Bye-Law 9: Complaints

9.1 Introduction

In order to be considered under this Complaints Procedure, complaints should be reported, in writing, to the Students' Union within three months of the issue arising or the incident taking place.

Late complaints may be accepted in exceptional circumstances at the discretion of the Chief Executive or their nominee, whose decision is final.

Group complaints can be accepted if these include details of all complainants and identify a named spokesperson.

Anonymous complaints will not be accepted under this Complaints Procedure.

The respondent will be provided with details of a complaint that has been received about them, to ensure transparency and enable them to provide an informed response.

The Students' Union aims to conclude cases under this Bye Law within 30 days of the complaint or incident being reported.

Reasonable adjustments to time limits can be made, at all stages of the process, when deemed appropriate by the Chief Executive or their nominee and the complainant and/or respondents will be kept informed.

Complaints against the Students' Union, Full Members, and students of the University who are eligible for Full Membership but have exercised the right not to be a member, shall be considered in accordance with this Complaints Procedure.

Complaints against all other classes of members shall be considered by the Chief Executive or their nominee and their decision shall be final.

Complaints against the Students' Union made by persons who are not Full Members shall be considered by the Chief Executive or their nominee and their decision shall be final.

Complainants or respondents may not have external or legal representation at any stage of the complaint's procedure. For the avoidance of doubt this applies to written and verbal representation.

In the context of this Complaints Procedure 'parties' refers to the individual or group making the complaint, the respondent to the complaint and the Students' Union.

In the context of this Complaints Procedure 'evidence' means material or factual information directly relating to the matter of the complaint. The party presenting the evidence is responsible for demonstrating its relevance.

In the context of this Complaints Procedure 'witness' means an individual able to provide impartial, factual, first-hand evidence directly relating to the matter of the complaint. This does not include opinion or comment.

Where there may be a conflict of interest during consideration and adjudication of a complaint the Students' Union will take reasonable steps to avoid or mitigate the conflict.

When a complaint is dismissed, it should be because of one of the following reasons: insufficient evidence and/or the complaint is deemed to be frivolous, vexatious, repetitive, unrealistic, disproportionate and/or with unrealistic expectations of outcomes.

At each stage of the Complaints Procedures, the Students' Union will consider the support needs of each party and provide or refer to appropriate support as required.

9.2 Complaints about the Students' Union

Complaints should usually fall under one or more of the following categories, noting that this list is neither exhaustive nor exclusive:

- Cost quality, or delivery of facilities, services or activities provided by the Students' Union;
- Treatment of a student or group of students by the Students' Union;
- Actions contrary to the Students' Union Constitution, Bye-Laws or approved policies;
- Fundraising activity undertaken by, or on behalf of, the Students' Union;
- Students' Union breaches of statutory or regulatory requirements including any Freedom of Speech complaints.

9.3 Complaints about a Full Member

The Students' Union may consider complaints against any member's conduct in relation to events or activities organised by the Students' Union, either on the premises or elsewhere, including officials of the Students' Union, acting in an official capacity, or members of a recognised society in the course of their usual activities.

This Complaints Procedure will cover the following types of incident noting that this list is neither exhaustive nor exclusive:

- Indecent threatening, violent or disorderly behaviour;
- Drug taking or intoxication while representing the Students' Union;
- Personal harassment that relates to a person's background or personal characteristic;
- Sexual harassment or inappropriate sexual behaviour;
- Behaviour that is bullying, hostile, intimidating, discriminatory, malicious or insulting;
- Abuse or misuse of power which is meant to undermine, humiliate or injure the person on the receiving end;
- Behaviour likely to cause injury, impair the safety of others or put at risk of harm any person;
- Damage to, or defacement of, Students' Union property either through misappropriation or through intentional or reckless acts;
- Any misappropriation of Students' Union resources or property;
- Theft fraud, deceit, deception or dishonesty;
- Behaviour which brings, or is likely to bring, the Students' Union into disrepute;
- Disruption, obstruction of, or improper interference with the social, governance or cultural activities of the Students' Union;

- Misconduct or inappropriate behaviour on premises of organisations associated with the Students' Union under reciprocal or other agreements;
- Breaches of Students' Union data protection, health and safety, safeguarding, equality and diversity or other policies or regulatory requirements;
- Failure to comply with a remedy or penalty previously applied under this procedure.

In the absence of a written complaint, the Students' Union may implement its Disciplinary Procedure (Bye Law 10) to deal with identified or suspected misconduct or inappropriate behaviour in relation to Students' Union activity, events, services or premises.

In certain cases, (for example a complaint of harassment):

- Arrangements may be made to ensure the complainant does not to come into direct contact with the respondent, but such arrangements shall ensure that both parties, or their nominees, can hear evidence and be given an opportunity to ask questions of the other party;
- The Chief Executive, their nominee, or Panel Chair, may use their discretion to allow written evidence to be considered anonymously, subject to them verifying the authenticity of the evidence.

9.5 Complaints about a Students' Union Sabbatical Officer, or Student Representative

Complaints about a Sabbatical Officer will be referred to an External Trustee to determine whether the complaint should be dealt with under this procedure or the Students' Union's employee procedures.

Complaints about a Student Trustee will be referred to an External Trustee to determine whether the complaint should be dealt with under this procedure or the Students' Union's **Disciplinary Procedure (Bye Law 10).**

Where a complaint about an Officer or Student Representative (Student Trustee, Academic Rep, or Forum Facilitator) of the Students' Union results in exclusion from office, or removal of duties, this outcome shall be implemented in accordance with **Disciplinary Procedure (Bye Law 10).**

9.6 Complaints about a Students' Union Employee

Complaints about a member of staff will be treated as a complaint about the Students' Union and considered against the standards, policies and procedures of the relevant service.

If, in the course of investigating the complaint, or at any subsequent stages, the Chief Executive or their nominee, have reason to believe that the conduct or behaviour of an employee may justify further consideration, the matter will be referred to the relevant employee procedures.

9.7 Assessment of complaints

Complaints are assessed by the Chief Executive, the Chair of the Board if the complaint involves the Chief Executive, or either of their nominees, who may:

- Dismiss the complaint;
- Propose an informal means of resolution;
- Request further information in order to fully assess the complaint;

- Allocate the complaint for consideration under the Procedural Stages;
- Refer the complaint to the University to be dealt with under their Discipline Regulations;
- Report or advise the complainant to report the complaint to the Police to be dealt with under the criminal justice system.

9.8 If the complainant is not satisfied with a decision to dismiss or informally resolve their complaint at the assessment stage, they may request in writing, that the complaint is considered under the Procedural Stages.

9.9 Such a request will be considered by the Chair of the Board of Trustees, or an External Trustee if the complaint involves the Chair of the Board who may:
- Uphold the original decision; or
- Refer the complaint for consideration under the procedural stages.

9.10 If not satisfied with the Chair of the Board of Trustee's or External Trustees' decision to uphold the original decision, the complainant has recourse to University Appeal (Stage 4).

9.11 Procedural stages

There will be up to three official stages to the Students' Union's Complaints process:
- Local Resolution (Stage 1)
- Complaints Panel (Stage 2)
- Appeal Panel (Stage 3)

9.12 Once these stages have been exhausted, there is a further right of appeal to the University if a complainant or respondent (if applicable) is dissatisfied with the final complaint outcome; this is known as University Appeal (Stage 4).

9.13 Local Resolution (Stage 1)

The Chief Executive, Chair of the Board or their nominees will allocate the complaint to the most appropriate Sabbatical Officer, Committee or Head of Department to investigate the complaint and determine the appropriate outcome.

At this stage, a complaint can be
- Dismissed; or
- Upheld, wholly or partially, with an appropriate remedy or penalty applied; or
- Referred to a Stage 2 Complaints Panel for consideration and decision.

If the complainant or respondent (if applicable) is not satisfied with the Stage 1 outcome they may request in writing, that a Complaints Panel (Stage 2) is convened, on one or more of the following grounds:
- Incorrect outcome was reached;
- Resolution and or/penalty was unfair or disproportionate;
- New evidence which could not reasonably have been available at the time.

The decision to convene a Complaints Panel (Stage 2) will be taken by the Chief Executive or their nominee, subject to consultation with the Chair of the Board of Trustees or Deputy Chair of the Board of Trustees.

If a Complaints Panel (Stage 2) request is rejected, the complainant or respondent if applicable, has recourse to University Appeal (Stage 4).

9.14 Complaints Panel (Stage 2)

The Complaints Panel will consider the original complaint in full, taking account of all evidence previously considered, plus new evidence presented by any party to the complaint. The Panel may decide to:

- Uphold the complaint in full or in part with an appropriate remedy and/or penalty applied;
- Reject the complaint;
- Remove, reduce or increase any remedies and/or penalties previously applied.

If the complainant or respondent (if applicable), is not satisfied with the decision of the Complaints Panel, they may request in writing, that an Appeal Panel (Stage 3) is convened, on one or more of the following grounds:

- Procedural irregularity at Stage 2 leading to an incorrect or unfair outcome;
- Resolution and/or penalty was manifestly unfair or disproportionate.

The decision to convene an Appeal Panel (Stage 3) will be taken by an External Trustee.
If an Appeal Panel (Stage 3) request is rejected, the complainant or respondent if applicable, has recourse to University Appeal (Stage 4).

9.15 Appeal Panel (Stage 3)

The Appeal Panel will consider the appeal on the relevant grounds and may decide to:

- Uphold the appeal in full or in part;
- Reject the appeal;
- Remove, reduce or increase any remedies previously applied.

Where the complainant or respondent where applicable, is not satisfied with the decision of the Appeal Panel (Stage 3) they have recourse to University Appeal (Stage 4).

9.16 Appeals to the University (Stage 4)

An appeal to the University must be made in writing to the University Secretary on one or more of the following grounds:

- Material procedural irregularity which rendered the process leading to the decision unfair;
- Material which the student could not reasonably have been expected to produce at the time of the decision taken in respect of the complaint casts substantial doubt on the appropriateness of the decision.
- The decision taken in respect of the complaint was manifestly unreasonable.

An appeal to the University will not be a re-hearing of the original complaint. The University will focus on whether the complaint was properly considered by the Students' Union under this Complaints Procedure.

Where any procedural error by the Students' Union is identified, the University can refer the complaint back to the Complaints Procedure for reconsideration.

The University Secretary will reserve recommendations as to a complaint outcome for appeals where the Students' Union's decision is found to be unlawful or unreasonable.

The decision of the University Secretary is final and cannot be challenged via this Complaints Procedure.

9.17 Outcomes, Remedies and Penalties

The following outcomes are available at procedural stages 1-3:

- A complaint is wholly upheld;
- A complaint is partially upheld;
- A complaint is dismissed.

When a complaint is wholly or partially upheld, remedies shall be fair and proportionate.

9.18 Once the outcome has been determined, the following remedies are available at Stages 1-3:

- Improvements or changes to Students' Union services, outlets, facilities, policies or procedures are recommended;
- The complainant and respondent are required to participate in training and/or mediation and conflict resolution;
- An apology is given;
- A referral to a University or external agency able to provide appropriate support.

9.19 Where a complaint relates to the conduct of a student, the additional penalties are available at Stages 1 - 3:

- Caution on future conduct;
- A letter of concern;
- Full or partial ban from, or access to, Students' Union building, licensed premises, services, events and/or activities for a prescribed period;
- Removal of the right to stand as a candidate for all or any elections for Students' Union Sabbatical Officer, Student Representative, or as an NUS delegate;
- Removal of, or ban on obtaining, Associate Membership
- Referral to the University for consideration under its disciplinary procedures;
- Referral to other action, including legal action, if such action is deemed to be in the best interests of the organisation;
- Referral to the Students' Union employment procedures for consideration of current or future employment.
- Failure to comply with the conditions of any remedy or penalty, applied at any stage of the process, will constitute an act of misconduct and the Students' Union may take further action against the student including extending the penalties, re-hearing the case or referring that matter for action under the Disciplinary Procedure (Bye Law 10).

9.20 Temporary Measures

In order to protect the Students' Union or any of its members or staff, the Chief Executive can exclude any student from all or any premises, services and activities pending consideration of a complaint under the Bye-Laws. Any exclusion will be subject to regular review.

The Chief Executive may only take such action if, in their opinion, it is necessary to protect the Students' Union or any of its members or employees.

9.21 Timeframes

The Students' Union aims to deal with complaints within the following time limits and will keep parties notified if more time is required.

Complaints will usually be assessed and a written response issued within two weeks of receipt.

Where a complaint is dealt with via Informal Resolution (Stage 1), a written outcome will usually be provided within 4 weeks of allocation.

Where a complaint is dealt with by Complaints Panel (Stage 2) or Appeal Panel (Stage 3):

- The Panel will usually be convened within 6 weeks of the referral or request;
- All parties will usually receive a least 2 weeks notice of the date of the hearing;
- All parties will be required to submit any evidence or details of witnesses they wish to rely on at least 1 week in advance of the hearing;
- The outcome will usually be notified in writing within 1 week of the hearing date.

The complainant and respondent will usually have two weeks in which to challenge or appeal a decision at any official stage of the Complaints Procedure.

Complaints may be heard outside of university term-times, during which time the deadlines may be extended.

If a Full Member has been excluded from candidacy for elected office, the respondent may appeal specifically against this penalty outside the usual time limits:

The appeal may only be submitted on the grounds that the penalty was inappropriate to the offence for which the respondent was found responsible.

It must be submitted at least one month before the close of nominations for the post(s) for which the respondent wishes to stand.

If assessed as applicable, the appeal will be considered by an Appeal Panel (Stage 3) but time limits for notice and evidence may be shorter than usual.

The member may not be given an extension of any election deadlines as a result of such an appeal.

9.22 General Arrangement for Panels

Selecting the Panel

Panel members will be drawn from a pool made up of Sabbatical Officers, Student Representatives, and staff.

A Complaints Panel will consist of two student representatives, including at least one Sabbatical Officer, and one member of staff. The staff member will also have a role in advising the process.

An Appeal Panel will consist of two Student Representatives, including at least one Sabbatical Officer who is acting in their capacity as Trustee of the Students' Union, and the Chief Executive (or nominee). The Chief Executive will also have a role in advising the process.

All Panels will be chaired by a Sabbatical Officer, unless there is a conflict of interest, in which case a suitable replacement, which may be a staff member, student representative or independent person from a partner organisation, will chair the Panel.

All panel members will be selected ensuring there is no conflict of interest. Any party may request reconsideration of any Panel member on the grounds of partiality or conflict of interest. Such a request shall be considered by the Panel Chair and their decision shall be final.

In specific and conflicted circumstances, an independent person or an individual from NUS may make up part of the panel.

9.23 Submitting Evidence

Statements and other evidence (including witnesses attending the hearing) may be submitted to a Panel, with all such information shared with all relevant parties prior to the hearing.

Arrangements for notifying witnesses of a Panel hearing will be the responsibility of the person who has requested their attendance.

Any information previously considered at earlier stages will be provided, as evidence, to a Panel hearing.

The Panel may request the input of Students' Union staff and external experts where necessary to fully consider the case.

No information about previous offences will be considered until and unless the complaint is upheld.

9.24 Attendance at the Hearing

Complainants or respondents may be accompanied by a Full Member who may speak on their behalf, but may not have external or legal representation;

A Panel hearing can be adjourned if a request is made to the Chair, by any party or Panel member, in order to consider further information, hear further witnesses or allow extra time for other reasons. Such agreement will not be unreasonably withheld and the Chair shall determine the length of the adjournment;

If the complainant or respondent and/or their representative fails to attend the hearing, the Panel may proceed with the hearing or adjourn for a reasonable period.

9.25 Making a decision

The panel will first determine the outcome of the case;

If the outcome is to uphold the complaint, the Panel will be informed of any previous offences. In such instances, the respondent will be given the opportunity to make a statement to the Panel before a decision is reached on the remedies or penalties imposed.

The Panel will then consider what remedies and penalties to set in place.

9.26 A Panel hearing will operate in accordance with the following procedures:

- The Chair will introduce all present, outline what will happen in the hearing, and ensure everyone understands the purpose of the hearing;
- The complainant or appellant will present their case and introduce any supporting statements and/or or witnesses;
- There will be an opportunity for the members of the Panel and the respondent (if applicable) to question the complainant or appellant and any witnesses;
- The respondent (If applicable) will present their case and may introduce any supporting statements and/or or witnesses;
- There will then be an opportunity for members of the Panel and the complainant or to question the respondent (if applicable);
- Any external experts or Students' Union staff called by the Panel will be heard;
- The complainant will be given the opportunity to make a final statement;
- The respondent (if applicable) will be given the opportunity to make a final statement;
- The complainant and respondents (if applicable) will be asked to leave the room to allow the Panel to make a decision;
- The decision will be notified to all parties in writing, including information about further rights of appeal.
- Where relevant, case precedents will be recorded and may be referred to in future Complaints Panel and Appeal Panel hearings.

9.27 A written summary of proceedings will be taken and made available to the complaint or respondent on request. Such information will be confidential but the Panel may publish its decision in such a way as it determines.