

Bye-Law 19

Code of Conduct and Disciplinary Procedure

1. Definitions

For the purposes of this Code of Conduct and Disciplinary Procedure:

- 1.1 Executive Officers Are Members, not staff members.
- 1.2 A Member This includes any student who has opted out of membership of the Union, in relation to any matter where they are, or have been, on the Union's premises, or otherwise using or participating in the Union's services or activities, or those of its clubs and societies.

2. Purposes of this Code of Conduct and Disciplinary Procedure

The purposes of this Code of Conduct and Disciplinary Procedure are:-

- (i) To enable the Union to carry out its functions and activities with proper regard for its responsibilities to all Members, staff and all others having dealings with the Union or who may be affected by its activities, and to protect the Union's reputation; and
- (ii) To ensure consistency, transparency and fairness in the management of Member conduct.

3. Relationship to other Procedures

- 3.1 The Queen Mary, University of London Code of Student Discipline applies to matters relating to the functions and activities of Queen Mary, University of London. In cases of serious misconduct, of whatever nature, the Union may refer the matter for consideration under such Code.
- 3.2 This Code of Conduct and Disciplinary Procedure does not apply to any matter falling within the remit of the Union's Bye-law on Elections.
- 3.3 This Code of Conduct and Disciplinary Procedure does not apply to matters relating to the performance of elected Executive Officers, Student Representatives or Part-time Officers in relation to their duties and responsibilities as provided for in the Union's Bye laws, or to the performance of Officer Trustees, Student Trustees or External Trustees in relation to their duties and responsibilities as provided for in the Union's Bye laws and/or in the Union's Articles of Association. All such performance will be considered under the relevant Bye-law and/or as provided for in the Union's Articles of Association.
- 3.4 Complaints made under the Union's Complaints Procedure may be referred for consideration under this Code of Code of Conduct and Disciplinary Procedure.
- 3.5 Misconduct by Executive Officers may fall within the remit of the Union's employment disciplinary procedures and may be dealt with accordingly.
- 3.6 Nothing in this Code of Conduct and Disciplinary Procedure shall prevent or preclude any action:-
 - (i) Being taken, by a licensee or representative of a licensee of licensed premises operated by the Union, for the maintenance of good order on such premises; or

- (ii) Being taken by or on behalf of the Union under operating procedures of the Union for safeguarding the health, safety or welfare of any person, for the avoidance damage to property or for the avoidance of any infringement of the law.

For the avoidance of doubt, any such action so taken will not prevent or preclude other or further action being taken under this Code of Conduct and Disciplinary Procedure.

4. Misconduct and Gross Misconduct

4.1 Misconduct is action or behavior which improperly disrupts or interferes with the functioning and activities of the Union or adversely affects its reputation. Misconduct will usually result in disciplinary action being taken against the Member concerned. Gross misconduct is misconduct of a serious nature and may lead to the summary termination of all membership entitlements.

4.2 Examples of gross misconduct include (but are not limited to):-

- (i) fraud, deceit, deception or dishonesty in relation to the Union, its staff or in connection with any holding of office in the Union;
- (ii) theft of, damage to, or defacement of property of the Union or staff members caused intentionally or recklessly;
- (iii) violent, indecent, disorderly or intimidating behaviour whilst on Union premises or using or participating in any in any Union services or activities, at whomever directed; or
- (iv) serious incidents of misconduct as referred to below.

4.3 Examples of misconduct include (but are not limited to):-

- (i) disruption of or improper interference with any activity of the Union, whether on Union premises or elsewhere;
- (ii) obstruction of or improper interference with the carrying out, by any Member, staff member, or any visitor to the Union or to any of its services or activities, of their duties or functions;
- (iii) offensive behaviour or language (whether oral or in writing) whilst on Union premises or using or participating in any in any Union services or activities, at whomever directed;
- (iv) any action endangering or likely to endanger health and safety;
- (v) any action or activity which fails to respect the lawful rights of others to freedom of belief or freedom of speech;
- (vi) vexatious or malicious complaints and unsupported allegations against Members or staff members;
- (vii) misuse or unauthorised use of Union property or premises, including computer misuse or attempted misuse including downloading and/or publishing material encouraging extreme behaviour towards people and/or property;
- (viii) any breach of any bye law, rule, regulation, code, policy or procedure of the Union;
- (ix) behaviour which damages or is likely to damage the reputation of the Union; or
- (x) a failure to comply with the requirements of any previous disciplinary action imposed.

5. Consideration by a Disciplinary Panel

Where a complaint under the Union's Complaints Procedure is referred for consideration under this Code of Conduct and Disciplinary Procedure, or where an alleged or apparent act of misconduct is otherwise brought or comes to the attention of the Union, a Disciplinary Panel will be established as soon as practicable to consider the matter.

6. Constitution of a Disciplinary Panel

6.1 A Disciplinary Panel will comprise:-

- (i) One External Trustee, who shall be the Chair of the Panel;
- (ii) One Officer Trustee or Student Trustee; and
- (iii) One member of Student Council, nominated by the Chair of Student Council.

6.2 No individual who has any close connection with the Member concerned or who has had any significant prior involvement in the matter will be included in the Panel.

7. **Investigation**

7.1 If, given the nature or circumstances of the case, the Disciplinary Panel considers it necessary to suspend all or any part of membership entitlements of the Member concerned for any period pending resolution of the matter, such period will be as brief as possible and will be kept under review, and such suspension will not be considered a disciplinary action.

7.2 The Panel will as soon as practicable investigate the matter in such manner as it considers appropriate and may appoint an investigator to carry out the investigation on its behalf. Such investigation may include a meeting with the member concerned and/or the collation of evidence.

8. **Disciplinary Hearing**

8.1 Having investigated the matter, the Disciplinary Panel will decide whether there is a case to answer and, if so, will:-

- (i) as soon as practicable fix a time and venue for a Disciplinary Hearing and notify the Member concerned in writing;
- (ii) give such Member sufficient written information about the alleged misconduct and its possible consequences to enable such Member to prepare for the Hearing;
- (iii) supply to such Member copies of any documents which will be taken into account at the hearing; and
- (iv) inform the Member concerned that they are entitled to be accompanied at the hearing by a fellow Member of their choice.

8.2 If the Member concerned, without good cause, does not attend the Hearing, the Panel will be entitled to decide the matter in the Member's absence on the evidence available.

8.3 At the Hearing, the Member concerned will have the opportunity to state their case. In so doing, with their consent, their fellow Member companion will be able to speak, but not answer questions, on their behalf.

8.4 As soon as practicable after the Hearing, the Panel will consider whether or not, on the balance of probabilities there has been misconduct, and, if so, whether or not disciplinary action should be taken against the Member concerned, and will notify such Member accordingly in writing.

8.5 Should disciplinary action be taken, the member concerned will be notified of their right to appeal against the decision.

9. **Disciplinary Action**

9.1 Where a finding of misconduct is made, disciplinary action may include:-

- (i) an informal warning, which may include informal advice;
- (ii) a written warning, which will make clear the consequences of further misconduct and which be kept on file for disciplinary purposes for 6 months;

- (iii) suspension of, for any period, all or any part of membership entitlements a record of which will be kept on file for disciplinary purposes for 12 months;
- (iv) termination of all or any part of membership entitlements;

Any such disciplinary action may include a requirement to compensate any person for damage to property.

9.2 In considering what disciplinary action, if any, to take against the Member concerned the Disciplinary Panel will take into account:-

- (i) the seriousness of the misconduct;
- (ii) previous disciplinary record;
- (iii) conduct following the misconduct; and
- (iv) any other mitigating factors.

10. **Appeals against Disciplinary Action**

10.1 A Member shall be entitled to appeal against disciplinary action taken against them. A request for an appeal must in writing and made within 10 working days of the notification of the relevant decision.

10.2 Such request should be addressed to the Deputy Chair of the Board of Trustees, should set out the grounds of the appeal and include details, with relevant copy documents, of any new evidence which the Member concerned wishes to be considered in the appeal.

10.3 As soon as practicable after a request for an appeal, an Appeal Panel will be established to consider the appeal.

11. **Constitution of an Appeal Panel**

11.1 An Appeal Panel will comprise:-

- (i) One External Trustee, who shall be the Chair of the Panel; and
- (ii) Two other Trustees.

11.2 No individual who has any close connection with the Member concerned or (wherever possible) who has had any significant prior involvement in the matter will be included in the Panel.

12. **Appeal Hearing**

12.1 As soon as practicable the Appeal Panel will fix a time and venue for an Appeal Hearing, will notify the Member concerned in writing and will inform such Member that they are entitled to be accompanied at the Hearing by a fellow Member of their choice.

12.2 If the Member concerned, without good cause, does not attend the Appeal Hearing, the Panel will be entitled to dismiss the appeal.

12.3 At the Appeal Hearing the Member concerned will have the opportunity to state their case. In so doing, with their consent, their fellow Member companion will be able to speak, but not answer questions, on their behalf.

12.4 As soon as practicable after the Hearing, the Panel will consider whether or not, in all the circumstances, the Disciplinary Panel's decision should be upheld or set aside, or varied by the imposition of a lesser disciplinary action, and will notify such Member accordingly in writing. The Appeal Panel's decision will be final for the purposes of all Union Procedures.

13. **General**

- 13.1 All documents relating to matters dealt with under this Code of Conduct and Disciplinary Procedure will be processed in accordance with any applicable provisions of Data Protection legislation.
- 13.2 If a specified individual with responsibilities under this Code of Conduct and Disciplinary Procedure is unable to act at any time for any reason, a deputy appointed for this purpose will carry out their function.

14. **Further consideration as provided for in section 22 of the Education Act 1994**

- 14.1 Members who are dissatisfied with their dealings with the Union, or who claim to be unfairly disadvantaged by reason of having exercised their right not to be a Member of the Union, may be entitled to apply to Queen Mary University of London (QMUL), under QMUL's Procedures for dealing with Complaints about the Students' Union, for the matter to be investigated and reported upon by an independent person appointed by QMUL Council, as provided for under section 22 of the Education Act 1994. Before making such an application, Members will usually be required by QMUL to have completed the procedures provided for under this Disciplinary Procedure."
- 14.2 Members who are dissatisfied with a decision under QMUL's Procedures for dealing with Complaints about the Students' Union may make a complaint to the Office of the Independent Adjudicator for Higher Education (OIA). The OIA can only look at the acts or omissions of a Higher Education Institution (such as QMUL). The OIA's remit does not cover acts or omissions of a Students' Union, nor those of its officers. Therefore, the scope of its review is limited to whether the institution followed its procedures correctly when considering a complaint by a student against a Students' Union and whether the institution's final decision was reasonable in all the circumstances.'