

HWUnion's Disciplinary Procedure and Processes

1. Scope

1.1 This document sets out the process for Heriot-Watt Student Union (hereafter HWUnion) to investigate and take action in relation to the inappropriate conduct or behaviours of individuals or groups engaged with HWUnion as members, guests, volunteers, or otherwise acting in a representative capacity on behalf of the HWUnion. This includes all our affiliated societies including those with close links to an academic School within Heriot-Watt University.

1.2 HWUnion pride ourselves on providing experiences for our students which will enhance their time at Heriot-Watt University. We want every engagement, interaction and memory to be formative and help ensure our members develop skills which will set them up for success. Our Code of Conduct outlines behaviours that we expect and which ones we will not tolerate from our members. This document will deal with referrals and behaviours which fall short of what is outlined by the Code of Conduct.

1.3 The following list constitutes actions or activities which fall under these procedures:

- a. Breaches to the HWUnion Code of Conduct.** All students are expected to familiarise themselves with the Code, and failure to recognise the Code, is not an excuse for acting in violation of it.
- b. Behaviour which is causing, or likely to cause, harm to others.** This incorporates physical, mental and/or emotional harm either in the physical spaces of the HWUnion (including when on external trips, events, socials linked to the HWUnion) and in the digital space (e.g. Apps, email, social media).

- c. Any form of harassment, unlawful discrimination or bullying of others.**
- d. Possession, or sale, of illegal drugs.**
- e. Theft or Fraud**
- f. Breaches to the HWUnion-affiliated societies which are largely funded by Heriot-Watt University.** This links to the breaches of the HWUnion Code of Conduct but have specific requirements predicated on the specific funds, spaces and resource provided for societies to deliver on their objectives (e.g. HW Racing, HW Astro). For a full-list of these societies, please click [here](#).
- g. Conduct resulting in the deliberate or negligent damage to HWUnion premises or property.**
- h. Conduct amounting to behaviour which would bring the HWUnion into disrepute.**
- i. Breach of any policies of byelaws of the HWUnion.**

1.4 Reports of alleged behaviours may be reported to any member of HWUnion staff or lodged using our Complaints Form.

1.5 HWUnion shall have authority over all offences involving an alleged breach of discipline where an allegation has been made against an individual/society who is subject to the HWUnion's disciplinary procedure (See Code of Conduct). This includes matters where a referral has been made to another body, but HWUnion determines that the issue impacts its members, staff and/or guests.

1.6 It is important to note that HWUnion disciplinary processes do not retain the same burden of proof as criminal investigations. Where a criminal offence has been alleged and referred outside of HWUnion, we may still conduct our own investigation whereby the standard of proof will be held to be where the alleged misconduct is more likely than not to have occurred.

2. Process for Consideration an Alleged Breach of Discipline

2.1 It is the responsibility of the Head of Student Engagement to initially consider every alleged breach. They will consider three things:

- a. Whether the allegation relates to a member of HWUnion;
- b. Whether the allegation is done whilst acting as a representative of HWUnion;
- c. Whether the allegation could be deemed as breaching any of the actions or activities outlined in 1.2 of this document.

2.2 If all of them are met, then the Disciplinary Process and Procedures in this document will be followed. If any of the above are not met, then the matter will not be considered further and dismissed by the HWUnion.

2.3 At this stage, the Head of Student Engagement may refer this matter to Heriot-Watt University Conduct Office and/or the Police depending on the severity of the alleged breach. If this happens, HWUnion reserves the right to temporarily suspend membership of the individual/s from its premises, societies and any representative positions they may hold. Due to the potential severity of these rare cases, we will work closely with Heriot-Watt University and be guided by them due to the impacts that this may have on the academic progression, awards, accommodation and/or visa status.

3. Mediation Efforts

3.1 Where appropriate, the Head of Student Engagement may consider that mediation may be a potential way to resolve a dispute. In this case, one of three routes will happen:

1. For issues relating to actions or activities outlined in 1.3 of this document, for societies which are solely affiliated to HWUnion, then the Student Engagement Manager will attempt mediation.

2. For issues relating to actions or activities outlined in 1.3 of this document, for societies which are affiliated to HWUnion and Heriot-Watt University , then the Student Engagement Manager will work with the relevant School to consider whether mediation is the best route or perhaps a different approach.
3. Any breaches done on commercial premises relating to actions or activities outlined in 1.3 of this document will be referred to the Deputy Chief Executive of HWUnion to consider mediation.

3.2 Any alleged serious breaches, as deemed by the Head of Student Engagement, will immediately bypass this stage and go straight to investigation as outlined in Section 5. Course of Action or Penalties.

3.3 There are seven suggested measures which are available during the mediation phase. More than one may be applied:

1. Informal resolution between all parties.
2. Reported student to submit a letter of apology to the complainant. This will be reviewed and approved by the HWUnion and relevant School (where appropriate).
3. Reported student referred to relevant support service, either internally (Advice Hub), at the University (e.g. Disability and Wellbeing Service), or a relevant external service.
4. Implementation of a behaviour agreement as discussed with and agreed by and signed by the reported students. Breaches of the Code of Conduct will result in an automatic referral to the investigation stage of this procedure as outlined in Section 4. Investigation Phase.
5. Requirement to attend additional training or development sessions relevant to the misconduct issue raised.
6. No further action required.
7. Referral to the Head of Student Engagement for a formal investigation as outlined in Section 4. Investigation Phase.

3.4 This list is not exhaustive. The staff involved in mediation may suggest something else. At the end of every mediation phase, a report will be submitted to the Head of Student Engagement and, where relevant if affects a School-supported society, the Associate Dean for Education and Student Life. This will help HWUnion Trustee Board in considering the efficacy of the Procedures on an annual review basis.

4. Investigation Phase

4.1 This is instigated when the Head of Student Engagement feels that there have been serious breaches of this disciplinary procedure or when mediation attempts have failed. For cases linked to a School-supported society, the Head of Engagement will always refer to the School at the earliest opportunity. Similarly to the mediation phase as outlined in 3.1, there will be three routes by which this will happen:

- a. For issues relating to actions or activities outlined in 1.3 of this document, for societies which are solely affiliated to HWUnion , then the Head of Student Engagement will convene an investigation panel.
- b. For issues relating to actions or activities outlined in 1.3 of this document, for societies which are affiliated to HWUnion and Heriot-Watt University , then the Head of Student Engagement will work with the relevant School Associate Dean for Education and Student Life to consider whether there is a formal Union-led investigation panel, or whether the University processes ought to be followed.
- c. Any breaches done on commercial premises relating to actions or activities outlined in 1.3 of this document will be referred to the Deputy Chief Executive of HWUnion to convene an investigation panel.

4.2 The Panel will be convened by the Head of Student Engagement in relation to the alleged breach and shall normally include all the following roles:

- a. Head of Student Engagement

- b. Elected Full-Time Officer
- c. One of the following (member of the Senior Management Team of the Union, External Trustee and a School-nominated colleague if 4.1b).

4.3 All evidence will be coordinated by the Head of Student Engagement (or their nominee) and stored in SharePoint in a protected manner. From the date of the alleged being raised or from the point upon which it was referred from mediation phase, a meeting will be convened within **10 working days**. The student/s who have been alleged to have breached the disciplinary process, will have no less than **five working days' notice** of the meeting and be invited to submit a written statement (including supplementary evidence) up until **two working days** to the meeting. Submission after this time, may not be read but can be read into the record during the panel meeting.

4.4 The panel may invite to speak or seek written statements from individuals that they believe may have been witness to or party to any incidence or occurrence. Witnesses may request the anonymisation of written statements where there is reason to be concerned about their safety or wellbeing – the decision to anonymise any statements provided will remain with the Convenor of the panel (normally the Head of Student Engagement).

4.5 Any student is permitted to be accompanied by one person for support. Students are free to discuss proceedings with their accompanier at any stage.

4.6 In the case of a complaint made against a whole student group, club or society, its president or chair (or their nominee) shall represent the group, club or society. For societies which are affiliated to HWUnion and supported by their respective School, then they may request more members of the upper-management/executive to attend.

4.7 A student may request to defer the date of the hearing if they are not able to attend on the date given. It will be rescheduled a maximum of one time. If an individual/s fails to attend an initial meeting or rescheduled meeting without providing notice to the Convenor,

the panel's investigation will continue in their absence. The Panel shall consider each case on its merits and provide a collective written response, drafted by the Convenor, to the following questions:

- a. Did the alleged behaviour happen based on the balance of probabilities?
- b. Did the alleged actions contravene the expected standards of behaviour of HWUnion members as outlined in the Code of Conduct?
- c. If the alleged actions took place, what will the action or penalty be?

4.8 There will be a verbal response issued to the student/s or society within **one working day** of the hearing. This will be followed up with an interim written summary of the Panel's decision usually by email to the University email of the student/s. A full written response shall be issued no later than **five working days** of the hearing which will be coordinated by the Convenor of the Panel.

5. Course of Action or Penalties

5.1 The Panel has a suite of potential actions or penalties to an individual/s or society following their deliberations:

- a. A written reprimand.
- b. An agreed behavioural contract to be agreed by relevant parties which details expected standards of behaviour going forward.
- c. A suspension of any or all the privileges of membership of the HWUnion.
- d. A life ban which shall entail a total ban from HWUnion premises and services.
- e. A permanent or temporary suspension of any or all the benefits of affiliation to the HWUnion as a group, club or society.
- f. A monetary fine may be applied only in an instance where there is a cost of making good or compensating for any damage or loss suffered by the Union in consequence of the actions of the member, group or society.

- g. Dismissal of the allegations.

5.2 This list is not exhaustive and the Panel may determine alternative actions or penalties as they see fit. This may include referral to Heriot-Watt University through the Report and Support. This does not preclude the panel from also deciding on an additional penalty or action as defined in this policy.

5.3 In line with section 2.3 of this policy, an offence committed by any member or visitor to the HWUnion that is considered to potentially be a criminal offence may be referred to the police for consideration. This does not preclude the panel from also deciding on an additional penalty or action as defined in this policy.

5.4 HWUnion will retain a central record of all disciplinary outcomes where it has been determined that an allegation shall be upheld for 12 months following the decision taken. Records shall be kept in line with Heriot-Watt University's privacy policy which we abide by. Previous outcomes and reprimands on record as that are directly or indirectly related to a current allegation shall be made available to the discipline panel in order to inform their decision making.

6. Appeals

6.1 Students have the right to appeal against decisions only if they meet one or more of the following grounds:

- a. The Disciplinary Procedure has not followed the correct procedural steps as laid out in this document.
- b. New information or evidence has become available that was not, or could not be, made available during the initial investigation.
- c. The action or penalty applied is unduly harsh or disproportionate.

6.2 Appeals must be submitted to the Chief Executive Officer (CEO) of HWUnion within **ten working days** of the written notification of the outcome of the disciplinary process.

The appeal must contain a statement of the grounds (as outlined in 6.1) by which this appeal is being brought along with any supplementary evidence.

6.3 The CEO (or nominee) will make an initial determination as to whether the appellant has met the grounds for appeal (as outlined in 6.1). They may decide to refuse the appeal at this point or progress to an investigation. At this point, the appellant will be notified in writing to their University email address.

7. Appeals Panel

7.1 Where a determination has been made by the CEO or nominee that grounds of appeal have been demonstrated, an appeals panel will be convened by the CEO or nominee. This panel will not include any of the same members of the original investigation panel, but shall normally – where practicable and possible comprise of:

- a. CEO or nominee (acting as Convenor).
- b. One elected Executive Officer.
- c. One more of the following: Executive Officer, Head of Department/Department Manager or External Trustee and a School-nominated colleague if 4.1b.

7.2 The panel may seek information from any relevant party to determine whether the grounds above are substantiated. The appeals panel will normally be convened within **15 working days** of the receipt of the Appeal. The panel will normally seek to issue a verbal outcome on the day of the hearing a full, and final, written outcome within a further **five working days**.

7.3 The appeals panel will either uphold the appeal in whole; in-part and make subsequent recommendations for changes to be applied to the original outcome or; dismiss the appeal.

7.4 The appeals panel will have available to them the same potential outcomes as the original panel.

Appendices

A1. Ownership and Review

Document Owner	Head of Student Engagement
Review Frequency	Annually
Next Review Date	XXX
Approval Body	HWUnion Trustee Board

A2. Version History

Version	Date	Summary of Changes
1.0	XXX	NA, Initial Document