



UNIVERSITY OF ESSEX STUDENTS\* UNION

# DISCIPLINARY & CAPABILITY POLICY FOR OFFICER TRUSTEES

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## **DISCIPLINARY AND CAPABILITY POLICY SABBATICAL OFFICERS**

### **AIM AND PURPOSE OF THE PROCEDURE**

Every Sabbatical Officer is expected to carry out their duties to the best of their ability with the reputation and best interests of the Students' Union in mind at all times. The procedure applies to all Sabbatical Officer and is intended to provide the opportunity to improve to the standard required before formal action is taken, unless the seriousness of an alleged offence warrants otherwise. This policy sets out the action that can be taken when Students' Union rules, policy or procedures are breached or if capabilities expected in a particular job are not met. This will usually follow an informal process which has not resulted in improvement. Please note Appendix 1 to this procedure.

### **IMPORTANT IN RELATION TO SABBATICAL OFFICERS**

- Sabbatical Officers are trustees and also employees of the Students' Union as their employment status comes from, and depends on, their elected Sabbatical Officer status.
- As Trustees, Sabbatical Officers, collectively with other student and external Trustees have ultimate responsibility for the administration and running of the Students' Union. All Sabbatical Officers will be provided with training in support of both their Sabbatical and Trustee roles; the expectations of conduct and performance will be given at induction.

### **ULTIMATE SANCTIONS OF THIS POLICY**

- The termination of the Sabbatical Officer's employment with the University of Essex Students' Union. It will be formally reported to Student Parliament that the Sabbatical Officer Trustee is dismissed.
- In the event that a Sabbatical Officer is removed as a Trustee of the Students' Union, through a vote of No Confidence their employment status will automatically be at risk. The Students' Union may consider whether there is a suitable alternative employment role if the relationship of trust and confidence is not broken. If the relationship of trust and confidence is broken then the Sabbatical Officer will be dismissed, bringing their employment relationship with the Students' Union to an end.

## ISSUES OR CONCERNS

Minor faults will be dealt with informally, by the President (or VP Education), discussing the concerns with the Sabbatical Officer at an informal meeting. If the President is the subject of a complaint then the VP Education will discuss the concerns with the President.

The Sabbatical Officer will be advised of the standard required to improve conduct or behaviour and, where appropriate, the timescale within which the Sabbatical Officer should improve. Informal discussions do not need to be recorded, however it is useful if the outcome of any discussion, including actions and timescales are provided in writing to the Sabbatical Officer with a copy being sent to HR to be kept on their staff record. This may be referred to as a cause for concern. The Sabbatical Officer can invite a workplace colleague or Trade Union Official to attend the informal meeting with them. Where there is a more serious case of misconduct or poor performance or the Officer Trustee fails to improve and maintain improvements agreed, then formal action may be taken and the Disciplinary and Capability Procedure outlined below may be invoked. Sabbatical Officers need to be aware that their behaviour outside of work can result in disciplinary action being taken.

## INVESTIGATION

The President or VP Education will work with the HR Facilitator to carry out the investigation and to establish a fair and balanced view of the facts relating to any allegations against the Sabbatical Officer, before deciding whether to proceed with a disciplinary hearing. The investigation should be carried out as quickly as possible. The Sabbatical Officer will be kept informed of the status of the investigation.

The Sabbatical Officer, subject of the complaint, will be written to, with an initial outline of the allegations against them and provided with a copy of this policy.

Dependent upon the seriousness of the allegation, it may be necessary to suspend the Sabbatical Officer on full pay while the investigation is carried out. Any such suspension will not affect the Sabbatical Officer's trustee status, however they may be excluded from some or all of the Students' Union's premises and / or activities during the period of the suspension. Suspension will not constitute or be considered a disciplinary action. The Sabbatical Officer may be required to return Students' Union property i.e. keys or electronic equipment during the period of their suspension.

If, on completion of the investigation, it is considered that disciplinary action is required the HR team will establish a Disciplinary Panel.

The Sabbatical Officer will be informed, in writing, of the allegation(s) including supporting evidence and an invitation to a disciplinary hearing. The hearing will take place without unreasonable delay, but will allow reasonable notice to allow the Sabbatical Officer to prepare their case.

If the Sabbatical Officer has evidence or statements that they wish the panel to consider as part of their defence it must be submitted for consideration at least 2 days prior to the date of the hearing. Anything submitted with less notice may not be accepted by the panel.

## **HEARING AND APPEALS PANEL**

The President and/ or VP Education, supported by an HR facilitator can issue informal or first and final formal warnings as well as provide actions for improvement. Where there is a possibility of dismissal the panel will consist of at least 2 members of the following:

- a) The President or VP Education (Chair of the panel)
- b) Sabbatical Officer Trustees
- c) External Trustees
- d) Student Trustees
- e) The Chief Executive (or their nominee from the Director team)

A member of the HR team will act as a facilitator for the panel and a note taker for the meeting.

It should be noted that if, on reviewing the evidence at the hearing and with the agreement of the HR facilitator, the President or VP Education feels that dismissal is the appropriate step this action can be taken at any stage of the process.

## **HEARING**

The allegations will be put to the Sabbatical Officer at the hearing and they will have the opportunity to present their defence. The Sabbatical Officer and the panel may call on witnesses, which must be agreed, by both parties, prior to the hearing.

Once all the evidence has been heard the Panel will request that the Sabbatical Officer and their representative leave the meeting while they consider all the evidence presented. The meeting will re-convene where the decision will be conveyed verbally and then in writing to the Sabbatical Officer. The Panel may require further investigation to take place based on

evidence presented at the meeting. In these cases the investigation will recommence with a view to being completed as soon as possible. If the Sabbatical Officer was suspended prior to the hearing they will remain suspended whilst further investigations take place.

## **RIGHT TO REPRESENTATION**

Any Sabbatical Officer facing a formal disciplinary or capability hearing has the right to representation at every stage of the process. The Sabbatical Officer may invite a Students' Union workplace colleague, a Trades Union Representative or someone employed by a Trades Union. The Students' Union is prepared to consider a request of representation from people outside of these groups, but reserves the right to decline the request if it does not feel that the representative is appropriate. The Sabbatical Officer must provide the name and position of their representative in advance of the meeting.

All Sabbatical Officer will be subject to the following full 3 Stage Disciplinary and Capability Procedure.

## **THE PROCEDURE**

In advance of any meeting the Sabbatical Officer will:

- be given the reason for the hearing;
- be given reasonable notice of the hearing
- be advised of possible outcome(s)
- be advised of their right to representation at the hearing

After the meeting the Sabbatical Officer will:

- be advised of the outcome of the hearing, including length of any sanction
- be advised of any requirements to improve, including timescales, along with the potential consequences of failure to meet the requirements
- be advised of their right to appeal the decision and how to do so
- have the above confirmed in writing and saved on their record

Sabbatical Officer should note that although sanctions will expire after a set period, any conduct that is believed to show a pattern of behaviour may be considered valid after the expiration date has passed. Sabbatical Officers

should also note that the panel can impose any stage sanction at any stage of the process should it be felt that the conduct of performance warrants it.

### **STAGE ONE – FIRST FORMAL WARNING**

The President (or VP Education) can take informal disciplinary/capability action against a Sabbatical Officer. If, despite informal discussions, the Sabbatical Officer's conduct or performance does not meet acceptable standards, the President (or VP Education), with advice from HR, will invite the Sabbatical Officer to attend a formal hearing to discuss the matter. The Sabbatical Officer may be issued with a First Formal Warning

### **STAGE TWO – FINAL WRITTEN WARNING**

If there is no improvement in standards or performance, or a concern of a similar nature Stage Two will be implemented immediately and a Final Written Warning may be given. The President (or VP Education) as Chair of the Panel with advice from HR, will invite the Sabbatical Officer to attend a formal hearing to discuss the matter. The Sabbatical Officer may be issued with a Final Written Warning.

### **STAGE THREE - DISMISSAL**

If, on the production of evidence to the Panel, there is no satisfactory improvement or if further serious misconduct occurs, the Sabbatical Officer will be invited to a meeting where they may be dismissed, with due notice.

### **THE APPEALS PROCEDURE**

Upon receipt of a written appeal addressed to the Chief Executive that has been received within 7 days of the disciplinary hearing and clearly states appropriate grounds for appeal, the HR facilitator will organise a panel to hear the appeal. The appeals panel should not be parties from the original panel, although it is recognised that this is not always possible. The staff member will be advised of the date, time, location and panel members for the appeals hearing as soon as possible after the receipt of the appeal.

The appeals panel will consider whether the initial decision was fair and reasonable. They will also consider whether any new evidence or mitigating circumstances have been submitted which may have had an impact on the initial decision. The appeals panel may request further information or investigation and may require the staff member to attend a further meeting. Staff should be aware that the appeals panel may issue a more serious sanction than that of the initial hearing panel if they feel the evidence warrants. Any decision made by the Appeals Panel is final.

### **GROSS MISCONDUCT**

If there is an allegation of gross misconduct, the Sabbatical Officer may be suspended, on full pay, while an investigation takes place. If a Sabbatical Officer is caught in the act of an act of gross misconduct they will be suspended with immediate effect. In principle, the Sabbatical Officer will be suspended on full pay, however, should an allegation be upheld then pay would be stopped on the day of the suspension, with no notice.

If, after investigation, it is deemed that you have committed an offence of the following nature (the list is not exhaustive), the normal consequence will be dismissal, without due notice:

- Theft, fraud, deliberate falsification of company documents, assault on another person, un-certified absence at work, poor attendance record without apologies, deliberate damage to Union property, sexual harassment, racial harassment, homophobia, transphobia, bullying behaviour, unprofessional conduct, being unfit for work through alcohol or illegal drugs, particularly with respect to continuous lateness, misuse of IT equipment e.g. email – sending emails/social networking messages of an abusive or threatening nature about or against an individual(s) or using IT equipment for inappropriate or illegal activities, , being in possession of illegal drugs, gross negligence, non-compliance with Union Council/Trustee Policy or Procedures, bringing the Students' Union into disrepute including behaviour outside normal working hours, being convicted with a criminal record, being jailed as the result of a conviction resulting in breach of contract.

If the allegation is of a criminal nature the Students' Union will not deal with it but will refer it to Essex Police. Dependent upon the outcome of any Police investigation, the Students' Union may still take disciplinary action.

The Students' Union will not re-employ anyone who has been dismissed from their position with the Students' Union. If a previously dismissed staff member becomes an elected Officer or Trustee this will be considered individually and may be referred to the Trustee Board.

Sabbatical Officers who have been dismissed for Gross Misconduct have the same right to appeal as Sabbatical Officers who have been dismissed through the three stage process.



## **Disciplinary Procedure 2 – Elected Representatives**

### **1. Introduction**

These formal procedures shall be used to democratically hold elected representatives to account.

### **2. Elected Representative Disciplinary Procedure**

Elected representatives can be disciplined via votes of censure and votes of no confidence raised by full members of the Union or by other elected representatives. Except in the case of Liberation and Sectional officers where a vote of censure or no confidence can be raised at Student Parliament but only by an appropriate representative, i.e. someone representing the liberation or section in question.

### **3. Vote of Censure**

A. There shall be two types of vote of censure:

- i. Automatic vote of censure;
- ii. Censure of an elected representative by another, through Student Parliament

### **4. Automatic Censure**

A. Any Executive Member of the Union who is absent from two successive scheduled meetings of that Union committee within the period of one academic year without reasonable apologies being given shall be receive an automatic censure.

B. Any representative who fails to submit a written report, without due reason, to the membership shall receive an automatic censure.

C. Any elected representative who makes confidential information public shall receive an automatic censure.

D. Appeals against an automatic censure will be considered by the relevant forum at its next scheduled meeting and will be considered only on the grounds of an error of fact.

### **5. Vote of No Confidence**

A. Elected representatives can be removed from Office by a vote of no confidence. There are two mechanisms by which a vote of no confidence can be tabled against an elected representative:

- i. Automatic vote of no confidence;
- ii. Vote of no confidence raised by a member of the Union against an elected representative through the relevant Student Parliament please see the below Officer Accountability Process.

## **6. Automatic Vote of No Confidence**

Three votes of censure against any one elected member during an academic year, automatically requires an Student Parliament meeting to debate a vote of no confidence in the elected member. They shall follow the procedure for other votes of no confidence.

## **7. Vote of No Confidence – officer accountability is outlined in by law 10**

### **Aims of the Officer Accountability processes:**

- To ensure that it is accessible for students to hold their Officers to account
- To provide an easy method to bring issues to the attention of students, the officer and the SU
- To ensure that Officers are treated fairly throughout the process

It is important to note that, unless in specific situations (where alleged gross misconduct or harassment has taken place), the complainant is expected to have reached out to the Officer prior to the first stage. There needs to be evidence that the complainant has made the Officer aware of their concerns/ issues and has tried to work with the Officer in relation to these issues.

### **Steps:**

**Step 1: Student calls into question an Officer-** By emailing the Union Chair and [SUParli@essex.ac.uk](mailto:SUParli@essex.ac.uk) to outline their concerns in writing and including any evidence to support their allegations. The Union Chair and Engagement Manager will assess whether or not this is an Employment issue or an accountability issue. If it is an employment issue then the details will be passed to SUPED who will follow the Disciplinary Process and this accountability process ends.

### **Step 2: A Complaints Committee is formed**

The Complaints Committee will be formed specifically for the complaint, by the Democracy and Representation Manager.

Suggested Membership: (the relevant Campus Chair, Union Chair and the Student Engagement Manager (responsibility for democracy) any other Officer can be co-opted on to the panel at the discretion of the Union Chair.

### **Step 3: Complaints Committee investigates the complaint/question**

The Complaints Committee receives all information submitted in step 1 and is provided with a Statement of Fact in relation to the Officer's work and behaviour, to date, compiled by the Democracy and Representation Manager. The statement of fact will contain number of meetings attended, number of meetings missed with apologies, number of meetings missed without apology, number of events held, number of training sessions attended (including the total possible) and number of Officer reports submitted.

The Complaints Committee reviews all information and decides whether or not the process continues. Where the process ends here, the original complainant will be supplied with reasons as to why and given the opportunity to submit further evidence if necessary, for the complaint to proceed.

### **Step 4: Officer is given the right to reply**

The Officer will be provided with the full details of the complaint and will be given the right to reply (within 3 working days)

### **Step 5: Decision - should an extraordinary parliament be called?**

Based on the right to reply, statement of fact and investigation the committee will decide whether there is enough reason for an extraordinary parliament to be called. If the right to reply sufficiently explains the issues set out in the complaint, then the process ends and the complainant is informed.

### **Step 5: Extraordinary Parliament Called**

Notice of the extraordinary parliament is sent to all parliament members.

The date, time, statement of fact, complaint and the right to reply from the Officer is circulated to all parliament members for review.

Any questions for the Officer or complainant must be submitted to [suparli@essex.ac.uk](mailto:suparli@essex.ac.uk) within 3 working days.

### **Step 6: Questions are reviewed by the complaints committee and sent to both the Complainant and the Officer.**

The Complainant and the Officer have 3 working days to answer the questions in writing to [SUParli@essex.ac.uk](mailto:SUParli@essex.ac.uk)

### **Step 7: Extraordinary Parliament**

The following is read out:

- Statement of Fact (Union Chair)
- Complaint (Campus Chair 2)
- Officer's Reply (Campus Chair 3)

Union chair reads the questions and the answers

Parliament will then vote to establish one of the following outcomes:

- No further action
- Notice to improve\*
- Hold a VoNC by the represented students

Both the Complainant and the Officer will have the right to appeal the application of the process. This needs to be submitted to the chair of trustees or an external trustee if it is against the chair of trustees and copied to [SUParli@essex.ac.uk](mailto:SUParli@essex.ac.uk) within 3 working days.

\*Notice to improve is a call to action for the Officer to change their approach to the role. Parliament will suggest specific actions that they expect to see within a specific timeframe. At the conclusion of that timeframe, and within the same academic year, the complaints committee will reconvene to discuss whether there is evidence that the actions have been met. If the complaints committee deem that there is no evidence of the actions being met, they can censure the Officer. Parliament will be updated via email.

### **Step 8: Vote of No confidence within the community**

This will be held in the community that the officer represents with the options being "No Confidence" and "Confidence". Only those who identify with that community shall be eligible to vote. Quoracy will be set at 5% of the community (as self-defined at the time of the parliament vote). If there are no student's self-defined to this community, Parliament will agree the quoracy (based on information received regarding community figures established elsewhere).

### **Mediation:**

At any time of this process both parties are entitled to take part in Mediation. The committee may suggest this initially prior to the process continuing.

Mediation will be provided by SU Advice and or the SU Engagement team at a time that suits all parties, however a time frame will be agreed by the committee. Both parties can bring someone for support, but they should not speak. Mediation can be ended by either party if they feel it is not productive after 1 session. Mediation can be ended in a positive outcome so long as both parties are happy. Mediation can be ended by SU Advice and Engagement if it is not productive.

## 9. Additional notes

Any elected Officer who is removed from office will continue to receive their remuneration, in line with their terms of office, after the decision is made, except in cases of gross misconduct.

### **Disciplinary Procedure 3 – Union Members**

Members of the Union shall be subject to a disciplinary hearing in front of a panel if deemed appropriate following the complaints procedure in Disciplinary Procedure

1. A separate Union Licensed Premises Disciplinary Procedure applies for all the venues.

Any member subject to a hearing shall have the right to be accompanied by a friend and be informed of this right in the written request to appear before the hearing.

The President (or their nominee) has the right to impose temporary sanctions pending a disciplinary hearing, including suspension of the accused student from certain Union services and premises pending the outcome of the Panel.

Composition of Disciplinary Panel for the hearing

The Disciplinary Panel shall consist of two independent students who have no conflicts of interest, a senior staff member and the President or their nominee (without voting rights) who shall act as Chair and who shall keep a record of the proceedings. The Chair shall not enter into the discussion of the complaint/issue nor shall they vote.

Non-attendance at the hearing, without good reason being given in advance, may lead to disciplinary action being taken against the member charged, in their absence.

All members of the Panel shall treat all matters relating to the hearing confidentially. Any breach of confidentiality may result in disciplinary action against the Panel member concerned.

The Panel members shall examine the evidence gathered by the formal investigation which recommended the disciplinary.

The Panel shall decide the outcome of the disciplinary procedure in camera and report to the member in writing its decision normally within three University working days. The Panel shall also inform the member of their right to appeal as set out below.

The Panel can impose the following disciplinary sanctions:

- a) Suspension from all or any of the activities and privileges of membership of the Union for a specified period or permanently
- b) Order payment of restitution damages
- c) Written apology
- d) A ban from venues, length of which to be determined by the panel
- e) Uphold or extend the length of ban imposed by the Zero Tolerance to Harassment Policy.

The student before the hearing has the right to challenge the presence of any panel member. In this instance an appropriate alternative should be sought.

### **Right of Appeal**

Any member subject to the disciplinary sanctions outlined above shall have the right to appeal against sanctions imposed by the Disciplinary Panel only on the basis of a failure to follow proper procedure or a misfinding of fact. While waiting there, the appellant will stay suspended or excluded from the rights and privileges of membership.

The appeal must be made in writing to the President (or their nominee) by the appellant within seven working days of receipt of the written decision of the Disciplinary hearing. The appellant must state clearly the basis on which s/he is appealing.

The Executive Committee shall examine the basis of the appeal and shall have the power to confirm, reduce or set aside but not increase the sanctions imposed by the Disciplinary Panel.

The President or their nominee shall inform the appellant in writing of the decision of the Executive Committee normally within 3 University working days from the date of the decision of the Executive Committee. The decision of the Executive Committee shall be final.