

# By-law 12

## YUSU Code of Conduct

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*YUSU is an inclusive organisation that recognises misconduct from members can have a direct impact on the wellbeing of other members of our community. This by-law sets out the personal conduct expected from all members of the Union when on Union property, taking part in activities organised by the Union and its affiliated groups and activities or representing the Union within and beyond the University. It covers the expected behaviour of YUSU members and members of YUSU student groups when participating in any activity or event, in-person or online.*

*YUSU reserves the right to refer alleged breaches of the University of York's regulations to the relevant bodies within the institution.*

### **1. What are the aims of this Code of Conduct?**

- 1.1. To protect members.
- 1.2. To protect others potentially affected by members' actions.
- 1.3. To ensure the highest possible standards of fairness, honesty, competition and conduct.
- 1.4. Reduce the risk of harm, injury, harassment and nuisance to members and the wider community.
- 1.5. Create an inclusive student environment.
- 1.6. Detail the actions that can be taken should the Code of Conduct be breached.

### **2. Scope**

#### **2.1. This policy applies to:**

- 2.1.1 Members including all members and participants of student groups affiliated to the Students' Union.
- 2.1.2 All students officially appointed to any group, project or team or participating in related activity, including but not limited to trips and individuals competing in an event (including administrators, coaches, managers, medical practitioners and physiotherapists).
- 2.1.3 Spectators/supporters of a student group.
- 2.1.4 Misconduct that happens on social media.

#### **2.2 Disciplinary action may be taken in respect of misconduct:**

- 2.2.1 On YUSU premises.
- 2.2.2 While the member is using YUSU facilities or at a YUSU event.
- 2.2.3 While a member is representing or acting on behalf of YUSU at an event of whatever kind or wherever held.

- 2.2.4 In relation to actions or incidents between two or more members in any or none of the settings above, or in relation to actions or incidents between YUSU representatives and staff or stakeholders.
- 2.2.5 Breaching YUSU policies or procedures or those of the institution where they relate directly to YUSU.
- 2.2.6 YUSU may suspend any investigation should it become aware of legal proceedings in response to the issues raised in the complaint or a process under the University's own regulations. Similarly YUSU reserves the right to refer allegations of any criminal offence to the relevant authorities and suspend its own proceedings until the outcome of police or criminal proceedings are known, other than where duty of care considerations mean alternative action is deemed appropriate.

### **2.3 Areas not covered by this procedure:**

- 2.3.1 General disputes between students.
- 2.3.2 Accountability matters will be dealt with under the relevant by-laws.
- 2.3.3 Alleged misconduct in relation to elections or referendum will be dealt with under the relevant by-laws.
- 2.3.4 Alleged misconduct that may constitute a criminal offence and is subject to investigation by the police may not be considered until relevant processes have closed.
- 2.3.5 Alleged staff misconduct will be handled under internal Human Resources procedures.
- 2.3.6 Generally media complaints should be handled under the Media Charter rather than this Code of Conduct unless the nature of the complaint is complex or requires specialist input.

2.4 For the avoidance of doubt, no part of this procedure shall be taken to indicate that any decision can be made to suspend or terminate any membership entitlements that are protected by law, namely:

- To vote in any election for major Union office;
- To vote in any ballot concerning Union affiliations.

2.5 For the avoidance of doubt, this procedure supercedes all other procedures relating to ratified student groups. Any questions or disputes about the most appropriate procedure for handling a particular matter will be resolved by the supervising trustee.

### **3. Who can submit a complaint under this by-law?**

- 3.1. The procedure is open to current students including those on Leave of Absence; and students who have left within the last three months.
- 3.2. Complaints are not normally accepted by third parties other than in exceptional circumstances. Any such exceptions must be agreed by the complaint handler.

- 3.3. Anonymous complaints will not normally be accepted without a compelling reason and related evidence. Any such circumstances will be agreed by the complaint handler.
- 3.4. Frivolous, malicious or vexatious complaints will not be accepted. If YUSU considers complaints to be vexatious this may constitute a breach of this Code of Conduct.

#### 4. Definitions

The definitions used in this policy are as follows:

- **Student Group** refers to affiliated YUSU activity groups including sports clubs, societies, volunteer projects, committees and networks.
- **Members** refers to the student members of the Union as defined in the Union's Articles of Association.
- **Supervising Trustee** refers to the external trustee appointed to provide governance oversight of the Union's complaints processes.
- **The Institution** refers to the University of York.
- **Officer Group** refers to elected students comprising part time officers (elected to be Officers while continuing their studies) and the full time sabbatical officers.
- **Complaint Handler** - manager with oversight of complaint handling tasked with appointing investigators, reviewing reports and decision making on routes for complaint handling.
- **Investigating Officer** refers to the named individual appointed to undertake a complaint investigation.

#### 5. Terms of the Code of Conduct

5.1 Breaches of discipline include (but are not limited to):

- Breaching YUSU policy or procedures or agreed protocols, or those of the institution where they relate to YUSU.
- Any other conduct that may be considered damaging to the reputation, interests or operations of YUSU.

5.2 Decisions in relation to potential breaches will be taken on the balance of probability.

5.3 All Union members/participants of ratified student groups must abide by the terms outlined below:

- 5.3.1 Members must act responsibly at all times and avoid any actions or conduct which could bring the reputation of the student group, YUSU, the University or sponsors/funders, associates or partners into disrepute or be detrimental to the reasonable enjoyment of the Union by other members and their guests;
- 5.3.2 A member must not participate in any action which might cause damage to themselves or others;
- 5.3.3 Members must report any action that may cause or have caused damage to themselves and others;
- 5.3.4 Members must respect the property (and property under control) of the University, YUSU, the student group and of other members;
- 5.3.5 Socials (and any related activity) must be opt-in only and have no effect on eligibility to hold membership of the student group or a committee position;
- 5.3.6 Members of the student group should not pressure or coerce any other members into any action with which they feel uncomfortable;
- 5.3.7 Members should be aware of how their actions may be perceived by others;
- 5.3.8 Members must conduct themselves in a reasonable manner relating to language, noise and behaviour;
- 5.3.9 When competing in events and competitions, members must compete in a manner of fair play with respect for opponents and polite behaviour regardless of the nature of the competition, when representing YUSU/the University;
- 5.3.10 Members must treat facilities, staff and students at the University and other institutions with respect and abide by any rules that may apply;
- 5.3.11 Members must refrain from any form of harassment of others and respect the rights, dignity and values of others, refraining from behaviour that is unwelcome, uninvited and causes a detrimental effect;
- 5.3.12 Members must not encourage or pressure others into acting against the Code of Conduct;
- 5.3.13 Members must operate within the rules, including national guidelines or relevant student group constitutions and procedures which govern activity;
- 5.3.14 Members must not carry out initiation ceremonies as detailed below;
- 5.3.15 Members must not be unduly intoxicated at any event or activity where such behaviour could be deemed unacceptable or unprofessional; during social events, especially those involving the consumption of alcohol, members must be aware of behaviour and the impact on others, particularly members of the local community;
- 5.3.16 Members must not consume alcohol whilst being transported to or from any activity organised under the umbrella of the student group, YUSU or the UoY;
- 5.3.17 Members must not disclose any confidential material about the Union, other members or officers, unless prior permission has been granted by Officer Group;
- 5.3.18 Members must abide by the law at all times;

5.3.19 Members take responsibility for their own understanding of this Code of Conduct and the repercussions of any breaches and must seek further information or clarification if they are unsure about how it should be applied.

## 5.4 Initiations

5.4.1 YUSU and the University of York do not permit initiation ceremonies. Initiation ceremonies are defined as:

“An event at which members of the group are expected to perform an activity as a means of gaining credibility, status or entry into that group. This peer pressure is normally (though not explicitly) exerted on first year students or new members and may involve the consumption of alcohol, eating various foodstuffs, nudity and behaviour that may be deemed humiliating”.

5.4.2 Social activities such as welcome evenings, team meals, social nights, trips away and celebration events that welcome new members and give a positive first impression of university life are encouraged.

5.4.3 The following rules must be followed:

- All activities must be opt-in and have no bearing on the acceptance into the student group or team/squad selection etc.
- Peer pressure must not be exerted on individuals.
- Activities must not be humiliating, unlawful or degrading.
- Activities must not involve the forced consumption of any fluid/substance
- Taking of alcohol to the activity/event must not be made a condition of attendance.
- If activities involve alcohol then non-alcoholic drinks must be made available.

5.4.4 Activities must not bring the reputation of YUSU, The University of York, or the Student Group into question or disrepute.

5.5 The organiser of the event and the Club Captains/Presidents of the group will be held responsible for any initiation ceremony that takes place and will run the risk of being suspended or expelled from the University should any instances occur.

5.6 All organisers are encouraged to speak to the York Sport President (or Activities Officer as appropriate) for guidance regarding welcome events.

## 6 Supervising Trustee

6.1 The Board of Trustees shall annually appoint an external trustee to supervise the formal complaints procedure.

## **7 What happens if this Code of Conduct is breached?**

- 7.1 The investigation process is initiated once an action is reported to one of the sabbatical officers or a Students' Union staff member.
- 7.2 Complaints should be made in writing and include the name and contact details of the complainant, the individual or group to whom the complaint refers, the nature of the complaint and a preferred course of action to resolve the matter. Anonymous complaints will not normally be accepted without a compelling reason and related evidence. Any such circumstances will be agreed by the complaint handler.
- 7.3 A complaint handler will contact the member or student group in question to obtain further information as needed to ascertain whether this is the most appropriate policy for the issue being raised, considering the nature of the issue, the complainant's preferred course of action (where appropriate) and any scope for informal resolution.

## **8 Informal resolution**

- 8.1 Some minor cases of misconduct and poor performance are best dealt with informally, outwith the formal disciplinary procedure.
- 8.2 Such an approach may be appropriate in cases including but not limited to minor disagreements in student groups or matters where allegations may have been made in error.
- 8.3 As appropriate, early stage discussion, mediation or conciliation may be facilitated between those involved provided all parties are in agreement. In such instances complaint handlers may recommend an informal course of action to address the matter.

## **9 Investigations**

- 9.1 When the issue cannot be satisfactorily resolved informally or the alleged infraction is serious enough to be dealt with formally under the Code of Conduct, the following steps will be taken:
  - 9.1.1 An impartial YUSU staff member (an investigating officer) will undertake a preliminary investigation to establish the facts.
  - 9.1.2 The investigating officer will formally notify the complainant and respondent of the investigation and their name and contact details.
  - 9.1.3 Respondents will be encouraged to submit a statement in response to the complaint, setting out their response and any mitigation. The deadline for doing so is five working days after the date of formal notification of the investigation.
  - 9.1.4 If a student does not respond to communication or engage with the investigation or subsequent process, it will be deemed that they have nothing to add.
  - 9.1.5 The investigating officer will produce a preliminary investigation report that is referred to the complaint handler.
  - 9.1.6 The complaint handler will decide whether the matter should be closed, or arrange for the matter to be dealt with under the formal disciplinary procedure.

- 9.2 YUSU aims to confirm the outcome of the preliminary investigation to the complainant within ten working days of the formal notification of the investigation. Where this is not possible subject to the availability of relevant parties, access to information, term time or other issues, the timeframe may be extended by discretion and relevant parties will be advised.
- 9.3 YUSU will recognise that being the subject of a complaint can be a difficult time for an individual. Any necessary investigations and procedures will be undertaken with appropriate discretion, care and consideration. YUSU will endeavour to ensure all steps in the process remain fair and in line with equal opportunities policy and procedures.
- 9.4 No member involved in a matter covered by the Code should comment publicly on the incident. Failure to observe this requirement may result in disciplinary action being taken under this Code.

## **10 Suspensions**

- 10.1 In certain circumstances, for example cases involving gross misconduct; where relationships have broken down; issues are of a highly sensitive nature or threaten serious disruption to students or YUSU activities; where it is considered there are risks to property or the Union's responsibilities to other parties; or safeguarding/ health and safety risks are identified in relation to one or more parties, consideration should be given to a period of suspension of membership rights with or without entitlements whilst an unhindered investigation is conducted.
- 10.2 Decisions on suspension should be undertaken by the supervising trustee.
- 10.3 Such a suspension should only be imposed after careful consideration and should be reviewed regularly by the relevant case handler in conjunction with the supervising trustee to ensure that it is not unnecessarily protracted.
- 10.4 The reasons and basis for the suspension will be communicated to those concerned; updates will be issued at key points as appropriate, for example when preliminary findings are issued, when an outcome is reached.
- 10.5 Excluding a member from participation in YUSU activities is not in itself a form of disciplinary action whilst the investigation is progressing.
- 10.6 Because the ability to hold elected office in YUSU is dependent upon membership status and one of the rights and privileges of membership, suspension of entitlements would represent a suspension of that holding of office.

## **11 Formal disciplinary procedure - stages of action**

- 11.1 On a case by case basis, depending on the complexity, nature and severity of the matter under consideration, formal disciplinary matters will be resolved locally, or referred for consideration to a formal hearing.

## **12 Local resolution**

- 12.1 Such an approach may be appropriate in cases including but not limited to straightforward cases; minor infringements; and cases where the facts are not disputed by all parties involved.
- 12.2 Local resolution is intended to allow matters to be considered swiftly.

12.3 Following an investigation of misconduct an investigating officer will make a recommendation on whether there is a case to answer taking into account any evidence including statements from parties involved, mitigating circumstances etc. The recommendation will be referred to a case handler and a sabbatical officer for decision.

12.4 Sanctions on local resolutions will be in line with the minor sanctions set out on the matrix below and may include but are not limited to:

- Attendance at relevant workshops
- Warning (verbal or written)
- Letter of apology to be written.

### **13 Formal disciplinary panel**

13.1 Panels will take place where the investigating officer has established a case to answer but the situation is more complex, or the facts of the matter are disputed.

13.2 The complaint handler will appoint a review group to review the preliminary investigation, undertake further investigation as required and rule on the alleged breach of the Code of Conduct.

13.3 The review group will consist of trained panel members including:

- A YUSU staff member
- A YUSU sabbatical officer or member of the trustee board.
- A member of the YUSU Senior Management Team.

13.4 Panels will take place where the investigating officer has established a case to answer but the situation is more complex, or the facts of the matter are disputed.

13.5 The review group may decide to invite the reported students to a hearing panel, where the review group will form a panel and give the student(s) concerned the opportunity to state their case and respond to the allegations that have made been made.

13.6 Hearing panels will always be held in cases where the allegations are serious or where the potential consequences are severe.

13.7 The reported students will be notified in advance of the hearing and will be provided with any documents and written evidence to be used in the hearing as well as an opportunity to respond in writing ahead of the hearing to respond to/ challenge the report, or set out mitigations.

13.8 Reasonable attempts will be made to hold hearings at a mutually convenient time.

13.9 Students will have the right to be accompanied by a representative of their choice from the University community (either a staff member, Union staff member (as appropriate) or student) during the hearing and to call witnesses as appropriate.

13.10 Before the hearing, the investigating officer will be invited to present their findings to the review group panel in detail.

13.11 Students are expected to attend in person other than in exceptional circumstances.

13.12 The student may call any witnesses that may submit a statement or where appropriate and required, attend in person.

13.13 YUSU will take steps to avoid any perception of bias with panel composition. If it is found difficult to convene a panel with no previous involvement with the student it may consider using student representatives or staff or officers from neighbouring unions.



- 13.14 The review group will make a ruling on the breach and issue sanctions befitting the severity of the breach of the code.
- 13.15 The student will be informed of the decision in writing within five working days of the hearing.
- 13.16 Depending on the nature of the complaint, complainants may not necessarily be informed of the outcome, given privacy concerns.
- 13.17 Where it is believed the University's regulations and policies are breached, the matter may be referred to the University for consideration under the institution's own regulatory procedures.

#### 14 Sanctions for breaching the code of conduct

- 14.1. Any breach of this Code of Conduct may result in YUSU, York Sport Union or University disciplinary action. Each of these can lead to one or more sanction. More serious breaches can lead to University disciplinary action which may impose disciplinary sanctions which affect individuals' students
- 14.2. If the incident occurred at the end of an academic year the sanction(s) may be levied for the following year. Set out below is a matrix that details the decision making process and potential sanctions.
- 14.3. Code of Conduct matrix:

The following is a guide to what might be expected and sanctions may vary on a case by case basis.

	Likely severity of harm (injury to person and/or damage to reputation)			
<b>Breach of the Code of Conduct</b>		<b>Slightly harmful</b> (minor or no injury/no or low reputational damage (1))	<b>Harmful</b> (hospitalisation/local level reputational damage to YUSU or University) (2)	<b>Extremely harmful</b> (major injury or death/national level reputational damage to YUSU or University) (3)
<b>No/minor breach</b> (1)		1	2	3
<b>Moderate breach</b> (University rules broken) (2)		2	4	6
<b>Major breach</b> (civil/criminal law broken) (3)		3	6	9

#### 14.4 Group sanctions:

1	Warning
	Letter of apology to be written
2	Session cancellation/ society event cancellation
3	Grant reduction
	Match cancellation
4	Reduction of core training hours
	Loss of performance sport privileges
	Removal of privileges (e.g. room facilities, email, coaching, hiring vehicles) for one month
	Removal of grant funding and/or the ability to apply for funding the following year
6	Removal of team(s) from BUCS Competition for 1 year
	Removal of club from BUCS Competition for 1 year
	Removal of privileges (e.g performance sport, room, facilities, email)
	Removal of stall at Freshers' Fair
9	Referral for consideration of University disciplinary action
	Disbandment of Student Group

#### 14.5 Individual sanctions:

1	Warning
	Letter of apology to be written
2	Society or match ban
3	Numerous society event or match bans
	Removal of privileges
4	Expulsion of the individual from the Student Group
6	Expulsion of membership from YUSU
	Removal of individuals from BUCS Competition for 1 year

#### 14.6 Summary termination of entitlements

In rare circumstances a member's entitlements may be terminated (or partially suspended) if it is established that after investigation and hearing that there has been an act of gross misconduct, major breach of duty or conduct that brings the organisation into disrepute.

14.7 Acts that may constitute gross misconduct include, but are not limited to:

- Theft, fraud and deliberate falsification of records.
- Physical violence or threats
- Deliberate damage to organisational or personal property
- Serious incapability whilst representing YUSU brought about through alcohol or illegal drugs
- Misuse of organisation's property or name
- Bringing the organisation into serious disrepute
- Serious infringement of health and safety rules
- Serious bullying or harassment
- Sexual misconduct
- Serious infringement of equal opportunities, safe space, no platform, safeguarding policy

14.8 As stated in 10.6, because the ability to hold elected office in YUSU is dependent upon membership status and one of the rights and privileges of membership, termination of all entitlements would represent a termination of that holding of office. In the case of employed elected officers, this would therefore represent a termination of contract.

14.9 In such situations a resolution must be submitted to the next meeting of the trustee board for which the individual(s) concerned can reasonably be given 14 day's notice, recommending their expulsion from the Union on the grounds that their continued membership is harmful to or is likely to become harmful to the interests of the Union in accordance with clause 10.5 of the Articles of Association.

### 15. Appeals

15.1. If a student is unhappy with the outcome of the ruling and/or the sanctions applied, they may appeal. The appeal should be made in writing stating the grounds upon which the appeal is to be made and must be received within ten working days.

15.2. Members should note that an appeal is designed to remedy any defects in the disciplinary process rather than repeat the investigation of the disciplinary process. Therefore grounds for appeal are:

- Unfairness of judgement
- The severity of the penalty

- New evidence coming to light
- Procedural irregularities
- Extenuating circumstances
- Bias of disciplining officer
- Unfairness of the interview.

15.3. An appeal will be heard by a panel (see below), who have previously had no involvement in the case. The panel shall be made of the following:

- A member of the trustee board or an office holder within the Union
- A member of YUSU management team
- A YUSU sabbatical officer.

15.4. If a student is unhappy with the outcome of the ruling and/or the sanctions applied, they may appeal. The appeal should be made in writing stating the grounds upon which the appeal is to be made and must be received within ten working days.

15.5. A member will have the right to be accompanied by a member of the University community of their choice. The member will be notified of the results of the appeal in writing within five working days of the hearing.

15.6. The possible outcomes of an appeal are:

- The appeal is upheld (fully or partially) and the disciplinary sanction reduced or removed.
- The appeal is upheld and there is a request for a re-investigation or rehearing.
- The appeal is denied and the original decision is upheld.

## **16. Record keeping**

16.1. Accurate records will be kept detailing:

- Any breach of disciplinary rules or unsatisfactory performance;
- The Member's defence, including any mitigation;
- The action taken and the reasons for it;
- Whether an appeal was lodged, its outcome and any subsequent developments;

16.2. These records are to be kept confidential and retained in line with the above disciplinary procedure and YUSU's Data Protection Policy.

16.3. Copies of any meeting records will normally be given to the individuals concerned. In certain circumstances information shall be withheld, for example to protect a witness.