

**Union Council**

**11<sup>th</sup> June 2007-06-10**

**Court Standing Orders**

A paper by Katherine McGinn (Deputy Court Chair)

1. The Court has made various proposed amendments to its standing orders to reflect the various constitutional and regulatory changes elsewhere in the Union.
2. The Court is obliged to refer standing order amendments covering case requests, appeals and specified compulsory directions to the Council.
3. The Court has also included the standing order parts for hearings and disciplinary proceedings for information so members of Council may better understand how the Court would exercise its various new jurisdictions in disciplinary matters.
4. Tracked changes show the various amendments.
5. The amendments are mostly cross-reference alterations, but also include a number of 'new' provisions which have been transferred from the Court regulation (indeed, the Court regulation has been cut down by 1,000 words).

**ICU Resolves**

1. To approve, under regulation 7.18, the attached proposed standing orders.

**IMPERIAL COLLEGE UNION COURT**  
**STANDING ORDERS**

Any Part or section with an asterisk requires the approval of the Trustee Board.<sup>1</sup>

Deleted: Council

Footnotes are included as part of the standing orders where necessary to explain the provenance of any rule or make comments upon it.

**Introduction**

The Union Court standing orders are the internal rules of the Court. The Court is permitted to run its own procedure<sup>2</sup>, and to pass standing orders<sup>3</sup> for its own administration. These are done by the Court itself (by a two-thirds majority<sup>4</sup>), however some standing orders which concern access to the Court, appeals or other miscellaneous matters also require the approval of the Trustee Board.<sup>5</sup>

Deleted: Council

Though they are internal rules only as the Court is prohibited from making policy for the rest of the Union<sup>6</sup>, they do affect others when they have any dealings with the Court.

The standing orders should be read in conjunction with the Court regulation and make more sense when so read.<sup>7</sup> Each part refers any relevant part of the Court regulation.

Standing orders are entitled to disapply certain regulations<sup>8</sup> for the Court's own internal procedure,<sup>9</sup> though this does not affect any other part of the Union, and certainly not the Council in its appointment or election of members. However, were the Court to act internally to censure or no confidence a member, it would have to comply with the full procedure for doing so.

Deleted: the Election, Meetings and Disciplinary Procedure

The Code of Conduct, which applies to the members of the Court rather than the Court itself,<sup>10</sup> has further rules for members' demeanour and management of a hearing.

**A. Administration**

**B. Commencement of a case \***

1. This Part supplements Part D of the Court regulation.

Requesting a case

2. A case may only be requested in the following circumstances:
  - i. An interpretation, review or declaration may be requested by any member of the Union or constituent part of the Union.<sup>11</sup>
  - ii. A request for an adjudication in a role equivalent to that of the Press Complaints Commission may be made by any person or organisation

Deleted: accepted if it complies with regulation 7.23 and other provisions in this Part

Deleted: .

Deleted: 7.18

Deleted: 11.4

Deleted: and regulation 7.2

Deleted: 7.17

Deleted: 7.19

Deleted: 7.18

Deleted: 11.3

Deleted: 7.2

Deleted: 7

Deleted: 2, 4 and 5

Deleted: 7.20

Deleted: 11.6

Deleted: 7.16

<sup>1</sup> Regulation 2.19

<sup>2</sup> Constitution 9.1.4

<sup>3</sup> Regulation 2.18

<sup>4</sup> Regulation 2.19

<sup>5</sup> Regulation 2.19

<sup>6</sup> Constitution 9.3 and regulation 2.2

<sup>7</sup> Regulation 2

<sup>8</sup> Regulations 3, 4, 5, 6 and 7

<sup>9</sup> Regulation 2.18.2

<sup>10</sup> Constitution 9.6 and regulation 2.17

<sup>11</sup> However, under paragraph 56 of the Disciplinary Policy, requests for reviews of proceedings under the Disciplinary Policy will only be accepted when made by the President or a nominee

- [mentioned or referred to in a Union publication, or by the Mediation Board.](#)
- iii. [An appeal in an election or referendum dispute may be made by any candidate or elector in it.](#)
- iv. [An inquiry may be requested by the Trustee Board, Council, Executive Committee, 50 Full Members of the Union or any constituent part of the Union.](#)
- v. [A review of any proposed constitutional amendment, regulation, policy or act may be requested by any member of the Union or constituent part of the Union, and](#)
- vi. [A case in another jurisdiction created by any policy or rule shall be summoned in whatever way that policy or rule determines, or by standing orders.](#)

**Procedure for accepting a case**

3. The Chair and Deputy Chair shall initially decide if a case is properly brought. They may ask for additional information from the person or body requesting it or others if required. If they decide to reject it, or disagree, the matter will be referred to the whole Court which shall determine in committee whether to accept it. The Court may delegate certain categories of request to the Chair and Deputy Chair to reject without further reference.
4. The fact that a requested case merely appears unmeritorious on its face is not a reason in itself to be disregarded.<sup>12</sup> The proper forum for considering the merits of a case is in session.
5. The Court cannot institute a case of its own motion, though it may re-institute one if there are reasonable grounds to believe a previous order is not being complied with.<sup>13</sup>
6. A case must be accepted notwithstanding the rest of this Part if:
  - i. It is referred by the [Trustee Board or](#) Council,
  - ii. It is an appeal under the Disciplinary Policy<sup>14</sup> or
  - iii. It has been referred compulsorily to the Court for review under the constitution or regulations.<sup>15</sup>

**Pre-commencement directions**

7. [A nominee of the Court Chair may make directions, including specified compulsory directions in relation to a request for a case before the Court has decided to accept it or appoint a panel.](#)<sup>16</sup>
8. [Any such direction shall then be administered by the panel, if appointed. If the Court decides not to hear the case the directions shall lapse.](#)

**Interpretations, reviews or declarations**

<sup>12</sup> The process of choosing whether to accept a case exists only to prevent those where there is no student interest at all in its acceptance – the task of deciding its merits lies with the panel, not the Court in its administrative guise

<sup>13</sup> Regulations [2.25](#)

<sup>14</sup> [This does not include disciplinary appeals under other policies, where the appellant will have to demonstrate that the appeal has some merit](#)

<sup>15</sup> Examples of this include constitution [11.5](#) & [21.4](#) (constitutionality of referendum petitions) and regulation [1.28](#) ([arbitration upon request by Trustee Board](#))

<sup>16</sup> [Regulation 2.24](#)

Deleted: 7.75 – 7.63 (Part J)

Deleted: 8.4

Deleted: 20.6

Deleted: 2.34

Deleted: compulsory opinion to the Council on constitutional and regulatory changes

9. A request for an interpretation, review or declaration must be
  - i. Relevant to the person making the request, or
  - ii. Important to the Union, or any part of it, and in either case
  - iii. Not be a purely hypothetical or academic issue.

**Inquiries**

10. An inquiry<sup>18</sup> may be requested if particular events have caused, or are capable of causing, concern among the Full Membership, or there is concern among the Full Membership that particular events may have occurred. An inquiry differs from an interpretation, review or declaration in that it may require the Court to provide an opinion upon the merits and quality of an officer's or committee's decision-making, rather than just its procedural propriety.
11. Inquiries requested by a constituent part of the Union may only cover that part of the Union. A more senior constituent part, or several parts, may request the inquiry be widened to cover them.
12. In deciding if to agree to conduct an inquiry, the Court may consider whether the subject of the inquiry justifies the time and resources to be spent on it.

**Deleted:** These criteria do not apply to requests from the President, Executive Committee or Council.

**Deleted:** <sup>17</sup>¶

**Requests for a case by members of the Court**

13. The Court shall not accept a request for any kind of case by one of its own members unless:<sup>19</sup>
  - i. The member is a candidate in an election and appealing the returning officer or election committee's decision,
  - ii. The member was subject to disciplinary proceedings, or
  - iii. The member is personally directly affected by a matter and no other member of the Union not in the Court (who could instead make the request) is similarly affected.
14. Any member of the Court or the Court as a whole may complain about a publication matter to the Executive Committee,<sup>20</sup> which shall deal with it under its own procedures which are not subject to these standing orders. The Mediation Board shall have no role in such cases.

**Illogical, vexatious, frivolous or anonymous requests**

15. A request of any kind within any part of the Court's jurisdiction (except those covered under standing order B6) which is illogical, vexatious, frivolous or anonymous may be disregarded.

**Appeals**

16. [A request to the Court in its appellate jurisdiction \(except under the Disciplinary Policy\) which appears to be wholly unmeritorious may be disregarded.](#)

**Requests outside the Court's jurisdiction**

17. A request of any kind to the Court to hear a case (except those covered under standing order B6) which appears to have no reasonable prospect of being determinable within the Court's jurisdiction may be disregarded.

<sup>18</sup> Regulation [2.1.5](#) – inquiries

<sup>19</sup> Regulation [2.21](#) – also note the Code of Conduct prohibits the use of one's position on the Court to advance the interests of others or to assist one's own position in private disputes within the Union

<sup>20</sup> Regulation [2.5](#)

**Deleted:** 7.23.4

**Deleted:** 7.25

**Deleted:** 7.3

### C. Appointment of panels

### D. Hearings

1. This part supplements Part G of the Court regulation and paragraphs 11 – 15 of the code of conduct.
2. The panel chair is responsible for maintaining order and the agenda in the hearing. Any ruling made by him or her may be over-turned by a majority of the panel.
3. There shall be no formality of procedure or language beyond that needed fairly to conduct the hearing under the applicable rules.
4. Any Full Member of the Union may normally make submissions, arguments or comments to the Court. Any other person may normally do so if they are affected by any potential determination, are a student complaining he or she is discriminated against as a result of opting out of membership of the Union, or with the Court's leave.
5. No member of the Court who is not on the panel may make any submission, argument or comment to the Court in a hearing, unless he or she is an interested party in the hearing. A member may give evidence of any matter which he or she witnessed.

#### Interested parties

6. A person or part of the Union who is certain or likely to be personally and directly affected by a potential determination is an "interested party". The Court may deem such individuals as interested parties, though the following are automatically:
  - i. The person or constituent part of the Union who requested the case to be heard,
  - ii. A constituent part of the Union whose rules are being interpreted,
  - iii. The editor of and, if appropriate, the author or creator of the relevant media item in a publication complaint, and
  - iv. All candidates and the returning officer in an election appeal,
  - v. A person potentially subject to an electoral disqualification,<sup>21</sup>
  - vi. A defendant in a disciplinary case or motion.<sup>22</sup>
7. Reasonable steps must be taken to inform any interested party of the hearing and its purpose, and if practicable to schedule it so that the interested parties can attend.
8. An interested party has, along with any rights of a Full Member of the Union:<sup>23</sup>
  - i. The right of reply in any issue affecting them in the hearing,
  - ii. The right to know what arguments are being advanced in opposition to them, and

<sup>21</sup> Regulation [4.101 – 4.107](#)

<sup>22</sup> This includes anyone facing proceedings under the Disciplinary Policy, [a disciplinary tribunal](#), a censure or no confidence motion [or appealing against them \(if within the Court's jurisdiction to hear such an appeal\)](#) – those proceedings being reviewed or appealed in the hearing

<sup>23</sup> This ensures that those affected by a Court decision have the chance properly to answer anything said against them; [this also has the effect of giving those who are not Full Members the standard rights of Full Members in relation to the hearing \(for example to be present and be heard\)](#); see also standing order E8

Deleted: 4.104

Deleted: 4.106

Deleted: or

iii. To attend hearings in closed session unless specifically excluded.

9. [The absence of an interested party does not invalidate the proceedings, except if standing order K13.iii applies.](#)

**Deciding disputed facts**

- 10. Any evidence may be permitted which is relevant and fair.
- 11. Any person who wishes to give evidence may do so, but must then answer any further questions or suggestions made by the Court or another with its leave. If a person is not prepared to do so their evidence may be disregarded.<sup>24</sup>
- 12. If several people are giving evidence, then they may be excluded from the hearing (even if they are interested parties) until they have done so.<sup>25</sup>
- 13. A statement of agreed facts may be produced by direction with the consent of the interested parties.

**Disapplied rules**

- 14. The following rules within regulation 4 (standing orders for all Union meetings) do not apply to the Court in a hearing:<sup>26</sup>
  - i. Proxy votes,<sup>27</sup>
  - ii. Secret and roll-call ballots,<sup>28</sup>
  - iii. Quorum<sup>29</sup> (quorum is the whole panel, unless standing order C14 applies),
  - iv. Automatic resignation of members,<sup>30</sup>
  - v. Closed session<sup>31</sup> (instead regulations [2.4](#), [2.35](#) and [2.40](#) apply<sup>32</sup>)

**When hearings may be dispensed with**

- 15. A determination or report may be made without any public hearing (though a hearing can nevertheless be convened) only in the following circumstances:<sup>33</sup>
  - i. A request for a report in relation to a proposed constitutional amendment, regulation, policy or act,
  - ii. Approving (but not rejecting) a referendum petition as constitutional,<sup>34</sup>
  - iii. Approving (but not rejecting) a new referendum returning officer or members of a referendum committee,<sup>35</sup> and

<sup>24</sup> “Cross-examination” provision – this means that no person can simply speak about disputed facts without having what they say tested if necessary. This relates only to “evidence”, that is, what events may or may not have happened. This is distinguished from submissions or suggestions about what the rules or policies mean.

<sup>25</sup> This is an old rule of evidence to make it more difficult for people to fabricate an account as they can’t hear what the others are saying or what questions are being asked of them before they testify

<sup>26</sup> Regulation [2.18.2](#)

<sup>27</sup> Regulations [6.23](#) – [6.25](#) and [2.16](#)

<sup>28</sup> Regulation [6.22](#)

<sup>29</sup> Regulations [6.29](#) – [6.30](#)

<sup>30</sup> Regulations [6.31](#) – [6.32](#)

<sup>31</sup> Regulations [6.39](#) – [6.42](#)

<sup>32</sup> Parts of regulation [2](#) which determine when closed session may be or is required to be used

<sup>33</sup> Regulation [2.34](#)

<sup>34</sup> Constitution [11.5](#) and regulations [4.34](#) – [4.35](#)

<sup>35</sup> Regulation [4.38](#)

Deleted: 7.40

Deleted: 7.42

Deleted: ,

Deleted: 7.46

Deleted: 7.65

Deleted: 7.20

Deleted: 4.27

Deleted: 4.30

Deleted: 7.21

Deleted: s

Deleted: 4.24

Deleted: – 4.26

Deleted: 4.34

Deleted: 4.35

Deleted: 4.36

Deleted: 4.37

Deleted: 4.43

Deleted: 4.46

Deleted: 7

Deleted: 7.41

Deleted: 8.2.4

Deleted: 2.34

Deleted: 2.38

- iv. Referring a breach of a penalty back to the Disciplinary Committee under section 44 of the Disciplinary Policy, if the person or body accused of breaching it accepts the breach.
16. Directions can be made without a public hearing but are then subject to a later review in a hearing.<sup>36</sup>

**Closed session**

17. The Court may, but need not, direct that a hearing or part of a hearing is in closed session only if:
- i. Staff matters are being discussed (compulsorily in closed session),
  - ii. A member of the Union staff is giving evidence in his capacity as a member of staff, unless he or she consents to being heard in public,
  - iii. A decision or act under the Disciplinary Policy, Disciplinary and Complaints Regulation, or other disciplinary procedure is being reviewed, and a defendant student or body does not wish it to be in public,
  - iv. The Court is of the view that the quality of a person's evidence would be improved by it being given in private, due to its sensitivity or their vulnerability,
  - v. It relates to a without notice application for a direction to search premises or other purpose, or
  - vi. In cases of grave disorder.

**E. Determinations and reports**

**F. Compliance hearings**

**G. Appeals \***

1. This Part supplements Part J of the Court Regulation. Deleted: L
2. The Court shall appoint with the approval of the Council an appellate panel of its members who are of proven and substantial ability and integrity.<sup>37</sup>

**Appeals to the Trustee Board**

3. In these standing orders an "appeal" is defined as an appeal from a determination by the Court to another panel of its members. An appeal to the Trustee Board may be possible after this appeal process is exhausted.<sup>38</sup> Deleted: Rector's  
Deleted: a
4. Leave to appeal internally and leave to appeal to the Trustee Board, are not the same, and either or both may be given or denied. If an internal appeal is heard, the Trustee Board's leave is quashed, though the appellate panel may re-grant it.<sup>39</sup> Deleted: Rector  
Deleted: Rector

**When appeals are possible**

5. The appellate jurisdiction within the Court only exists if:
- i. At least one person is a member of the appellate panel, and

<sup>36</sup> Regulation 2.30

<sup>37</sup> Regulation 2.54

<sup>38</sup> Regulations 2.55 – 2.56

<sup>39</sup> This provision is to prevent having two appeals simultaneously in different directions, with the attendant problems this could cause. An external appeal can only be made once the internal process is exhausted.

Deleted: 7.32

Deleted: 7.68

Deleted: 7.69

Deleted: & 7.70

- ii. Sufficient members of a permissible panel are available to hear an appeal.
6. The Court shall not hear an appeal in a matter relating to:<sup>40</sup>
- i. proceedings under the Disciplinary Policy (except in its role as the Union Appeals Committee itself),
  - ii. a publication dispute in a role equivalent to the Press Complaints Commission which was itself an appeal from the Mediation Board, or
  - iii. a report produced as a result of an inquiry, or review of a proposed constitutional amendment, regulation, policy or act (but it may from an interim determination leading up to one).
7. The Court shall not hear an appeal from an interim determination,<sup>41</sup> or direction<sup>42</sup> (including a specified compulsory direction) unless
- i. leave is given by the panel making one,
  - ii. the final determination has also been made, or
  - iii. the Court in committee, upon appointment of the panel, provided for appeals to be permitted from interim determinations in that case.<sup>43</sup>

**Scope of appeal**

- 8. An appeal panel shall accept all the facts found by the original panel and not reopen any factual inquiry unless new and relevant evidence has emerged or an original factual decision appears unreasonable.
- 9. An appeal panel shall confine itself to the issues which concerned the original panel, unless it determines that the interests of justice require new issues to be considered.
- 10. Subject to the above restrictions, the appeal panel may amend, rescind or add to any part of any direction, interim or final determination, or other aspect of the Court's jurisdiction in session, including any associated orders. The appeal panel may also, after making a ruling, remit any matter back to the original panel for a further determination.

**Leave to make an appeal**

- 11. An appeal may only be requested within two weeks of the final determination.
- 12. A person or body requesting an appeal, unless the original Court panel has given leave or it is the Council, must:
  - i. be directly affected by an order or lack thereof, and
  - ii. justify, in the light of the restrictions on the scope of an appeal (particularly on questions of fact), upon what grounds the original determination was incorrect.
- 13. Leave may be granted, as satisfying the requirements in this Part, by

---

<sup>40</sup> The exclusions from appeal here are matters which have already been appealed, or where an appeal would be illogical, such as a report, which is normally written for the benefit of the Council or other committee which would be a better forum for grievances to be aired

<sup>41</sup> Regulation [2.43](#) – these are determinations mid-way through a case to resolve preliminary matters or narrow down issues

<sup>42</sup> Regulations [2.30 – 2.33](#)

<sup>43</sup> This is to prevent appeals from stymieing the Court mid-way through a case; however there may be larger cases when appeals may be appropriate on certain issues, so the Court can institute a main panel and appellate panel for more specialist or complex issues

Deleted: 7.49

Deleted: 7.31

Deleted: 7.40

- i. A majority vote of the Chair, Deputy Chair and members of the appellate panel (under standing order G2), but excluding anyone on the original panel,<sup>44</sup>
  - ii. The original panel, or
  - iii. The Council.
14. If, and only if, there are insufficient available people to hear an appeal then those listed in standing order G13.i may, despite leave being granted, revoke it. In doing so they may grant or re-instate leave to appeal to the Rector.

**Appointment of panel to hear appeal**

15. The panel to hear the appeal shall be appointed in the same manner as a normal panel, except:
- i. those listed in standing order G13.i make the appointment,
  - ii. no person upon the original panel may sit on an appeal from a direction or determination therefrom, or participate in the appointment of the appellate panel,
  - iii. only members of the appellate panel may chair it,<sup>45</sup>
  - iv. members of the appellate panel must form a majority of members,<sup>45</sup> and
  - v. a member may only sit alone if approved to do so by the Court and the Council under standing order C10, as well as being on the appellate panel.

**Divided panel**

16. If the panel hearing the appeal consists of an even number of members (under standing order D11) and is evenly divided then any proposed order falls<sup>46</sup>, and if voting on whether to allow or dismiss an appeal, the appeal is dismissed.

**H. Specified compulsory directions \***

- 1. This Part supplements Part F of the Court regulation.
- 2. The three specified compulsory directions are those directions set out in regulation [2.32](#) to be: a requirement to attend and answer questions, production of items and search.
- 3. These provisions do not apply to the Executive Committee in exercise of its equivalent powers under regulation 3.8 (except as it or the Council may so incorporate them).
- 4. All specified compulsory directions must only be made when:

Deleted: 7.34

<sup>44</sup> It follows that if an appellate panel is appointed by the Court and Council they (along with the Chair and Deputy Chair in their administrative capacity if not already members of the panel) they would need to decide whether an appeal request met the criteria as well; an independent appeal process necessarily excludes people who sat on the original panel from administering an appeal against their own decision – if all of appellate panel sat on the original panel then there cannot be an appeal in any event so it doesn't matter that they're all excluded by this provision from deciding the merits of an appeal request

<sup>45</sup> Regulation [2.54](#)

<sup>46</sup> Orders normally need approval of the majority of the panel under standing order E4 – here the rule about the panel chair voting a second time (only for even-numbered panels) is displaced with another rule dismissing the appeal; the rationale is that for the original hearing, some kind of decision is absolutely necessary, so the chair takes it – however for appeals a split appellate panel cancels itself out and leaves the original decision to stand

Deleted: 7.68

- i. They are relevant to the Union administration,
  - ii. there is no other way in which the information can be obtained, and
  - iii. their contents are likely to affect a final or interim determination.
- 5. An application for a specified compulsory direction can be made to the Court in closed session without notice to other interested parties.<sup>48</sup>
- 6. Any applicant for a search direction must make full disclosure of any relevant facts known to them in requesting such a direction. If such disclosure is not made the Court shall ensure that no advantage can come to any applicant as a result of such a failure, which may among other things involve revocation of the direction, exclusion from the case of anything found as a result of it or discontinuance of the case.<sup>49</sup>
- 7. A panel ("the SCD panel")<sup>50</sup> may be appointed by the Executive Committee or in an urgent situation, the President to perform certain duties in respect of these specified compulsory directions, with the following rules:
  - i. Members of the Executive Committee are always members of the panel,
  - ii. Union members, Union or College staff or licensed members<sup>51</sup> only are eligible, and
  - iii. No member of the Court shall be on the panel.
- 8. One or more members of the SCD panel, excluding those who have an interest in the hearing, must be appointed by a Court panel if making a search direction or production of item direction (unless in the latter case copies can and will be made by the subjects of the direction).
- 9. SCD panel members act under the direction of the Court.
- 10. In making any order for the production of any document or item:
  - i. Copies of a document should be requested unless sight of the original is necessary,
  - ii. Custody of any item (unless a copy) should be handed over to a member of the SCD panel,
  - iii. Any items should be returned as soon as is practicable.
- 11. In executing any search direction:
  - i. It must be under the supervision of a member of the SCD panel,
  - ii. No search of a person or residence is permitted,
  - iii. It may only apply to the offices of a permanent member staff with the approval of the President or General Manager,<sup>52</sup>

Deleted: 47

Deleted:

<sup>48</sup> Regulations 2.30 (directions made administratively) – clearly a search direction (in particular) would have little use if those to be searched knew about it in advance

<sup>49</sup> Since the search direction is among the most Draconian of the Court's powers, anyone requesting it must be entirely fair and open

<sup>50</sup> Since these are Draconian powers the Court delegates the task of searching and retaining items to a body outside its own membership so that members of the Court do not get too involved in the mechanics of enforcing its authority

<sup>51</sup> In serious cases which necessitate independent supervision of a search, a person licensed by the Security Industry Authority or a constable could be used on the SCD panel

<sup>52</sup> Regulation 2.32.3

Deleted: 7.32

Deleted: and 7.40.5

Deleted: 7.34.3

- iv. Those searching must explain to any person present who asks the terms of the order and that it can be re-considered at a hearing,<sup>53</sup>
- v. Only items clearly covered by the direction may be removed or copied,
- vi. A list must be made of any items removed or copied, and they are to be restored as soon as possible,
- vii. Documents should not be removed if satisfactory copies can be made at the time,
- viii. No electronic equipment should be removed if opportunity has been given to copy or print out the relevant material, and it is satisfied that nothing further may be found upon it,
- ix. No fragile item may be searched, used or removed unless a person accompanying the search has sufficient expertise not to damage it, and
- x. If the place of search is likely to have an unaccompanied woman, then at least one woman must accompany the search.<sup>54</sup>

I. **Disciplinary Proceedings, Appeals and Reviews**

- 1. The part supplements the Disciplinary Policy, [the Disciplinary and Complaints Regulations Part H and the Clubs and Societies Policy](#).
- 2. [Any case dealt with under this Part must follow the same procedure \(namely appointment of a panel, a hearing, determination and orders\) as any other case.](#)  
**Disciplinary Policy**
- 3. Any rule, restriction or power in the Disciplinary Policy imposed upon or given to the Court or other person shall bind the Court in its internal administration.<sup>55</sup>
- 4. The selection of the chair, members and replacement Clerk (if necessary) of the Disciplinary Committee<sup>56</sup> shall normally be performed by whoever of the Chair and Deputy Chair is the Full Member of the Union, or his or her nominee within the Court.
- 5. No member of the Court who served upon the Disciplinary Committee shall participate in the appointment of the panel to act in any appeal, or sit on it.
- 6. Any appeal or review of proceedings under the Disciplinary Policy shall be in closed session, unless the defendant student or body wishes it to be in public.<sup>57</sup>
- 7. When the Court is acting as the Union's Appeals Committee it should if possible be composed of at five members.
- 8. A breach of a Disciplinary Policy penalty imposed or affirmed by the Court acting as the Union's Appeals Committee, or reviewing the same, shall be dealt with

Deleted: Proceedings relating to the

Deleted: Policy

<sup>53</sup> [Standing order D15](#)

<sup>54</sup> This reflects a rule in the (real) civil courts for search orders (CPR practice direction 25, paragraph 7.4(5) to cater for the potential vulnerability of someone in that position)

<sup>55</sup> Constitution [9.1.4](#) and regulation [2.2](#) prevents Union policy from binding the Court's internal administration – however the Disciplinary Policy purports to do so and has also been approved by the College Council as doing so; therefore the standing orders (which do bind the Court) 'confirm' any rule the Disciplinary Policy makes in respect of the Court's internal rules

<sup>56</sup> Disciplinary Policy paragraph 20

<sup>57</sup> Disciplinary Policy paragraph [34](#) and regulation [2.35](#)

Deleted: Regulation 7.37

Deleted: 11.4

Deleted: 7.2

Deleted: s 18 –

Deleted: 31

Deleted: 7.40.3

under paragraphs [46](#) and [47](#) of the Disciplinary Policy and not in a Court compliance hearing.<sup>58</sup>

Deleted: 44

Deleted: 45

### Disciplinary Tribunal

9. The Court may only act as a disciplinary tribunal under Regulation 7 Part H upon the request of the President, Council Chair or Trustee Board Chair.<sup>59</sup>
10. The Court shall consider whether to accept the case under Part B of the standing orders, in particular ensuring that the alleged misconduct not merely constitutes (though it may include):<sup>60</sup>
  - i. a failure to maintain the confidence of the Council or other policymaking body,
  - ii. a failure to adhere to any manifesto commitment, or
  - iii. inadequate representation on behalf of the student body.
11. The Court may exercise any of its other jurisdictions at the same time as acting as a disciplinary tribunal.<sup>61</sup>
12. If the President requests that the Court acts as both a disciplinary tribunal and in place of the Disciplinary Committee under paragraph 23 of the Disciplinary Policy then the panel appointed shall have both jurisdictions.
13. The following procedures shall be followed in addition to others set out in the standing orders in relation to a disciplinary tribunal:
  - i. The defendant shall have reasonable notice of the hearing and be informed of the charges against them in writing;
  - ii. The defendant may bring witnesses and a representative, giving notice to the Court if so doing;
  - iii. The hearing shall not be invalidated by the absence of the defendant provided reasonable notice has been given of it;
  - iv. The Court shall consider firstly whether each of the charges is true, secondly whether each constitutes misconduct, and thirdly what penalty or referral may be imposed;
  - v. The Court may amend a charge if it does not cause injustice to the defendant to do so;
  - vi. The Court, if evidence of the charges taken at its highest could not either prove them or demonstrate misconduct, shall dismiss the case without hearing from the defence;<sup>62</sup>
  - vii. If the defendant does not give evidence at the hearing (and is competent to do so), or failed to mention when asked in any prior investigation something he or she later relied upon in the hearing, the

<sup>58</sup> When the Court sits as the Union Appeals Committee there are potentially two ways in which a breach can be dealt with – it could go (via the Court) back to a Disciplinary Committee for further sanctions to be considered, or go to the Court for a compliance hearing; since the Disciplinary Policy includes its own system for penalty breaches, breaches are dealt with under it rather than the Court’s normal system

<sup>59</sup> [Regulation 7.63](#)

<sup>60</sup> [Regulation 7.62](#)

<sup>61</sup> [Regulations 2.23 and 7.65](#)

<sup>62</sup> Commonly known as the *Galbraith* test in criminal law, this means that if the evidence is particularly weak the case should be stopped as it is not the purpose of disciplinary proceedings to force a person to incriminate himself or herself in the absence of proper evidence

Court may draw such inferences as appear proper in relation to the facts or finding of misconduct;<sup>63</sup>

- viii. Earlier misconduct shall not be presented or taken into account until a finding of misconduct has been made; and
- ix. A finding of misconduct shall only be made if no more than one member of the panel dissents.<sup>64</sup>

- 14. The Court may at any stage in the disciplinary tribunal, or in committee if considering whether to accept the matter, refer it to the Trustee Board.<sup>65</sup>

#### **Other Disciplinary Appeals**

- 15. Appeals to the Court in relation to disciplinary proceedings shall only be accepted in exceptional circumstances before an internal appeals process is exhausted.
- 16. The Court may decide to hear an appeal by way of re-hearing or review of the reasonableness of the original decision.

#### **J. Mediation Board**

- 11. The right of a party to refer a complaint to the Court only comes into existence after the first meeting of the Mediation Board, or two weeks since the complaint was made, whichever is the earlier.<sup>66</sup> \* The Court may in committee or session refer such a dispute or part thereof back to the Mediation Board as an alternative to hearing the case, without prejudicing its position in the event of a further referral.

<sup>63</sup> Failure to comment or give evidence can be held against a defendant – this is of particular relevance given disciplinary tribunals are held in relation to office-holders in the Union

<sup>64</sup> Provision duplicated in standing order E5

<sup>65</sup> Regulation 7.64

<sup>66</sup> Regulations 2.22 and 2.19.4 (restrictions on summoning cases) – requires Council's approval

Deleted: 7.23