

# Schedule 5

## The University of Stirling Students' Union

### Discipline Code

As a condition of the Union membership, all members are required to adhere to the principles laid down in this Code.

#### 1 PURPOSE

This Code has the following purposes:

- a To give guidance to the levels of behaviour expected at all times within the Union and also within any other Students' Association to which members have access by way of a reciprocal agreement.
- b To provide a framework and procedure through which standards of behaviour are maintained so that members and staff are not exposed to violence, abuse or harassment of any nature and to ensure that these standards are enforced.
- c To ensure that the Association's Licensed premises are run in accordance with the Licensing (Scotland) Act 2005.
- d In respect of any websites owned and operated by the Union, to give guidance to the levels of behaviour expected at all times when posting material on such sites.

#### 2 NOTES FOR DISCIPLINE CODE

- a A member is responsible not only for their own conduct but for the activities of any visitor they sign in to the Union's licence premises and as such, they may be liable for any offences any guest may commit.
- b References to membership, Executive Council, etc refer to bodies defined in the Constitution of the Union (which can be found in the University Calendar).
- c The discipline procedures of the Union are entirely separate from the procedures of Scots Law and it is not the purpose of the Discipline Committee to duplicate the processes of Criminal Law.  
  
Without prejudice to any criminal proceedings and regardless of the outcome of any such proceedings the Union may consider any case lodged with it by those authorised. In some cases, however, the outcome of separate court proceedings may provide grounds for an Appeals Committee to review the incident.
- d Any exclusion decided upon by the management of any club which has since been taken over by the Union is automatically continued by this Code.

#### 3 PROCEDURE

- a When an incident occurs in any of the Union premises, (including the Robbins Centre and the Union Shop), it will be reported to the Duty Manager in the first instance which failing it will be reported to the most appropriate senior officer of the Union available at the time.
  - First, the Duty Manager should ascertain which students are involved in the disturbance.
  - He/she should then ask for the ID Cards of all those people.

- He/she should write down the names, addresses and ID numbers of the people involved.
  - He/she should retain the ID cards of the people and tell them to meet with him/her either on the next day or, if the incident is on Friday, Saturday or Sunday, on the Monday and that a Senior Member of Staff and the Secretaries of the Discipline Committee may also attend.
  - He/she should notify the people concerned that they are excluded until such time as the Duty Manager meets with them.
  - A clear photocopy of both sides of the ID card should be taken prior to the ID card being returned to the member at the meeting referred to above.
- b The Duty Manager or person to whom the complaint has been reported will then make an incident report for the attention of the Secretary of the Discipline Committee and the Senior Bars Manager. This report should be received by the aforementioned within 3 University working days (wherever possible) and the ID card of the member concerned will be attached to the report.
- c This report/notification shall include the name of the excluded person, unless it is not known, in which case the person's name shall be notified to the Secretary within 2 days of its becoming known.
- d Any complaint of misconduct by a member should wherever possible be dealt with informally by way of a discussion between the member concerned, the Duty Manager, the Senior member of staff of the Union, and the Secretary of the Discipline Committee.
- The more formal procedures of this Code will only be used for instances of serious misconduct or when more informal action has failed or is considered inappropriate.
- e The Senior member of staff of the Union, or anyone delegated by that person in their absence (e.g. Duty Manager), shall be empowered to ban any member or visitor from the premises (including access to the website) of the Union for the day/night of the incident or conduct in question, and additionally, at their discretion, until such a matter has been decided under the procedure set out below. Any such ban should be notified to the Secretaries of the Discipline Committee no more than 3 University days after such ban has taken effect.
- f In a case of a minor misconduct, the Duty Manager will arrange a time with the individual in question, the Bars Manager and the Secretaries to the Discipline Committee to meet as referred to in 3(a) above. Upon hearing the case, they may impose a ban extending from 1 day up to 3 months maximum, plus any period of vacation, at their discretion. A member excluded in this manner shall have a period of 5 University days to decide whether to accept this decision or to appeal to the Appeals Committee (see Appeals).
- g In a case of serious or gross misconduct, the initial procedure will remain the same but the Duty Manager will refer the matter to the Union Discipline Committee.

#### **4 DISCIPLINE COMMITTEE**

Discipline Committee meetings are called to hear a complaint of a breach of discipline. They only meet during semester time.

##### **a Membership**

- i) There shall be Secretaries to the Discipline Committee who will also be Secretaries to the Appeals Committee. The Secretaries will appoint the members of the Discipline Committee as and when it is required to be convened. The Secretaries will be present at all stages of the decision-making process but will not participate in the deliberations of the Committee prior to its making its decision. The Secretaries will also be

responsible for scheduling meetings, taking minutes and informing all parties involved of dates, times and decisions. They will not have voting status on the Committee.

- ii) The Secretaries shall be the Vice-President Sport and Health and Vice-President Activities or in a Secretary's absence, one of the other Sabbatical Officers.
- iii) A quorum of three Executive Council or Sports Union Executive members is necessary for the Committee to function.
- iv) Any member who becomes excluded from the premises whilst sitting on the Discipline Committee will automatically forfeit their membership of the Committee.
- v) The Union will have an observer on the Committee who will be the Chief Executive of the Union (or someone to whom the Chief Executive may delegate the role such a Senior Bars and Catering Manager if the Chief Executive is not available), whose function is to ensure impartiality, fairness and continuity throughout cases. The observer will not have voting rights.
- vi) A Committee member shall not appear to be a judge in a matter where his/her own personal interest is involved.
- vii) The Committee also meet to make recommendations on amendments to the Discipline Code, if requested to do so by the General Meeting.
- viii) The only members with the power to make decisions at a Discipline Committee meeting are the student members

**b Notification**

- i) Following a referral of an incident to the Discipline Committee, the Secretaries will notify the member excluded (by recorded delivery and where possible by e-mail to their University e-mail account), the Committee members and any other parties involved of the time and place of the Committee meeting.
- ii) The meeting should take place as far as possible within 12 University days from the original notification of the incident to the Secretaries. The scheduling of the meeting should also attempt to take into account Academic timetabling of those involved. If academic timetabling conflicts with the scheduling of the meeting, then the member should notify the Secretaries of the Discipline Committee at least two days before the meeting is due to take place so that a more convenient time can be arranged.
- iii) The Secretaries shall give at least 5 University days' notice in writing of the time and place of the meeting to the person excluded, the Senior member of staff/ Duty Manager and the members of the Committee who will be hearing the case. The notice will provide brief details of the alleged offence. The excluded person will not have an automatic right to see the witness statements reports made against them but at the hearing, the Secretary will provide details of the allegations made without being obliged to disclose the names of the person providing the statements.
- iv) The member excluded or the persons making the referral may challenge one member of the committee only on the grounds of personal interest. Any such challenge must be made at the beginning of the meeting. The person accused of a disciplinary offence will not have access to the names of the students on the Committee prior to the hearing.
- v) The member excluded will also have the right to object to the Secretaries and the Chief Executive on the same grounds, in which case a substitute will be selected from either one of the Sabbatical Officers or a member of the Union management.

Members of the Committee may also withdraw upon the grounds of personal interest. This must be given in writing to the Secretaries at least 2 days before the meeting.

- vi) Only one challenge to the Committee, one challenge to the Observer and one challenge to the Secretaries shall be allowed. If a challenge is received, the Committee shall hear it before any other business is discussed.

## 5 DISCIPLINARY HEARING

Disciplinary Committee meetings take the format of a hearing at which the Committee listen to evidence provided by all parties and carefully weigh up the facts and any reports. The Committee shall take all matters before it seriously and no matter shall be treated frivolously. There will be no opportunity for a witness to cross examine any other witness.

- a Both the person making the referral of the matter to the Committee and the person excluded shall be given equal opportunity to present their respective cases to the Committee, with a friend or representative in attendance if they so choose.
- b Both the person making the referral and the member excluded may call witnesses in support of their case. The list of these witnesses must be given to the Secretaries at least one University day before the meeting. If witnesses are unavailable at the time of the meeting, they may submit a written report to be handed in at least one University day before the meeting.
- c In addition, the Disciplinary Committee may request to interview any person it wishes.
- d No witness reports will be circulated outwith the Discipline Committee members in order to protect the confidentiality of the witnesses.
- e Witnesses will be seen individually by the Discipline Committee.
- f Should the member excluded fail to appear without notification or a reasonable valid explanation, the Committee may continue to hear the case relying on the evidence they already possess.
- g A member who has been banned on a decision of the senior member of staff, a duty manager or the Discipline Committee may not be referred or re-referred to the Discipline Committee in respect of the same incident or matter, except where a breach of paragraph 8h has occurred.
- h The Committee will listen to all evidence and may ask questions of any of the witnesses. Should it be deemed reasonable to do so, the meeting may be reconvened at a mutually agreed time. Any further meetings should include all the original Committee members and no substitutes can be brought in at a later date.
- i During its deliberation and decision-making the Committee may exclude any person who is not a member of the Committee.
- j The Committee shall decide all matters by a vote of those members present, on the basis of simple majority. In the event of no positive outcome, decision or majority being reached, the case will be referred to the Appeals Committee (see Appeals section 6 below).
- k In the event of the Committee finding that the act complained of has occurred it will decide what the penalty if any is to be imposed subject to the guidance provided in paragraphs 7 and 8 below.
- l The Secretaries to the Committee shall inform all members concerned of the Committee's decision in writing within 3 University days.
- m Notification of the Committee's decision to the member excluded/the member responsible for the incident should be sent recorded delivery and also where possible by e-mail to their University e-mail account. It should include a brief explanation of the reason for any decision taken and that the person concerned has the right to appeal and how to appeal.

## **6 APPEALS**

6.1 The purpose of an Appeals Committee is to consider all appeals lodged under this Schedule or any other Schedule as may be required. Its powers include declaring the person excluded to be innocent of the alleged offence and removing any penalty imposed. Any person excluded shall have a right of appeal against a decision taken by the senior member of staff, a duty manager or the Discipline committee.

6.2 Except in the case of an appeal against action taken or sanction imposed by the Election Committee in terms of the Election and Referenda Schedule (Schedule 3) of the Constitution which shall be as provided for in that Schedule, the Appeals Committee shall operate as follows:

### **a Membership of Appeals Committee**

The Appeals Committee shall consist of:

- i) Three Members of the Executive Council of the Union or Sports Union Executive who did not sit on the Discipline Committee.
- ii) Paragraphs 4(i) to 4(viii) apply to the Appeals Committee in the same way as they apply to the Discipline Committee.

### **b Grounds for Appeal**

An appeal may be presented against the decision of the Discipline Committee on any grounds but the decision of the Appeals Committee shall be final.

### **c Procedure for Appeals**

- i Appeals shall be lodged in writing with the Secretaries of the Appeals Committee within 5 University days of the decision appealed against.
- ii Within 12 University days of receiving the appeal, the Secretary shall call a meeting of the Appeals Committee.
- iii The Appeals Committee shall proceed to deal with the appeal as far as possible adopting the same procedure as the Discipline Committee applied in handling the original complaint and in line with paragraphs 4 and 5 above.
- iv There will be no opportunity for a member to claim compensation from the Union.

## **7 POWERS OF THE DISCIPLINE AND APPEALS COMMITTEE**

a Every reasonable effort should be made to ensure that all members enjoy and continue to enjoy the facilities and privileges associated with membership of the Union. For this reason, the Discipline and Appeals Committees should avoid imposing permanent and lengthy exclusions. Such penalties should only be used in the most serious cases.

b Before imposing exclusions, the Discipline and Appeals Committee should thoroughly and carefully consider all relevant facts and should exercise a considerable discretion in defining the terms of exclusions, as regards their length, the facilities and privileges to which they are to apply. If a case is serious enough, however, it may be appropriate to exclude permanently from all facilities and privileges.

c In exercising its discretion, the Discipline Committee shall give serious consideration to alternatives to the imposition of a simple exclusion. In particular, it should consider the possibility of the exclusion being for a specified period or by issuing a warning (either oral or in writing) to the effect that there should be no repetition of the misconduct complained of and found proved or any other breach under this Code but that should the person

concerned be in breach of such condition that misconduct as well as the subsequent misconduct will be taken into consideration for the purpose of fixing a penalty.

- d Although it is unlikely to be appropriate in most cases, the Committee may require the payment of compensation and impose fines where it considers it would, in all circumstances, be appropriate to do so.

## **8 LIST OF OFFENCES AND PENALTIES**

The following list of offences and penalties is intended to give guidance to the Discipline and Appeals Committee. It is not exhaustive.

- This list of offences and penalties covers all categories of student members.
- Access to the Union's Premises whilst under any exclusion penalty will be restricted to appropriate Welfare and Administration Services and Election Procedures. Any access granted will be at the sole discretion of the Association's Senior Office Bearers and/or Senior Management Staff.
- Penalties are based on term-time exclusions. If vacation periods link these exclusions they are incorporated into the overall length of exclusion. For example an 8-week term-time ban which commences mid-May is effective to mid-October.
- The commencement date of any exclusion is the date of the offence.
- Permanent or lengthy exclusion should only be imposed in the most serious cases.
- An exclusion may cover only certain areas such as Clubs and Societies or bars.

The following list of offences and penalties is not exhaustive and the Union reserves the right to impose penalties for offences which are not covered in the following section:

### **a Physical Violence**

Assault whether causing injury or not, which, unless committed in genuine self-defence or as a result of undue provocation or otherwise reasonably explainable, will carry a minimum mandatory penalty of exclusion for not less than one semester and where serious bodily injury has been caused, of permanent exclusion.

### **b Threatened Violence/Threatening Behaviour**

Such threats to members, members of staff or visitors will, unless reasonably explainable, carry a maximum penalty of permanent exclusion from such facilities and/or removal of privileges available to members of the Union as the Discipline Committee shall deem appropriate.

### **c Harassment or Discrimination in breach of the Union's Equal Opportunities Policy**

Harassment of members, members of staff or visitors or act of discrimination or any other breach of the Union's Equal Opportunities Policy will carry a maximum penalty of permanent exclusion from such facilities and/or removal of privileges available to members of the Union as the Discipline Committee shall deem appropriate.

### **d Theft**

Thieves shall be required to return stolen items. The Union reserves the right to ban and/or prosecute members found guilty of theft. In addition, the Discipline Committee may impose such exclusion as it deems appropriate.

### **e Damage to Association Property**

Should a member or visitor wilfully, negligently or accidentally damage Union property, they may be asked to pay for any repairs and may be refused admission to the appropriate venue(s)/event(s) until the bill for repair is met. The Union reserves the right to ban and/or prosecute and/or refer the matter to the University's Student Discipline procedure.

**f Inappropriate use of the internet**

In respect of any websites owned and operated by the Union, the content and posting of material will be subject to moderation by the Sabbatical Officers and the Union staff and any inappropriate use of any such websites or if any other inappropriate use of the internet is brought to the attention of the Union, it may be the subject of disciplinary action and may be dealt with as the Committee sees fit.

**g Disturbance Offences**

Any member endangering the Union's licence to sell alcohol or the Union's occupancy agreement by creating disturbances on or after using the Union premises or otherwise endangering the Union's license for any breach of the Licensing (Scotland) Act 2005 may be subject to an exclusion for a maximum 4 years.

**f Failure to Produce an ID Card**

This may involve the imposition of a ban on using the Union's facilities until the card is produced and for a specified period afterwards.

**g Lobbying Members of the Discipline Committee/Appeals Committee**

Any improper interference with the disciplinary process and particularly attempts to influence members of either the Discipline or Appeals Committee will be treated as an offence under this Code and will be dealt with as the Committee sees fit.

**h Breach of Exclusion**

If any excluded person attempts or achieves entry to the premises during a period of exclusion the original exclusion shall be re-applied from the date of the attempted re-entry and such conduct may be considered for further penalty at the discretion of the Discipline Committee.

**i Illegal Entry**

Illegal entry (e.g. through fire doors) to the premises is a breach of the Union's door policy and signing-in regulations. It should carry a mandatory penalty of exclusion for one semester.

**j Taking Glasses/Bottles Out of the Premises**

Such behaviour jeopardises the Union's licence and there will be a mandatory 2-week ban for committing this offence. A log will be kept of offenders and should they re-offend the mandatory period may be extended at the discretion of the Discipline Committee/Senior member of staff.

**k Possession and/or Dealing of Drugs**

Any incidents involving the use or supply of illegal substances are considered most seriously by the Union and will be referred to the police along with the right to impose a permanent exclusion penalty.

**l Glasses taken into GLOW**

A 2-week ban will be imposed for taking glasses into GLOW.

**m Illicit Alcohol**

A mandatory four-week exclusion will be applied for bringing alcohol into any Union Premises, and the exclusion will be applied to both possession and/or consumption.

**n Tampering with Fire Safety Equipment/Maliciously setting off Alarms**

Any instances where a member is caught tampering with fire-safety equipment or setting off a fire alarm in full knowledge that there is no threat of fire will face an exclusion for a period up to an including permanent exclusion, at the discretion of the Discipline Committee.

**o Breach of Smoking Ban**

Any member breaching the Smoking, Health and Social Care (Scotland) Act 2005 and the Smoking in Certain Premises (Scotland) Regulations 2006 by smoking in any part of the Union premises, with the exception of the external deck area of the Studio Bar, may be subject to a maximum penalty of permanent exclusion from the Union's Premises.

The Discipline Committee may also impose a financial penalty upon members found to be in breach of the Union's Smoke Free Policy at the Committee's discretion consistent with any fine levied against the Union for breach of legislation. If a financial penalty is imposed the member in breach of the policy shall remain excluded until this fine is paid

**9 CONFIDENTIALITY**

All business of the Discipline Committee pertaining to specific cases and any meetings at which specific cases are discussed shall be confidential.