

## **Bye-Law 8 – Complaints, Code of Conduct & Disciplinary Procedure**



- 8.1 For the purpose of this Bye-Law, a complaint is defined as: “an expression of dissatisfaction or concern by one or more individuals about something that Oxford SU, one of our members, trustees, or volunteers either has or hasn’t done”.
- 8.2 In accordance with the Education Act 1994 Section 22, this policy also covers complaints made about the Students' Union in relation to any potential disadvantage experienced by those who have opted out of the Students' Union.
- 8.3 Oxford SU will take all complaints seriously and is committed to ensuring a fair and transparent process. Individuals who raise concerns in good faith will not be subject to any form of victimisation, discrimination, or retaliation and complainants will not be treated differently by virtue of having submitted a complaint. Similarly, complaints or actions which seek to victimise, are vexatious or frivolous will not be tolerated.
- 8.4 Discretion may be applied by the Chair and Deputy Chair of the Trustee Board to all and any provision within this Bye-Law but particularly in relation to timelines and those involved in delivering any element of these policies or procedures. Examples may include where adjustments have been requested, or where the Board must manage a real or perceived conflict of interest, or if material new information is made available outside of the normal procedures.

### **Scope of this Bye-Law**

- 8.5 For the avoidance of doubt, this policy only covers Student Members when acting in their capacity as an Oxford SU member, representative or volunteer. This policy does not cover Student Members in their capacity as members of the University, Sports Federation, University Societies (whether registered or otherwise), or members of their colleges or Common Rooms.
- 8.6 Oxford SU acknowledges that in some cases it may not be clear whether the person or service complained about is acting as a member of the Students' Union or otherwise. In such cases, the Investigator may suggest referring the complaint to an alternative procedure. In those cases, the complaint will not be dealt with by Oxford SU until that procedure has been exhausted and only where deemed appropriate and necessary.
- 8.7 Where the complexity or severity of the complaint goes beyond the scope of this procedure, the SU may refer the complaint to the University’s Safeguarding, Prevent or Welfare team and in extreme cases, the Police. Confidentiality will only be extended when absolutely necessary but no further action in relation to the complaint will be undertaken by Oxford SU until advised otherwise.
- 8.8 The Students' Union aims to promote a culture in which people feel confident to raise concerns. Therefore, anyone raising formal complaints are usually expected to identify themselves. Oxford SU does reserve the right to initiate an investigation without a formal complainant, however, no action will be taken against about any matter that has been reported anonymously unless it is possible to verify the matter reported.
- 8.9 To help the Students' Union investigate and respond effectively, complaints should ideally be raised as soon as possible after the incident, issue or situation that is the subject of the complaint and in any case no later than 8 weeks of the latest event. If there is a significant delay in raising the concern, the complainant should explain the reason for

this within the initial complaint; discretion may be applied where there are strong reasons for the delay.

- 8.10 In certain cases, Oxford SU recognises that complaints about the SU may include those relating wholly or partly to staff members. Complaints of this nature will be dealt with in accordance with the SU's HR policies and the complainant therefore may not be made aware of what further action is taken, if any.
- 8.11 Complaints about elections shall be dealt with under Bye-Law 3 (Elections)
- 8.12 Complaints about political actions of the Officers of the SU and any other postholders referred to in these Bye-Laws should be dealt with in accordance with through Accountability Actions (Bye-Law 5).

### **Initial Review**

- 8.13 The Students' Union shall provide a form on the website for submitting complaints, however the complaint may be received by alternative methods.
- 8.14 Upon receiving a complaint, the Chair and Deputy Chair of the Trustee Board, or their nominee, will make an immediate assessment of risk including consideration of whether precautionary measures may be required. Precautionary action is not a sanction or penalty. It is to be used only where it is considered necessary to prevent harm in the broadest sense including harm to people or organisations. Precautionary measures may include:
  - 8.14.1 Temporary restriction from accessing certain Students' Union spaces and/or activities;
  - 8.14.2 Temporary changes to the way in which you interact with the Students' Union Advice Service, such as only via online appointments;
  - 8.14.3 Reporting to the University, police or safeguarding agencies.
- 8.15 No precautionary measures will prevent a student from accessing the Students' Union Advice Service, however the Advice Service cannot advise students in relation to complaints against the Students' Union.

### **Informal Complaints Processes**

- 8.16 Where appropriate, we encourage informal resolution of complaints prior to the submission of a formal complaint. This may involve attempting to resolve the issue directly with the person, people or group involved.
- 8.17 In some cases, there will be a requirement for the complainant to show that attempts have been made to resolve the complaint informally. Specifically, this will apply in relation to:
  - 8.17.1 Complaints about published materials or other student media which should first be dealt with through those procedures.
  - 8.17.2 Complaints about the Oxford SU Advice Service which should first be dealt with through those procedures

### **Formal Complaints Procedure**

- 8.18 Complaints will be reviewed initially by a nominee of the Chair and Deputy Chair of the Students' Union, who shall conduct an initial review of the complaint.
- 8.19 The nominee will decide the next steps for the complaint, and shall appoint an investigator ("The Investigator") where appropriate. In some cases, the nominee may determine that a complaint cannot or should not be considered; in such cases the

complainant may appeal this decision as though it is a formal outcome as outlined in Bye-Law 6.22 below.

- 8.20 Complainants may be asked to provide a desired outcome or resolution to be used as a framework for the Investigator, however alternative resolutions may arise throughout investigation and desired outcomes shall not be guaranteed.
- 8.21 The Investigator will usually contact the complainant within two working days to acknowledge receipt of the complaint and set out the process that will be undertaken to investigate or resolve the complaint.
- 8.22 By means of investigation, the Investigator will likely conduct investigative meetings with those named in the complaint; cooperation is expected and encouraged. Those named in the complaint will normally be given access to the complaint and associated evidence except in the case of particularly sensitive information, at the discretion of the Investigator.
- 8.23 Oxford SU will provide an outcome, normally within 15 working days. If any extension is required to this timeline, the Investigator will update the complainant and provide a reason and a new timeline.
- 8.24 The outcome of the complaint investigation may include one of the following outcomes:
  - 8.24.1 Complaint Upheld – an appropriate resolution will be provided.
  - 8.24.2 Complaint Referred – the complaint will be referred into another policy or procedure, including but not limited to an external procedure (i.e. Proctor's or other similar) or an internal HR procedure. Where complaints relate to potential breaches of the Member Code of Conduct, a referral to the Member Disciplinary Policy & Procedure may be made. In such cases, please see Bye-Law 6.28 onwards.
  - 8.24.3 Complaint Not Upheld – no further action will be taken
- 8.25 Where a complaint has not been upheld, the complainant may appeal the outcome, following the process within the outcome letter. Any appeal should be submitted within one working days of receiving the original outcome. Any appeal should outline the reasons for the appeal and should make reference to the following appeal criteria:
  - 8.25.1 that the formal Complaint investigation has not been conducted fairly or in line with these procedures
  - 8.25.2 that there is new information which could not have reasonably been provided prior to the initial formal investigation
- 8.26 Any appeal will be referred to the Chair and Deputy Chair of the Trustee Board who shall determine whether the Appeal is upheld.
  - 8.26.1 If the Appeal is upheld, the Chair & Deputy Chair will appoint an independent alternative Investigator to review the investigation and outcome.
  - 8.26.2 If the Appeal is not upheld, the original decision and outcome shall stand.
- 8.27 Any decision shall be final.

### **Member Code of Conduct**

- 8.28 This Code of Conduct sets out the standards of conduct and expected behaviours from all members of the Students' Union. It provides examples and is designed to help members understand how to contribute to a positive and inclusive environment within the collegiate University.
- 8.29 Any student at the University of Oxford is also subject to Statute XI, as well as UK Law. When students join the University, they are expected to be aware of their own

- behaviour, and how it impacts on others. Student members are expected to conduct themselves in a reasonable and acceptable manner.
- 8.30 Oxford Students' Union is committed to promoting an environment that is inclusive, safe and accountable; one where individuals are treated with dignity, fairness and respect.
- 8.31 Oxford SU cares about the safety and wellbeing of students, staff, volunteers, and others that engage and interact with the Students' Union.
- 8.32 In particular, we aim to:
- 8.32.1 Protect students and others that interact with the SU;
  - 8.32.2 Ensure the highest possible standards of fairness, honesty and behaviour;
  - 8.32.3 Reduce the risk of harm, injury, harassment and nuisance to members and the community in general;
  - 8.32.4 Promote behaviours that are in line with our organisational values;
  - 8.32.5 Ensure that any student can feel welcomed and included in Oxford SU activities.
- 8.33 The Member Code of Conduct applies to all members of Oxford SU as defined in Bye-Law 1 in the following circumstances:
- 8.33.1 When taking part in activities on Oxford SU premises, or using Oxford SU facilities or attending an SU-organised event or activity;
  - 8.33.2 When that member is representing, acting on behalf of or could be perceived to be representing/acting on behalf of Oxford SU
- 8.34 The Member Code of Conduct does not apply to members of Oxford SU as defined in Bye-Law 1 in the following circumstances:
- 8.34.1 When taking part in activities related solely to their college or common room
  - 8.34.2 When taking part in sporting activities within the Sports Federation or other clubs
  - 8.34.3 When taking part in society activity with both registered or unregistered societies
  - 8.34.4 When acting entirely outside of the University or college system; for example in public or at external events/activities (such as at the Oxford Union)
- 8.35 Some members of Oxford SU who hold additional positions may also be subject to other Codes of Conduct including but not limited to:
- 8.35.1 Code of Conduct for Trustees of Students' Union
  - 8.35.2 Volunteer Agreements
  - 8.35.3 Candidate Agreements
- 8.36 At Oxford SU, we expect all members of our community to treat each other with respect, dignity, courtesy and consideration. As a member of the Students' Union, students are expected to:
- 8.36.1 Act in accordance with Oxford SU's policies and Bye-Laws and operate within the rules related to the activities in which you participate;
  - 8.36.2 Always behave in a reasonable and responsible manner and avoid actions which could unreasonably endanger others or bring the Students' Union, University, college, or our partners into disrepute;
  - 8.36.3 Demonstrate mutual respect and understanding for all members of the University and wider community;
  - 8.36.4 Ensure all members feel welcome to participate in discussions, activities, services or events;
  - 8.36.5 Conduct themselves in a reasonable manner relating to language, noise and behaviour;

- 8.36.6 Encourage others to comply with the Code and do not pressure or encourage others to breach these standards of behaviour;
- 8.36.7 Treat all Oxford SU, college and University property with respect and not interfere with other people's enjoyment of facilities, services or activities.
- 8.37 Oxford SU will not accept or tolerate behaviours that constitutes:
  - 8.37.1 Bullying and harassment;
  - 8.37.2 Sexual Harassment and sexual violence;
  - 8.37.3 Racism;
  - 8.37.4 Sexism;
  - 8.37.5 Discrimination related to religious identity or faith including islamophobia and antisemitism;
  - 8.37.6 Homophobia;
  - 8.37.7 Transphobia;
  - 8.37.8 Abuse of any kind including domestic abuse;
  - 8.37.9 Ableism;
  - 8.37.10 Caste discrimination
  - 8.37.11 Any other form of discrimination.
- 8.38 These Bye-Laws do not restrict any Member's right to free and lawful speech. However, speech or actions that incite hatred, violence, or compromise the safety of others may be considered a breach of this Code and could result in disciplinary action.

#### **Member Disciplinary Policy and Procedure**

- 8.39 The Member Disciplinary Policy and Procedure shall provide a transparent framework for managing allegations of misconduct made against members of the Students' Union and for ensuring that disciplinary action, where necessary, is applied fairly and consistently.
- 8.40 Where a complaint has been referred to another policy, procedure or body (including the Police) in accordance with Bye-Law 6,6, any disciplinary action may be paused until such a time as the SU is in a position to complete its own procedures.
- 8.41 For the avoidance of doubt, this Policy & Procedure can only apply following a formal complaint investigation, and where there is sufficient evidence of a breach of the Students' Union's Member Code of Conduct.
- 8.42 Where the Investigator has deemed that there is sufficient evidence to uphold a complaint and make a referral to the Member Disciplinary Policy & Procedure, the complaint outcome and a report of the allegations shall be shared with the Chair and Deputy Chair of the Trustee Board who shall convene a Disciplinary Panel.
- 8.43 The Disciplinary Panel shall include a student trustee, sabbatical trustee and external trustee who have not yet been involved in the complaint and are deemed to have no other conflicts of interest. Where there are insufficient student or sabbatical members of the Trustee Board remaining or available to convene a Disciplinary Panel, any other Officer of the Students' Union as defined in Bye-Law 3 may be included. Where there are insufficient external trustees available to convene a Disciplinary Panel, a suitable alternative may be sought from other Students' Union external trustees or a University member of staff. There shall always be a majority of student or sabbatical trustees on the Disciplinary Panel.
- 8.44 The Disciplinary Panel shall be supported by a sufficiently qualified member of the Students' Union or University paid staff who will ensure compliance and provide secretarial support. This person shall remain impartial throughout.

- 8.45 The Investigator shall share with the Panel the complaint outcome and any evidence collected in arriving at the decision to refer the case. The Disciplinary Panel must agree that there is sufficient evidence to proceed with Disciplinary action under this Policy & Procedure.
- 8.46 The Disciplinary Panel shall inform the responding student of the allegations, and provide copies of any evidence to be considered as part of the disciplinary procedure.
- 8.47 The responding student shall be given five working days to provide a statement in response to the allegations. If the student member chooses not to submit a statement in response, the Disciplinary Panel shall proceed.

### **The Panel Hearing**

- 8.48 The Disciplinary Panel shall give a minimum of five working days' notice of the Panel Hearing, which may be online or in person as agreed between the parties.
- 8.49 The student(s) in question may bring a supporting to the Hearing (such as a friend or family member); they will not be able to advocate on your behalf nor address the panel. For the avoidance of doubt, you may not bring legal representation.
- 8.50 The Investigator will usually present the case on behalf of the Students' Union and respond to any questions posed by the Disciplinary Panel.
- 8.51 The responding student will be asked to present their case to the Disciplinary Panel and respond to any questions posed by the Disciplinary Panel.
- 8.52 The Disciplinary Panel may impose time limits on submissions. The Disciplinary Panel will have the ability to adjourn a hearing to another date, where appropriate.
- 8.53 Once the Chair of the Disciplinary Panel is satisfied that it has sufficient information to arrive at a decision, it will deliberate in private, asking both the Investigator and the responding student (and any other attendees) to leave. The Clerk must remain at all times.
- 8.54 A majority of the Disciplinary Panel must be satisfied that, on the balance of probabilities, the case against the Responding student is either substantiated or not substantiated.
- 8.55 Where a case is not substantiated, no further action will be taken.
- 8.56 Where a case has been substantiated, the Panel may, at their discretion, apply a range of penalties including but not limited to:
  - 8.56.1 A warning letter
  - 8.56.2 Suspension from or termination of Oxford SU Membership
  - 8.56.3 Removal from Office or other volunteer role
  - 8.56.4 A report made to a suitable College or University authority
  - 8.56.5 Any restorative action available. Restorative actions may include paying for or otherwise resolving damages or similar, but shall exclude arbitrary monetary fines.
- 8.57 When determining sanctions, consideration will be given to the seriousness and circumstances of the misconduct, any mitigating or aggravating circumstances raised by the responding student and any precedent established in similar cases.
- 8.58 Failure to comply with a penalty may result in further action by Oxford SU.
- 8.59 The responding student will receive an outcome letter detailing the decision and sanction imposed, usually within 10 working days of the hearing. The Responding student has a right of appeal, as set out below.
- 8.60 The reporting party will receive a letter stating that the matter was dealt with by a Disciplinary Panel. They will also be informed if the case was substantiated or not

substantiated. The disclosure of further or penalty information will be considered on a case-by-case basis and will be at the discretion of the Chair of the Disciplinary Panel.

## **Appeals**

- 8.61 A responding student may appeal against a substantiated cases and any sanction imposed. The appeal must be made to the Students' Union within 10 working days of the outcome letter being issued. Appeals should be made via email to the Clerk to the Panel.
- 8.62 Appeals can be made on the following grounds:
  - 8.62.1 That the decision was not reasonable;
  - 8.62.2 That the procedure was not correctly followed when making the decision;
  - 8.62.3 That new evidence has come to light that was not reasonably available to the Disciplinary Panel and which may have materially affected the decision.
- 8.63 The Chair and Deputy Chair of the Trustee Board will conduct a review of the appeal and determine whether there is sufficient cause for the appeal to be heard by an Appeal Panel.
- 8.64 The Appeal Panel shall include a student trustee, sabbatical trustee and external trustee who have not yet been involved. Where there are insufficient student or sabbatical members of the Trustee Board remaining or available to convene an Appeal Panel, any other Officer of the Students' Union as defined in Bye-Law 3 may be included. Where there are insufficient external trustees available to convene an Appeal Panel, a suitable alternative may be sought from other Students' Union external trustees or a University member of staff. There shall always be a majority of student or sabbatical members on the Appeal Panel.
- 8.65 The Appeal Panel shall be supported by a sufficiently qualified member of the Students' Union or University paid staff who will ensure compliance and provide secretarial support. This person shall remain impartial throughout and may be the same Clerk as in the prior process.
- 8.66 The Clerk shall share with the Appeal Panel the complaint outcome, the decision of the Disciplinary Panel, the appeal, and any evidence already considered. The Appeal Panel must agree that there is sufficient evidence to proceed with the Appeal.
- 8.67 The Appeal Panel shall give a minimum of five working days' notice of the Appeal Panel Hearing, which may be online or in person as agreed by all parties.
- 8.68 The Appellant may bring a supporting to the Hearing (such as a friend or family member); they will not be able to advocate on your behalf nor address the panel. For the avoidance of doubt, you may not bring legal representation.
- 8.69 The Chair of the Disciplinary Panel (or their nominee) shall attend the hearing and present on behalf of Oxford SU, and respond to any questions posed by the Appeal Panel.
- 8.70 The Appellant will be asked to present their case to the Appeal Panel and respond to any questions posed by the Appeal Panel.
- 8.71 The Appeal Panel may impose time limits on submissions. The Appeal Panel will have the ability to adjourn a hearing to another date, where appropriate.
- 8.72 Once the Chair of the Appeal Panel is satisfied that it has sufficient information to arrive at a decision, it will deliberate in private, asking both the Chair of the Disciplinary Panel and the Responding student (and any other attendees) to leave. The Clerk must remain at all times.
- 8.73 A majority of the Panel must be satisfied that there is sufficient reason to uphold or partially uphold the appeal. In such circumstances, the Appeal Panel may:
  - 8.73.1 Uphold the appeal and revoke the original decision and penalty

- 8.73.2 Partially uphold the appeal and amend the penalty to impose a lesser or greater penalty.
- 8.74 Where the appeal is not upheld, the reasons for this decision will be provided.
- 8.75 The Appellant will receive an outcome letter detailing the decision and sanction imposed, usually within 10 working days of the hearing.
- 8.76 The decision of the Appeal Panel shall be final and there shall be no further right of appeal