



Complaints and Discipline Procedure (Student Groups)

Date: September 2022
 Owner: Student Programs/People & Culture

PURPOSE

The purpose of this Policy is to:

- a. Provide affiliated student groups with information on how complaints of behavioural misconduct may be raised, and how they will be managed by the USU.

SCOPE

1. This Policy applies to all USU members, workers and guests that relate to activities run by the USU and its affiliated student groups, including:
 - a. Reports about conduct by other USU members, affiliated student groups and workers
 - b. Reports about conduct that occurred at a program, space, event, or function and
 - c. Anonymous reports
2. This Policy applies to all USU members, affiliated student groups and workers.

DEFINITIONS

Word/Term	Definition
affiliated student group	includes but is not limited to a USU registered club or society, a USU volunteer group, a USU revue or a USU debates team.
Complainant	means any person who makes a report of alleged misconduct to the USU, or in the case of complaints made on behalf of another person, the person who is alleged to have been the subject of the alleged misconduct, bullying, harassment or discrimination.
Complaint	means a report of misconduct made by a complainant who wants the USU or the University to investigate and to act in response to the Complaint, and includes all of the ways in which any instances of bullying, harassment and discrimination might be identified, raised or reported including orally and in writing (including email).
Constitution	means the <i>Constitution of the University of Sydney Union</i> .

Head of Department	means: <ul style="list-style-type: none"> the Head of Department of Student Programs the Head of Department of People and Culture or any other Head of Department nominated by the CEO to perform functions in accordance with this policy.
member	means a person who is a registered member of the USU.
misconduct	has its general meaning and includes those definitions and instances set out in section 1 below.
program	includes but is not limited to programs, activities and events run by affiliated student groups, and activities and events run by the USU.
report	means a disclosure or complaint
Respondent	means a person whose conduct is the subject of a report or complaint
Rule infraction	A breach of USU program rules or regulations
USU worker	means USU employees, contractors, outworkers, apprentices, work experience students and volunteers.
student	has the meaning given by the University's Bullying, Harassment and Discrimination Prevention Policy 2015
University	means the University of Sydney.
USU	means the University of Sydney Union.

SECTION 1 - POLICY

PRINCIPLES

The USU is committed to celebrating and harnessing the diversity of ideas and backgrounds in our communities and to creating an environment of involvement, respect, and inclusion for everyone.

Accordingly, the USU requires all students who engage with its programs, events, spaces, and services to conduct themselves in accordance with this Policy and with the University of Sydney's [Student Charter 2020](#) and the following USU policies: Bullying, Harassment and Discrimination Policy 2021, Sexual Harassment and Sexual Misconduct Policy 2021, Code of Conduct for Affiliated Student Groups 2021

		Responsibility
1. Misconduct Definition		
1.1	Misconduct without limiting its general meaning, may include but is not limited to: <p>a) conduct that prejudices the good order and government of</p>	

	<p>the USU or the University;</p> <p>b) conduct that prejudices the good name or position of the USU or the University;</p> <p>c) conduct that impairs the reasonable freedom of other persons to pursue their co-curricular interests or participate in USU programs or activities.</p>	
<p>1.2</p>	<p>Misconduct without limiting its general meaning, includes breaches of the following:</p> <p>a) USU Constitution;</p> <p>b) USU Regulations;</p> <p>c) Code of Conduct for Affiliated Student Groups 2021;</p> <p>d) Sexual Misconduct and Sexual Harassment Policy 2021;</p> <p>e) Bullying, Harassment and Discrimination Policy 2021;</p> <p>f) Clubs and Societies Alcohol Policy 2020;</p> <p>g) Any other relevant policies of the USU or the University; or</p> <p>h) Any other governance documents relevant to USU Programs, including but not limited to the Clubs Handbook, Revues Handbook, Debates Committee Guidelines and Procedures.</p>	
<p>1.3</p>	<p>Misconduct also includes:</p> <p>a) Knowingly providing false or misleading information to the University or USU;</p> <p>b) Damaging property of the USU;</p> <p>c) Engaging in unlawful or criminal activity within a USU group or activity;</p> <p>d) Failing to comply with directions given by USU employees or affiliates;</p> <p>e) Refusing to leave an event activity or program when instructed by the USU or University; and</p>	

	f) Failing to comply with any conditions set by the USU CEO, Board or Head of Department.	
2. Informal Resolution		
2.1	<p>Wherever possible, USU employees should encourage the relevant individuals and the Complainant to independently resolve the issue via open communication and informal measures and at a Student Group level.</p> <p>Where appropriate, the Complainant may approach the person in question and:</p> <ul style="list-style-type: none"> a) tell them what the issue is b) ask them to stop or behave differently; and c) where appropriate, keep a written record of this action 	Programs
3. Making a Complaint		
3.1	Where the issue cannot be resolved, or where informal resolution is deemed inappropriate, a Complaint can be made by contacting the relevant department of the USU. The complaint should be referred to an appropriate supervisor or manager of that department in the first instance.	Programs
3.2	The Complainant may be asked what they deem a reasonable solution and what they are seeking to achieve in resolving the Complaint.	Programs
3.3	The USU may elect, in its absolute discretion, not to intervene where the A nComplaint involves disagreements over the general running of a Student Group or personality clashes. If a USU employee is unsure whether the USU should intervene, the matter will be referred to the USU People & Culture Head of Department.	Programs
3.4	Complaints are not required to be in writing unless an investigation is required.	Programs
3.5	Complainants are required to engage with the Complaints process, and to provide sufficient details of their Complaint and the respondent (if relevant) in order for the USU to conduct an assessment and investigation or reach a resolution.	Programs
4. Preliminary Complaint Assessment		

4.1	Written Complaints that are received will be referred to the Head of Department and the following records will be maintained by the USU: a) the details of the Complainant b) a summary of the Complaint c) the identity of any persons named in the Complaint; and d) the solution or outcome sought by the Complainant	Programs/HOD
4.2	Before an assessment may take place, the Complainant will be informed that their identity will be made available to any person/s against whom they have lodged a Complaint.	HOD
4.3	Where appropriate, support services should be referred to the Complainant and any respondent to a Complaint as required.	HOD
4.4	Assessment of the Complaint may involve discussions with relevant parties or respondents, collating documents, or information relevant to the matter.	HOD
4.5	Where discussions are held regarding a Complaint, all relevant parties are welcome to bring a support person. The role of a support person is to provide the employee with emotional support during the meeting, the support person cannot represent the employee and is not able to advocate on their behalf.	HOD
4.6	The USU may deem that no further action will be taken in instances where: a) Insufficient information or evidence of the Complaint is provided; b) The Complaint is frivolous, malicious, or vexatious; or c) The Complaint is deemed resolved. Where the Complaint is found to be frivolous, malicious, or vexatious, a further investigation will take place and the Complainant may be subject to disciplinary action.	HOD
4.7	Should the Complaint fall outside the remit of the USU, the Complainant may be directed to the relevant department of the University of Sydney or other regulatory bodies or authorities as required by the nature of the complaint.	HOD
4.8	The USU may require a written Complaint to be provided within a specified timeframe. If assistance or additional time is needed, support can be provided on request. If the Complainant fails to provide a written complaint within the specified timeframe, the matter may be closed.	HOD
4.9	At the conclusion of the preliminary assessment, the USU will notify the Complainant regarding the outcome and outline any rights to seek an appeal.	HOD

4.10	Any action taken by the USU in response to a Complaint will depend on the nature and gravity of the conduct reported in the Complaint, as well as in part the extent to which the Complainant wishes to make the Complaint.	
5. Assisted Resolution		
5.1	Where the outcome of a preliminary assessment of the Complaint deems assisted resolution is appropriate, resolution may include one or more of the following: a) clarifying a misunderstanding b) an apology c) discussion or mediation d) an agreed plan of action to avoid further incidents, or e) training or educational sessions.	HOD
6. Investigation		
6.1	The USU may initiate an investigation: (a) for serious Complaints (as determined by the USU); (b) where the USU considers it has enough information to independently investigate the circumstances making up a Complaint even if the Complainant does not wish to participate; or (c) where assisted resolution is unsuccessful or not appropriate.	All
6.2	Respondents to any Complaint will be given a right of response in relation to the Complaint, within a reasonable timeframe to respond to any Complaint.	All
6.3	Investigators must make findings of fact and may make recommendations for Complaint resolutions in accordance with USU policies and procedures. Recommendations may include referrals to other governing bodies of the USU or University, or the USU CEO.	All
6.4	In the event the USU decides not to refer a Complaint to the University but decides to deal with the Complaint itself, then the USU will elect to either investigate the Complaint internally or appoint an external investigator to investigate the Complaint (the choice of which is at the absolute discretion of the USU). A Complainant is not entitled to a copy of any report or findings made in response to a Complaint made to the USU and either investigated by the USU internally or by an external investigator appointed by the USU to investigate the Complaint.	
6.5	Investigators must give any relevant HODs and the USU CEO detailed, written reasons for their findings and recommendations.	All
6.6	At the conclusion of the investigation, the USU must determine the outcome in line with this Policy.	HOD

7. No Victimisation		
7.1	<p>A USU member or worker must not victimise or otherwise subject another person to detrimental action as a consequence of that person:</p> <ol style="list-style-type: none"> making a report or Complaint of bullying, harassment, or discrimination providing information about a report or Complaint of bullying, harassment, or discrimination supporting a person who has made a report or Complaint of bullying, harassment, or discrimination; or engaging in reasonable and safe active bystander intervention. <p>The USU may take disciplinary action against any USU member or workers who breaches this clause. Matters involving USU workers will be referred to relevant employee policies.</p>	All
8. Appeals		
8.1	Appellants may appeal on the basis of alleged failure of due process or the outcome of the Complaint.	All
8.2	Appeals must be lodged in writing, within 30 days of the date on which the appellant was notified of the outcome of the Complaint, unless a time extension is granted at the discretion of the USU	All
8.3	Appellants must set out in their written appeal their reasons for believing that due process has not been observed, or their reasons for appealing the outcome of the initial Complaint.	All
8.4	<p>Appeals are to be considered by a panel of 3 HODs of the USU who have not previously been involved in the investigation or outcome of the Complaint. Where they have been previously involved, appropriate managers may undertake this role on the panel.</p> <p>Where the matter has been referred to a governing body as per 9.1, the appeal will be considered by at least 3 members of the USU Board of Directors who have not previously been involved in the outcome of the Complaint. Where possible, this should include the USU President and relevant portfolio holder.</p>	All
8.5	Appeals will be considered on the basis of the written materials unless an exception is deemed appropriate	All
8.6	<p>The USU will provide the appellant with a written statement of the outcome of the appeal, including:</p> <ol style="list-style-type: none"> reasons for the outcome if the appeal is upheld, what steps will be taken to address the failure of due process, where relevant. <p>The outcome of any Appeal is final.</p>	HOD

9. Referral to a USU Governing Body		
9.1	<p>Outcomes under this Policy should be determined by:</p> <ul style="list-style-type: none"> a) Relevant HOD/s in consultation with People & Culture HOD and CEO b) Where the matter is a minor rule infraction, it may be referred to the governing body of the relevant USU program at the discretion of the USU. <p>Rule infractions include but are not limited to allegations of:</p> <ul style="list-style-type: none"> a) branch stacking and electoral fraud; b) breach of tournament rules; c) providing inaccurate or misleading records to the USU; and d) financial mismanagement. 	HODs/CEO
10. Disciplinary Action		
10.1	<p>The USU may take disciplinary action against any USU member or worker following an investigation conducted in accordance with the principles of procedural fairness as determined by the USU.</p> <ul style="list-style-type: none"> a. In the case of USU workers, disciplinary action will follow the relevant employee policies. b. Matters concerning contractors will be referred to their employer. c. Members may be subject to disciplinary action outlined in this Policy or any other appropriate disciplinary action as determined appropriate by the USU at its discretion. <p>Note: In accordance with clause 9.2 of the Constitution, the USU Board may expel a member from membership of the USU, if in the opinion of the Board the member is guilty of misconduct.</p>	
10.2	<p>One or more penalties may be imposed on student groups or individuals found guilty of misconduct, including but not limited to:</p> <ul style="list-style-type: none"> a) expulsion of USU membership as per 9.2 of the Constitution; b) expulsion of an individual from leadership position/s; c) expulsion of a group from USU affiliation; d) exclusion of an individual or group from USU or group events, for a period up to one year; e) exclusion or suspension of any USU membership or program privileges for individuals or groups for a period up to one year, including but not limited to: <ul style="list-style-type: none"> i. participation in events, functions or festivals. 	

	<ul style="list-style-type: none"> ii. access to room bookings. iii. access to storage facilities. <ul style="list-style-type: none"> f) suspension of an individual from a leadership position or student group, for a period up to one year; g) suspension of group’s USU affiliation or funding for a period, up to one year; h) deeming a group ineligible to apply for specific grants; i) repayment of monies; and j) a written warning. 	
10.3	<p>The USU may take into consideration all relevant factual circumstances it considers appropriate when determining the appropriate penalty or disciplinary action for any substantiated misconduct.</p> <p>Some potential considerations when imposing a disciplinary action include but are not limited to:</p> <ul style="list-style-type: none"> a) the nature, frequency, and seriousness of the misconduct; b) any previous misconduct by the individual or group; c) whether the penalty will be relevant to the nature of the misconduct; d) previous penalties imposed on individuals or groups; e) the timing of any admission of misconduct; f) any relevant mitigating circumstances; and g) any other relevant matters considered appropriate. 	
11. Confidentiality		
11.1	<p>Except as provided in clause 10, the USU will keep confidential all information relating to a report, unless the complainant consents to disclosure of part or all the information for a specified purpose.</p>	All

11.2	<p>If a complainant decides not to report an incident to the Police, the USU will use its best efforts to protect the confidentiality of information relating to the report, while meeting its obligations under the <i>Crimes Act 1900 (NSW)</i>.</p> <p>Note: The USU is required to report information about the commission of a 'serious indictable offence' to the Police in accordance with sections 316 and 316A of the <i>Crimes Act 1900 (NSW)</i>.</p>	All
11.3	<p>In some limited circumstances, the USU may need to report an incident to the Police against a person's wishes, to ensure their safety or the safety of other USU members, workers, or guests, or to meet its legal obligations.</p>	All
11.4	<p>The USU will endeavor to maintain confidentiality to the extent practical and appropriate in each case. In some circumstances, it may not be possible to keep the Complaint, report, information or incident confidential, such as where physical threats are involved or the law otherwise requires it to be disclosed by the USU.</p>	All
11.5	<p>The USU reserves the right to provide all information provided by a Complainant to any third party, external investigator or authority as the USU considers necessary for the USU, including to investigate any Complaint or report made under this Policy and the USU will not require specific consent from the Complainant to do so.</p>	All
12 – Absolute Discretion of the USU under this Policy		
<p>This Policy and the processes set out within are not mandatory on the USU, and the USU at its absolute discretion may decide to treat any matter in a certain way based on the individual circumstances of each matter considered on a case by case basis.</p> <p>There may be some circumstances where the USU determines it would be inappropriate to strictly follow the processes set out in this Policy and in such cases the USU will use best endeavors deal with the matter and consider the interests of all parties involved in order to resolve the matter.</p>		All
13 – Inconsistencies with this Policy		
<p>In the event there is any inconsistency between this Policy and any policy of the University, then the terms of the relevant policy of the University are to prevail.</p>		All

SECTION 2- GOVERNANCE

RESPONSIBILITY

Policy Owner	Programs/People & Culture
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APPROVALS PROCESS

A new USU Policy and amendments to an existing USU policy must be submitted to Board as a Motion on Notice after being subjected to the following procedure:

Draft Policy > P&C/Programs HOD > Governance Committee > Board

All amendments suggested after the submission of the motion shall be noted and submitted to the above procedure before being approved.

RECORD OF APPROVALS

Entity	Approval Date	Name	Notes
P&C HOD			
Programs HOD			
Governance Committee	21 September 2022		
Board	28 October 2022		

Version Number	Amendment Date	Approved by	Amendment
1	21 September 2022		

RESCISSIONS AND REPLACEMENTS

This document, in conjunction with the USU Affiliated Student Groups Code of Conduct 2021, USU Bullying, Harassment and Discrimination Policy 2021, and Sexual Misconduct and Sexual Harassment Policy 2021 replaces the following, which are rescinded as from the date of commencement of this document:

1. Grievance Response Guidelines for Student Groups 2018
2. USU Debating Society - Equity Policy
3. Internal Grievance Guidelines (Student Groups) 2018