
Appendix 1 - MISU Disciplinary Procedure

1. Purpose of the Disciplinary Procedures

- 1.1 MISU has a responsibility to the student body to ensure that those who are elected to their roles carry out their duties and responsibilities in line with the MISU Constitution and other related documents. Furthermore, the MISU Sabbatical Officers and paid part-time Officers are expected to abide by the MISU Constitution, other related documents as well as the terms and conditions of their employment as per their employment contracts.
- 1.2 All MISU Clubs & Societies members shall be expected to abide by the MISU constitution and the Clubs & Societies Regulations Document.
- 1.3 All MISU election candidates shall be expected to abide by the MISU Constitution and the MISU Election Policies and Procedures. Failure of an election candidate to adhere to Articles 11.8.3 and 11.8.4 of the Constitution shall warrant the convening of the Disciplinary Committee.
- 1.4 Where any member of the Union believes that an elected MISU Official or a member of an MISU Club or Society has breached the MISU Constitution, the Clubs & Societies Regulation Document, or other related documents, then they are entitled to submit their complaint to the MISU Disciplinary Committee.
- 1.5 The Chairperson of the MISU Management Advisory Board shall refer any matter, which it considers appropriate under the Board's terms of reference, for investigation to the Chairperson of the Disciplinary Committee.
- 1.6 Where any member of the Union believes that an MISU election candidate has breached the MISU Election Regulations or the MISU Constitution, then they are entitled to submit their complaint to the MISU Disciplinary Committee.

2. Definitions

- 2.1 The member making the complaint shall be referred to throughout this document as 'the complainant'
- 2.2 The member who is the subject of the complaint shall be referred to throughout this document as 'the respondent'.
- 2.3 The Disciplinary Committee shall be referred to as the Committee.

3. Role and Remit of the Disciplinary Committee

- 3.1 The Committee is a standing sub-committee of Union Council.
- 3.2 Membership of the Committee, which is listed under Schedule 1.3 of the MISU Constitution is as follows;
 - MISU President
 - MISU Vice-President
 - One representative from the MISU Executive Committee,
 - The Chairperson of MISU Union Council,

Four representatives from MISU Union Council,
Three representatives from MISU Clubs & Societies Council
MISU General Manager (in an Advisory Capacity)

- 3.3 The Committee is responsible for dealing with complaints made against any elected Official of the Union which relate to a breach of their constitutional responsibilities as well as complaints made against any elected MISU Officials which relate to a breach of their employment contracts and/or their conduct or capability whilst holding office, up to and including gross misconduct.
- 3.4 The Committee shall also be responsible for dealing with complaints against Clubs & Society members as well as dealing with complaints which are made in relation to MISU elections, as per Articles 11.8.2 and 11.8.5 of the MISU Constitution.
- 3.5 On deeming a complaint admissible, pursuant to clause 4.4 herein, the Committee shall process the complaint in accordance with the provisions of this Constitution.

4. *Complaints Process*

- 4.1 A Complaint shall be made in writing and submitted to the MISU General Manager who shall refer the complaint to the Chair of the Disciplinary Committee.
- 4.2 Any candidate, their agent or ordinary member of the Union who has reason to believe that there was an irregularity of any kind regarding the election process or the conduct of an election candidate or a breach of the election regulations or failure to adhere to Articles 11.8.3 and 11.8.4 of the Constitution shall have the right to lodge a complaint, in writing. This complaint should be lodged with the Returning Officer, in the first instance, who shall refer the complaint to the Chair of the Disciplinary Committee.
- 4.3 If a candidate or the complainant feels that a sanction imposed by the Returning Officer under Article 11.8.2 is disproportionate to the breach, a statement shall be submitted to the MISU Disciplinary Committee, and a hearing may be called. The Committee can uphold or alter the sanction as deemed necessary. The decision of the committee shall be final.
- 4.4 The Committee shall meet within seven college days of receipt of a written complaint to review the complaint and to determine the admissibility of the complaint.
 - 4.4.1 The complaint may be deemed inadmissible if it is frivolous or vexatious, if it does not come within the jurisdiction of the Committee or if it is a matter, which is more, appropriate to be dealt with, by the Gardaí or the Civil Courts of the State.
 - 4.4.2 Where the complaint is of a criminal nature, MISU will refer the matter to the Gardaí however the complaint can still be investigated by MISU in line with the procedures detailed below if this deemed appropriate.
 - 4.4.3 The Committee will inform the complainant of the grounds of the non-admission of the complaint and the Committee's decision shall be final.
- 4.5 If the complaint is deemed admissible, the Committee shall set a date for a hearing of the complaint where this is deemed as the most appropriate process for dealing with complaint and this hearing shall take place within seven college days of the decision to investigate the complaint.
- 4.6 A copy of the complaint along with any supporting evidence or documentation shall be sent to the respondent along with the time, date, and place of the hearing, at least three college days before the hearing is scheduled to take place.
- 4.7 Proceedings of the Committee shall be governed by the principles of natural justice.

4.8 Any person who has made a complaint or who is the subject of a complaint has:

- 4.8.1 The right to representation by a fellow current MIC registered student,
- 4.8.2 The right to a fair and objective hearing by the Committee,
- 4.8.3 The right to call witnesses and cross examination of witnesses,
- 4.8.4 The right to present any relevant documents or evidence to the Committee.

4.9 Both the complainant and the respondent may question all witnesses.

4.10 The Committee may also ask questions of any witness, the person who made the complaint and the person who the subject of the complaint is.

4.11 Upon the conclusion of the hearing, the Committee shall deliberate on the matter and decide on the appropriate action to be taken.

4.12 The Committee shall base its decision on evidence presented and examined at the hearing. Evidence of any earlier misconduct by the respondent shall not be presented until after the decision has been reached on the facts of the case, but then may be admitted and considered in deciding on any sanction that may be imposed.

4.13 Where the committee has reviewed the complaint and has determined that the complaint relates to minor misconduct¹, the following procedure will apply:

- 4.13.1 Minor issues will be dealt with informally, by the General Manager on behalf of the Committee, at an informal meeting between the officer and the General Manager.
- 4.13.2 During the meeting, the officer will be advised of the standard required to improve their conduct or behaviour and, where appropriate, a timescale within which the improvements should happen.
- 4.13.3 The General Manager will follow up, in writing, on the actions and timescales which have been discussed at the informal meeting.
- 4.13.4 The officer may be accompanied to the informal meeting by a MISU colleague.
- 4.13.5 A member of the MISU Senior Management Team may be appointed by the Committee to take brief notes of the discussion.

4.14 Where the committee has reviewed the complaint and has determined that the issue is of a more serious nature incl. gross misconduct² or where the performance, conduct or behaviour of the

¹ The following non-exhaustive list provides examples of minor misconduct, which is deemed to be unacceptable, warranting disciplinary action but not immediate dismissal for a first offence: Persistent lateness or absenteeism, Unsatisfactory standards of work or poor productivity, Disruption of other employees, Abusive language, Unauthorised use of the property or negligent damage/loss of property, failure to abide by Company dress code or Health and Safety procedures

² The following non-exhaustive list provides examples of gross misconduct which can warrant immediate dismissal; unauthorised use of the Company's assets and equipment; insubordination e.g. refusal to carry out duties or obey reasonable instructions, except where employee safety may reasonably be in jeopardy; intentional sexual harassment, harassment, bullying; serious breach of rules, policies or procedures, especially those designed to ensure safe operation; divulging or misusing confidential information; theft or unauthorised possession of any property or facilities of the Company or of any employee of the Company; consumption of alcohol or drugs, or intoxication by reason of alcohol or drugs, which could affect work performance in any way or have an impact on other employees; having illegal drugs in the possession, custody or control of the employee while at work or on the Company's premises; defrauding or attempting to defraud the Company, its customers, suppliers or fellow employees; unauthorised or inappropriate use of e-mail, Internet and/or computer systems; falsification of any Company records including reports, accounts, expenses claims or self-certification forms; serious damage to Company property; violent, dangerous or intimidatory conduct; bringing unauthorised person(s) onto Company premises; conviction of any criminal offence which may render the employee unsuitable for the role; serious abuse of time-keeping and attendance procedures; failure to follow a Company standard operating procedure

officer fails to improve following the informal meeting and within the agreed timeframe, then the following procedures will apply;

- 4.14.1 The Chair of the committee will write to the officer outlining the allegations against them and will provide them with a copy of this document (MISU Disciplinary Procedures)
 - 4.14.2 An investigation will be carried out by an independent person, appointed by the Disciplinary Committee, to establish a fair and balanced view of the facts relating to the complaint and to prepare a report for the Committee which will determine as to whether the allegations are proven or not.
 - 4.14.3 The investigation shall be carried out in line with a timeframe set by the Committee and the independent person shall meet with all relevant parties to the investigation.
 - 4.14.4 The Officer shall be kept updated on the status of the investigation and may be invited to attend a meeting with the independent person.
 - 4.14.5 Dependent upon the seriousness of the allegation, it may be necessary to suspend the officer on full pay while the investigation is carried out. This is a decision for the Committee in consultation with the independent person. As part of the suspension, the officer 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 officer may be required to return Students' Union property i.e. keys or electronic equipment during the period of their suspension
 - 4.14.6 On receipt of the report, the Committee shall determine matters of discipline and/or the most appropriate sanction having granted an opportunity to the Officer to first address it on the nature of the sanction to be imposed (if any).
 - 4.14.7 The committee may hear representations from the Officer before deciding any sanction.
 - 4.14.8 The officer will be informed, in writing, of the finding(s) against them and the appropriate sanction to be applied, if any.
- 4.15 The Committee may refer any matter, which falls outside the remit of MISU's Constitution, Rules & Regulations to the College's disciplinary committee.
- 4.16 At any stage during the process, the Committee may refer to the MISU legal advisor for advice. This advice shall remain confidential to the Committee.
- 4.17 All meetings of the Committee shall be held in camera.
- 4.18 All issues raised at the Disciplinary Committee are confidential.
- 4.19 The respondent to a complaint is expected to give all reasonable cooperation to the Committee in the investigation of their complaint. Although the respondent's attendance at any hearing held by the Committee, is not mandatory, the attendance of the respondent at the hearing of the complaint is expected except in exceptional circumstances. If the respondent requires an adjournment for good reason, the Committee shall consider that request and grant a request for an adjournment to a further appropriate date. If the respondent fails to attend the hearing on the adjourned date, the hearing shall proceed in their absence and the Committee may take such action regarding the complaint as it deems appropriate.
- 4.20 The Committee has the power to;
- 4.20.1 Remove the right of any officer of the Union to attend Union meetings, seminars and to suspend them of their official duties, for a period, subject to ratification from Union Council
 - 4.20.2 To suspend a Sabbatical Officer without pay for a period of not more than four weeks, by which time the decision to remove or reinstate them shall be taken, subject to ratification

from Union Council

- 4.20.3 Recommend to Union Council that an Officer who has been previously subject to sanction by Council and who has continued to show scant regard for the position s/he occupies shall be dismissed from their position.
- 4.20.4 Issue a first formal warning (stage 1), a final written warning (stage 2) or to dismiss the officer (stage 3) where a complaint relating to conduct, or a breach of the Officer's employment contract has been upheld.
- 4.20.5 Where an allegation of gross misconduct has been upheld following an investigation, the Committee shall have the power to immediately dismiss the Officer without further notice.

- 4.21 The Committee shall have no power to award costs of representation and shall have no liability in respect of costs.

- 4.22 The Committee shall, as soon as feasible on the conclusion of the investigation of a complaint, make available:
 - 4.22.1 Brief details of the complaint made.
 - 4.22.2 The findings of the Committee and the reasons for said findings as the Committee shall, in its sole discretion deem, appropriate.

- 4.23 The Committee must inform the complainant, the respondent as well as the MISU Appeals Committee of their decision, the sanctions, if any, which they are imposing as well as the right of the respondent to appeal the severity of the sanction only.

- 4.24 The severity of a sanction imposed by the Committee shall be subject to appeal to the Appeals Committee, but no appeal shall lie in respect of the conclusions of the investigation and its findings against a Respondent.

- 4.25 If the severity of the sanction imposed by the Committee is not appealed by the respondent, then it shall go to Union Council for ratification, where required.

- 4.26 If the severity of the sanction imposed by the Committee is appealed, then the MISU Appeals Committee shall deal with the appeal.

5. *Appeals*

- 5.1 An appeal against the severity of a sanction imposed by the Disciplinary Committee must be made in writing to the Chairperson of the MISU Appeals Committee within five college days of receiving the sanction.

- 5.2 The MISU Appeals Committee is a standing sub-committee of Union Council.

- 5.3 The membership of the Committee, which is listed at Schedule 1.4 of the MISU Constitution shall consist of:
 - 5.3.1 One representative from Union Council who has not previously been involved at any stage of the process in relation to the complaint process
 - 5.3.2 MISU Advisory Board Chairperson, where the complaint originated from the Advisory Board this position shall be filled by a person external to MISU who has no prior involvement with the complaint.
 - 5.3.4 One other representative from the MISU Advisory Board who has no prior involvement with the complaint
 - 5.3.5 Two former MISU Sabbatical Officers,

- 5.3.6 An external Staff nominee from another Students' Union
- 5.4 The appellant shall be notified in writing, at least three college days in advance of the appeal hearing of the time and date for the hearing. The appellant is expected to give all reasonable cooperation to the MISU Appeals Committee in the hearing of their appeal.
- 5.5 The attendance of the appellant before the MISU Appeals Committee is expected. If the appellant fails to attend the hearing of their appeal without reasonable excuse, then their appeal shall be deemed to have been withdrawn and the original sanction of the Committee shall stand as final and binding on the appellant.
- 5.6 The Appeals Committee shall hear from the Appellant as to the grounds for which they are appealing the decision of the Disciplinary Committee.
- 5.7 The Appeals Committee shall have the authority in their recommendation to change or to confirm the sanctions issued by the Committee as it deems appropriate.
- 5.8 The decision of the Appeals Committee shall be final and binding on the respondent/appellant and there shall be no further appeal.