

## Disciplinary Procedure

### 1 Background

As a person associated with a UCD Sports Club, you are a member of the wider University community and as such it is important for you to be aware of the University's regulations and policies which are intended to promote and support an environment of honesty, integrity, equality and dignity and respect for all members of the University community whilst engaged in Club activity.

You are expected to act responsibly at all times, whilst engaged in Club activity, to observe and abide by the regulations and policies of the University and the policies and procedures of the UCD Athletic Union Council (AUC), as outlined in the AUC's Club Operations Manual. All activities must be conducted in accordance with the Constitution of the relevant Club.

Where a conflict exists between the University regulations and policies, the policies and procedures of the AUC and/or the Club Constitution, the regulations and policies of the University take precedence. Where a conflict exists between the AUC policies and procedures and those of a Club Constitution, the policies and procedures of the AUC take precedence.

### 2 Scope

2.1 These Disciplinary Procedures apply to all those who are involved in a UCD sport Club, as follows:

- Members of the Club: UCD employees ("UCD Employees") registered students at UCD ("UCD Students") and UCD graduates ("Graduates") who are playing and non-playing members of a UCD Sports Club;
- individuals who are employed or engaged by a Sports Club to provide any services to the Club ("Club Employees");
- individuals who are engaged directly by a UCD

Sports Club to provide services on a voluntary basis ("Volunteers"); and

- individuals who are acting as the responsible figure on a Club trip or at Club activity ("Leaders").

Only complaints of breaches of discipline that take place during Club activities are covered under this Procedure.

2.2 A complaint of a breach of discipline against a person who is also a UCD Employee or UCD Student may also be referred by the AUC Executive Secretary or Disciplinary Committee to be considered under a University Policy or procedure as appropriate, in addition to being dealt with under the AUC Disciplinary Procedure. Allegations of discipline breaches against persons who are not UCD Employees or UCD Students, will be dealt with under this Disciplinary Procedure and the outcomes may be referred by the AUC Executive Secretary or Disciplinary Committee to the relevant Club. Where a person who is also a UCD Employee or UCD Student is found to be in breach of a University Policy including the Disciplinary Statute or UCD Student Code of Conduct and sanctioned in accordance with such Policy, the AUC Disciplinary Committee may take these outcomes as findings of fact and may impose such penalties or sanctions as appears fair and reasonable in all the circumstances of the case in accordance with Clause 6.2 without the need to undertake an investigation.

2.3 The following matters will be dealt with under the relevant University Policy save to the extent such Policy is not appropriate in which case the following matters may be dealt

with in accordance with the AUC Disciplinary Procedures:

- ***A complaint of bullying, harassment, sexual harassment and sexual misconduct is raised.*** The complainant will be directed to the UCD Policy on Dignity and Respect and the reporting procedures therein.
- ***The matter relates to Child Safety.*** The procedures of the UCD Sport, UCD Sport & Fitness and the University Child Safeguarding Statements will be followed.
- ***There is an alleged breach of the UCD Student Code of Conduct.*** The matter should be referred to the Registrar to be dealt with under the UCD Student Code of Conduct.

- 2.4 A failure of the Club to operate as outlined in the AUC Club Operations Manual will be referred to the AUC Executive Secretary.
- 2.5 A complaint of breach of discipline should be made within 12 months of the alleged incident.
- 2.6 All complaints raised under this Procedure will be handled sensitively, and confidentiality will be observed as far as possible.
- 2.7 Where there is a risk to the health and safety of any member of the UCD community or of any member of the public or if it is considered that other substantial grounds justify same, then the Club Committee, the AUC Executive Secretary or the AUC Disciplinary Committee may temporarily suspend an individual from the UCD Sports Club pending the consideration of the matter under these Disciplinary Procedures. Any temporary suspension does not indicate that the AUC or the University has concluded that the person has committed a breach of discipline. Temporary suspension will depend on the seriousness of the situation and each case will be assessed on its own merit.
- 2.8 Where temporary suspension is considered appropriate, the person concerned will be invited to attend a suspension hearing. They will be informed of the reasons why suspension is being considered and the person concerned will be given the opportunity to respond. Temporary suspension can occur at any stage during the discipline process.
- 2.9 The temporary suspension or exclusion of any person from office, membership or position with any Club of the University in accordance with this Disciplinary Procedure must be notified to the AUC Hon. Secretary.
- 2.10 An individual who is a UCD Employee or UCD Student may be suspended under the Disciplinary

Statute or the UCD Student Code of Conduct in addition to any suspension imposed under this Procedure.

### 3 Club Disciplinary Actions

- 3.1 A complaint of a breach of discipline relating to any UCD Club shall be addressed to and resolved in the first instance by the Committee of that Club, as per the Constitution of that Club with the exception of matters as set out in Section 2.3.
- Breaches of discipline may include, but are not limited to:
- Infringements on the rights of Club Members e.g. to train, compete, use equipment.
  - Bringing the University and/or UCD Sports Club into disrepute e.g. abusing a referee, breach of anti-doping Regulations, financial irregularities.
  - Failure to abide by the provisions of the Club Constitution, Code of Conduct for Sports Clubs or Code of Ethics and Conduct for Sports Coaches or Code of Conduct for Committee Members e.g. does not attend at required number of meetings, fails to carry out duties of their role.
- 3.2 Complaints of discipline breaches can be made in the first instance to the respective Club secretary (contact details for all clubs are available on the UCD Sport website), to be dealt with under that Club's Constitution.
- 3.3 In the following circumstances the complaint shall be referred immediately (within five working days) by the Club secretary to the AUC Executive Secretary to be dealt with under the AUC's Disciplinary Procedures;
- Where the Club's Constitution is silent on the breach of discipline concerned.
  - Where the Club Committee is aware of a conflict of interest.
  - Where the breach of discipline complained of is of a serious nature, which, if established, could lead to suspension or expulsion of membership or termination of Club role.
- 3.4 Where the breach of discipline complained of falls under the remit of the Club Committee, sanctions may be imposed as set out in the Club's Constitution. Where the individual does not accept or abide by the sanctions imposed on them by the Club, the matter will be referred to the AUC Executive Secretary.
- 3.5 The AUC Executive Secretary, on consideration of

the nature of disciplinary breach and the actions taken by the Club Committee, reserves the right to refer the matter under the disciplinary procedures, as specified in the University's Statutes, UCD Policy on Dignity & Respect, the UCD Sport and UCD Sport & Fitness, University Child Safeguarding Statements, UCD Student Code of Conduct or any other relevant University Policy.

- 3.6 An appeal of the Club decision shall be dealt with in accordance with the Club Constitution. Where the Club Constitution is silent on an internal appeals process, the person against whom a complaint has been made may appeal to the AUC Appeal's Committee within 10 working days from notification of the Club decision. See Section 7 for the appeal process.

#### 4 AUC Disciplinary Procedures

- 4.1 The procedures set out in this Section 4 shall apply where a complaint of breach of discipline has been referred to the AUC Executive Secretary.
- 4.2 Where the AUC Executive Secretary has had any prior involvement in the matter or otherwise has a conflict of interest, the matter shall be dealt with by the AUC Hon. Secretary in accordance with the procedures set out in this Clause 4 and Clause 5. In this regard, any reference to the AUC Executive Secretary shall be construed as a reference to AUC Hon. Secretary.
- 4.3 The AUC Executive Secretary will refer the complaint to the AUC Disciplinary Committee where the matter is of a serious nature and cannot be dealt with by them. The AUC Executive Secretary reserves the right to refer the matter to the Disciplinary Committee at any stage of the procedures set out in this Section 4.
- 4.4 The AUC Executive Secretary will decide whether the matter can be dealt with by them on a review of:
- i. the nature and gravity of the complaint(s),
  - ii. the submissions and any clarification of same,
  - iii. the nature and seriousness of the matter generally.
- 4.5 All other matters will be dealt with as follows. Upon receipt of the complaint(s), the AUC Executive Secretary will provide the party against whom the complaint(s) has been made (the "respondent") with a copy of the complaint(s) and seek their response in writing to same. The complainant and respondent will be invited to attend at a joint meeting to seek clarification on the content of their submissions, and where appropriate, reach a resolution.

- 4.6 The parties may be invited to attend a joint meeting, where a resolution is not reached through a joint meeting or the parties do not agree to attend a joint meeting, the AUC Executive Secretary may meet with the complainant and respondent individually. The AUC Executive Secretary may also meet with any witnesses that the AUC Executive Secretary deems appropriate and may request additional supporting documentation from the complainant and respondent with a view to establishing the facts. The complainant and respondent will be given a specified timeline to comment on any submission, response or supporting evidence provided to the AUC Executive Secretary.

#### 5 Penalties Where Disciplinary Matter Dealt with by the AUC Executive Secretary

- 5.1 When all information available to the AUC Executive Secretary has been considered, the following outcomes are available:
- i. Dismiss alleged breach of discipline with no further action.
  - ii. Fine, up to a maximum of €200.
  - iii. Temporary suspension from office, membership or position. The AUC Executive Secretary may make a recommendation to the relevant Club that the respondent be temporarily suspended from office, membership or position.
  - iv. Requirement to make good to the satisfaction of the AUC Executive Secretary any damage or loss which they intentionally caused to any property of the University or third party or for any such loss or damage which arises as a result of the breach of discipline.
  - v. Referral to the Registrar in the case of a UCD Student to be dealt with under the UCD Student Code of Conduct.
  - vi. Referral to the Director of HR in the case of a UCD Employee.
  - vii. Non-awarding or reclamation of any grant paid to the Club or individual.
  - viii. Remedy any failure to operate in line with the AUC Club Operations Manual.

In addition to any of the outcomes above, the Executive Secretary may direct the respondent to provide a letter of apology to the complainant.

- 5.2 Following the conclusion of this process the AUC Executive Secretary will normally communicate their decision in writing to both parties within 10 working days after the meeting at 4.6 above.

- 5.3 The Executive Secretary will inform the respondent of their right to appeal the decision, the procedure for lodging the appeal and the time limit for lodging the appeal (ten working days from notification of the decision). See section 7 for details of the Appeal process.
- 5.4 Unless exceptional circumstances arise, a Club would normally be expected to abide by a recommendation of the AUC Executive Secretary.

## 6 AUC Disciplinary Committee

- 6.1 Where the matter is referred by the Executive Secretary to the Disciplinary Committee the following will apply:
- The Disciplinary Committee will be comprised of three voting members which will usually be comprised of at least two Officers of the AUC and the Director of Sport, or their nominee.
  - Upon referral by Executive Secretary, a Disciplinary meeting will be held as soon as is practicable and the respondent will be notified in writing (by email) of the date and time of the hearing, no later than 10 working days in advance of the hearing. Both parties will be invited to attend the meeting with the Disciplinary Committee.
  - The Disciplinary Committee may interview such witnesses as they deem appropriate. All paperwork received by the Executive Secretary regarding the complaint(s) will be provided to the Committee members, the respondent and the complainant.
  - The complainant and respondent will be given an opportunity to offer submissions.
  - Where the respondent fails to attend the Disciplinary Committee meeting and the Disciplinary Committee has made reasonable attempts to accommodate them, the Committee may decide to adjudicate on the matter in their absence, relying on the documentation furnished to the respondent and the Disciplinary Committee.
  - Decisions of the Disciplinary Committee will be taken by a simple majority and will be made on the balance of probabilities.

- 6.2 When all information available to the Disciplinary Committee has been considered, the following outcomes are available to the Disciplinary Committee:
- i. Dismiss the breach of discipline complained of with no further action.
  - i. Fines up to a maximum of €400.

- i. Temporary suspension from office, membership or position. The Disciplinary Committee may make a recommendation to the relevant Club that the respondent be temporarily suspended from office, membership or position.
- i. Requirement to make good to the satisfaction of the Disciplinary Committee any damage or loss which they intentionally caused to any property of the University or third party or for any such loss or damage which arises as a result of the breach of discipline.
- i. Referral to the Registrar in the case of a UCD Student, to be dealt with under the UCD Student Code of Conduct.
- i. Referral to the Director of HR, in the case of a UCD Employee .
- i. Non-awarding or reclamation of any grant paid to the Club or individual.
- i. Exclusion from office, membership or position with any Club of the University. The Disciplinary Committee may make a recommendation to the relevant Club that the respondent be excluded from office, membership or position.

In addition to any of the outcomes above, the Disciplinary Committee may direct the respondent to provide a letter of apology to the complainant.

- 6.3 Following the conclusion of this process, the Disciplinary Committee will normally communicate its decision in writing to both parties within 10 working days after the Disciplinary Committee Hearing. The Disciplinary Committee will inform the respondent of their right to appeal the decision, the procedure for lodging the appeal and the time limit for lodging the appeal (ten working days from notification of the decision).
- 6.4 Unless exceptional circumstances arise, a Club would normally be expected to abide by the recommendation of the Disciplinary Committee.

## 7 Appeal of the Decision of a Club Committee, the Executive Secretary or the AUC Disciplinary Committee

- 7.1 Where the person against whom a complaint has been upheld wishes to appeal a decision (the "Appellant"), this appeal must be lodged within 10 working days of notification of the decision and the case shall be referred to a sub-Committee of the AUC (the "Appeal Committee"). The Appeal Committee will be comprised of three voting members drawn from a panel of members of the AUC Executive which will, where possible, include the Director of Sport, or their nominee.

The Appeal Committee will where possible hear the appeal within 10 working days of it being lodged.

Where the AUC Disciplinary Committee was convened to adjudicate on a disciplinary breach, no AUC Executive member involved in that process may sit on the Appeals Committee for that breach. Furthermore, the Director of Sport will be replaced by the Director of Student Services, or their nominee, where the Director of Sport has had prior involvement with the matter or is otherwise unavailable.

7.2 Grounds for appeal shall be limited to:

- b. **New evidence** – Information directly relevant to the decision, which for good reason was not available to the relevant body who adjudicated on the case i.e. Club Committee, Executive Secretary or Disciplinary Committee.
- c. **Procedural irregularity** – The Appellant has evidence that the procedures relating to the decision were not followed properly, which may have impacted on the decision.
- d. **Severity of penalty** – The Appellant contends that the penalty imposed is disproportionately severe with regard to the circumstances of the complaint.

7.3 The outcomes available to the Appeal Committee are:

- Uphold the original decision;
- Not uphold the original decision;
- Vary the original decision.

On upholding an appeal, the Appeal Committee may require the Appellant to meet specified conditions.

7.4 The decision of the Appeals Committee is final and will be communicated to the Appellant and Complainant and, where appropriate, it may be communicated to the Registrar and/or Director of HR, as appropriate.