

Middlesex Students' Union Disciplinary Procedure



Procedure

This procedure is to be read in accordance with the Middlesex Students' Union Complaints Procedure.

With any complaint, we aim to:

- Resolve the complaint as fairly and as swiftly as possible.
- Deal with the complaint in confidence.
- Keep you updated on what is happening with the complaint.

The Union is not a court of law and cannot determine that a member has acted unlawfully unless evidence is provided by the Police. The Union's burden of proof is set at the balance of probability, not beyond all reasonable doubt.

All case handlers will be briefed regarding their duties in accordance with the Data Protection Act 1998 and the GDPR. Throughout the investigation of any complaint, the complaint handlers – and anyone else involved – must operate with due regard for the confidentiality of the individual(s) involved; any breach of this confidentiality will be treated with the utmost seriousness and may involve disciplinary action being taken.

No Union member or member of staff should be involved (other than as a witness) in dealing with a case in which they might have (or might appear to have) a conflict of interest where practicable. This may require the composition of any panel etc. under these rules to vary from the composition laid down.

All timelines laid out in this procedure are indicative and can be adjusted by either party with good reason to be determined by the Chair of the Trustee Board. 'Good reason' may include adjustments which need to be made in accordance with the Equality Act 2010.

Where a complaint or Disciplinary Procedure concerns the Chair of the Trustee Board, the Trustee Board will nominate an alternative Trustee to act in the place of the Chair. For the avoidance of doubt the Chair themselves will not take part in this conversation as they would have an interest in its outcome.

The Union may decide to temporarily suspend any member, Student Officer or Student Group pending the investigation of any complaint or Disciplinary action, at the discretion of the Chair of the Trustee Board.

Remit of the Disciplinary Procedure

This Disciplinary Procedure is for use in relation to members of the Union in their capacity as members of the Union, club or society members, Committee members, Office holders or trustees or any other union capacity.

Where the case involves a particular Student Group, the Committee of that Group will be expected to nominate one member of the Committee to act as a representative of that Student Group.

This Procedure may be used where a complaint has been referred for further consideration under the Union's Disciplinary procedure in accordance with section 5 (Formal Investigation) of the Complaints Procedure.

The Chair of the Trustee Board may decide to refer the case for consideration in accordance with MDXSU's Disciplinary Procedures before any consideration is given under these Procedures. Equally, MDXSU may refer a case to be considered in accordance with these Procedures before or after MDXSU's Procedures.

This Disciplinary Procedure is relevant to all cases where the behaviour or actions of a member of the Union or Student Group fall below expectations. For clarity, this includes (but is not limited to):

- Misconduct by any Union member or Student Group while on Union-managed premises, at a Union-organised event or an event organised by a recognised Union society, club, representative association or media outlet, or elsewhere while on Union business, or representing the Union, or society etc, in an official capacity, including as a volunteer.
- Conduct detrimental to the reasonable enjoyment of Union facilities by other members of the Union.
- Action that is or could be detrimental to the social life or good standing of the Union.
- Verbal or physical abuse or harassment of another person.
- Wilful or negligent damage to, loss of, or unauthorised removal of Union property or property under its control.
- Breach of the current Union Equality and Diversity Policy, or other policy regarding behaviour on Union premises or at Union events.
- In the case of an elected or appointed Student Officer or representative, breach of any duties or responsibilities of the post under the Constitution.

The Disciplinary Panel

Upon receipt of a referral, the Chair of the Trustee Board will appoint a Disciplinary Panel to consider the case at a Disciplinary Hearing. The Panel will be made up of up to two full-time elected officers or Student Trustees (one of whom shall chair the Panel) and one member of the Senior Leadership Team. None will have had previous involvement in the case.

The Disciplinary Hearing Procedure

The individual(s) or Student Groups involved in the complaint will be invited to attend the Disciplinary Hearing, with at least five working days' notice unless a shorter time is agreed. They will be provided with any relevant documentation including any information considered by the Complaints Panel in making the referral to the Disciplinary Panel.

Members can be accompanied by a friend or family member by agreement of the Panel Chair. The names of any attendees should be sent to the Chair within 2 working days of Panel Hearing. The Panel may invite witnesses or the original complaint handler to attend the meeting and to provide information to the Panel in making its decision. If any invitee is unable to attend for any reason, the Chair will be responsible for determining whether the Panel should continue or be adjourned at any point.

Any further documentation to be considered by the Panel should be sent to the Chair of the Panel within 2 working days of the Panel Hearing. Documentation received after this point will only be accepted at the discretion of the Chair.

The Panel will ask the complaint handler and/or witnesses to present their case against the individual(s) and/or Student Group(s). The individual(s) and/or Student Group(s) will be given an opportunity to respond to the evidence presented against them.

The Panel will then be given a period of deliberation during which they will consider all evidence available. Each decision should be made by vote of Panel members.

The Panel will arrive at one of the following outcomes:

- That there is insufficient evidence upon which to take Disciplinary action, and the case is therefore closed.
- That there is sufficient evidence upon which to take Disciplinary action. In such circumstances, the Panel will determine what action will be taken against the individual(s) or student group(s) in question.

The following penalties may be imposed by the Panel where a case is found against any individual member (please note this list is not exhaustive):

- A written reprimand (censure) sent by the Panel on behalf of the Union and/or warning as to future conduct.
- A requirement to send an apology to anyone affected by the misconduct.

- A requirement to attend additional training or events
- A ban from entering or attending any or all Union- managed premises or Union-organised events for a specified period.
- Payment of recompense up to the full cost of restoring any damage done.
- Removal, for a specified period or indefinitely, of some or all privileges of membership of the Union.
- Termination or suspension of any Union Officer or Representative positions held by the member. This may include a referral to the Union's HR Procedures where a full-time Student Officer is concerned.

In addition to the above, the following penalties may be imposed by the Panel where a case is found against a Union club or society, or, where appropriate, a representative association or media outlet:

- Withdrawal of any or all Union funds standing in the name of the society.
- Withdrawal of recognition as a Union Student Group or of certain benefits of recognition, for a specified period or indefinitely, or until specified conditions are complied with.

The Chair of the Panel will write to those involved outlining the decision of the Panel and the reasons for that decision.

The individual(s) or student group(s) will have five working days from the date of the Union's response to request a review of this outcome, giving the reasons why they are dissatisfied. The Chair of the Trustee Board will determine whether the outcome should be reviewed; the Chair of the Trustee Board's decision will be final.

Review Stage

If the Chair of the Trustee Board determines that the decision of the Disciplinary Panel should be reviewed, the decision will then be considered in accordance with these review stages.

1. The Chair of the Disciplinary Panel will be asked to provide a report of the investigations and outcomes determined thus far to the Trustee Board, or a panel thereof which will not include the Chair.
2. The Panel will review the complaint outcome and determine whether:
 - a. The case has been considered appropriately and fairly
 - b. The outcomes proposed are appropriate and reasonable
3. The Panel will then make one of the following decisions:
 - a. That a new Disciplinary Panel is reconvened to reconsider the case without bias.
 - b. That the outcomes proposed be amended at the discretion of the Panel.
 - c. That the decision of the Disciplinary Panel be upheld and the matter considered closed. This within MDXSU will be final.

University-level review stage

1. If you considered that
 - a. there has been a procedural irregularity in the conduct of the formal investigation; **OR**
 - b. new information has come to light, which you were unable to disclose previously and which would have had a material impact upon the investigation previously undertaken; **OR**
 - c. the decision reached was unreasonable based on the information that had been available to the Students' Union when the case was considered
2. you may request a review of the outcome of the formal investigation and must do so within 21 working days of the written response to the formal stage. The review request must be submitted to Chief Executive Officer of MDXSU using the [University Level Review Form \(ULR\)](#) who will then liaise with the University's Director of Student Affairs to nominate a Senior Manager from an Academic School or Professional Service to review the complaint.