



# **Falmouth & Exeter Students' Union**

## **Bye-Laws**

# Contents

	<b>Title</b>	<b>Page</b>
1	<a href="#">Membership</a>	3
2	<a href="#">Trustees</a>	4
3	<a href="#">Sabbatical Officers</a>	5
4	<a href="#">Committees</a>	6
5	<a href="#">Student Council</a>	7
6	<a href="#">Elections</a>	10
7	<a href="#">Referendum</a>	12
8	<a href="#">Student Members' Meeting</a>	13
9	<a href="#">Complaints</a>	14
10	<a href="#">Disciplinary Procedure (Student Members)</a>	23

## Governing documents introduction

The way Falmouth & Exeter Students' Union (the "Union") is established and operates in law is set out in its Constitution. The current Constitution is based on the model CIO (Foundation) Constitution developed for Students' Unions by the National Union of Students (NUS) and approved by the Charity Commission. The CIO Constitution was approved by Falmouth University, the University of Exeter and the Charity Commission in 2021.

Alongside the Constitution, there are a series of Bye-Laws that have been adopted to add detail to how the Union conducts its affairs and how it is governed. For clarification purposes, should there be any inconsistencies between the two governing documents, the provision of the Constitution shall prevail. If any dispute arise in relation to the interpretation of this Constitution or any of the Bye-Laws, it shall be resolved by the Board of Trustees.

## Amendments to the Constitution & Bye-Laws

### **Amendments to the Constitution**

Please see clause 9 Reviewing and Amending the Constitution in the Constitution for the full details. Further to this section, under clause 9.2.2 the period of time is two calendar weeks during which any amendments to the Proposal may be submitted to the Board of Trustees by any Student Member.

### **Amendments to the Bye-Laws**

As set out in clause 50 Bye-Laws in the Constitution, the Trustees and the Student Council shall have the power from time to time to jointly make, repeal or amend Bye-Laws as to the management of the Union and its working practices provided that such Bye-Laws shall not be inconsistent with this Constitution. In the event of any inconsistency, the provision of the Constitution shall prevail.

# Bye-Law 1: Membership

## 1.1 Opting out of Student Membership

At the beginning of each academic year, student will automatically be registered as student members of the Union. In accordance with the Union's Constitution and the Education Act 1994, Student Members can opt out of Student Membership by giving written notice to Union or to whichever university they are student of.

A student who exercises their right to opt out should not be unfairly disadvantaged with regards to the provision of services (or otherwise) by reasons of having done so. If a student believes that they have been unfairly disadvantaged, they can initiate the complaints procedure, as set out in Bye Law 9 Complaints Procedure.

A student who opts out shall have no Union membership status whatsoever. However, they shall be able to use the facilities provided by the Union as if they were an associate member, but will not be required to pay any fee.

These facilities shall include:

- Access and participation in societies, and sports clubs.
- Access and participation in volunteering and fundraising events, such as RAD.
- The Advice Service and other welfare related services.

A student who decides to opt out of the Union shall not be able to:

- Be involved in the government or administration of the Union.
- Stand for election to any Union office.
- Vote on any issues decided by the Union or participate in any Union elections.

Opting out of membership can be enacted any time throughout the academic year and it will be considered only for the academic year that they are currently in. Any students who have opted out, can opt back into the membership at any time.

## 1.2 Associate Members

Associate membership may be granted to persons as accepted by the Board of Trustees. The Board of Trustees will determine the form of application, the class and the removal of associate members. Generally speaking, associate members will have access to and be permitted to participate in the Union's societies and sports clubs. As in line with the Constitution, associate members shall be non-voting members and will not be CIO Members for any purpose.

## 1.3 Removal of Student Membership

The Code of Conduct for Student Members sets out the minimum standard in which it expects its members to adhere to and Bye Law 10: Disciplinary Procedures (Student Members) sets of the procedure for any breach of this Code. Sanctions for breach of the Code of Conduct could include the suspension or removal of some of the rights and privileges of Student Membership including the holding of office.

## Bye-Law 2: Trustees

### 2.1 Minimum number of Trustees

There must be at least four Trustees.

### 2.2 Term of Office

There are three types of Trustees: Sabbatical Trustees, Student Trustees and Lay Trustees. The term of office for these roles are:

- Sabbatical Trustees: one year, commencing in mid June. A Sabbatical Trustee may be re-elected for a maximum further term of one year by Student Members, as outlined in the Constitution.
- Student Trustees: two years commencing in July, with the opportunity to serve one additional term.
- Lay Trustees: three years, commencing in April or when there is a vacancy, with the opportunity to serve two additional terms.

### 2.2 Responsibilities

Further to the powers and responsibilities as outlined in the Constitution, all trustees have a collective duty and responsibility to:

- Ensure the Union is carrying out its purposes for the public benefit.
- Provide leadership, set the strategy and be clear about what the Union is aiming to achieve and how it is going to do it.
- Comply with the Union's governing document and the law, establishing and overseeing controls and risk management, and monitoring performance to make sure that the Union is on track to achieve its goals, making adjustments where necessary and learning from mistakes.
- Act in the Union's best interests.
- Manage the Union's resources responsibly, making good use of financial and other resources to achieve the desired outcomes.
- Act with reasonable care and skill.
- Ensure the Union is accountable, reporting to those who have an interest in what the Union is doing and how it is doing it.

### 2.3 Replacement of Sabbatical Trustees

As outlined in the Constitution, if a Sabbatical Trustee resigns, is disqualified or is removed from office at any time prior to the commencement of the Academic Year, the vacancy that results on the Board of Trustees shall be filled in accordance to *Bye Law 6 Elections*.

# Bye-Law 3: Sabbatical Officers

## 3.1 Sabbatical Officer Roles

There are four full-time, paid Elected Officers, elected by secret ballot by the student members of the Union. These are:

- President Falmouth
- President Exeter
- Vice President
- Vice President

All four Officers named above automatically become Sabbatical Trustees as outlined in the Constitution and Bye-Law 2 Trustees.

## 3.2 Major Union Office Holders

The "major union office holders" for the purposes of Section 22 of the Education Act are:

- Vice President
- Vice President

President Falmouth and President Exeter can only be elected by the students of their respective institution. Each Officer must be a member at the time of their election and will remain a member for the duration of their term of office

## 3.3 Duties of Sabbatical Officers

- The Sabbatical Officers are responsible for the governance of the Union and the representation of students through consultation with the student body.
- The Sabbatical Officers responsibilities regarding representation of the student body are, but not limited to the following: to attend meetings such as committees and student council; seek student opinion on matters of interest and /or importance to them; to inform students of any issues / activities / plans that may be of importance or interest to them, particularly those that may affect their experience as a student.
- President Falmouth and President Exeter will be responsible for the academic representation of students from their respective institution.
- The Vice President roles are elected by students from both institutions and so shall represent all members.

## 3.4 Employment

- The Sabbatical Officers term of employment will run from mid-June to the end of June the following year.
- The Sabbatical Officers will be paid an annual salary, paid monthly in equal instalments.
- The Sabbatical Officers will receive reimbursement of reasonable expenses incurred while conducting Union business.

# Bye-Law 4: Committees

## 4.1 General

The Trustees must establish the following committees:

1. Executive Committee
2. Appointments Committee
3. Finance Committee
4. Remuneration and HR Committee

Each Committee will have its own Terms of Reference and below offers a minimum for the proceedings of each. Other Committees can be established, for example Liberation Committee and any additional Committees will have its own Terms of Reference to be reviewed annually.

## 4.2 Executive Committee

Further to clause 35 in the Constitution, the Terms of Reference will be reviewed annually and approved by the Board of Trustees but shall always include the below:

1. There will be at least four meetings held per academic year.
2. A staff member from the Engagement team shall take minutes of the business of all meetings except when close agenda is declared.
3. Quorum will be three members.
4. Votes shall be made by majority vote.

## 4.3 Appointments Committee, Finance Committee and Remuneration & HR Committee

Further to clause 33 in the Constitution, the Terms of Reference will be reviewed annually and approved by the Board of Trustees and shall always include the below:

1. There will be at least two meetings held per academic year for each Committee.
2. The Clerk to the Board of Trustees, or their deputy, shall take minutes of the business of all meetings except when close agenda is declared and circulate the minutes to all Trustees promptly.
3. Quorum will be three Trustees
4. Votes shall be made by majority vote.

# Bye-Law 5: Student Council

## 5.1 Remit

The SU Student Council shall have the following powers and remit:

- To have the authority to represent the voice and views of students;
- To hold elected Officers to account;
- To remove an Elected Officer from office through a motion and vote of no confidence, in accordance with clause 29 of the Constitution;
- To remove a Student Trustee from office through a motion and vote of no confidence, in accordance with clause 27;
- To debate and decide the future course of action for proposals with adequate student support made through the Make a Change Tab;
- To ratify policies passed by any Subcommittee of Council;
- To set the policy of the Union;
- To refer policy to Referenda of the Members where the Council deems it necessary or appropriate;
- To make, repeal and amend the Bye-Laws jointly with the Trustees, in accordance with clause 50 of the Constitution;
- To raise issues for discussion and agree action to be taken to address them;
- To instruct Sabbatical and other elected Officers to follow up / take action on issues, as agreed by Student Council;
- To scrutinise the outcome and effectiveness of agreed action taken;
- To receive reports from elected Officers;
- To receive quarterly reports from the Board of Trustees.

## 5.2 Membership

The SU Student Council will comprise the following Members:

- 1 x Student Voice Chair
- 1 x Falmouth Postgraduate Taught Representative
- 1 x Falmouth Postgraduate Research Representative
- 1 x University of Exeter (Cornwall Campuses) Postgraduate Taught Representative
- 1 x University of Exeter (Cornwall Campuses) Postgraduate Research Representative
- 1 x Accommodation Chair
- 1 x Mature Representative
- 1 x Distance Learning Rep
- 1 x Falmouth Open Position
- 1 x University of Exeter (Cornwall Campus) Open Position
- 13 x Executive Officers
- 4 x Elected Sabbatical Officers

No member may hold more than one seat on the Student Council at any one time.

Members of the Student Council shall be elected into their role.

The SU shall work as far as possible for representatives to be democratically elected. Where this is not possible, an application process will be in place.

The process of appointing Council members shall be overseen by Deputy Returning Officer.

### **5.3 Election of the Chair**

The Chair, known as the Student Voice Chair, shall remain in office for a term of 12 months from the agreed start date as outlined in election/appointment details.

The Chair must be a student and member of The SU at the time of their election/appointment.

Should the Chair cease to be a student or member of The SU at any point during their term of office, they shall automatically cease to hold the position of Student Voice Chair.

The role, responsibilities and powers of the Student Voice Chair shall be:

- To chair each meeting of the Student Council and ensure meetings are conducted in an appropriate manner;
- To chair the Student Members' meeting(s)
- To uphold the remit of the Student Council, in particular, to hold elected Officers to account;
- To ensure the Student Council operates in accordance with the Constitution and Bye-Laws;
- To be familiar with the various student representation systems in place across The SU, University of Exeter (Cornwall) Falmouth, Falmouth Exeter Plus and externally;
- To work with staff in ensuring all Student Council positions are filled as far as possible;
- To ensure the Student Council reports to the Student Members' Meeting and other meetings, as appropriate;
- To liaise with staff in organising Student Council meetings and the Student Members' meeting(s).

### **5.4 Attendees**

All members can attend Student Council meetings (but do not have voting rights).

At the request of the Student Council, SU staff, University staff, Falmouth Exeter Plus staff or other external parties may attend student Council meetings.

### **5.5 Meetings**

The Student Council shall aim to meet twice in term 1 & term 2 and once in term 3.

Dates for Student Council meetings shall be set at the beginning of the academic year.

### **5.6 Minutes**

A member of the Engagement Team (or other in their absence) will act as Minutes Secretary for the Student Council.

Minutes will be taken and circulated to members within 14 working days of each meeting. Agendas for each meeting will be circulated (at least) one week before the date of the meeting.

Minutes will be made available openly to all students via the website.



### **5.7 Quorum**

Quorum is 6 members.

### **5.8 Voting & Decision-making**

Only Members of Student Council have voting rights.

Each member has one vote and decisions shall be determined by simple majority vote.

In the event of a hung vote, when not all members are present, the vote shall be carried forward to the next meeting (or other appropriate time). A vote taken at the following meeting shall be carried regardless of how many voting members are present, provided the meeting is quorate.

In the event of a hung vote at which all voting members are present, the Chair shall have a casting vote.

### **5.9 Attendance & Conduct**

Members shall be expected to attend all Council meetings. Where this is not possible, apologies should be made via the Chair or Minutes Secretary in advance of the meeting.

Absence from three consecutive meetings may result in loss of membership and will be at the discretion of the Student Voice Chair. The recruitment of any unfilled positions will also be at the discretion of the Chair.

All members shall be expected to conduct themselves with appropriate professionalism and respect for others, at all times.

### **5.10 Reporting**

The Student Council will report to members via Student Members' meetings. Reports will include: Details of achievements, current student issues, campaigns, policy updates and new / changes to committees.

# Bye-Law 6: Elections

## 6.1 Elections

There shall be the following elections:

- Sabbatical Officers
- Part-time Officers
- Student Council Chair
- NUS Delegates

## 6.2 Returning Officer

A Returning Officer will be appointed annually and approved by the Board of Trustees. The Returning Officer shall be responsible for overseeing the good conduct and administration of the elections. The Returning Officer's decision is final.

One or more Deputy Returning Officers may also be appointed annually and approved by the Board of Trustees. A Deputy Returning Officer may fulfil any of the responsibilities of the Returning Officer as required.

## 6.3 Nominations

If members wish to run for a position, then they must nominate themselves and provide a manifesto within the time period published by the Union.

Members of the Union who are Falmouth University students and University of Exeter (Cornwall) students can nominate themselves for the positions of:

- Vice President
- Vice President
- All Part-time Officers roles – some of these roles are Falmouth and Exeter specific so only students of those universities can nominate themselves for these.
- Student Council Chair
- NUS Delegate

Only members of the Union who are Falmouth University students can be nominated for President Falmouth.

Only members of the Union who are University of Exeter (Cornwall Campuses) students can be nominated for President Exeter.

NUS Delegates shall be sought from across the Union membership. Eligibility, however, shall be dependent on the specific delegate post. For example, delegates at a LGBTQ+ student conference may be required to identify themselves within that group, or delegates at an international students' conference may be required to be international students.

The Deputy Returning Officer in charge of elections will be responsible for determining the validity of any submitted nomination.

## 6.4 Voting

Voting in all Union wide Elections will take place through whichever process the Returning Officer believes will reach the most students and will be the most secure and reflects good governance for the Union.

Voting in all elections shall be by secret ballot using the Alternative Vote (AV), or, in the case of roles with more than one positions the Single Transferable Vote (STV).

Only members of The SU are eligible to vote.

All members of the Union can vote for:

- Vice President.
- Vice President.
- All Part-time Officers roles - some of these roles are Falmouth and Exeter specific so only students of those universities can vote for these.
- Student Council Chair.
- NUS Delegate.

Only members of the Union who are Falmouth students can vote for President Falmouth.

Only members of the Union who are University of Exeter (Cornwall Campuses) students can vote for President Exeter.

Re-Open Nominations (RON) shall be included as a candidate.

### **6.5 By-Elections**

In the event of the resignation, disqualification or removal of a Sabbatical Officer before the start of the academic year, a by-election shall be held to fill the vacancy provided there is sufficient time for a full election process to be completed. A final decision on holding by-elections will be at the discretion of the Returning Officer.

In the event of the resignation, disqualification or removal of a Sabbatical Officer after the start of the academic year, the elected post will remain vacant until the next scheduled election for Sabbaticals for the following academic year.

### **6.6 Complaints about elections**

The Returning Officer is the official charged to deal with complaints about the conduct and administration of the election. They may delegate their duties to the Deputy Returning Officer.

# Bye-Law 7: Referendum

## 7.1 Calling a Referendum

A referendum may be called on any issue by:

- a resolution of the Trustees;
- a majority vote of the Student Council; or
- subject to clauses 27.1 and 29.2.1 of the Constitution, a Secure Petition signed by or agreed to by at least 100 Student Members.

## 7.2 Process

The Union will publicise that a Referendum has been called for and details of the reasons why, within 5 working days of receipt of notice.

The Returning Officer, or their Deputy will be responsible for overseeing the good conduct and administration of the Referendum. The Returning Officer, or their Deputy have the power to develop local rules and regulations as they deem appropriate.

## 7.3 Voting

Voting will be open for five working days.

The dates and times for voting will be publicised by the Union.

For any question put to a Referendum, the two possible answers should be to the affirmative and to the negative, in that order.

A simple majority vote will determine the outcome of the Referendum.

## 7.4 Quorum

Subject to clauses 27.1 and 29.2.1 in the Constitution, a resolution may only be passed by Referendum if at least 350 Student Members cast a vote in the Referendum and a simple majority of the votes cast are in favour of the resolution.

## 7.5 Setting Policy

Subject to clause 31.3 in the Constitution, the Student Members may set Policy by Referendums. Policy set by Referendums may overturn Policy set by the Student Council and Policy set by the Student Members at a Student Members' meeting.

## 7.6 Referendum Complaints

The Returning Officer, or their Deputy is the official charged to deal with complaints about the conduct and administration of the election. They may delegate their duties to the Deputy Returning Officer.

## Bye-Law 8: Student Members' Meeting

### **8.1 Annual Students' Members meeting**

At least one annual Students' Members meeting must be held each academic year. The annual Students' Members meeting shall be called by at least 14 clear days' written notice.

The notice of the annual Students' Members meeting must state the business to be transacted which shall include:

- ratification of minutes of the previous annual Student Members' meeting;
- receiving the report of the Trustees on the Union's activities since the previous annual Student Members' meeting;
- formally presenting the accounts of the Union to the Student Members;
- approving the list of affiliations of the Union; and
- open questions to the Trustees by the Student Members.

### **8.2 Chair**

The Chair of Student Members' meeting is the Student Voice Chair.

In the absence of the Student Voice Chair, a Vice President (as a major union office holder) will be the Chair.

### **8.3 Student Members discussion proposals**

Student Members may forward proposals for discussion at a Students' Members Meeting by contacting the Chair prior to the meeting.

### **8.4 Additional Students' Members meeting**

The Trustees may call a Students' Members meeting at any time.

# Bye-Law 9: Complaints

## 9.1 Introduction

In order to be considered under this Complaints Procedure, complaints should be reported, in writing, to the Students' Union within three months of the issue arising or the incident taking place.

Late complaints may be accepted in exceptional circumstances at the discretion of the Chief Executive or their nominee, whose decision is final.

Group complaints can be accepted if these include details of all complainants and identify a named spokesperson.

Anonymous complaints will not be accepted under this Complaints Procedure.

The respondent will be provided with details of a complaint that has been received about them, to ensure transparency and enable them to provide an informed response.

The Students' Union aims to conclude cases under this Bye Law within 30 days of the complaint or incident being reported.

Reasonable adjustments to time limits can be made, at all stages of the process, when deemed appropriate by the Chief Executive or their nominee and the complainant and/or respondents will be kept informed.

Complaints against the Students' Union, Full Members, and students of the University who are eligible for Full Membership but have exercised the right not to be a member, shall be considered in accordance with this Complaints Procedure.

Complaints against all other classes of members shall be considered by the Chief Executive or their nominee and their decision shall be final.

Complaints against the Students' Union made by persons who are not Full Members shall be considered by the Chief Executive or their nominee and their decision shall be final.

Complainants or respondents may not have external or legal representation at any stage of the complaint's procedure. For the avoidance of doubt, this applies to written and verbal representation.

In the context of this Complaints Procedure 'parties' refers to the individual or group making the complaint, the respondent to the complaint and the Students' Union.

In the context of this Complaints Procedure 'evidence' means material or factual information directly relating to the matter of the complaint. The party presenting the evidence is responsible for demonstrating its relevance.

In the context of this Complaints Procedure 'witness' means an individual able to provide impartial, factual, first-hand evidence directly relating to the matter of the complaint. This does not include opinion or comment.

Where there may be a conflict of interest during consideration and adjudication of a complaint, the Students' Union will take reasonable steps to avoid or mitigate the conflict.

When a complaint is dismissed, it should be because of one of the following reasons: insufficient evidence and/or the complaint is deemed to be frivolous, vexatious, repetitive, unrealistic, disproportionate and/or with unrealistic expectations of outcomes.

At each stage of the Complaints Procedures, the Students' Union will consider the support needs of each party and provide or refer to appropriate support as required.

## **9.2 Complaints about the Students' Union**

Complaints should usually fall under one or more of the following categories, noting that this list is neither exhaustive nor exclusive:

- Cost, quality, or delivery of facilities, services or activities provided by the Students' Union;
- Treatment of a student or group of students by the Students' Union;
- Actions contrary to the Students' Union Constitution, Bye-Laws or approved policies;
- Fundraising activity undertaken by, or on behalf of, the Students' Union;
- Students' Union breaches of statutory or regulatory requirements including any Freedom of Speech complaints.

## **9.3 Complaints about a Full Member**

The Students' Union may consider complaints against any member's conduct in relation to events or activities organised by the Students' Union, either on the premises or elsewhere, including officials of the Students' Union, acting in an official capacity, or members of a recognised society in the course of their usual activities.

This Complaints Procedure will cover the following types of incident, noting that this list is neither exhaustive nor exclusive:

- Indecent, threatening, violent or disorderly behaviour;
- Drug taking or intoxication while representing the Students' Union;
- Personal harassment that relates to a person's background or personal characteristic;
- Sexual harassment or inappropriate sexual behaviour;
- Behaviour that is bullying, hostile, intimidating, discriminatory, malicious or insulting;
- Abuse or misuse of power which is meant to undermine, humiliate or injure the person on the receiving end;
- Behaviour likely to cause injury, impair the safety of others or put at risk of harm any person;
- Damage to, or defacement of, Students' Union property either through misappropriation or through intentional or reckless acts;
- Any misappropriation of Students' Union resources or property;
- Theft, fraud, deceit, deception or dishonesty;
- Behaviour which brings, or is likely to bring, the Students' Union into disrepute;
- Disruption, obstruction of, or improper interference with the social, governance or cultural activities of the Students' Union;

- Misconduct or inappropriate behaviour on premises of organisations associated with the Students' Union under reciprocal or other agreements;
- Breaches of Students' Union data protection, health and safety, safeguarding, equality and diversity or other policies or regulatory requirements;
- Failure to comply with a remedy or penalty previously applied under this procedure.

In the absence of a written complaint, the Students' Union may implement its Disciplinary Procedure (Bye Law 10) to deal with identified or suspected misconduct or inappropriate behaviour in relation to Students' Union activity, events, services or premises.

In certain cases, (for example a complaint of harassment):

- Arrangements may be made to ensure the complainant does not come into direct contact with the respondent, but such arrangements shall ensure that both parties, or their nominees, can hear evidence and be given an opportunity to ask questions of the other party;
- The Chief Executive, their nominee, or Panel Chair, may use their discretion to allow written evidence to be considered anonymously, subject to them verifying the authenticity of the evidence.

#### **9.5 Complaints about a Students' Union Sabbatical Officer, Student Trustee or Student Official**

Complaints about a Sabbatical Officer will be referred to an External Trustee to determine whether the complaint should be dealt with under this procedure or the Students' Union's employee procedures.

Complaints about a Student Trustee will be referred to an External Trustee to determine whether the complaint should be dealt with under this procedure or the Students' Union's **Disciplinary Procedure (Bye Law 10)**.

Where a complaint about an Officer or Student Official of the Students' Union results in exclusion from office, or removal of duties, this outcome shall be implemented in accordance with **Disciplinary Procedure (Bye Law 10)**.

#### **9.6 Complaints about a Students' Union Employee**

Complaints about a member of staff will be treated as a complaint about the Students' Union and considered against the standards, policies and procedures of the relevant service.

If, in the course of investigating the complaint, or at any subsequent stages, the Chief Executive or their nominee, have reason to believe that the conduct or behaviour of an employee may justify further consideration, the matter will be referred to the relevant employee procedures.

#### **9.7 Assessment of complaints**

Complaints are assessed by the Chief Executive, or their nominee, who may:

- Dismiss the complaint;
- Propose an informal means of resolution;
- Request further information in order to fully assess the complaint;



- Allocate the complaint for consideration under the Procedural Stages;
- Refer the complaint to the University to be dealt with under their Discipline Regulations;
- Report, or advise the complainant to report, the complaint to the Police to be dealt with under the criminal justice system.

9.8 If the complainant is not satisfied with a decision to dismiss or informally resolve their complaint at the assessment stage, they may request, in writing, that the complaint is considered under the Procedural Stages.

9.9 Such a request will be considered by the Chair of the Board of Trustees who may:

- Uphold the original decision; or
- Refer the complaint for consideration under the procedural stages.

9.10 If not satisfied with the Chair of the Board of Trustees' decision to uphold the original decision, the complainant has recourse to University Appeal (Stage 4).

### **9.11 Procedural stages**

There will be up to three official stages to the Students' Union's Complaints process:

- Local Resolution (Stage 1)
- Complaints Panel (Stage 2)
- Appeal Panel (Stage 3)

9.12 Once these stages have been exhausted, there is a further right of appeal to the University if a complainant or respondent (if applicable) is dissatisfied with the final complaint outcome; this is known as University Appeal (Stage 4).

### **9.13 Local Resolution (Stage 1)**

The Chief Executive or their nominee will allocate the complaint to the most appropriate Sabbatical Officer, Committee or Head to investigate the complaint and determine the appropriate outcome.

At this stage, a complaint can be

- Dismissed; or
- Upheld, wholly or partially, with an appropriate remedy or penalty applied; or
- Referred to a Stage 2 Complaints Panel for consideration and decision.

If the complainant, or respondent (if applicable) is not satisfied with the Stage 1 outcome they may request, in writing, that a Complaints Panel (Stage 2) is convened, on one or more of the following grounds:

- Incorrect outcome was reached;
- Resolution and or/penalty was unfair or disproportionate;
- New evidence which could not reasonably have been available at the time.

The decision to convene a Complaints Panel (Stage 2) will be taken by the Chief Executive or their nominee, subject to consultation with the Chair of the Board of Trustees or deputy Chair of the Board of Trustees.

If a Complaints Panel (Stage 2) request is rejected, the complainant, or respondent if applicable, has recourse to University Appeal (Stage 4).

#### **9.14 Complaints Panel (Stage 2)**

The Complaints Panel will consider the original complaint in full, taking account of all evidence previously considered, plus new evidence presented by any party to the complaint. The Panel may decide to:

- Uphold the complaint in full or in part, with an appropriate remedy and/or penalty applied;
- Reject the complaint;
- Remove, reduce or increase any remedies and/or penalties previously applied.

If the complainant, or respondent (if applicable), is not satisfied with the decision of the Complaints Panel, they may request, in writing, that an Appeal Panel (Stage 3) is convened, on one or more of the following grounds:

- Procedural irregularity at Stage 2 leading to an incorrect or unfair outcome;
- Resolution and/or penalty was manifestly unfair or disproportionate.

The decision to convene an Appeal Panel (Stage 3) will be taken by an External Trustee. If an Appeal Panel (Stage 3) request is rejected, the complainant, or respondent if applicable, has recourse to University Appeal (Stage 4).

#### **9.15 Appeal Panel (Stage 3)**

The Appeal Panel will consider the appeal on the relevant grounds and may decide to:

- Uphold the appeal in full or in part;
- Reject the appeal;
- Remove, reduce or increase any remedies previously applied.

Where the complainant, or respondent where applicable, is not satisfied with the decision of the Appeal Panel (Stage 3) they have recourse to University Appeal (Stage 4).

#### **9.16 Appeals to the University (Stage 4)**

An appeal to the University must be made in writing to the University Secretary on one or more of the following grounds:

- Material procedural irregularity which rendered the process leading to the decision unfair;
- Material which the student could not reasonably have been expected to produce at the time of the decision taken in respect of the complaint casts substantial doubt on the appropriateness of the decision.
- The decision taken in respect of the complaint was manifestly unreasonable.

An appeal to the University will not be a re-hearing of the original complaint. The University will focus on whether the complaint was properly considered by the Students' Union under this Complaints Procedure.

Where any procedural error by the Students' Union is identified, the University can refer the complaint back to the Complaints Procedure for reconsideration.

The University Secretary will reserve recommendations as to a complaint outcome for appeals where the Students' Union's decision is found to be unlawful or unreasonable.

The decision of the University Secretary is final and cannot be challenged via this Complaints Procedure.

### **9.17 Outcomes, Remedies and Penalties**

The following outcomes are available at procedural stages 1-3:

- A complaint is wholly upheld;
- A complaint is partially upheld;
- A complaint is dismissed.

When a complaint is wholly or partially upheld, remedies shall be fair and proportionate.

9.18 Once the outcome has been determined, the following remedies are available at Stages 1-3:

- Improvements or changes to Students' Union services, outlets, facilities, policies or procedures are recommended;
- The complainant and respondent are required to participate in training and/or mediation and conflict resolution;
- An apology is given;
- A referral to a University or external agency able to provide appropriate support.

9.19 Where a complaint relates to the conduct of a student of the University, the additional penalties are available at Stages 1 - 3:

- Caution on future conduct;
- A letter of concern;
- Full or partial ban from, or access to, Students' Union building, licensed premises, services, events and/or activities for a prescribed period;
- Removal of the right to stand as a candidate for all or any elections for Students' Union Sabbatical Officer, Trustee, Representative and Working Committees, or as an NUS delegate;
- Removal of, or ban on obtaining, Associate, Life or Reciprocal Membership.
- Referral to the University for consideration under its disciplinary procedures;
- Referral to other action, including legal action, if such action is deemed to be in the best interests of the organisation;
- Referral to the Students' Union employment procedures for consideration of current or future employment.
- Failure to comply with the conditions of any remedy or penalty, applied at any stage of the process, will constitute an act of misconduct and the Students' Union may take further action against the student including extending the penalties, re-hearing the case or referring that matter for action under the Disciplinary Procedure (Bye Law 10).

### **9.20 Temporary Measures**

In order to protect the Students' Union or any of its members or staff, the Chief Executive can exclude any student from all or any premises, services and activities pending consideration of a complaint under the Bye-Laws. Any exclusion will be subject to regular review.

The Chief Executive may only take such action if, in their opinion, it is necessary to protect the Students' Union or any of its members or employees.

### **9.21 Timeframes**

The Students' Union aims to deal with complaints within the following time limits and will keep parties notified if more time is required.

Complaints will usually be assessed and a written response issued within two weeks of receipt.

Where a complaint is dealt with via Informal Resolution (Stage 1), a written outcome will usually be provided within 4 weeks of allocation.

Where a complaint is dealt with by Complaints Panel (Stage 2) or Appeal Panel (Stage 3):

- The Panel will usually be convened within 6 weeks of the referral or request;
- All parties will usually receive a least 2 weeks notice of the date of the hearing;
- All parties will be required to submit any evidence or details of witnesses they wish to rely on at least 1 week in advance of the hearing;
- The outcome will usually be notified in writing within 1 week of the hearing date.

The complainant and respondent will usually have two weeks in which to challenge or appeal a decision at any official stage of the Complaints Procedure.

Complaints may be heard during university vacations, during which time the deadlines may be extended.

If a Full Member has been excluded from candidacy for elected office, the respondent may appeal specifically against this penalty outside the usual time limits:

The appeal may only be submitted on the grounds that the penalty was inappropriate to the offence for which the respondent was found responsible.

It must be submitted at least one month before the close of nominations for the post(s) for which the respondent wishes to stand.

If assessed as applicable, the appeal will be considered by an Appeal Panel (Stage 3) but time limits for notice and evidence may be shorter than usual.

The member may not be given an extension of any election deadlines as a result of such an appeal.

### **9.22 General Arrangement for Panels**

Selecting the Panel

Panel members will be drawn from a pool made up of Student Representatives, members of the current Sabbatical Officer team and the current staff team.

A Complaints Panel will consist of two student representatives, including at least one Sabbatical Officer and one member of staff. The staff member will also have a role in advising the process.

An Appeal Panel will consist of two student representatives, including at least one full time Sabbatical Officer who is acting in their capacity as Trustee of the Students' Union and the Chief Executive. The Chief Executive will also have a role in advising the process.

All Panels will be chaired by a Sabbatical Officer;

All panel members will be selected ensuring there is no conflict of interest. Any party may request reconsideration of any Panel member on the grounds of partiality or conflict of interest. Such a request shall be considered by the Panel Chair and their decision shall be final.

In specific and conflicted circumstances, an independent person or an individual from NUS (National Union of Students) may make up part of the panel.

### **9.23 Submitting Evidence**

Statements and other evidence (including witnesses attending the hearing) may be submitted to a Panel, with all such information shared with all relevant parties prior to the hearing;

Arrangements for notifying witnesses of a Panel hearing will be the responsibility of the person who has requested their attendance;

Any information previously considered at earlier stages will be provided, as evidence, to a Panel hearing;

The Panel may request the input of Students' Union staff and external experts where necessary to fully consider the case;

No information about previous offences will be considered until and unless the complaint is upheld.

### **9.24 Attendance at the Hearing**

Complainants or respondents may be accompanied by a Full Member who may speak on their behalf, but may not have external or legal representation;

A Panel hearing can be adjourned if a request is made to the Chair, by any party or Panel member, in order to consider further information, hear further witnesses or allow extra time for other reasons. Such agreement will not be unreasonably withheld and the Chair shall determine the length of the adjournment;

If the complainant or respondent and/or their representative fails to attend the hearing, the Panel may proceed with the hearing or adjourn for a reasonable period.

## 9.25 Making a decision

The panel will first determine the outcome of the case;

If the outcome is to uphold the complaint, the Panel will be informed of any previous offences. In such instances, the respondent will be given the opportunity to make a statement to the Panel before a decision is reached on the remedies or penalties imposed;

The Panel will then consider what remedies and penalties to set in place.

9.26 A Panel hearing will operate in accordance with the following procedures:

- The Chair will introduce all present, outline what will happen in the hearing, and ensure everyone understands the purpose of the hearing;
- The complainant or appellant will present their case and introduce any supporting statements and/or witnesses;
- There will be an opportunity for the members of the Panel and the respondent (if applicable) to question the complainant or appellant and any witnesses;
- The respondent (if applicable) will present their case and may introduce any supporting statements and/or witnesses;
- There will then be an opportunity for members of the Panel and the complainant or to question the respondent (if applicable);
- Any external experts or Students' Union staff called by the Panel will be heard;
- The complainant will be given the opportunity to make a final statement;
- The respondent (if applicable) will be given the opportunity to make a final statement;
- The complainant and respondents (if applicable) will be asked to leave the room to allow the Panel to make a decision;
- The decision will be notified to all parties in writing, including information about further rights of appeal.
- Where relevant, case precedents will be recorded and may be referred to in future Complaints Panel and Appeal Panel hearings.

9.27 A written summary of proceedings will be taken and made available to the complaint or respondent on request. Such information will be confidential but the Panel may publish its decision in such a way as it determines.

# Bye Law 10: Disciplinary Procedure & Appeals (student members)

## 10.1 Introduction

Falmouth and Exeter Students' Union's Code of Conduct has authority over any premises managed by the Union, any Union activities, including the activities of any Union Club or Union Student Group or any misconduct which takes place outside Union premises but is connected with the Students' Union and is likely to affect the reputation of the Union.

It may be necessary in the interest of relevant parties to suspend an individual or group from participation in any Students' Union activities including the activities of any Union Club or Society pending the outcomes of a Stage 3 disciplinary hearing.

This procedure has not been written as a replacement for common law; if any criminal offence has been committed normally they should be referred to the appropriate authorities. However, if an individual/group is subject to a criminal investigation it does also mean that appropriate action using this procedure may be taken and this can run concurrently.

There are 3 stages in the disciplinary procedure:

- Stage 1 Informal
- Stage 2 Members Disciplinary Committee
- Stage 3 Members Disciplinary Hearing.

## 10.2 Disciplinary Procedure

### Stage 1 - Informal

We expect that most issues will be resolved via an informal discussion about the matter at the earliest opportunity. A student or other person should therefore bring the matter to the attention of the Manager of the service, or Officer Trustee responsible for the area in question. If the breach is serious, they will be advised of this and the process will then proceed to Stage 2 - Members Disciplinary Committee.

### Stage 2 - Members Disciplinary Committee

If any member of the Students' Union is deemed to have breached the rules of the Union, and their conduct has not been able to be addressed through an informal approach (Stage 1), or the breach is considered to be serious, they will be advised of this and their conduct shall be examined by a panel consisting of the following:

- 1 Union Senior Leader or Head
- 1 Sabbatical Officer (shall not be the Chair of the Board of Trustees)
- 1 Union Manager

This panel shall be known as the Members Disciplinary Committee.

No individual shall sit on the Members Disciplinary Committee or Appeals Committees or any other Committee regarding the complaint if they are a witness, potential witness, the complainant or directly connected with the complainant or individual or group being charged.

The Members Disciplinary Committee will decide whether the matter is resolved as:

- not substantiated
- not proven
- informal advice given
- recorded warning
- referred to Members Disciplinary Hearing (Stage 3).

The Members Disciplinary Committee may refer any matter to either Falmouth University or the University of Exeter, or any other appropriate body as it sees necessary.

The Students' Union must inform the individual/ group of the outcome and of their right of appeal in the light of additional information or evidence. Any appeal should be made in writing to Falmouth and Exeter Students' Union Chair of the Trustee Board within 10 working days.

### **Stage 3 - Members Disciplinary Hearing**

In the event of the decision to proceed to a Members Disciplinary Hearing a panel shall normally aim to hear such a case within 20 working days of notification.

The individual/group will be notified in writing of the allegations and a copy of the Code of Conduct and Bye Law 10: Disciplinary & Appeals (student members) will be provided.

All incidents above stage 2 disciplinary hearing guidelines will be reported to the relevant University who may also invoke the Universities own disciplinary procedures for students.

The panel holding the Members Disciplinary Hearing will have access to all evidence, papers and identify and summon witnesses and conduct other enquiries as it may think fit.

The panel will consist of 5 persons, with equal attendance from both staff and representative roles with a quorum of 4:

- 1 Union Senior Leader or Head
- Normally the Vice President (Chair)
- 1 Union Manager
- 2 Part-Time Officers

This panel shall be known as the Members Disciplinary Panel and will normally be chaired by the Vice President. All administrative support including organisation, communications and minutes will be provided by a member of Students' Union staff.

Any panel member with an affiliation to or conflict of interest with the individual/group under review must declare this before agreeing to sit on the panel and may be asked to relinquish their position for the duration of the related hearing.

In this case a suitable replacement will sit on the panel in their place.

The Members Disciplinary Panel should hear all aspects of the disciplinary matter, including hearing and asking questions of:

- the individual or group bringing the charge (or their representative)
- the individual or group subject to the charge (or their representative)
- any witnesses called by either party



Witnesses may be called by:

- The Members Disciplinary Panel
- The individual or group or his/her representative bringing the charge,
- The individual or group subject to the charge (or their representative)

Witness may give evidence and present any relevant documents to the panel.

Based on the evidence presented, the Members Disciplinary Panel shall then deliberate on the matter and decide on the appropriate action to be taken.

Evidence of any earlier misconduct 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 punishment.

The ultimate sanction shall be the suspension of Students' Union membership.

The hearing shall take place in private and a record shall be made; these shall be kept and used in any appeal.

The panel may refer any matter to the relevant University or Universities line with the guidance in [Falmouth University's Student Code of Conduct](#) or [The University of Exeter General Regulations for Students](#)

Outcomes of the disciplinary hearing will be:

- not substantiated,
- not proven,
- proven

Penalties of the disciplinary hearing can include (further guidance in the Code of Conduct):

- informal advice given,
- recorded warning,
- Group or individual suspension (Note: Whilst under suspension no member will be excluded from the Union Advice Service or access to Advice and Representation from the Students' Union).
- Life ban from Union activities

Where a Group is disciplined it will be on the basis that a percentage of its members were collectively involved. If an allegation is made against the whole Group and involves at least 20% of its members, then the Union reserve the right to take group action.

Any complaint could begin its journey at any of the above stages.

### **10.3 Appeals**

The Members Disciplinary Panel must inform the individual or group of their right of appeal and that any appeal should be made in writing to the Chair of the Board of Trustees within 10 working days.

The grounds of the appeal should be detailed and will normally include one or more of the following headings:

- a) procedural error

- b) new evidence which could not have been made available at the Hearing
- c) unfair or perverse decision by Disciplinary Panel
- d) severity of the decision

If there are grounds for an appeal the Chair of the Board of Trustees will convene and Chair a Members Appeals Committee. This committee will be made up of:

- President (who is Chair of the Board of Trustees)
- the Chair of the Union Council
- the Union Chief Executive or Deputy Chief Executive.

All must not have been involved in the original Members Disciplinary Committee. Where this is not possible, due to conflict of interest or other reason(s), any vacant place on the Members Appeals Committee will be filled by a member of the Union Council as appointed by the Union Chair of the Board of Trustees.

The individual shall be notified in writing at least 10 working days in advance of the Members Appeals Committee meeting.

The Members Appeals Committee shall review the reason for the appeal and the rationale behind the original decision. They shall also review any new evidence that has emerged since the disciplinary meeting. The matter shall be put to a vote and the decision shall be final.

The hearing shall take place in private and a record shall be made.

If the individual is still dissatisfied, then they may refer their final appeal to the Union Board of Trustees. A review will be led by one Lay Trustee and one other Trustee not previously included and their decision shall be final.