

## RESERVED POLICY

### Imperial College Union

#### STUDENT DISCIPLINARY POLICY

Passed by Union Council on 6<sup>th</sup> June 2010

#### A. Jurisdiction

1. The policy has jurisdiction over the ~~following areas~~ highlighted in Regulation Seven, Section D.:
  - i. ~~Union premises as defined as being under the management responsibility of Imperial College Union as laid out in the Memorandum of Understanding, any area used to control entry to Union activities, and the vicinity thereof,~~
  - ii. ~~Any Union activities defined as anything funded by the Union or organised by an official Union club or society.~~
  - iii.1. ~~Misconduct arising outside of Union premises but which are connected with Union activities and are likely to affect the good name and standing of the Union.~~
2. Parts B, C, D and E of this policy have jurisdiction over all registered students of the College and groups thereof whether or not members of the Union, ~~these parts also apply to Union clubs and societies.~~
3. Part F of this policy has jurisdiction over Life and Associate Members of the Union, as well as those who are not members of the Union or registered students of the College.
4. In any case which involves a computing offence or misconduct simultaneously involving the Union and other jurisdictions under the College Code of Discipline, the President shall liaise with the College Tutors in respect of the appropriate disciplinary jurisdiction in the Union or College. In particularly grave cases, the President, with the consent of the Court chair, may refer a disciplinary matter directly to the College Discipline Committee.
5. Members of the College staff who are also registered students of the College shall be dealt with under the relevant College disciplinary procedure for staff, and not this policy. The President may exclude such individuals from Union premises and facilities pending College disciplinary action, and shall inform their head of department if so doing.
6. Registered students who hold office within the Union may be proceeded against separately under the ~~Union's Disciplinary Regulation~~ Regulation Seven. ~~Clubs and societies, as well as being dealt with under this policy, may have disciplinary action or action under health and safety rules taken in relation to them under other Union Regulations or policies.~~
7. A particular area or facility within the Union, such as the Bars, may have rules applicable to it which involve the restriction, suspension or exclusion of people from its use.

#### B. The disciplinary system

##### *Summary punishment*

8. The power and responsibility for curtailing or containing the immediate effects of misconduct and imposing summary punishment where appropriate rests with the President or his or her nominee.
9. Where summary punishment is appropriate, it shall be imposed on the spot, or with the least possible delay, and shall be limited to one, two or three of the following:
  - i. a reprimand;

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- ii. expulsion, not exceeding seven days, from the use of the area where the misconduct occurred;
- iii. suspension, not exceeding seven days, from the use of a particular facility;
- iv. a charge, up to a maximum to be determined, from time to time, by the College Tutors and the President, to meet the cost in whole or part of replacing the damaged property or equipment;
- v. a fine, up to a maximum to be determined, from time to time, by the College Tutors and the President;
- vi. 'Union Service', i.e. work on College campuses of benefit to the College community.

10. Summary punishment may be imposed upon any person, ~~club or society~~. It may not be imposed upon a person or body who is being referred to the Disciplinary Committee for the same misconduct, except under paragraph [1413](#).

11. The authority imposing summary punishment must inform the person being disciplined of the punishment and his or her right of appeal [to the Union Court](#).

### ***Cases where Summary Punishment is inappropriate***

12. The Disciplinary Committee shall deal with misconduct which in the opinion of the President, or his or her nominee, cannot be dealt with adequately by means of summary punishment.

~~13. If a defendant holds office in the Union and the misconduct is relevant to that office, or particularly serious, a disciplinary tribunal may be formed by the Union Court or Trustee Board under Part H of Union's Disciplinary Regulation.~~

~~14-13.~~ In cases involving misuse of Union equipment or facilities, breaches of Union or College safety rules or potential danger to students, staff or other persons and where the President had referred it to the Disciplinary Committee, a suspension or expulsion may be imposed until such time as the Disciplinary Committee has reached a decision.

~~15-14.~~ If a person or body is facing disciplinary proceedings before the Disciplinary Committee, they shall not be suspended nor excluded from the Union or any of its facilities, nor shall their status as a member or body be prejudiced pending determination of the proceedings against them by the committee, unless imposed under paragraph [1413](#).

~~16-15.~~ In cases of serious misconduct by medical students, the President may consider that the issue is so serious that restrictions should be placed on the student's activities. In such circumstances, the President should report the allegations against the student to the Principal of the Medical Faculty who shall consider the information supplied and invite the student to make representations. Taking the protection of the public as the paramount consideration, the Principal of the Medical Faculty shall decide whether and if so what restrictions should be placed on the student's activities. Any restrictions imposed shall remain in place until either the student is acquitted by Disciplinary Committee, Appeals Committee or other disciplinary authority or the Fitness to Practise Medicine Panel or the Principal of the Medical Faculty direct otherwise.

~~17-16.~~ Students should be aware of the implications of misconduct which is also a criminal offence. This could invoke criminal investigation in addition to Union or College disciplinary procedures. If considered necessary, Union disciplinary procedures may be suspended by the President pending the outcome of criminal procedures.

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### ***Membership of the Disciplinary Committee***

~~18.~~17. The Disciplinary Committee shall consist of

- i. A member of the Union Court or the Council Chair as chair, and
- ii. Four non-Sabbatical members of the ~~Executive Committee~~ Union Council .

~~19.~~ If members of the Executive Committee are unavailable, membership shall be drawn from the Council.

~~20.~~18. The Union Court, under its standing orders, shall appoint the chair, and the members of the committee in paragraph 18(ii) and 19. Members under paragraph 18(ii) and 19 are appointed at random.

~~21.~~19. The Chair of the committee shall appoint the Clerk to the committee. Any staff member appointed shall be with the approval of the President. The Clerk shall not vote or participate in a discussion of the merits of a case.

~~22.~~20. No person shall sit on the Disciplinary Committee if he or she is:

- i. the subject of a charge,
- ii. the complainant,
- iii. a witness or a potential witness (i.e. has personal knowledge of the facts surrounding the case),
- iv. successfully challenged for any good cause; the chair shall decide whether to uphold the challenge or not, prior to the hearing,
- v. connected with the student being charged or any other person involved with the case, or
- vi. a Sabbatical Officer.

### ***Disciplinary Tribunal***

~~23.~~ If one or more defendants holds office in the Union, the President may request that a disciplinary tribunal under Part H of the Disciplinary and Complaints Procedure in Regulation 7 is convened. If so convened, the disciplinary tribunal (which may be the Union Court or Trustee Board) may also act in place of the Disciplinary Committee with its authority and subject to the restrictions in this policy, in respect of all defendants, whether or not they hold office. In particular:

- ~~i.~~ The Clerk shall be appointed in the same manner as a normal Disciplinary Committee,
- ~~ii.~~ Paragraph 22 applies in relation to its appointment, and
- ~~iii.~~ The procedural requirements of Part C apply.

## C. **Procedures**

### ***Defendants***

~~24.~~ Multiple persons may be dealt with in a single hearing. Union clubs and societies or recognised sub-sections thereof may be dealt with as a defendant in the same way as a natural person.

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~~25. If a club or society faces disciplinary proceedings, its chair, president or captain or his or her nominee shall represent it.~~

### **Procedural rights**

~~26-22.~~ The President, through the Clerk, will notify the student, ~~club or society~~, with reasonable notice in advance of the hearing, of any documents to be submitted or any witnesses to be called.

~~27-23.~~ Any person or body facing disciplinary proceedings shall be informed in writing of the charges against them, and of their right to be represented at the hearing by a person of their choice who is a member of the College, and to bring witnesses. If they wish to be represented, to call witnesses or present documents either bearing on the charge or in mitigation of any penalty which may be imposed, they shall notify the Clerk with reasonable notice, in advance of the hearing, which will normally be held within ten College working days of the referral.

### **Procedure**

~~28-24.~~ The committee shall base its decision on any fair and relevant evidence presented and examined in the presence of the person bringing the charge and the student charged.

~~29-25.~~ The committee shall first consider whether each of the charges presented are true, and secondly whether the proven facts then amount to misconduct.

~~30-26.~~ A conviction by a criminal court shall be regarded by the committee as creating a rebuttable presumption that the person convicted of committing an offence is guilty of it, and that any facts found by the court are true. Conduct amounting to a criminal offence in the United Kingdom is automatically misconduct under this policy, if committed within the jurisdiction of this policy.

~~31-27.~~ The proceedings of the committee shall not be invalidated by the failure to appear of the student charged following notification of the proceedings in accordance with the earlier paragraphs.

~~32-28.~~ Evidence of earlier misconduct by the student or body charged which has already been the subject of previous disciplinary procedures shall not be presented until after a decision has been reached on the facts of the case, but may then be admitted and considered in deciding on any punishment.

~~33-29.~~ Hearings shall normally be in closed session but a written account of the proceedings may be released at the chair's discretion.

~~34-30.~~ A student, ~~club or society~~ may request that the hearing is held in public. In keeping with the Human Rights Act 1998, should the student, ~~club or society~~ wish, the decision of the committee will be posted on the [Union Website](#) ~~President's notice board~~.

~~35-31.~~ The committee shall reach its decision by simple majority voting, save that on questions of guilt no person, ~~club or society shall be found guilty if more than one member of the committee dissents~~. The chair may make a casting vote only. The Clerk shall not be entitled to vote.

~~36-32.~~ A full record shall be made of the hearing and retained for possible use in connection with a review or appeal.

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### D. Penalties

~~37-33.~~ The committee may impose one or more of the following penalties:

- i. a reprimand,
- ii. a fine, to a maximum of £120\*.
- iii. a charge to meet the cost in whole or in part of replacing damaged property or equipment, to a maximum of £500\*.
- iv. a charge to meet the cost in whole or in part of any funds lost through mismanagement,
- v. expulsion or suspension from any part of the Union or its facilities for such period as the committee may determine,
- vi. expulsion from any part of the Union's premises for such period as the committee may determine, which may include permanent expulsion,
- vii. expulsion or suspension from membership of a club or society,
- viii. revocation of or reduction in financial authority,
- ix. 'Union service', i.e. work on Union or College campuses of benefit to the College community,
- ~~x. in relation to a club, society or recognised section thereof, a freeze in their budget or other privileges of a club or society for any finite period,~~
- ~~xi-x.~~ in relation to a holder of an elected post in the Union, a recommendation to the President or appropriate committee chair that a proposal of censure or no confidence is made to the Council or any other committee entitled to pass it.

34. The amounts to which a student may be fined or charged, indicated with an \* in ii and iii, are governed by College Policy. If a larger amount is deemed necessary, the matter must be discussed with the College Tutors, who have authority to request more.

~~38-35.~~ The committee may instead refer any disciplinary matter to the College Discipline Committee. If so doing it may impose a suspension or expulsion until such time as the College Discipline Committee reaches a decision.

~~39-36.~~ The committee may impose a charge under paragraph ~~3733~~(iv) upon a person, appearing before it in his or her own capacity, found to be responsible for the mismanagement of Union funds, in order to satisfy any funds lost.

~~40-37.~~ The Union may, in addition to any penalty, take legal action to recover any sums owing to it. Any funds paid as a result of legal action shall be set off against a charge under paragraphs ~~3733~~(iii) or (iv), or 9(iv) if relating to the same offence.

~~41-38.~~ The committee may make any recommendation to any person or committee.

~~42-39.~~ Where a person is excluded from any Union premises licensed for the sale of alcohol, he or she will be informed that it is College policy that the exclusion will cover all College licensed premises and that the relevant people will be informed.

~~43-40.~~ Where misconduct lead to prosecution in an outside court, the committee shall take note of the fact and the outcome in imposing any penalty.

~~44-41.~~ Any fine collected shall be donated to the College Student Hardship Fund.

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45-42. If the student or representative of a club or society is absent, the Clerk shall notify them of any penalty and rights of appeal.

### ***Breach of penalties***

46-43. If a person or body does not pay any fine or compensation within 10 College Days, or is alleged to have breached any other penalty imposed, the matter will be referred to the Union Court by the President. The Court shall determine whether there are any extenuating circumstances such as financial hardship in relation to paying any fine or charge, and whether or not the penalty was complied with. If the Court determines that there was a breach of a penalty, it may refer the matter back to the Disciplinary Committee with its factual findings, which are then not open to review. The committee may then impose any further penalty or refer the matter to the College Discipline Committee.

47-44. If a Disciplinary Committee is re-convened to consider a breach of a penalty found by the Union Court, it shall as far as possible have the same membership as the original committee, but the Union Court may nominate replacement members if the original ones are unavailable. If the Union Court has modified the decision of the original committee, the Court may nominate a new chair from those who sat upon the appeal or review, and replace any members as necessary.

### **E. Appeals and Reviews**

48-45. An appeal may be made upon a finding of guilt by the student, ~~club or society~~ on the grounds of unreasonable conclusions, an excessive or inappropriate penalty, unconstitutionality or a procedural irregularity. A review may be requested by the President or nominee upon the grounds of unconstitutionality or procedural irregularity.

49-46. The appeal is made to the Union Court, which shall act as the Union Appeals Committee. Where the Union Court has acted as the Disciplinary Committee under paragraph 23, the appeal shall be to the Trustee Board. When the Trustee Board has acted as the Disciplinary Committee under paragraph 23, the appeal shall be to an independent panel as provided for under Trustee Board policy.

50-47. A student, ~~club or society~~ upon whom a penalty of suspension or expulsion has been imposed under paragraphs 3733(v), (vi) or (vii) may, notwithstanding other appeals or reviews, have the right to have that part of the punishment re-considered by the Disciplinary Committee after six months and thereafter at six monthly intervals. Its members shall be appointed according to the same principles as paragraph 47.

### ***Preliminary procedure***

51-48. Any student, ~~club or society~~ wishing to appeal may do so within five College days to the Clerk of the Disciplinary Committee in writing, setting out the grounds and supporting argument.

52-49. Upon a requested appeal the Clerk of the Disciplinary Committee will write to the appellant at least five working days before the hearing taking place (unless the appellant consents to a shorter period), providing a report with:

- i. a statement of the matters investigated,
- ii. a summary of the evidence given by each witness,

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- iii. the original committee's decision, and
- iv. reasons for the judgment reached in relation to submissions made at the hearing,

~~53-50.~~ An appeal in relation to a summary punishment shall be made (instead of the Clerk) within 5 College days to the Deputy President (~~Finance and Services~~Activities) or if unavailable, another Deputy President. The President or nominee imposing the punishment shall then provide the reasons for the punishment in writing.

### **Appeals**

~~54-51.~~ The Court shall hear any appeal in session, appointed according to its standing orders, though no person upon it shall have sat upon the original Disciplinary Committee, except the Clerk, who shall act as Secretary to the Court upon such appeals.

~~55-52.~~ An appeal shall be by way of a re-hearing (or in the case of a summary appeal, a normal disciplinary hearing), following the same procedure as the Disciplinary Committee. The Court may confirm, reverse or modify the original decision within the summary or Disciplinary Committee jurisdiction respectively.

### **Reviews**

~~56-53.~~ The Court will only accept a review requested by the President or nominee. A student, ~~club or society~~ wishing to contest a decision should request an appeal (as provided for above) rather than a review.

~~57-54.~~ The Court will not review the factual basis for a decision unless the decision was wholly unreasonable.

~~58-55.~~ A review may not quash an acquittal of misconduct or finding of facts favourable to the person or body proceeded against, unless the Court finds that it was procured by dishonesty relating to the procedure under this policy. In such cases it may remit the matter for a fresh hearing before the Disciplinary Committee, but may not impose an unfavourable finding of fact or a conviction.

~~59-56.~~ The Court may make a declaration or interpretation for use in future proceedings, the effect of which would have been to impose an unfavourable finding of fact or conviction if applied in the case reviewed.

~~60-57.~~ In conducting a review, the Court may impose an equivalent or lesser penalty, in the event of the original one being unconstitutional.

### **Office of the Independent Adjudicator**

~~61-58.~~ Once a student has completed the Union's internal appeals, reviews or complaints procedures, the College will issue the student with a Completion of Procedures Letter. If the student is still dissatisfied, the student may direct his or her complaint to the Office of the Independent Adjudicator within three months of the date on which the Completion of Procedures Letter was issued. Information on the complaints covered by the Office of the Independent Adjudicator and the review procedures is available on its web site at [www.oiahe.org.uk](http://www.oiahe.org.uk).

### **Finality**

~~62-59.~~ A decision by the Disciplinary Committee or Union Court once the time limit of 5 College days has elapsed is final (subject to a six-monthly re-consideration in circumstances set out in paragraph 50).

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~~63-60.~~ No matter which was dealt with and concluded previously under this policy shall be brought again under it.

~~64-61.~~ Notwithstanding any finality under this policy, a matter referred back by the Office of the Independent Adjudicator may be re-opened at any point, or any other course of action undertaken in accordance with its directions.

### **F. Life, Associate and Non-members**

#### ***Life and Associate Members***

~~65-62.~~ A Life or Associate Member of the Union is subject to the same disciplinary jurisdiction and enjoys the same rights within it as a Full Member, subject to the following alterations:

- i. No fine or Union service may be imposed,
- ii. The Disciplinary and Appeals Committees may suspend a person's membership of the Union, or expel that person from membership permanently, and
- iii. The Office of the Independent Adjudicator does not deal with complaints from those who are not and were not registered students of the College.

~~66-63.~~ Members of the Union permanent staff who are also Life or Associate Members shall be dealt with by the President and are not subject to the disciplinary jurisdiction in this policy.

~~67-64.~~ A Life Member of the Court is not subject to the disciplinary jurisdiction of this policy, except when misusing facilities (paragraph 1413). ~~However should they're unless they been first dismissed from membership~~ have been removed by the Trustee Board, Council or Court, ~~or their term has otherwise expired~~ they are treated as a normal student. Paragraph ~~14-13~~ may only apply until a Council meeting is convened to dismiss the member, and if so dismissed, may further apply until the Disciplinary Committee's decision. If the President or another person has not proposed a motion of no confidence in the member for the next available Council, paragraph 14-13 expires in relation to that member at the end of that Council meeting.

#### ***Non-members of the Union***

~~68-65.~~ The President shall deal with any person or organisation who is not a member of the Union, registered student of the College, or member of the Union or College staff. The President shall ensure such a person or organisation is given an opportunity to answer any allegation against them. The President may suspend or expel them from any or all parts of the Union for any period of time or permanently. The Court may review any such decision upon appeal.

### **G. Amendment**

~~69-66.~~ This policy is reserved to the Union Council, with amendments approved by the Imperial College Council.