



**Imperial College Union Governance Committee**

**Tuesday 10 July**

<b>AGENDA ITEM NO.</b>	12
<b>TITLE</b>	Disciplinary Procedures
<b>AUTHOR</b>	Alex Chippy Compton, Union President
<b>EXECUTIVE SUMMARY</b>	This paper provides: <ul style="list-style-type: none"><li>- An update on our disciplinary procedures</li><li>- Current documentation around our procedures</li></ul>
<b>PURPOSE</b>	<ul style="list-style-type: none"><li>- For discussion by the committee on gaps and areas that need improvement</li><li>- Discussion on whether separate procedures should apply for complaints from non-student groups</li></ul>
<b>DECISION/ACTION REQUIRED</b>	None

## Disciplinary Procedures

This paper aims to outline the work done to date on our disciplinary procedures along with any ongoing work and future plans. I have attached the current documentation we have around disciplinary procedures and investigations. I am working to improve this for handover to ensure this year's experiences are not lost.

### Points for discussion:

- Any potential gaps and where current 'guidance' is better placed in formal policy
- Whether a new procedure is needed for complaints from or about non-students (alumni or union processes- staff are dealt with under HR policies)
- Potential for external review of policies, particularly around sexual misconduct
- How to train and support staff (and officers) in investigations

## Appendix A

### Board of Trustees Procedures for dealing with complaints & discipline

**Commented [ACC-IP1]:** All references to specific clauses need updating once governing documents have been passed

#### Remit

1. This policy is in-keeping with the Union Constitution and Bye-Laws at the time of it being passed. Any future amendments to the Constitution or Bye-Laws that conflict with this policy shall take precedence over this policy.
2. Complaints, disciplinary cases and appeals should be received in accordance with the Bye-Laws and it falls to the relevant authority to enact these procedures.
3. Throughout this policy the term 'case' will refer to a specific complaint, disciplinary or appeal that is being enacted in accordance with these procedures.
4. Complaints may be referred to the Board of Trustees in the following manner:
  - a. A complaint about a Trustee (from anyone – Bye-Law E1.1)
  - b. A complaint about the Managing Director (from the President and Board of Trustees Chair - Bye-Law E1.3 & Constitution rule 81)
  - c. A complaint about the conduct of the Returning Officer in the Major Elections (from anyone - Bye-Law F6)
5. Disciplinary cases may be referred to the Board of Trustees in the following manner:
  - a. A disciplinary case regarding a Trustee (from anyone – Bye-Law E1.1)
  - b. A disciplinary case regarding the Managing Director (from the President and Board of Trustees Chair – Bye-Law E1.3 & Constitution rule 81)
6. Appeals cases may be referred to the Board of Trustees in the following manner:
  - a. An appeal from a disciplinary case (from the appellant on the decision of the Governance Committee - Bye-Law E51.3)
  - b. An appeal from a censure or dismissal (from the appellant on the decision of Governance Committee - Bye-Law E52.2)
7. Complaints may be referred to the Governance Committee in the following manner:
  - a. A complaint against a candidate in Major Elections (from the Returning Officer - Bye-Law F4)
8. Disciplinary cases may be referred to the Governance Committee in the following manner:
  - a. A disciplinary case against a candidate in Major Elections (from the Returning Officer – Bye-Law F4)
  - b. A disciplinary case against a Member or Associate Member not suited for Summary Punishment (from the President – Bye-Law E39)

9. Appeals cases may be referred to the Governance Committee in the following manner:
  - a. An appeal from a disciplinary case (from the appellant on the decision of the President – Bye-Law E51.2)
  - b. An appeal from a censure or dismissal (from the appellant on the decision of Union Council – Bye-Law E52.1)
10. There may be other types of complaint against non-Members which is considered by the Board of Trustees, or at the Board of Trustees' discretion, or the Governance Committee. Whilst the Board of Trustees may not 'discipline' any such persons, they may have the power to ban – definitely or indefinitely – or take any other such lawful sanction as they see fit against such persons.

#### **Powers**

11. The Board of Trustees may exercise all powers of the Union given to it in the Constitution and Bye-Laws.
12. The Governance Committee may exercise all powers given to it in the Constitution, Bye-Laws and delegated to it in its Terms of Reference, and as set out in any Board of Trustees policy – including this one.
13. Both the Board of Trustees Chair and Governance Committee Chair may refuse to hear a case if they believe it to be unnecessary. This action must be reported to the Board of Trustees and the decision may be overturned by the Board.
14. Both the Board of Trustees Chair and Governance Committee Chair may nominate a subset of their Membership to consider a case (as defined earlier), as long as that subset then takes their recommendation to the whole Board of Trustees or Governance Committee to ratify the decision. A subset that considers a case must be at least three persons, all of whom have no vested interest in a case.

#### **Hearings**

15. Hearings should, wherever possible, be held within College Term Time.
16. All cases shall give 5 clear College days' notice to the appellant, defendant, complainant and any other person deemed by the Chair of the Board of Trustees, or Chair of the Governance Committee respectively to have an involvement in the case that a meeting of the Board of

Trustees, Governance Committee or subset thereof will be held to hear the case. Evidence to be presented at the hearing will be made available at this stage.

- a. Evidence should include records of meetings had with the investigators as well as any evidence reviewed by the investigators as part of the investigation.
- b. The 5 days' notice can be waived if agreed, in writing, by all parties.

17. The hearing of a case will follow the procedure set out below, where the following terms are used:

- a. **The Hearing** – the process of the Panel convening and the procedure as defined below being followed.
- b. **The Panel** – the Board of Trustees, Governance Committee, or subset thereof
- c. **The Chair of the Panel** – a person nominated by the Board of Trustees Chair or Governance Committee Chair respectively who is on the Panel.
- d. **Proposer** – The person(s) in brackets for all points 4a, 4b,5,7,8 above. For 4c,6,9:
  - i. 4c. The Returning Officer
  - ii. 6a, 6b. The Chair of the Governance Committee
  - iii. 9a, 9b. The President [or their nominee](#)
- e. **Respondent** – The person(s) for all points 4a,4b,5,7,8 above whom is the subject of a complaint or disciplinary proceedings other than on a starred line. For 4c it is the complainant and for 6,9 it is the appellant.

18. Hearings shall be minuted by the Secretary to the Board of Trustees (or their assistant), with minutes approved by the Chair of the Panel

19. The Proposer and/or Respondent may involve a representative who is a Member of the Union or a member of College or Union staff if they so wish, and the representative may attend and speak for the person they represent, but are not subject to the 5 clear College days' notice requirement. The representative must be made known to the Secretary to the Board of Trustees at least 1 clear College day before the meeting.

20. No other person is allowed to witness a Hearing without the consent of the Respondent and the Chair of the Panel.

21. Hearings shall follow this procedure:

- a. The Chair of the Panel introduces all those present, explains the purpose of the hearing and how it will be conducted.
- b. The Proposer or their representative will put the case in the presence of the Respondent, their representative and will call any witnesses in support of the case.

- c. Both the Proposer, their representatives and any witnesses may be questioned by the Respondent or their representative and by the Panel on the information given by them.
- d. The Respondent or their representative shall put the case in the presence of the Proposer and may call any witnesses in support.
- e. Both the Respondent, their representative and any witnesses may be questioned by the Proposer and by the Panel on the information given by them. Witnesses will withdraw after giving evidence.
- f. The Proposer or their representative may then make a closing statement followed by the Respondent or his/her representative.
- g. Both parties will then withdraw while the Panel, together with the secretary to the Panel deliberate in private to consider the evidence given. This will not be minuted.
- h. The Panel may recall the parties to clarify evidence or seek further information. If recall is necessary, both parties shall be recalled.
- i. Once the Panel has come to a decision, the proceedings shall close.

#### **Outcomes**

- 22. A Panel may come to any decision empowered to the Board of Trustees or Governance Committee (whichever the Panel is recommending to) as set out in the Constitution and Bye-Laws. These powers are not limited to (in the case of the Board of Trustees), but are detailed in:
  - a. Bye-Law E15, E17, E19, E43 (Penalties for Disciplinary)
  - b. Bye-Law F4 (Major Elections)
- 23. If the Panel is a subset of the Board of Trustees or the Governance Committee, they will recommend their decision to the Board of Trustees or Governance Committee respectively with full minutes of the proceedings within 3 clear College days. The Board of Trustees or Governance Committee will then announce their decision to the Respondent and the Proposer as soon as possible, in writing.
- 24. If the Panel is the Board of Trustees or the Governance Committee, they will announce their decision to the Respondent and the Proposer as soon as possible, within 3 clear College days in writing, but may verbally announce the decision as appropriate at the end of the Hearing.
- 25. Should – in the case a hearing is devolved to a subset of the Board of Trustees or Governance Committee – the recommendation of the subset fail to be ratified by the whole Board of

Trustees or Governance Committee, the Board of Trustees or Governance Committee may make a decision without a further hearing (as defined below) should there be consensus to make a decision. The Board of Trustees or Governance Committee are also within their right to hold a further hearing without the case being devolved to a subset.

26. The minutes of a hearing and outcome will be made available upon request to any Member, except any part of the minutes that would if public breach the College or Union Staff-Student Protocol, or contain confidential information, as determined by the Chair of the Board of Trustees.

## Appendix B

This guidance was written up for a specific incident- mainly due to the fact that it was a complaint against Union process rather than another group of students.

### Investigation Guidance

Complaints are directed to the Union President who then delegates to a relevant authority for investigation. If at any point you have a question or are unsure about something, please ask Chippy who can offer guidance.

Throughout the investigation, it is important to document any meetings or conversations you have, either with the parties involved or with each other.

As you are aware, XXXX have accrued around £2,500 in minibus fines this year which they have now complained about. You will need to review these fines and decide whether a) the fines were given out correctly by student activities and b) whether the total amount fined is disproportionate and should be reduced.

- Student Activities will provide you with the information on why the fines were given and what guidance we follow regarding minibus fines.
- XXXX must then be given the opportunity to put their complaint in their own words- this can be done face-to-face or via email. I think in this case, email might be easier however it is up to you. Please seek clarification if anything they complain about is unclear.

*If you do meet in person, it is important that one person takes notes in the meeting and then writes these up and emails them over to whoever you met with so that everyone is agreement about what was discussed and the outcomes.*

- XXXX should be given the opportunity to submit any evidence they may have if they believe they were incorrectly fined at any point.
- Having reviewed the documentation from both sides, you should then meet and decide whether there are any further questions you have or areas that you want to explore. These can be posed to Student Activities or XXXX.
- If you have no further questions, you must decide whether the fines were given out in line with our processes and whether the total amount is disproportionate. It is up to you to decide whether or not the club's financial position is relevant to this investigation. Both XXXX and DPCS can provide more information on the club's financial health if needed.

*I can act as a sounding board for this decision if you need assistance.*



- You then provide a recommendation to me on your decision for me to check. Once I have checked it sits in line with our Bye-Laws and policy, you will need to email XXXX and Student Activities with the outcome. While these should be in separate emails, it is important that the text regarding any sanctions is the same to both parties, to avoid confusion. This recommendation should include:
  - Whether the fines followed our processes and were given out correctly
  - Whether the total amount fined is disproportionate (and if so, a suggestion as to the amount XXXX should be fined)
  - Any improvements to our minibus fine processes if highlighted during the course of your investigation
- Both parties need to be notified of their right to appeal. This is to the Board of Trustees Governance Committee, as per our Bye-Laws. I have written text for you to copy and paste for ease. You can edit this as you would like although the appeals section needs to be kept the same. Ideally it would be sent by Paulina with Nick copied in.

### Investigation Outcome Email

Dear XXX,

Following a complaint regarding minibus fines, the Union President asked myself and the Deputy President (Education) to investigate the matter. The investigation into the minibus fines charged to XXXX has now concluded and the report, findings and recommendations of the investigation can be found below.

The investigation process was investigating a complaint from a club who were '*dissatisfied in their dealings with the Union outside of the electoral process*' as per Section E 9.1 of our Bye-Laws. The investigation gathered and reviewed statements and supporting documentation from both parties. Upon these statements Imperial College Union has completed the investigation.

**\*INCLUDE YOUR RECOMMENDATIONS HERE\***

Both parties have now been informed of the outcome.

#### Appeals

You can appeal this decision to the Union President as per [Section E of our Bye-Laws](#). This appeal must be sent directly to [union.president@imperial.ac.uk](mailto:union.president@imperial.ac.uk). An appeal should be submitted within 10 College days (ie before *\*insert date here\**).