

# LEEDS TRINITY STUDENTS' UNION OFFICER CODE OF CONDUCT

(Approved 11 May 2017 by the Board of Trustees)

Leeds Trinity Students' Union

(the "Union")

Code of Conduct

("the Code")

## 1. About the Code

- 1.1 This Code has been established by the Board of Trustees in accordance with Article 13/Clause 4 of the Union's Articles of Constitution. It aims to provide a framework within which the Union can work with Members to maintain satisfactory standards of conduct (and where appropriate, performance) and to encourage improvement where necessary.
- 1.2 It is the Union's policy to ensure that all matters are dealt with fairly and that steps are taken to establish the facts and to give Members the opportunity to respond before any formal action is taken.
- 1.3 A vast majority of Members do not hold any office (Ordinary Members). These matters are dealt with in Bye Law 3 Code of Conduct. Some Members however are also Sabbatical Trustees and/or Employees (herein known as Officer Members) and in respect of those Members it is appropriate to modify the applicable framework.
- 1.4 The procedure for dealing with officer misconduct and performance both formally and informally is further divided into three parts (A, B and C).
  - Part A sets out the informal procedure applicable to [Officer members];
  - Part B deals with misconduct by [Officer Members];
  - Part C deals with performance of [Officer Members].
- 1.5 The standards of conduct expected of Officer Members are set out in **Appendix 1**.
- 1.6 This Code does not form part of any [Elected Officer's contract of employment and it may be amended at any time.
- 1.7 If a Member (Ordinary or Officer) has difficulty at any stage of a procedure instigated under this Code because of a disability, the Member should discuss the situation with the President and/or General Manager as soon as possible.

## 2. Confidentiality

- 2.1 The Union's aim is to deal with all matters under this Code sensitively and with due respect for the privacy of any individuals involved. All those involved must treat as confidential any

information communicated to them in connection with an investigation or disciplinary matter, and no such information should be placed in any publicly accessible forum, including, but not limited to, social media websites.

- 2.2 Members, anyone accompanying them and witnesses, must not make electronic recordings of any meetings or hearings conducted under this Code.
- 2.3 Breach of this part of the Code may be treated as gross misconduct.
- 2.4 Members will normally be told the names of any witnesses whose evidence is relevant to disciplinary proceedings against them, unless the Union reasonably believes that a witness's identity should remain confidential.

### **3. Scope**

- 3.1 Action under this Code may be taken in respect of any conduct at any place or time including (without limitation):
  - (a) on the Union's premises;
  - (b) while the Member is using the Union's facilities or at a Union event;
  - (c) while the Member is representing or acting on behalf of the Union at any event of whatever kind and wherever held;
  - (d) in relation to actions or incidents between two or more representatives of the Union in any or none of the settings above, or in relation to actions or incidents between Union representatives and staff or stakeholders where the Member is participating in Union activity, even online;
  - (e) in the case of [Officer Members] during the course of carrying out their duties;
  - (f) in the case of [Office Members] outside of the course of their duties, where it is appropriate to do so.

### **4. Making a Complaint about Misconduct**

- 4.1 Any person may make a complaint about the conduct of a Member.
- 4.2 The complaint should be made in writing to the External Trustee appointed by the Board of Trustees to supervise the procedures set out in this Code ("Supervising Trustee").
- 4.3 The Supervising Trustee may be assisted by the General Manager in carrying out his or her functions under this Code.
- 4.4 The complaint should give details of the name(s) of the person(s) involved, together with details of the allegation(s) (including the date and place at which the alleged action(s) took place), and be delivered as soon as possible after the event(s) complained of (and ideally within ten working days of the occurrence).
- 4.5 Anonymous complains may still be investigated and dealt with. In such cases, the Union will endeavour to take such extra steps and precautions as are appropriate to ensure fairness. The

Union will ask the complainant to verify their identity in confidence to the Supervising Trustee. Their identity will not be shared with the member or members they are complaining about

- 4.6 Once a complaint has been made the Union may deal with it even if the Member subsequently asks the Union not to do so. In such cases the Union will endeavour to act sensitively and will take into account, so far as it is reasonable to do so, the complainant's wishes.
- 4.7 Complaints subsequently found to be spurious may be treated as an act of misconduct.
- 4.8 Following receipt of a complaint the External Trustee or President will determine any necessary further action.
- 4.9 The Supervising Trustee shall report annually to the Board of Trustees on disciplinary matters and the operation of this Code.

## **5. Criminal Allegations**

- 5.1 Where a Member's conduct is the subject of a criminal investigation, charge or conviction the Union will investigate the facts before deciding whether to take formal disciplinary action.
- 5.2 The Union will not usually wait for the outcome of any prosecution before deciding what action, if any, to take. Where a Member is unable or has been advised not to attend a disciplinary hearing or say anything about a pending criminal matter, the Union may have to take a decision based on the available evidence.
- 5.3 In the case of Officer Members who are paid Sabbatical Officers a criminal investigation, charge or conviction relating to conduct outside work may be treated as a disciplinary matter if the Union considers that it is relevant to the Officer Member's employment.

## **6. Suspension**

- 6.1 If the Elected Officer is a paid Sabbatical Officer it may be necessary to suspend the Elected Officer on full pay while any investigation is carried out. Any such suspension will not:
  - (a) affect the Elected officer's trustee status, but he or she may be excluded from some or all of the Union's premises;
  - (b) constitute or be considered a disciplinary action; or
  - (c) imply that any decision has already been made about the allegations.
- 6.2 While suspended, the Officer Member should not visit the Union's premises or contact any of the Union's stakeholders including suppliers, contractors, Members involved with the matter(s) being investigated or staff, unless authorised to do so by the President or General Manager.
- 6.3 The Officer Member will continue to receive full basic salary and benefits during the period of suspension.

## **7. Right to be Accompanied**

- 7.1 An Officer Member may bring a companion to any disciplinary hearing or appeal hearing held under this Code. The companion may be either a trade union representative or a colleague.

The Officer Member must give advance notification of their chosen companion is, in good time before the hearing.

- 7.2 A companion is allowed reasonable time off from duties without loss of pay but no-one is obliged to act as a companion if they do not wish to do so.
- 7.3 If a companion is unavailable at the time a hearing is scheduled and will not be available for more than five working days afterwards, the [Officer Member] may be asked to choose someone else.
- 7.4 The Union may, at its discretion, allow the Officer Member to bring a companion who is not a colleague or union representative (for example, a member of an Officer Member's family) if this will help overcome a disability.

## **PART A: Informal Procedure for Minor Misconduct**

1. Minor cases of misconduct will be dealt with informally, usually by the President discussing the concerns with the Officer Member. In the case of allegations of fault against the President, an External Trustee will usually discuss the concerns with the President.
2. These discussions should be held in private and without undue delay whenever there is cause for concern.
3. The President (or the External Trustee) will determine what further action to take in relation to the matter, and will inform the complainant (where appropriate) and the Officer Member of what action, if any, is to be taken.
4. Where appropriate, the Officer Member will be advised of the standard required to improve his or her behaviour and, where appropriate, the timescale within which the Officer Member should improve.
5. A note of any such informal discussions may be made.
6. An informal verbal warning may be given or counselling offered.
7. Informal verbal warnings and/or counselling are not part of the formal disciplinary procedure under Part B. They may though lead to formal action under Part B and/or be referred to and relied upon during the course of any such action.
8. Where there is a more serious case of misconduct the Officer Member fails to improve and maintain that improvement, formal action may be taken and the formal procedure outlined in Part B may be invoked.

## **SECTION 2: [Office Members]**

### **PART B: Misconduct**

#### **1. About Part B**

- 1.1 This Part B will be invoked for all alleged misconduct where it is not appropriate to invoke (or to continue invoking) Part A.
- 1.2 It is impossible to specify all the circumstances that would warrant invoking Part B, but typical cases of misconduct and gross misconduct are set out in **Appendix 1**.

#### **2. Investigations**

- 2.1 Where Part B is to be invoked, an Investigations Committee will be established.
- 2.2 The Investigations Committee will usually include an Elected Officer and the General Manager. Notes should be taken of such the meetings. For the avoidance of doubt, the Investigations Committee may (in appropriate circumstances) consist of one person. In such cases the Investigations Committee shall be called the Investigations Officer and the remainder of this Code shall be construed accordingly.
- 2.3 The purpose of an investigation is to establish a fair and balanced view of the acts relating to any disciplinary allegations against the Officer Member, before deciding whether to proceed with a disciplinary hearing. The amount of investigation required will depend on the nature of the allegations and will vary from case to case. It may involve interviewing and taking statements from the Officer Member, the complainant and any witnesses, and/or reviewing relevant documents.
- 2.4 Investigative interviews are solely for the purpose of fact-finding and no decision on disciplinary action will be taken until after a disciplinary hearing has been held.
- 2.5 Officer Members do not normally have the right to bring a companion to an investigative interview. However, the Union may allow a companion if it helps overcome any disability.
- 2.6 The Officer Member must co-operative fully and promptly in any investigation. This will include informing the Investigations Committee of the names of any relevant witnesses, disclosing any relevant documents and attending investigative interviews if required.
- 2.7 It is recognised that being the subject of a complaint can be a difficult time for an Officer Member, and so the investigation will be undertaken with appropriate discretion, care and consideration.
- 2.8 Having carried out an investigation, the Investigating Committee will report its findings. The Investigations Committee will then decide what further action (if any) to take. The Investigations Committee may:
  - (a) take no further action and bring the matter to a close;
  - (b) arrange informal coaching, advice or counselling for the Elected Officer;
  - (c) if it considers that disciplinary action may be required, establish a Disciplinary Panel;  
or

- (d) inform the University so that further action may be taken either by the University or some other body that is deemed appropriate.
- 2.9 The Investigations Committee will aim to confirm its decision in writing to the Officer Member, the complainant, and any other interested parties within 14 working days of concluding its report. If it is not practicable to comply with these deadlines, for example due to relevant parties being on holiday, they may be extended at the discretion of the Investigations Committee.
- 2.10 Where disciplinary action may be required the [Officer Member] will be informed in writing of the allegations, the basis for those allegations, and what the likely range of consequences will be if it is decided that the allegations are true. The Officer Member will also receive the following where appropriate:
- (a) a summary of relevant information gathered during the investigation;
  - (b) a copy of any relevant documents which will be used at any disciplinary hearing; and
  - (c) a copy of any relevant witness statements, except where a witness's identity is to be kept confidential, in which case the Officer Member will be given as much information as possible while maintaining confidentiality.

### **3. The Disciplinary and Appeals Panels**

- 3.1 The Disciplinary and Appeals Panels shall be convened as and when required by the Investigations Committee.
- 3.2 The Disciplinary Panel shall include:
- (a) one external trustee (chair)
  - (b) one student trustee
  - (c) a member of the Union's Student Council;
  - (d) one further person who is either a trustee or member of student council
  - (e) in an advisory capacity to the Panel **only** a member of the senior Union staff, usually the General Manager and if they are unavailable a senior manager from a neighbouring Union's senior management team
- 3.3 The quorum of the Disciplinary Panel shall be three and the Chair shall be the President or, if the allegations are against the President, one of the Trustees.
- 3.4 A member of the Union's [HR staff] may attend meetings of the Disciplinary Panel to act as an advisor to the Disciplinary Panel and to take a note of the meetings.
- 3.5 The Appeal Panel shall include the following:
- (a) a Student Trustee;
  - (b) an External Trustee;

- (c) a member of a neighbouring Union's senior management team
- (d) person(s) provided by NUS.

This is on the provision that each member of the Appeal Panel shall be independent and shall not have any (or have had any) substantive involvement with the investigation or the disciplinary hearing.

- 3.6 The quorum of the Appeal Panel shall be three and the Chair shall be the External Trustee.
- 3.7 The first point of contact at NUS will be asked to provide appropriate persons from NUS to support 3.5. (d)

#### **4. Procedure of Disciplinary Hearings**

- 4.1 If the Officer Member or their companion cannot attend the hearing the Officer Member should inform the Disciplinary Panel immediately and it will arrange an alternative time. The Officer Member must make every effort to attend the hearing, and failure to attend without good reason may be treated as misconduct in itself. If the Officer Member fails to attend without good reason, or is persistently unable to do so (for example for health reasons), a decision may be taken based on the available evidence.
- 4.2 The hearing will be chaired by the Chair of the Disciplinary Panel. A representative of the Investigating Committee AND/OR a senior member of Union staff or a neighbouring Union senior management team may also be present. The Officer Member may be accompanied by a companion to the disciplinary hearing (*see paragraph [X]*).
- 4.3 At the disciplinary hearing the Disciplinary Panel will go through the allegations against the Officer Member and the evidence that has been gathered. The Officer Member will be able to respond and present any evidence of their own. The companion may make representations and ask questions, but should not answer questions on the Officer Member's behalf. The Officer Member may confer privately with their companion at any time during the hearing.
- 4.4 The Officer Member may ask relevant witnesses to appear at the hearing, provided sufficient advance notice to arrange their attendance is given. The Officer Member will be given the opportunity to respond to any information given by a witness. However, the Officer Member will not normally be permitted to cross-examine witnesses unless, in exceptional circumstances, the Disciplinary panel decide that a fair hearing could not be held otherwise.
- 4.5 The disciplinary hearing may be adjourned by the Disciplinary Panel if it is deemed necessary to carry out any further investigations such as re-interviewing witnesses in the light of any new points raised at the hearing. The Officer Member will be given a reasonable opportunity to consider any new information obtained before the hearing is reconvened.
- 4.6 The Disciplinary Panel will inform the Officer Member in writing of its decision and its reasons for it, usually within [one week] of the disciplinary hearing. Where possible it will also explain this information to the Officer Member in person.

#### **5. Disciplinary Penalties**



- 5.1 The usual penalties for misconduct are set out below. No penalty should be imposed without a hearing and all Officer Members should be treated fairly and consistently, and a penalty imposed on another Officer Member for similar misconduct will usually be taken into account but should not be treated as a precedent. Each case will be assessed on its own merits.
- 5.2 **Stage 1 - First Written Warning.** Will usually be appropriate for a first act of misconduct where there are no other active written warnings on the [Officer Member's] disciplinary record.
- 5.3 **Stage 2 - Final Written Warning.** Will usually be appropriate for:
- (a) misconduct where there is already an active written warning on the [Officer Member's] record; or
  - (b) misconduct that is considered sufficiently serious to warrant a final written warning, even though there are no other active warnings on the [Officer Member's] record.
- 5.4 **Stage 3 (a) – Referral to Student Council.** Will usually only be appropriate for further misconduct where there is an active final written warning on the [Officer Member's] record.
- 5.5 **Stage 3 (b) – [Immediate Dismissal/Removal from Office/Removal as Trustee/Removal as Member].** Will usually only be appropriate for gross misconduct or gross negligence.
- 6. Effect of a Warning**
- 6.1 Written Warnings will set out the nature of the misconduct, the change in behaviour required, the period for which the warning will remain active, and the likely consequences of further misconduct in that active period.
- 6.2 A First Written Warning will usually remain active for six months and a Final Written Warning will usually remain active for twelve months. In exceptional cases verging on gross misconduct a Final Written Warning may state that it will remain active indefinitely. The Officer Member's conduct may be reviewed by Chair of the Board (or Vice Chair should the Chair have been issued the warning) at the end of a warning's active period and if it has not improved sufficiently the active period may be extended.
- 6.3 After the active period, the warning will remain permanently on the Officer Member's personnel file but will be disregarded in deciding the outcome of future disciplinary proceedings, unless there is very good reason not to disregard it.
- 7. Appeals**
- 7.1 An Elected Officer who wishes to appeal against a decision of a Disciplinary Panel should do so in writing within five working days of receiving the letter which confirms the action taken. The appeal should state the grounds upon which the appeal is being made.
- 7.2 An appeal hearing shall be held as soon as possible and normally within ten working days of receipt of the letter of appeal.
- 7.3 The Chair shall inform the Officer Member of the date and time of the appeal hearing. The Officer Member shall have the right to attend the hearing and be accompanied by a companion. *[See section [X]].*

7.4 The Appeal Panel should attempt to reach a unanimous decision, but if a vote is required then a simple majority vote will suffice. The decision of the Appeal Panel is final.

7.5 The Chair will inform the Officer Member and the complainant of the Appeal Panel's decision in writing and will aim to do so within five working days of the hearing.

## **8. Effect of a Referral to Student Council**

8.1 A referral to Student Council may be made at Stage 3(a) of this Part B.

8.2 Any such referral will be made under Article 52 and 54 of the Union's Constitution.

8.3 In the event of a motion of no confidence under Article 52 and 54 of the Constitution, the Officer Member shall cease to be a Trustee and shall cease to be an Elected Officer, and shall cease to be a Member.

8.4 While decisions under *paragraphs 54.2.1* may be appealed, there shall be no appeal against a decision of the Student Council.

8.5 A motion of no-confidence under *paragraph 54.2.1* will lead to the Disciplinary Panel reconvening to consider whether to terminate the Elected Officer's employment. In such circumstances the (former) Elected Officer will be invited to a hearing to consider matters. The Elected Officer shall be entitled to be accompanied to such a hearing by a representative of their choosing.

## **9. Effect of Immediate Dismissal/Removal from Office/Removal as Trustee/Removal as Member**

9.1 An immediate dismissal/removal from Office/removal as Trustee/removal as Member may be effected at Stage 3(b) of this Part B.

9.2 Any such immediate dismissal/removal from Office/removal as Trustee/removal as Member will be followed as set out in the Constitution.

9.3 In the event of an immediate dismissal/removal from Office/removal as Trustee/removal as Member, the Officer Member shall cease to be an employee of the Union with immediate effect and without notice or a payment in lieu of notice, shall cease to be a Trustee and shall cease to be an [Elected Officer/Member.

9.4 The Officer Member may appeal any such decision.

9.5 Following such a decision the Union, may in appropriate cases inform NUS.

## **SECTION 2: [Officer Member]**

### **PART C: Performance**

#### **1. About this Part C**

- 1.1 The aim of this Part C is to provide a framework within which the Union can work with Officer Members to maintain satisfactory performance standards and to encourage improvement where necessary.
- 1.2 It is the Union's policy to ensure that concerns over performance are dealt with fairly and that steps are taken to establish the facts and to give Officer Members the opportunity to respond at a hearing before any formal action is taken.
- 1.3 This Part C does not apply to cases involving misconduct to which Sections 2 Part B will apply.
- 1.4 This Part C applies to all Officer Members. It does not apply to agency workers, self-employed contractors or other staff to which separate policies apply.

#### **2. Identifying Performance Issues and Informal Management**

- 2.1 In the first instance, performance issues will normally be dealt with informally between the Officer Member and the Chair (or should they be the same person the Vice Chair) of the Board as part of day-to-day management. Where appropriate, a note of any such informal discussions may be made. Such notes though will be ignored for the purposes of any future capability hearings. The formal part of this Part C should be used for more serious cases, or in any case where an earlier informal discussion has not resulted in a satisfactory improvement. Informal discussions may help:
  - (a) clarify the required standards;
  - (b) identify areas of concern;
  - (c) establish the likely causes of poor performance and identify any training needs; and/or
  - (d) set targets for improvement and a time-scale for review.
- 2.2 Officer Members will not normally be referred to Student Council for performance reasons without previous warnings. However, in serious cases of gross negligence, Section 2, Part B will apply/an immediate referral to Student Council may be made.
- 2.3 If the Union has concerns about an Officer Member's performance, it will undertake an assessment to decide if there are grounds for taking formal action under this procedure. The procedure involved will depend on the circumstances but may involve gathering any relevant documents, monitoring the Officer Member's work and, if appropriate, interviewing the Officer Members and/or other individuals confidentially regarding their work.

#### **3. Disabilities**

- 3.1 Consideration will be given to whether poor performance may be related to a disability and, if so, whether reasonable adjustments could be made, including providing additional equipment or training. The Union may also consider making adjustments to this Part C in appropriate cases.
- 3.2 If an Officer Member wishes to discuss this or inform the Union of any medical condition they consider relevant, they should contact the General Manager.

#### **4. Capability Hearing**

- 4.1 If the Union considers that there are grounds for taking formal action over alleged poor performance, the Officer Member will be required to attend (usually) a Stage 1 capability hearing.
- 4.2 The hearing will normally be held by the Chair or Vice Chair of the Board and will normally be attended by the General Manager to provide HR support. The Member may bring a companion to the hearing.
- 4.3 The Officer Member will be notified in writing of the concerns, the reasons for those concerns, and the likely outcome if it decided after the hearing that the Officer Member's performance has been unsatisfactory. The Union will also include the following where appropriate:
- (a) a summary of relevant information gathered as part of any investigation.
  - (b) a copy of any relevant documents which will be used at the capability hearing.
  - (c) a copy of any relevant witness statements, except where a witness's identity is to be kept confidential, in which case the [Officer Member] will be given as much information as possible while maintaining confidentiality.
- 4.4 The Officer Member will be given written notice of the date, time and place of the capability hearing. The hearing will be held as soon as reasonably practicable, but the Officer Member will be given a reasonable amount of time to prepare their case based on the information provided to them.

#### **5. Procedure at Capability Hearings**

- 5.1 If the Officer Member or their companion cannot attend the hearing they should inform the Union immediately and the Union will usually arrange an alternative time. The Officer Member must make every effort to attend the hearing, and failure to attend without good reason may be treated as misconduct. If the Officer Member fails to attend without good reason, or are persistently unable to do so (for example, for health reasons), the Union may have to take a decision based on the available evidence including any written representations the Officer Member has made.
- 5.2 The Officer Member may ask relevant witnesses to appear at the hearing, provided sufficient advance notice to arrange their attendance is given. The Officer Member will be given the opportunity to respond to any information given by a witness. However, the Officer Member will not normally be permitted to cross-examine witnesses unless, in exceptional circumstances, it is decided that a fair hearing could not be held otherwise.
- 5.3 The aims of a capability hearing will usually include:

- (a) setting out the required standards it is believed the Officer Member may have failed to meet, and going through any relevant evidence.
- (b) allowing the Officer Member to ask questions, present evidence, call witnesses, respond to evidence and make representations.
- (c) establishing the likely causes of poor performance including any reasons why any measures taken so far have not led to the required improvement.
- (d) identifying whether there are further measures, such as additional training or supervision, which may improve performance.
- (e) where appropriate, discussing targets for improvement and a time-scale for review.
- (f) establishing whether there is any likelihood of a significant improvement being made within a reasonable time.

5.4 A hearing may be adjourned if there is a need to gather any further information or give consideration to matters discussed at the hearing. The Officer Member will be given a reasonable opportunity to consider any new information obtained before the hearing is reconvened.

5.5 The Officer Member will be informed in writing of any decision and the reasons for them, usually within one week of the capability hearing. Where possible this will also be explained in person.

## **6. Stages of Action:**

6.1 Following a Stage 1 capability hearing, if it is decided that the Officer Member's performance is unsatisfactory, an Improvement Note may be issued, which will set out:

- (a) the areas in which the Officer Member has not met the required performance standards.
- (b) targets for improvement.
- (c) any measures, such as additional training or supervision, which will be taken with a view to improving performance.
- (d) a period for review.
- (e) the consequences of failing to improve within the review period, or of further unsatisfactory performance.

6.2 The improvement note will normally remain active for [three months]. After the active period the warning will remain permanently on the [Officer Member's] personnel file but will be disregarded in deciding the outcome of any future capability proceedings.

6.3 The Officer Member's performance will be monitored during the review period either by the assigned Chair or Vice Chair of the Board and they will be informed of the outcome:

- (a) if the assigned Chair /Vice Chair of the Board is satisfied with the Officer Member's performance, in which case no further action will be taken;

- (b) if the assigned Chair /Vice Chair of the Board is not satisfied, the matter may be progressed to a Stage 2 capability hearing; or
  - (c) if the assigned Chair /Vice Chair of the Board feels that there has been a substantial but insufficient improvement, the review period may be extended.
- 6.4 If the Officer Member's performance does not improve within the review period set out in an Improvement Note, or if there is further evidence of poor performance while it is still active, a Stage 2 capability hearing may be held. The Officer Member will be sent written notification.
- 6.5 Following a Stage 2 capability hearing, if the Chair /Vice Chair of the Board decides that the Officer Member's performance is unsatisfactory, the Chair /Vice Chair of the Board will give the Officer Member a Final Written Warning, setting out:
  - (a) the areas in which the Officer Member has not met the required performance standards;
  - (b) targets for improvement;
  - (c) any measures, such as additional training or supervision, which will be taken with a view to improving performance;
  - (d) a period for review; and
  - (e) the consequences of failing to improve within the review period, or of further unsatisfactory performance.
- 6.6 A final written warning will normally remain active for six months. After the active period, the warning will remain permanently on the Officer Member's personnel file but will be disregarded in deciding the outcome of future capability proceedings.
- 6.7 The Officer Member's performance will be monitored during the review period and they will be informed of the outcome:
  - (a) if the assigned Chair /Vice Chair of the Board is satisfied with their performance, in which case no further action will be taken;
  - (b) if the assigned Chair /Vice Chair of the Board is not satisfied, the matter may be progressed to a Stage 3 capability hearing; or
  - (c) if the assigned Chair /Vice Chair of the Board feels that there has been a substantial but insufficient improvement, the review period may be extended.
- 6.8 A Stage 3 capability hearing may be held if there is reason to believe:
  - (a) the Officer Member's performance has not improved sufficiently within the review period set out in a final written warning;
  - (b) the Officer Member's performance is unsatisfactory while a final written warning is still active; or

- (c) the Officer Member's performance has been grossly negligent such as to warrant dismissal/referral to Student Council without the need for any previous warnings or a Stage 1 or 2 capability hearing.

6.9 Written notification of the hearing will be sent to the Officer Member.

6.10 Following the Stage 3 hearing, if it is found that the Officer Member's performance is unsatisfactory, a range of options will be considered including:

- (a) Referring the matter to Student Council for a vote on removal from Office and removal as Sabbatical Trustee;
- (b) Extending an active final written warning and setting a further review period (in exceptional cases where we believe a substantial improvement is likely within the review period).
- (c) Giving a final written warning (where no final written warning is currently active).

## **7. Appeals against action for poor performance**

7.1 If the Officer Member feels that a decision about poor performance under this procedure is wrong or unjust they should appeal in writing, stating their full grounds of appeal, to a nominated Appeals Trustee (who typically will be an external) within one week of the date on which the Officer Member were informed in writing of the decision.

7.2 If the Officer Member raises any new matters in their appeal, it may be necessary to carry out further investigation. If any new information comes to light the Officer Member will be provided with a summary including, where appropriate, copies of additional relevant documents and witness statements. The Officer Member will have a reasonable opportunity to consider this information before the hearing.

7.3 The Officer Member will be given written notice of the date, time and place of the appeal hearing. This will normally be two to seven days after they receive the written notice.

7.4 The appeal hearing may be a complete re-hearing of the matter or it may be a review of the fairness of the original decision in the light of the procedure that was followed and any new information that may have come to light. This will be at the Union's discretion depending on the circumstances of the case. In any event the appeal will be dealt with as impartially as possible.

7.5 Where possible, the appeal hearing will be conducted by the Appeals Trustee who has not been previously involved in the case. A member of another Union's Senior Management team and/or the manager who conducted the capability hearing] will also usually be present. The Officer Member may bring a companion with them to the appeal hearing.

7.6 A hearing may be adjourned if it is necessary to gather any further information or give consideration to matters discussed at the hearing. The Officer Member will be given a reasonable opportunity to consider any new information obtained before the hearing is reconvened.

7.7 Following the appeal hearing the Appeals Trustee may:

- (a) confirm the original decision;

- (b) revoke the original decision; or
- (c) substitute a different penalty.

7.8 The Officer Member will be informed in writing of the final decision as soon as possible, usually within one week of the appeal hearing. Where possible the Appeals Trustee will also explain this to the Officer Member in person. There will be no further right of appeal.

## **8. Effect of a Referral to Student Council**

8.1 A referral to Student Council may be made following the Stage 3 hearing.

8.2 Any such referral will be made under Articles 52 and/or 54 of the Union's Constitution.

8.3 In the event of a motion of no confidence under the Articles 52 and/or 54 of the Union's Constitution the Officer Member shall cease to be a Trustee and shall cease to be a Elected Officer, and shall cease to be a Member.

8.4 While decisions under *paragraphs 54.2.1* may be appealed, there shall be no appeal against a decision of the Student Council.

8.5 A motion of no-confidence under *5.4.2.1* will lead to a member of the Board typically the Chair, Vice Chair or External Trustee who have been previously uninvolved in the process reconvening to consider whether to terminate the Elected Officer's employment. In such circumstances the former Elected Officer will be invited to a hearing to consider matters. The Elected Officer shall be entitled to be accompanied to such a hearing.



## **APPENDIX 1**

### **1. Policy Statement**

- 8.6 These Rules should be read in conjunction with Section 2 of the Code.
- 8.7 It is the Union's policy to ensure that any disciplinary matter is dealt with fairly and in accordance with the Code
- 8.8 If a Member is in any doubt as to their responsibilities or the standards of conduct expected you should speak to the Chair of the Board, the Vice Chair of the Board or the General Manager.
- 8.9 These Rules have been created by the Board of Trustees in line with the Constitution.
- 8.10 The Union may amend the Rules at any time through the Board of Trustees.

### **9. Rules of Conduct**

- 9.1 While an Officer Member should at all times maintain professional and responsible standards of conduct. In particular they should:
- (a) observe the terms and conditions of your contract, particularly with regard to:
    - i. hours of work;
    - ii. confidentiality;
  - (b) ensure that they understand and follow the Code;
  - (c) observe all of the Union's policies, procedures and regulations which are included in the Union HR documents on the shared drive or notified to them from time to time by means of notice boards, e-mail, the intranet or otherwise;
  - (d) take reasonable care in respect of the health and safety of colleagues and third parties and comply with the Union's Health and Safety Policy;
  - (e) comply with all reasonable instructions
  - (f) act at all times in good faith and in the best interests of the Union.
- 9.2 Failure to maintain satisfactory standards of conduct may result in action being taken under the Code.

### **10. Misconduct**

The following are examples of matters that will normally be regarded as misconduct and will be dealt with under Section 1 of the Code:

- (a) Minor breaches of our policies;
- (b) Minor breaches of your contract;
- (c) Damage to, or unauthorised use of, our property;

- (d) Poor timekeeping;
- (e) Time wasting;
- (f) Unauthorised absence from work;
- (g) Refusal to follow instructions;
- (h) Excessive use of our telephones for personal calls;
- (i) Excessive personal e-mail or internet usage;
- (j) Obscene language or other offensive behaviour;
- (k) Negligence in the performance of your duties;
- (l) Smoking in no-smoking areas;
- (m) Spurious complaints under this Code; or
- (n) Failure to attend meetings under this Code without good reason.

This list is intended as a guide and is not exhaustive.

## **11. Gross Misconduct**

11.1 Gross misconduct is a serious breach of contract and includes misconduct which, in the Union's opinion, is likely to prejudice its business or reputation or irreparably damage the working relationship and trust between you and it. Gross misconduct will be dealt with under Section 2 of the Code and will normally lead to [dismissal without notice or pay in lieu of notice (summary dismissal)/removal from office/removal as a Trustee/[removal from membership]].

11.2 The following are examples of matters that are normally regarded as gross misconduct:

- (a) Theft or fraud; **OR** Theft, or unauthorised removal of Union property or the property of a colleague, contractor, customer or member of the public; **OR** Fraud, forgery or other dishonesty, including fabrication of expense claims;
- (b) Physical violence or bullying; **OR** Actual or threatened violence, or behaviour which provokes violence;
- (c) Deliberate damage to Union buildings, fittings, property or equipment, or the property of a colleague, contractor, customer or member of the public;
- (d) Serious misuse of Union property or name;
- (e) Deliberately accessing internet sites containing pornographic, offensive or obscene material;
- (f) Serious insubordination; **OR** Repeated or serious failure to obey instructions, or any other serious act of insubordination;
- (g) Unlawful discrimination or harassment;

- (h) Bringing the Union into serious disrepute;
- (i) Serious incapability at work brought on by alcohol or illegal drugs; **OR** Being under the influence of alcohol, illegal drugs or other substances during working hours;
- (j) Causing loss, damage or injury through serious negligence;
- (k) Serious breach of health and safety rules; **OR** Serious or repeated breach of health and safety rules or serious misuse of safety equipment;
- (l) Serious breach of confidence; **OR** Unauthorised use or disclosure of confidential information or failure to ensure that confidential information in your possession is kept secure;
- (m) Accepting or offering a bribe or other secret payment] [or other breach of the Union's Anti-corruption and bribery policy;
- (n) Conviction for a criminal offence that in the Union's opinion may affect its reputation or its relationships with its staff, customers or the public, or otherwise affects your suitability to continue to work for it;
- (o) Possession, use, supply or attempted supply of illegal drugs;
- (p) Serious neglect of duties, or a serious or deliberate breach of your contract or operating procedures;
- (q) Knowing breach of statutory rules affecting your work;
- (r) Unauthorised use, processing or disclosure of personal data contrary to the Union's Data Protection Policy;
- (s) Harassment of, or discrimination against, employees, contractors, clients or members of the public, related to gender, marital or civil partner status, gender reassignment, race, colour, nationality, ethnic or national origin, disability, religion or belief or age contrary to the Union's Equal Opportunities Policy
- (t) Refusal to disclose any of the information required by your employment or any other information that may have a bearing on the performance of your duties;
- (u) Giving false information as to qualifications or entitlement to work (including immigration status) in order to gain employment or other benefits;
- (v) Knowingly taking parental, paternity or adoption leave when not eligible to do so or for a purpose other than supporting a child;
- (w) Making a disclosure of false or misleading information under our Whistleblowing Policy maliciously, for personal gain, or otherwise in bad faith;
- (x) Making untrue allegations in bad faith against a colleague;
- (y) Victimising a colleague who has raised concerns, made a complaint or given evidence or information under our HR policies

- (z) Serious misuse of the Union's information technology systems (including misuse of developed or licensed software, use of unauthorised software and misuse of e-mail and the internet
- (aa) Undertaking unauthorised paid or unpaid employment during your working hours;
- (bb) Unauthorised entry into an area of the premises to which access is prohibited.
- (cc) Breach of the confidentiality rules set out in this Code.

This list is intended as a guide and is not exhaustive.