

BYE LAW | DISCIPLINE AND APPEALS

This by law exists to ensure that the Union has a fair, transparent and reasonable process of dealing with complaints about the Union, or its members (where appropriate).

1. The Bye-Law is subject to the Articles of the Union.
2. Words and phrases used in this Bye-Law have the same meaning as defined in the Articles of the Union.
3. This Bye-Law was last updated and approved on 8 February 2012

DISCIPLINARY HEARINGS

4. The area of Union activity that the breach of discipline has been made, will determine the students, Executive Committee or staff who will be responsible for hearing the disciplinary and taking action.
5. Typically, the composition of the Disciplinary Hearing will be two members of the Executive and up to two others which may include Union Staff.

DISCIPLINARY APPEALS BODY

Purpose

6. To act as an appeals body for individual members who feel that they have been unfairly treated by Union bodies including disciplinary decisions taken with regard to University of Manchester Students' Union premises, clubs and societies or any other official activity.

Composition

7. The General Secretary shall be the chair
8. At least four members of the Union, sampled from our membership list
9. There should be gender balance on the appeal body
10. Where the General Secretary has an interest in the case (usually as either the defendant, a witness or the complainant) the General Secretary will delegate their responsibilities to another Officer Trustee who does not have an interest in the case.

Hearing

11. The General Secretary must call a meeting within seven days of any decision being brought before Disciplinary Appeals Body.

Duties

12. To have jurisdiction over members of the Union and over persons using Union facilities and resources.
13. To have final jurisdiction over the decisions of all UMSU activities affecting individual members.

Powers

14. To uphold or repeal disciplinary decisions of Union Committees, Clubs and Societies
15. To require the attendance at Disciplinary Appeals Body of any Union member.

16. Non-compliance is an offence and will lead to further disciplinary action.

Regulations

17. All members must declare any interests that they have regarding the case.
18. No member may sit on the committee if the issue under consideration concerns activities or persons that they may be involved with.
19. Quorum is a full complement of members as outlined above

Procedures

20. Any member of the Union may appeal against a decision of Union committees or Clubs, Societies and Media Group
21. The complainant must be informed of:
1. The relevant sections of the Articles or Bye-Laws
2. The factual details of the decision
3. The time, date and place of the hearing
4. The necessity to produce all witnesses at the time of the hearing
22. Both the complainant and the Union Representative must be present for the meeting to proceed. (This may not be at the same time)
23. In the absence of either party the meeting shall adjourn and the Chair shall investigate the reasons for absence.
24. Following an investigation by the Chair the meeting shall be reconvened and may proceed at the discretion of the Disciplinary Appeals Body and any of the parties may have the right to appoint another member as their representative
25. The complainant, or their representative, will present the case.
26. All parties have the right to question each other through the Appeals Body.
27. Disciplinary Appeals Body shall reach its decision by simple majority.
28. The Chair shall notify the parties immediately of the Body's decision.

Sanctions

29. The Disciplinary Body shall have the power, but is not limited to, any or all of the following penalties.
1. A reprimand (eg. written warning)
2. Suspension from Membership upon terms the Committee thinks fit
3. Expulsion from Membership

Appeal or Removal as a Trustee – Appeals Body

30. In accordance with the articles, a Trustee removed in accordance with Articles shall be entitled to appeal the decision to remove him or her to an Appeal Body. The Trustee appealing shall be called "the Appellant".
31. The Appellant has the right to appeal against a decision of the Trustees provided s/he lodges his or her appeal in writing with the Union Director not more than 14 days after the receipt of the written notice of the decision of the Trustees.
32. The appeal should contain a statement of the grounds upon which the appeal is brought and of the facts and matters relied upon.
33. If an appeal is lodged within time the decision to dismiss the Appellant shall not take effect until the final determination of the matter.

Notification of hearing and exchange of information

34. The Appellant shall be given at least 21 days' written notice of the date, time and place of appeal hearing.
35. At least 14 days prior to the date of the hearing, the Appellant shall:
36. Confirm whether or not s/he intends to attend the hearing and, if so, the name of any person who will be accompanying or representing him or her;
37. If s/he intends to seek the agreement of the Appeals Body to submit any such fresh evidence that s/he wishes to rely upon.
38. 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.
39. Neither party shall without the consent of the other or the permission of the Appeals Body rely on any statement of document other than those provided or identified under RULES of this Bye-Law.

Composition of the Appeals Body

40. The Appeals Body shall be made up as constituted under Article xx
41. The identity of those who sit on the Appeals Body, as per the agreed categories, shall be decided by the NUS appointee and University. In addition, the University nominee and the independent person should not have had any substantive involvement in the matter under appeal. Their relationship with the Appellant should not give rise to any conflict of interest.

The parties in proceedings before the Appeals Body

42. The Appellant shall be 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 Body, such person has a conflict of interest.
43. The Chair of the Trustees shall act on behalf of the Union as the Respondent to the appeal and for this purpose may instruct a representative.

Procedure before the Appeals Body

44. The function of the Appeals Body is to review the reasonableness of the decision to dismiss the Appellant. On the appeal, the Appeals Body will consider the documents, statements and other evidence produced to the original Trustee meeting.
45. The hearing of an appeal shall be conducted in accordance with rule xx of this Bye-Law except where to do so would be inconvenient or unjust, when the Chair of the Appeals Body may modify the procedure to the extent that s/he deems necessary provided that the result is fair to the Appellant.

Course of action which the Appeals Body may take

46. The course of action which the Appeals Body may take are:
1. To uphold the appeal; or
 2. To reject the appeal
47. Within seven days, the Union Director will notify the Appellant, in writing of the decision of the Appeals Body.

The absence of the Appellant

48. If at the Appeal hearing, the Appellant is not present or represented, the Appeals Body 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 rule

Order of proceedings

49. The order of proceedings for the Appeals Body meeting, unless the Chair otherwise directs, will be as follows:

1. Submission by or on behalf of the Appellant
2. Submissions by or on behalf of the Respondent
3. Consideration of the evidence by the Appeals Body
4. Closing submissions by or on behalf of the Appellant

Losing submissions by or on behalf of the Respondent