



## DISCIPLINARY PROCEDURE

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## 1. Purpose

To provide a formal way for York u3a to deal with a member's: 'misconduct' (unacceptable or improper behaviour). The aim is to ensure consistent and fair treatment for all.

## 2. Scope

This procedure applies to all members.

## 3. The difference between a Complaints Procedure and a Disciplinary Procedure

Complaints procedure: this may include complaints from members about an issue that has arisen or complaints from an external organisation or individual. Depending on the nature and source of the complaint, the Board of Trustees will decide as to how best to approach reaching a resolution.

Disciplinary procedure: this sets out how the u3a will approach problems related to a breach or suspected breach of the agreed code of conduct by a member or Trustee.

## 4. Disciplinary Hearings – responsibilities of the Board of Trustees

This procedure is intended to ensure any issues are dealt with promptly, fairly, and consistently. All parties are encouraged to take a problem-solving approach to achieving resolution.

In the event of a report of any member or Trustee allegedly breaching the Code of Conduct or if a breach becomes apparent, the Chair will be notified immediately.

In carrying out this procedure, York u3a will ensure the following:

- Every action will be documented.
- Disciplinary matters (including the appeals procedure) will be dealt with quickly and fairly.
- York u3a will strive to de-escalate any situation and to settle the issue without having resort to formal disciplinary action.
- York u3a will seek additional support from Trust staff, the Regional Trustee and Trust volunteers, as required. All requests for support will go via the u3a Office.
- Confidentiality will be maintained at all times. For more serious issues York u3a will liaise with the Third Age Trust to seek advice and guidance about procedural issues. Sharing of information with the Trust will not constitute a breach of confidentiality due to the affiliation with the Trust. Members involved in the disciplinary procedure will be informed of the Trust's involvement.
- Decisions will be based on facts and evidence.

The disciplinary procedure will be implemented once all steps that have been taken to resolve matters informally have been unsuccessful and/or where a matter is deemed by York u3a Board of Trustees to be so serious that the only appropriate course of action is to follow the disciplinary procedure.

## **4.1 Confidentiality**

All procedures and documents relating to a disciplinary procedure must be kept confidential at all times. Information will only be shared with those who have a genuine need to receive it and this will include Trust staff and volunteers. All situations should be dealt with discreetly and by showing respect for the parties and views involved.

## **4.2 Informal procedure**

It is very important to try and resolve disputes amicably and informally. This is more likely to lead to a better relationship between the parties in the longer term. The Chair will use his/her best endeavours to resolve the problem amicably and quickly, through an informal discussion with the member or Trustee in question. The member or Trustee will be informed that if any areas of activity that could potentially be of a disciplinary nature are found, they will be requested to attend a meeting with an initial Hearing subcommittee of the Board of Trustees.

Following the informal discussion all parties should understand their obligations. A confidential written record of the outcome of the informal discussion should be kept by the Chair.

## **4.3 Formal procedure**

However, if the initial process is not effective in reaching a solution or if it is felt that the alleged breach maybe serious enough to require formal disciplinary action, the Chair will appoint two investigators (who are not involved or connected to any party in the alleged breach) to investigate it. The Chair will appoint a subcommittee of Trustees of a minimum 2 Board of Trustees members (where possible) to hear the alleged breach.

The result of these investigations must not be disclosed to any other Trustees, at this stage, in order to not bias any appeal. Every attempt should be made to ensure that the hearing into the allegation of the breach of the code of conduct is held within 14 days from the date that the Chair is first advised of the allegation.

A letter will be sent to the member/Trustee who is alleged to have breached the Code of Conduct for the purpose of:

- Advising that the member/Trustee is subject to a formal disciplinary procedure.
- Advising them of what constitutes the alleged breach of Code of Conduct.
- Asking for their response to the alleged breach in writing.
- Advising them of the date of the hearing into the alleged breach.
- Advising that they can also attend the subcommittee of Trustees meeting to state their response in addition to their written response.
- Advising them they may choose to bring a companion, if they wish, who will also be bound by confidentiality.

If the member/Trustee advises that there are witnesses to the incident(s) who are willing to give representations, they will ask those witnesses to contact the subcommittee of Trustees to agree to give testimony relating to the specific incident(s) that they have witnessed. It is important that any statements taken are a factual representation of what the witness says. The statement should not be an interpretation or opinion of what he/she says.

#### **4.4 The Hearing Subcommittee of the Board of Trustees**

The Hearing subcommittee will be the members of the Board of Trustees appointed by the Chair.

The Hearing subcommittee will initially consider any written statements submitted, verbal statements and any mitigating circumstances. From this the Hearing subcommittee will agree whether any breach of the Code of Conduct has taken place.

The full Board of Trustees may be told that a disciplinary procedure has been initiated and is being dealt with, but should not be given any of the detail. This is necessary in order not to bias any appeal that members may be required to hear at a later date.

*Note: If the Chair of the Board of Trustees is suspected to have breached the Code of Conduct, then one of the Officers will replace the Chair in the procedure. In this case, and in the event of an appeal, the appointed Officer may or seek advice or request attendance from Third Age Trust staff or Trustees.*

The initial Hearing subcommittee may decide there is no breach of conduct in which case they will advise the member or Trustee of this outcome. If they do feel that the Code of Conduct has been breached, they can consider any of the following possible forms of disciplinary action (see section 4.5). Levels 4 and 5 will only be invoked in the case of significant breaches of the code or a persistent repetition of behaviour about which the member or Trustee has previously been warned, such as not complying with the terms of the constitution.

#### **4.5 Levels of action**

##### **4.5.1 Level 1**

No case to answer. No further action necessary.

##### **4.5.2 Level 2**

A verbal warning which makes clear the nature of the unacceptable behaviour and includes a warning about future conduct and the consequences of non-compliance. The Chair should give the warning on behalf of the initial Hearing subcommittee. Details of the warning should be recorded, dated and kept on file.

##### **4.5.3 Level 3**

A written warning from the Chair, on behalf of and agreed by the Hearing subcommittee members, itemising the unacceptable behaviour, stating the improvement required with immediate effect and the consequences of continued non-compliance.

##### **4.5.4 Level 4**

A final written warning as above, which states that if the behaviour is repeated the member or Trustee will be asked to leave York u3a or Board of Trustees, with immediate effect.

##### **4.5.5 Level 5**

The Trustee or member is asked to leave either the Board of Trustees or York u3a.

#### **4.6 Gross misconduct**

However, in the case of an extremely serious proven misdemeanour, for example:

- Sexual/racial abuse, discrimination, harassment, bullying.
- Dangerous or violent behaviour.
- Falsification of expense claims.
- Theft.
- Malicious damage.
- Conduct which brings the u3a into disrepute or is prejudicial to the u3a or the running of the u3a.

The Board of Trustees has the right to move immediately to Levels 4 or 5, including asking the Trustee or member to leave.

#### **4.6 Decision**

The decision should be communicated in writing to the member or Trustee advising them whether the breach of the Code of Conduct has been upheld or not upheld. If the breach has been upheld, they will be informed:

- Of the action that will be taken as a result;
- That they have the right of appeal;
- That the right of appeal can only relate to the original breach;
- That the appeal request must be lodged with the Chair within 14 days from the date the decision is communicated.

#### **4.7 Right of appeal**

The Trustee or member who is alleged to have breached the Code of Conduct must be informed of their right of appeal at the end of the initial hearing. The appeal must be lodged within a 7-day period from the date of the appeal invitation and must take the form of written representation with the opportunity to attend an appeal meeting for a right of reply. The Trustee or member must be advised of their right to attend with a companion. The written appeal must be sent to the person who chaired the initial hearing York u3a Secretary. The Chair should be informed of the intention to appeal by the York u3a Secretary. The Chair will then convene a further sub-panel of Trustees who were not party to the original disciplinary hearing, to hear the appeal.

The appeal panel will then hold an appeal hearing to consider any written response and representations in order to make their decision on whether to uphold the appeal or not. This will be independent of the initial hearing and Trustees should not discuss this outside of the appeal panel.

If the member or Trustee concerned requests a right of reply to the appeal panel the member or Trustee can be accompanied by a companion who may also speak in a personal capacity, if they wish.

The Chair of the appeal panel will summarise the issues involved in the disciplinary hearing and the information provided and then the member or Trustee will be given the opportunity to speak along with their companion if the companion wishes to speak.

The appeal panel will review the decision made by the Hearing subcommittee considering any mitigating circumstances, and then make a final decision which must be communicated in writing within 7 days of the appeal meeting.

The Board of Trustees' decision following any appeal is final and absolute confidentiality must be maintained.

## **5. Related Documentation**

- Complaints Procedure