter.

The Union reserves the right to break confidentiality if it is under a legal obligation to do so, or if the incident being investigated indicates evidence of potential criminal activity or harm to an individual. If there is a need to break confidentiality, this will be approved by the President or their representative.

In accordance with the prevailing data sharing agreement between the Union and the University, the Union and University may share information regarding precautionary suspension, investigation and/or disciplinary action where the welfare of students is at risk by not doing so. Further details can be found in the Union's privacy statement on the website.

It may be appropriate, following any disciplinary action, to communicate the outcome. In all cases, advice should be taken from the Director of People and/or the Chief Executive on how actions should be communicated, if at all and in consultation with the President and/or the Chair of the Board of Trustees. Sensitivity and the rights of an individual must be paramount in determining whether this is appropriate.

6. Precautionary Suspension

In exceptional circumstances the option of Precautionary Suspension will be considered. The President (or their nominated deputy) has the authority to issue a Precautionary Suspension having considered the case with the investigating Officer and might take advice from the CEO, Deputy CEO or Director of Membership where appropriate. This may be where a Club, Society or Member's conduct may pose a risk to other students or staff; where continued access to Union premises and/or facilities may interfere with the investigation of an offence; or where the Club, Society or Member themselves may be put at risk. This suspension is not a sanction and is used to protect the interests of the University community or a particular Member or Members of the Union.

The decision to suspend will be made at the President's (or their nominated deputy's) discretion. The terms and level (full or partial) of a suspension will be decided after considering the particular circumstances. A suspension will remain in place until the outcome of an investigation has taken place.

- 6.1 Full suspension** means total restriction on attendance at Union premises, access to Union facilities or services, participation in Union Club and/or Society activities and participation in any Union meetings (except a Member's right to receive notice of, attend, speak and vote at a Company Law Meeting cannot be suspended). It may also include a requirement that the Member have no contact, of any kind, with a named person or persons.
- 6.2 Partial suspension** involves selective restriction on attendance at Union premises, access to Union facilities or services, participation in Union Club and/or Society activities and participation in Union meetings (except a Member's right to receive notice of, attend, speak and vote at a Company Law Meeting cannot be suspended). It may also include a requirement that the Member have no contact, of any kind, with a named person or persons.
- 6.3 Temporary suspension** will be invoked when the Union receives a complaint about a Member regarding a serious breach of the Code of Conduct and their presence at upcoming club/society activities poses a risk to the reporting party, or any other individual. A member will be suspended for a two-week period with a review at the end and the possibility to extend. When informing the Member that they are suspended correspondence, confidentially, will also be sent to the club/society President. When sending this email, the Vice President for Sports should be cc'd for a club member and the Vice President for Societies for a society member.

The reasons for the suspension will be put in writing and will be in place pending the conclusion of any disciplinary action and/or any criminal proceedings.

The full and partial suspensions will be subject to periodic review, at least on a bi-monthly basis, and the Member will be informed of the outcome of the review. Temporary suspensions will be reviewed every two weeks. The Member may request a review of the suspension if there is a relevant change in their circumstances. The request should be made in writing to the President (or their nominated deputy) who will respond within five working days.

For the avoidance of doubt the Union may recommend that an issue is referred to the University disciplinary processes or may suggest that a joint investigation is appropriate where the misconduct is applicable to both institutions.

The Union does not have access to the same investigatory powers as the criminal justice system and if a police investigation is in process, the Union reserves the right not to enact any of its own procedures, other than to issue a precautionary suspension until an external investigation is complete.

A Member may have chosen to report the matter to the police and given the sanctions and processes available through this route, may choose not to make use of the Union's disciplinary process. However, should the alleged victim raise the matter with the Union, any decisions made will be based on the "balance of probability" rather than the "beyond reasonable doubt" principle.

The fact that criminal proceedings have been instituted or concluded does not preclude the Union from taking its own disciplinary action if it is believed necessary or appropriate to do so. In addition, the fact that the Police are unable or unwilling to proceed does not preclude the Union from taking its own disciplinary action.

The Union may, at its discretion, request consent to access University disciplinary investigation material to undertake its own assessment of the situation where it is in the best interests of all parties to do so. This will be in accordance with the prevailing data sharing agreement between the Union and the University.

Where the Member is also an employee of the Students' Union or any of its subsidiaries, the investigating officer should inform the Director of People for consideration as to whether any further action is required.

7. Disciplinary Panel

The Governance and Appointments Committee will oversee the Disciplinary procedure and convene and select a panel. The panel will consist of the following, one of whom shall act as Investigating Officer:

- A Lay or Student Trustee
- An Elected Officer of the Union
- A member of staff of the Union

The Disciplinary Panel shall normally be convened within 5 working days of the decision to refer the matter to the Disciplinary Procedure. The Chair of the Disciplinary Panel shall be an Elected Officer.

Where a conflict of interest occurs, any person selected for the Disciplinary Panel should declare it immediately and a suitable alternative be appointed.

A staff member (in addition to the person appointed to the Panel), as agreed by the Chief Executive, shall act as secretary to the Disciplinary Panel and shall be responsible for convening the Disciplinary Panel.

The role of the Investigating Officer will be to establish the facts of the case, obtain written evidence and collate any previous investigation notes; interview witnesses and keep written records. In conducting interviews, the Investigating Officer will state the issues as known; ask for information and explanations and inform the person of the next steps and timelines. They will consult with staff advisors as necessary, prepare a written summary of findings and present these to the Disciplinary Panel.

The Disciplinary Panel may at any point halt the disciplinary procedure at its discretion, for example if there are pending criminal or civil investigations or proceedings which relate to the disciplinary issue.

8. Disciplinary Hearing

The Hearing shall normally be held within 20 working days after the Disciplinary Panel is convened, unless there are extenuating circumstances, or it is delayed by mutual agreement.

It may be necessary to discipline a club, society, or group of the Union. In this instance, it will be the club or society President (or equivalent) of the group who is called to appear. In the remainder of this policy, a reference to "Member" shall include the club or society President (or equivalent).

At least 5 working days before the Hearing, the complainant and the respondent shall be sent written notification of the alleged misconduct, breach or offence, and notification of the Hearing. This written notification will:

- i. outline the alleged offence.
- ii. give the date, time and place of the Hearing.
- iii. inform the Member that they have the right to bring a friend (but not legal representation).
- iv. inform the Member that they may provide written statements for themselves and/or witnesses to the Chair at least 24 hours in advance of the Hearing.
- v. inform the Member that they can call witnesses but must inform the Chair of any intention to do so at least 24 hours in advance of the Hearing.
- vi. inform the Member that copies of the witness statements and incident report will be sent via email, at least 24 hours in advance of the Hearing.
- vii. detail the membership of the Disciplinary Panel and inform the Member that if they wish to object to the membership of the panel, that they must do so in writing within 48 hours of receiving the written notification.
- viii. inform the Member that if they fail to appear, the Disciplinary Panel may hear the case without them present.
- ix. include a copy of the Disciplinary Procedures for Members, Clubs and Societies.

The Governance and Appointments Committee, by overall majority, shall make the final decision about whether to uphold any objection over the membership of the Disciplinary Panel and replace a member of the Panel.

The Hearing will be ordered as follows:

- 1) Introductions
- 2) Investigating Officer presents their findings
- 3) Member presents their case
- 4) Panel calls on witnesses (if any) of the alleged misconduct or offence
- 5) Panel asks questions of Member and witnesses as they see fit
- 6) Member has the right to respond to the evidence
- 7) Member is asked to leave the room while the Panel discusses and reaches a decision as to their findings and, if necessary, decides upon a suitable sanction
- 8) Member is called back into the room and informed that the Panel's decision will be communicated in writing within 5-6 working days.
- 9) The Chair informs the Member of their right to appeal against any decision

Neither the Panel nor the Member has the authority to compel the attendance or contribution of a witness against their will. It will normally be the responsibility of the Member to notify any witnesses they wish to attend and to inform them of this fact.

The Union has a duty of care to protect all parties and in some circumstances, the Panel may direct that the Member leaves the room for the whole or part of the evidence of the witness.

The Panel shall call upon staff advisors in matters for which they require legal or professional clarification or in such instances where the Union's legal responsibilities, these advisors will normally be present throughout the Hearing.

The Disciplinary Panel shall have the power to adjourn, continue or postpone a hearing at its discretion.

The findings of the Panel and the imposition of any sanctions shall be decided by a simple majority vote of the Panel, notwithstanding that every effort will be made to reach a unanimous decision in the first instance.

The Panel reserves the right to inform the University of any sanction imposed on an individual.

After the Hearing, the Chair will notify all parties in writing of the outcome. Unless doing so would in any way breach the Unions legislative duties. Where an outcome impacts a club or society membership, the relevant President shall be informed.

In line with the Data Protection Act 2018 the Member has the right to make a Subject Access Request for any record of the hearing kept on computer or in an intelligible and accessible filing system. In cases where an intelligible recording of the proceedings has been made the Union will not be under an obligation to provide a written record as well. If the record is written it will not normally be a verbatim record. The final decision in that matter will lie with the President. The Union's Privacy Statement ([Privacy Statement \(warwick.ac.uk\)](https://www.warwick.ac.uk/privacy-statement)) sets out how personal information is treated.

9. Decision of the Disciplinary Panel

The decisions which the Disciplinary panel may take are:

- 1) Imposition of a sanction on the Member, club, or society from the lists 11 or 12 below or as set out in Bye-law 5
- 2) Referral of the matter to the University for assessment and final verdict
- 3) Dismissal of the allegations and charges brought against the Member, club or society.

In making its decision, the threshold to be reached by the Panel in any contested allegations is an assessment on the balance of probabilities, and not proof beyond reasonable doubt.

The Disciplinary Panel will be made aware of any previous offences in which the Member has been involved when sanctions (if any) are to be imposed. This includes previous upheld stages of the Complaints Policy and/or action taken within the Union's licenced premises.

A sanction may be suspended or deferred at the discretion of the Panel and when setting sanctions the Panel will consider any time or penalty already spent.

Within 5 working days of deciding the appropriate disciplinary action, the secretary to the Disciplinary Panel shall notify the Member, club or society in writing of its decision and this notification shall normally set out the reasons for the Panel's decision and the imposition of any sanctions.

10. List of Grounds for Disciplinary Action

The following (which is not an exhaustive list) shall be considered misconduct and grounds for disciplinary action:

- a) violence or threat of violence.
- b) using, dealing or possessing illegal drugs on Union premises or at Union facilities.
- c) drunk and disorderly conduct.
- d) acting with dishonesty or with intent to defraud
- e) incurring unauthorised expenditure on behalf of the Union, misappropriation of Union funds or property; maladministration or misconduct of club/society funds
- f) damage to the Union's property, or property belonging to a Member or guest.
- g) refusal to leave the Union's premises.
- h) misbehavior of a Member's guests.
- i) harassment of any kind.
- j) contravention of the Articles of Association, Members Code of Conduct, Bye-laws, or Union Policies.
- k) breach of the Union's Equality and Diversity policy.
- l) any illegal behaviour.
- m) failure to follow required health and safety provisions that have or are likely to have put someone in danger of serious injury, illness or death.
- n) failure to comply with data protection provisions and provisions relating to secure use of the internet or email.
- o) behaviour which exposes the Union to potential or actual financial risk or loss or legal action.
- p) behaviour which causes difficult working relationships or damages the Union's reputation.
- q) Conduct which disrupts or prejudices the work of the Union, other Members, officers or employees of the Union or the carrying out of the Union's business.

- r) Conduct in breach of University of Warwick policies.

11. List of Sanctions for Groups

The following sanctions may be imposed by the Disciplinary Panel upon any club, society or group of the Union:

- a) financial penalty up to £350 (unrelated to specific financial loss as in b).
- b) financial restitution in full or in part of the cost of making good any damage or loss suffered by the Union or other Members or persons.
- c) total or partial ban from some or all of the Union's premises and/or facilities for a specified period of time.
- d) closure of the groups, club or society.
- e) any combination of the above sanctions.
- f) requirement to attend training
- g) any other sanction deemed appropriate by the Panel.

12. List of Sanctions for Individual Members

The following sanctions may be imposed by the Disciplinary Panel upon any Member of the Union:

- a) verbal or written apology.
- b) total or partial ban from some or all of the Union's premises, and access to services, facilities, or activities for a specified period.
- c) withdrawal of rights to participate in or benefit from specified Union services, facilities, or activities for a specified period.
- d) permanent or temporary suspension of some of the rights and benefits of membership of the Union except that a Member's right to receive notice of, attend, speak and vote at a Company General Meeting cannot be suspended).
- e) financial penalty up to £50 (unrelated to specific financial loss as in f).
- f) financial restitution in full or in part of the cost of making good any damage or loss suffered by the Union or other Members or persons.
- g) any combination of the above sanctions.
- h) requirement to attend training.
- i) any other sanctions deemed appropriate by the Panel.

Failure by a member of group to comply with the sanction may result in further action. Any sanction which requires financial compensation, training or an apology must be enacted within 3 months of receiving the final outcome letter

13. Appeals

Should a Member feel dissatisfied with the outcome of the Disciplinary Panel, they can escalate an appeal. An appeal must be submitted on one or more of the following grounds:

- 13.1 That relevant and credible evidence has come to light which makes the outcome unreasonable or unfair (additional evidence to support this)
- 13.2 There is evidence of procedural irregularity.
- 13.3 There is evidence of discrimination, prejudice and/or bias in the preparation for or during an investigation.

An appeal should be received within 14 working days of the outcome. The Member should explain (in writing) the grounds for review. The Governance and Appointments Committee shall then appoint and convene an Appeals Panel that will consist of:

- A Student or Lay Trustee
- An Elected Officer
- The Chief Executive

The Appeals Panel members must not have been involved in the original hearing, not be directly connected with the Member bringing the appeal, nor have any other conflict of interest.

The Elected Officer shall act as Chair and shall ensure that all relevant papers pertaining to the appeal have been circulated. The Appeals Panel will be held, where possible, between 5 to 10 working days after the appeal has been received. Any delay in this shall be communicated to the appellant.

The function of the Appeals Panel will be to consider whether there is a ground for the appeal, in accordance with 13.1-3 above. If so, the function of the Appeals Panel will be to consider the case material and any new evidence.

The Appeals Panel may:

- 1) uphold the decision of the Disciplinary Panel
- 2) overturn the decision made by the Disciplinary Panel; or
- 3) change the sanctions imposed by the Disciplinary Panel.

The decision of the Appeals Panel shall be final. This decision will be communicated in writing within 10 working days to the appellant. There is no further appeals process.

If the Member(s) are dissatisfied with their dealings with the Union, they may register their dissatisfaction with the Secretary to Council under the University's Ordinance 10: Students' Union (26), pursuant to the Education Act 1994, Part II. The Secretary to Council may delegate an alternative University Officer to respond at her/his discretion. It should be noted that recourse to the Secretary to Council does not constitute a further appeals process.

14. Disciplinary Action by the University

Where the University makes a recommendation to the Union to impose a Precautionary Suspension or sanction(s) on a Member of the Union, at the approval of the President or nominated deputy the Union may enact that recommendation without the need to reference the alleged or proven offense.

This is under the knowledge that at least one Full-Time Officer will be on all University Disciplinary Panels and that the University has an obligation to inform the Member of the alleged or proven offense. The Member will also have been informed of the University's recommendations to the Union.

15. Licensed Area Disciplinary Regulations

Introduction

- i. The licensed areas of Warwick Students' Union are bound by the regulations and objectives of the Licensing Act 2003
- ii. The Designated Premises Supervisor (DPS) has legal responsibilities and duties under the Licensing Act 2003, meaning that no Officer, group, or Union democratic body can overturn a disciplinary decision made by the DPS.
- iii. All Members and visitors to the Union are responsible for acquainting themselves with the Union's Articles of Associations and Bye-laws and all Union Policies, Union Regulations and Procedures
- iv. A Member must produce their University Card to any designated Union staff member upon request when present on Union licensed premises.
- v. Any Member must leave the licensed premises immediately if asked to do so by a member of Union staff.
- vi. It is the responsibility of the DPS to decide what offence has occurred should a member or visitor be deemed to have behaved in a manner that puts the Union's Licence at risk.

Procedure

- vii. Should a disciplinary hearing be warranted, the Disciplinary Officers are the DPS & Venue Manager (VM) and their nominated representatives.
- viii. Any behaviour that causes a student, guest, or staff member to lodge a complaint will constitute sufficient grounds for an investigation.
- ix. Where an alleged breach of the regulations occurs, a staff member shall have the authority to exclude the member from the venue or to take any other reasonable action to prevent further immediate breaches of the regulations. This action, shall at the earliest opportunity, be reported to a nominated Disciplinary Officer who shall endorse, amend, or withdraw the restrictions pending a meeting with the accused.
- x. Members who have been asked to leave, or removed from the building, will be told to contact the DPS or VM during office hours.
- xi. All information on banned Members will be kept updated by the VM, subject to GDPR legislation.
- xii. Any disciplinary meeting should take place not more than 10 working days after the Member has contacted the DPS or VM or after police, CPS, court, or University action has concluded. This decision will be taken at the discretion of the DPS.
- xiii. If the appellant does not appear at the Disciplinary Meeting, then the case will be heard and decided upon in their absence.
- xiv. At the Disciplinary Meeting, the DPS/VSM will assess the evidence before them and allow the appellant to present their case. The appellant has the right to be accompanied by a friend to this meeting. At the discretion of the DPS/VSM the appellant can call upon any witnesses of the alleged offence. The appellant will have a final chance to say offer mitigation prior to the DPS/VM making their decision.
- xv. The DPS/VM will be made aware of any previous offences as committed by the appellant.
- xvi. The Disciplinary Meeting reserves the right to inform the University DPS of any decision to ban an individual from the Union building..
- xvii. The Disciplinary meeting shall have the power to adjourn, continue or postpone a meeting at its discretion.

Appeal Process

- xviii. There is no right of appeal against a ban of less than ten weeks when dealing with misconduct in Licensed Areas.
- xix. If the appellant wishes to appeal against the ruling of the DPS/VSM in a Disciplinary meeting, they must do so in writing not more than 48 hours after the meeting. This should be addressed in the first instance to the President. The letter must briefly state the grounds for the appeal.
- xx. In a case where the President has a conflict of interest, the appeal will be passed to another Full Time Officer.
- xxi. The President shall then discuss the matter with a DPS/VM after which the DPS/VM will have the final decision as to whether to uphold the penalty, reduce it or remove it.
- xxii. After the appeal, the President shall notify the appellant of the outcome in writing. The appellant should be made aware that there will be no further options for appeal.

List of Grounds for Disciplinary Action

- a. Violence or threat of violence
- b. Using, dealing, or possessing illegal drugs on the premises.
- c. Drunk and disorderly conduct
- d. Theft
- e. Damage to Union property, or property belonging to a member or guest.
- f. Refusal to leave the premises
- g. Misbehaviour of guests.
- h. Harassment of any kind.
- i. Abusive language to students or staff members
- j. Lewd or offensive behaviour.
- k. Deliberate breaking of glass
- l. Smoking in non-smoking areas
- m. Any behaviour deemed unacceptable by the DPS

