

## **BYE-LAW | TRUSTEE APPEALS**

Last updated: 21<sup>st</sup> November 2014

### **Appeals Process**

1. In accordance with Article 38, a Trustee removed from their position by the Board under Article 37 is entitled to appeal the decision to remove them.
2. The administration of all functions of this Bye-Law shall be conducted by either the Union Director or another staff member designated by the Board (either person is jointly referred to in this Bye-Law as “the designated staff member”). The designated staff member may delegate any of their functions under the Bye-Law to another staff member.
3. An appeal will only be valid if notice is given in writing to the designated staff member not more than 14 days after the receipt of the written notice of the decision of the Trustees.
4. An appeal must contain a statement of the grounds upon which the appeal is brought and of the facts and matters relied upon. The appellant must present a case to answer and must present evidence either orally, or in writing or by calling witnesses.
5. If an appeal is lodged within time, the decision to dismiss the appellant shall not take effect until the conclusion of the process set out in this Bye-Law.
6. The appellant may at any time withdraw their appeal, in which case all appeal proceedings shall immediately terminate. An appeal cannot be reinstated once it has been withdrawn.

### **Notification of hearing and exchange of information**

7. The appellant must be given at least 21 days’ written notice of the date, time and place of the appeal hearing.
8. At least 14 days prior to the date of the hearing, the Appellant shall:
  - a. Confirm whether or not they intend to attend the hearing and, if so, the name of any person who will be accompanying or representing them, and
  - b. Provide any other evidence in addition to that made in their original notice of appeal if they wish to rely on this in the hearing.
9. At least 7 days prior to the date of the hearing, the Union shall provide the appellant with any further evidence which it wishes to rely upon.
10. Neither party shall rely on any statement or document that has not been provided in accordance with this Bye-Law, unless dispensation is given by the Appeals Panel. Any evidence submitted under this clause must be provided to the other party in advance.

### **Composition of the Appeals Panel**

11. The Appeals Panel shall be made up as constituted under Article 38, that is:
  - c. Two elected student representatives (who shall not be Officer Trustees);
  - d. A nominee of the University of Manchester;
  - e. An independent person nominated by NUS;
  - f. An independent person who is a student and who does not sit on any other Union Committee.
12. The identity of the student representatives and the independent student shall be decided by the NUS nominee and the University nominee jointly.

13. No member of the panel should have had any substantive involvement in the matter under appeal. Their relationship with the appellant should not give rise to any conflict of interest.
14. A member of the Panel will be appointed as its Chair by the Panel.

### **Representatives**

15. The appellant and respondent are entitled to be accompanied or represented by one other person of his or her own choice except where, in the opinion of the Chair of the Appeals Panel, such person has a conflict of interest.
16. The representative of a party may do anything that may be done by a party.

### **Objective and procedure of the Appeals Panel**

17. The function of the appeals procedure is to ensure that a decision to remove a person as a Trustee is:
  - a. Made on the basis of relevant factors (and not on irrelevant factors),
  - b. Reasonable, and
  - c. Free from procedural irregularity.
18. The over-riding objective of the appeals procedure is to enable appeals to be dealt with fairly, justly and free of bias.
19. Dealing with a case fairly and justly includes:
  - a. Avoiding unnecessary formality and seeking flexibility in proceedings,
  - b. Ensuring as far as practicable that all are able to participate fully in proceedings, and
  - c. Avoiding delay, so far as is compatible with properly considering the issues.
20. The panel must seek to advance its over-riding objective in following this Bye-Law and exercising its powers, and the parties must help further the over-riding objective and cooperate with the panel generally.
21. The Chair may regulate procedure and give guidance as to the conduct or disposal of proceedings, subject to this Bye-Law.
22. In particular, the Chair may:
  - a. Adjourn or postpone a hearing;
  - b. Permit the amendment or correction of documents;
  - c. Require a party to produce evidence or information.

### **Course of action which the Appeals Panel may take**

23. The course of action which the Appeals Panel may take are:
  - a. To uphold the appeal, in which case the appellant will be removed as a Trustee; or
  - b. To reject the appeal, in which case the appellant will remain as a Trustee.
24. Within seven days, the designated staff member will notify the Appellant in writing of the decision of the Appeals Panel.

### **Conduct of appellant**

25. If at the Appeal hearing, the appellant is not present or represented, the Appeals Panel may proceed to consider the matter in the appellant's absence if it is satisfied that notice was properly served upon him or her in accordance with this Bye-Law.

26. The proceedings of the Panel will be struck out automatically if the appellant fails to comply with a direction from the Panel which stated that failure to comply with the direction would lead to dismissal.
27. The Panel may decide to strike out its proceedings if:
  - a. The appellant has failed to comply with a direction from the Panel which stated that failure to comply with the direction might lead to dismissal, or
  - b. The appellant has failed to co-operate with the Appeals Panel to such an extent that the proceedings cannot be dealt with fairly and justly.

#### **Procedure at hearings**

28. The order of proceedings for an Appeals Panel hearing, unless the Chair otherwise directs, will be as follows:
  - a. Submissions by or on behalf of the appellant;
  - b. Submissions by or on behalf of the respondent;
  - c. Consideration of the evidence by the Panel;
  - d. Closing submissions by or on behalf of the appellant;
  - e. Closing submissions by or on behalf of the respondent.
29. Minutes will be kept of all hearings held by the Appeals Panel.

#### **Interpretation and definitions**

30. "Appellant" means the person who has applied for an appeal against the decision of the Board to remove them as a Trustee.
31. "Chair" means the Chair of the Appeals Panel.
32. "Party" means either the appellant or the respondent, and "parties" means both the appellant and the respondent.
33. "Panel" refers to the Appeals Panel constituted under this Bye-Law.
34. "Respondent" means the Chair of the Board of Trustees or another Trustee who represents the Board and is defending their decision to remove the appellant as a Trustee.
35. References to a party include a representative of that party.
36. Any clerical mistake or other accidental slip or omission shall not invalidate proceedings or a decision of the Panel.
37. Any reference to 'days' means calendar days and not working days.