

*Approved by Trustee Board: May 2021*

*Review Period: 3 Years*

hwunion.com

*Heriot-Watt Student Union*

***DISCIPLINARY POLICY***

### 1. Overview

1.1 This policy is applicable to all employees of the Heriot-Watt Student Union (HWUnion) including student staff in respect of their employment by HWUnion. HWUnion disciplinary matters covering volunteers, societies and students are covered separately in the HWUnion Bye-Laws. Disciplinary matters relating to members of the HWUnion Board of Trustees are covered in a separate Code of Conduct[[1]](#footnote-1) in conjunction with the HWUnion Articles of Association.

1.2 This policy does not form part of your employment contract and may be updated at any time.

1.3 HWUnion categorises allegations of inappropriate behaviour as either ‘Misconduct’ or ‘Gross Misconduct’. Examples of what would normally fall into each of these categories are listed in the Appendix to this document. The list is not exhaustive and should be referred to as a guide. The Union will deal with disciplinary allegations of misconduct under ‘Informal Procedures’ or ‘Formal Procedures’ depending on the nature and severity of the allegation.

### 2. Informal and Formal Procedures

#### When we will take informal action

2.1 Following initial investigation and having ascertained that the misconduct constitutes a first time minor disciplinary matter, we may decide that informal action is appropriate rather than formal action. We will discuss the issue in a meeting with you and will decide on any appropriate penalties following the meeting. We will issue you with a 'Letter of Concern' in appropriate circumstances following investigation of a minor disciplinary matter.

#### When we will take formal action

2.2 Following initial investigation and having determined that the misconduct constitutes a more serious disciplinary matter, or where the informal process has failed to resolve the matter, we will normally follow our formal procedures as outlined below.

2.3 You will be invited to attend one or more formal meetings to assist in the investigation and to inform you of the outcome of the investigation, and any disciplinary action being taken as a result.

2.4 We will write to you to tell you:

* when and where the disciplinary meeting will take place;
* the details of the allegation of misconduct made against you; and
* the possible consequences.

2.5 We will include copies of any witness statements and other relevant documents, unless there is a good reason not to do so. You must let us know as soon as possible if you have documents and/or other evidence you wish to present.

2.6 It is your responsibility to attend the meeting at the appointed time. If you have a good reason for being unable to attend at this time, we will normally be willing to reschedule the meeting once, unless this is likely to lead to unreasonable delay. In such circumstances, and by exception, it may be necessary for us to make our decision on the matter without you being present.

2.7 You are entitled to be accompanied by a colleague or trade union representative, not a solicitor or lawyer, to any formal disciplinary meeting. If you wish to exercise this right, you should tell us as soon as possible who you wish to attend with you. It is your responsibility to arrange with them to attend. If you choose a work colleague, we will not prevent them from attending, but we may have to rearrange the meeting if their absence from work could cause operational difficulties.

2.8 Your colleague or union representative can, if you prefer, explain the key points of your case at the meeting and can respond on your behalf. You can also confer with them during the meetings. However, they must not answer questions put directly to you or try to prevent us asking questions or outlining our arguments.

2.9 We may record the meeting, but we will not do so without telling you. You may also record the meeting if you wish, but please tell us in advance if you would like to do this; you will also get a better-quality recording if you do it openly rather than covertly.

2.10 We will go through the details of the case at the meeting so that you fully understand the allegation of misconduct made against you. We will also outline the evidence we found when we carried out our investigation.

2.11 We will give you the time you need to respond to the allegations made against you and to put your own case. We will also give you the opportunity to ask us questions, to present your own evidence, to call your own witnesses, and to respond to any evidence put forward by the Student Union’s witnesses. If there are any questions you want us to put to the Student Union’s witnesses, please tell us and (unless there is a good reason not to) we will make sure they are asked.

2.12 We will aim to provide you with written confirmation of our decision within two weeks of the disciplinary meeting.

### 3. Outcomes following Consideration of Disciplinary cases

3.1 Outcomes for dealing with disciplinary issues are noted below. Other penalties may also be applied where considered appropriate.

* We will issue you with a first written warning. For informal disciplinary cases, this will take the form of a 'Letter of Concern. Unless you already have active written warnings relating to disciplinary matters on your work record, a first written warning / letter of concern will usually remain in place for 12 months from the date you are notified of the decision. It will then be removed from your record.
* If there is an active first written warning on your record and you are involved in further misconduct, we will usually issue you with a final written warning. In serious cases of misconduct, we may issue a final written warning *without* having issued a first written warning. In either case, the final written warning remains active for 12 months from the date you are notified of the decision. It will then be removed from your record.
* Dismissal. If there is an active final written warning against you and you are involved in further misconduct, you may be dismissed. You may also be dismissed for a serious case of misconduct (gross misconduct).
* If a member of staff is found to have committed an act of gross misconduct, they may be dismissed without warning, without notice, and without payment in lieu of notice; this is known as summary dismissal.

3.2 Sometimes we will explore other actions short of dismissal. These may include deploying you to a different role, demoting you, and/or extending your final written warning period to allow us further time to review how you behave going forward. Redeployment or demotion in such circumstances may result in a reduction in pay.

### 4. Other Issues

#### Suspension during investigation

4.1 If you face an allegation of gross misconduct, there are circumstances where we may feel it necessary to suspend you from work during the process of investigation and consideration of the case. Every effort will be made to conclude the investigation quickly to minimise the impact this may have on you. This is not intended as a punishment or to indicate guilt, but to allow the investigation to proceed whilst causing the least disruption to HWUnion’s ongoing business. If we suspend you:

* you must stay away from work, not visit any of HWUnion’s premises or contact staff, clients, suppliers or contractors (unless we specifically authorise this in writing). However, if you want to contact an individual solely to ask them to be a witness, or to accompany you to a disciplinary meeting, you may do so without informing the Union;
* suspension will be on full pay for career staff, unless your contract says otherwise. Casual staff will continue to receive pay based on their average weekly earnings for the previous four week period;
* if pre-approved holidays fall during a period of suspension, they will still count as holiday leave and will be deducted from your holiday entitlement as normal.

#### Sickness Absence during the disciplinary process

4.2 Should you be absent for reason of sickness once you have been notified of a disciplinary meeting, you will be paid in accordance with our Absence Management Policy (which may result in you not being paid full pay). Your rights to Statutory Sick Pay (SSP) would be unaffected.

4.3 If you are unable to attend a disciplinary meeting due to sickness, we will offer you a new date for the hearing. However, if you are unable to attend a meeting within a reasonable period of time, we may need to suggest alternative ways of considering the disciplinary allegation, for example, using written submissions or having a colleague attend on your behalf.

#### Managing a grievance during the disciplinary process

4.4 If you lodge a grievance while we are investigating a disciplinary matter, we will not normally put the disciplinary process on hold. If the subject of your grievance is linked to the disciplinary investigation, or the process we are undertaking, we will normally consider it as part of the disciplinary process and not start a separate grievance process; if it is an entirely separate matter, HWUnion’s Grievance Policy will apply.

### 5. Your right to Appeal

5.1 You have the right to appeal against any disciplinary decision taken against you. To do this, you need to write to the HWUnion Chief Executive Officer within one week of being provided with the letter informing you of the outcome of consideration of your disciplinary case. In your request to appeal you must explain clearly why you have a good case for appeal.

5.2 You will be invited to attend an Appeal meeting which will follow the process outlined in paragraphs 2.6 to 2.9. However, the appeal meeting will not be led by the manager who was involved in the previous stages of the disciplinary case against you. A member of the HWUnion Trustee Board will participate in this stage of consideration of your case and a report on the outcome will be provided to the Trustee Board.

5.3 Our final decision will be sent to you in writing. We aim to do this within two weeks of the appeal meeting. You do not have any further right to appeal against our decision.

# Appendix

### HOW WE DEFINE ‘MISCONDUCT’ AND ‘GROSS MISCONDUCT’

#### How we define ‘Misconduct’

The following list gives examples of what we would normally regard as misconduct (but not gross misconduct). This list is not exhaustive and should be referred to as a guide.

* Minor breaches of Student Union policy
* Minor breaches of your employment contract
* Unauthorised use of, or damage to, Student Union property
* Absence from work that has not been authorised
* Poor attendance and timekeeping
* Refusing to follow instructions, where it is not serious enough to be gross misconduct
* Making an excessive number of personal calls using Student Union facilities
* Sending and receiving an excessive number of personal emails
* Using the internet or email for personal purposes, other than on an occasional basis
* Using obscene language or otherwise behaving offensively
* Being careless when carrying out your duties
* Wasting time during your contracted working hours
* Smoking in areas where smoking is not permitted.

#### How we define ‘Gross Misconduct’

The following list gives examples of what we would normally regard as gross misconduct and which may lead to summary dismissal. This list is not exhaustive and should be referred to as a guide.

* Bullying or physical violence
* Fraud, theft, or any act of dishonesty
* Altering records, such as sales records, to put yourself in a better light even if there is no immediate financial benefit to you
* Malicious misuse of any of our procedures, for example if you make up allegations when taking out a grievance against someone
* Serious negligence or carelessness, particularly if it leads to us losing trust and confidence in you
* Serious health and safety breaches
* Serious breach of data protection legislation or our data protection policy
* Serious and intentional damage to Student Union property
* Unlawful harassment or discrimination
* Viewing, receiving, or sending anything that breaches our Dignity At Work Policy or our Equalities, Diversity and Inclusion Policy
* Knowingly accessing websites containing offensive, obscene or pornographic material
* Misuse of internal email, external email or other internet and computer-based facilities including the storage and/or transmission of obscene, illicit or undesirable material.
* Serious insubordination or refusal to obey management instructions
* Serious breaches of confidence
* Covertly recording your colleagues, or any management (or other) meeting where the participants do not know you are recording it
* Being under the influence of, or possessing, illegal drugs
* Being under the influence of alcohol, unless this is with your manager’s express knowledge and permission, for example, where you are involved in entertaining on behalf of the Student Union
* Conduct that violates common decency or engaging in behaviour that might bring the Student Union into disrepute.

1. Currently in development, May 2021 [↑](#footnote-ref-1)