

UMSU Incorporated Discipline Regulations

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UMSU DISCIPLINE REGULATIONS

1. STATUS

- 1.1. These regulations govern the manner in which UMSU must conduct disciplinary processes where a Voting Council Representative, Officer, or a Committee member has been referred to an UMSU Discipline Panel in accordance with the UMSU Constitution.
- 1.2. These regulations should be read in conjunction with UMSU's Constitution, all other UMSU Regulations and Policy of UMSU.

2. GENERAL

- 2.1. UMSU has an obligation to maintain a safe and healthy working environment for Voting Council Representatives, Officers, Committee members, Staff and Volunteers.
- 2.2. UMSU is committed to providing a fair, trauma informed and confidential process to deal with disciplinary matters which concern sensitive, interpersonal complaints.
- 2.3. For the purpose of these Regulations, sensitive, interpersonal complaints include:
 - 2.3.1. sexual misconduct complaints;
 - 2.3.2. allegations of bullying and harassment, unlawful discrimination or stalking; and
 - 2.3.3. generally grievances regarding conduct which creates an unsafe workplace or puts individuals workplace health and safety at risk.

which have been substantiated by a Formal Investigation.

- 2.4. Confidentiality in respect of the processes set out in these Regulations means that only the persons directly involved in the disciplinary process will have access to information about the substantiated complaint.

3. SCOPE

- 3.1. In conformity with the UMSU Constitution, this Regulation pertains only to the discipline process for Voting Council Representatives, Officers or Committee members referred by the Students' Council to an UMSU Discipline Panel under C8.3.
- 3.2. Staff discipline processes are set out in the UMSU Enterprise Agreement and processes involving UMSU volunteers are set out in the *UMSU Volunteer Policy*.

4. RESPONSIBILITY

- 4.1. The Chief Executive Officer has responsibility to oversee the processes under this Regulation, in accordance with their duty to maintain a safe and healthy workplace.

5. GROUNDS FOR TAKING DISCIPLINARY ACTION

- 5.1. UMSU may take disciplinary action under these Regulations only where a substantiated matter is referred to the Discipline Panel by the Students' Council in conformity with C8.3 along with the investigation report setting out the findings of the investigation and any recommended actions.

5.2. Where the Formal Investigation was conducted by, or at the behest of UMSU, the Discipline Panel must have regard to:

5.2.1. the findings and recommendations provided in the investigation report.

5.3. Where the Formal Investigation was conducted by a University Student Discipline Committee or another external body the Chief Executive Officer must determine whether an UMSU investigation is required based on the investigation report provided with the referral.

5.4. Where the Chief Executive Officer determines that:

5.4.1. UMSU should conduct its own investigation, no further action can be taken by the Discipline Panel until this process is complete, and an investigation report with substantiated findings is produced.

5.4.2. the university or other external investigation is sufficient, the Discipline Panel must have regard to those findings and recommendations in its deliberations.

6. UMSU DISCIPLINE PANEL

6.1. A panel must be established by the Students' Council in accordance with C8.3 and C16.1(a) of the Constitution to determine any disciplinary action recommended by a Formal Investigation.

6.2. The members of the Discipline Panel must comprise:

6.2.1. One Voting Council Representative appointed by the Students' Council.

6.2.2. One Officer appointed by the Students' Council.

6.2.3. One UMSU staff member appointed by the Chief Executive Officer.

6.3. No members of the Discipline Panel may be a party to the relevant matter under consideration.

6.4. The members appointed by the Students' Council must not be partisan or share a political affiliation with any of the parties in the matter under consideration.

6.5. A member of the Discipline Panel remains a member until the Discipline Panel makes a determination in the matter for which they were convened.

7. NOTICE OF PROPOSED DISCIPLINARY ACTION

7.1. Before disciplinary action is taken under this Regulation, the Chief Executive Officer must send to the Voting Council Representative, Officer or Committee member concerned a written notice specifying:

7.1.1. the convening of a Discipline Panel under these Regulations and the potential forms of disciplinary action proposed in accordance with R9.1.

7.1.2. the time, date and place of the Discipline Panel meeting at which the question of the disciplinary action will be considered;

- 7.1.3. a copy of the investigation report relied upon in referring the matter to the Discipline Panel; and
- 7.1.4. advising the the Voting Council Representative, Officer or Committee member concerned that they may do one or both of the following—
 - 7.1.4.1. attend the Discipline Panel meeting and address the Discipline Panel at that meeting;
 - 7.1.4.2. give a written statement to the disciplinary subcommittee at any time before the disciplinary meeting; and
- 7.1.5. advising that they have the right to bring an appropriate support person to the meeting providing that such person may provide support to the Voting Council Representative, Officer or a Committee member concerned but may not actively participate in the Discipline Panel meeting.

7.2. The notice must specify that where the Voting Council Representative, Officer or Committee member does not attend the Discipline Panel meeting or provide a written statement, that the Discipline Panel will proceed with the meeting and base their decision on the information available to them in the investigation report only.

8. DISCIPLINARY PROCESS

- 8.1. It is not the role of the Discipline Panel to investigate or determine complaints. The process set out in these Regulations pertains only to the determination of disciplinary action based upon the report produced from a Formal Investigation.
- 8.2. The members of the Discipline Panel must not be biased against, or in favour of, the any parties concerned in the matter.
- 8.3. The Discipline Panel process is inquisitorial, not adversarial.
- 8.4. Subject to the rules of procedural fairness set out below, the Discipline Panel must make its determination based on the Investigation Report and any representations made subject to R 7.1.4.1 and 7.1.4.2, and is not subject to the rules of evidence
- 8.5. The Discipline Panel will elect a Chair who will be responsible for communicating with the Voting Council Representative, Officer or a Committee member and convening the meeting.
- 8.6. In all its processes and deliberations, the Discipline Panel must conform with the accepted rules of procedural fairness. For the avoidance of doubt, this means:
 - 8.6.1. provision of notice in conformity with R7;
 - 8.6.2. an opportunity for the Voting Council Representative, Officer or a Committee member to obtain their own advice in respect of the matter;
 - 8.6.3. a fair and timely hearing;
 - 8.6.4. the opportunity to make representations and adduce evidence in support of their position to the Discipline Panel; and
 - 8.6.5. an unbiased decision based on material facts and the application of this Regulation.

9. FORMS OF DISCIPLINARY ACTION

9.1. In conformity with C8.3 of the UMSU Constitution, the forms of disciplinary action under this Regulation are limited to:

- 9.1.1. formal warning to the Voting Council Representative, Officer or a Committee member (which may include explicit expectations regarding future conduct and/or required training); or
- 9.1.2. suspension of the Voting Council Representative, Officer or Committee member from office for a specified period; or
- 9.1.3. the removal of the Voting Council Representative, Officer or Committee member from their position.

9.2. Nothing in these Regulations limits the powers of the Students' Council to take action under C8.2(a) of the Constitution.

10. DETERMINATION OF THE DISCIPLINE PANEL

10.1. At the Discipline Panel meeting, the Discipline Panel must:

- 10.1.1. where the Voting Council Representative, Officer or Committee member attends, provide an opportunity to be heard;
- 10.1.2. where a written statement has been provided, consider that statement; and
- 10.1.3. give full weight to the findings set out in the investigation report and have appropriate regard to the recommendations of the report in respect of any disciplinary action.

10.2. After complying with these Regulations, the Discipline Panel may—

- 10.2.1. take no further action against the Voting Council Representative, Officer or Committee member; or
- 10.2.2. determine disciplinary action in accordance with R 9.1.

10.3. Any disciplinary action determined by the Discipline Panel under this rule will take effect immediately after the Discipline Panel has made its determination.

10.4. The determination must be communicated to the next regular meeting of the Students' Council.

11. DEFINITIONS

Words or expressions defined in the Constitution have the same meaning or effect as set out in the Constitution, unless the context otherwise requires.

For the purpose of these Regulations, the following definitions also apply:

“Constitution” means the Constitution of UMSU Incorporated (as amended from time to time), and any reference to **“C”** immediately followed by a number refers to that section or subsection of the constitution.

“Formal Investigation” means any investigation conducted by UMSU in accordance with the *UMSU Resolution of Complaints Procedure* and the *UMSU Resolution of Complaints - Investigation Procedures*, or by the University of Melbourne in accordance with the University’s Vice-Chancellor Regulation (Part 6 Student Conduct), the *Student Conduct Policy*, and the *Sexual Misconduct Prevention and Response Policy*.

“Regulations” means these Regulations, and any reference to “R” immediately followed by a number refers to that rule or sub rule of these Regulations.

12. INTERPRETATION

- 12.1. Where these Regulations are inconsistent with the Constitution, the latter prevails and the former to the extent of inconsistency is invalid. The inconsistent rule remains valid for all other purposes.
- 12.2. Words or expressions defined in the Constitution have the same meaning or effect as set out in the Constitution, unless the context otherwise requires.
- 12.3. Provisions in the Constitution dealing with disciplinary action against Voting Council Representatives, Officers or Committee members are incorporated by reference into these Regulations and have the same operation and effect as if set out in these Regulations in the form which they appear in the Constitution.