

BCSA CODE OF CONDUCT

BORDERS COLLEGE STUDENTS ASSOCIATION CODE OF CONDUCT

1 INTRODUCTION

- 1.1 This Code sets out the procedures to be followed in the case of disciplinary action against an individual member.
- 1.2 Disciplinary issues arise when problems of conduct are raised and the Association seeks to address them through the agreed procedures.
- 1.3 For the purpose of this procedure, members are defined as in the core constitution:
 - 1.3.1 (a) All students who are registered at Borders College and have not opted out of membership of our Association; and
 - 1.3.2 (b) Our Sabbatical Officers.
- 1.4 This does not include any staff that are subject to separate disciplinary procedures. Sabbatical Officers have employed status but will be handled through this procedure rather than that for college staff.
- 1.5 The code concerns the disciplinary rules and procedures that operate within the Association. The Association believes that rules and procedures are necessary for promoting orderly relations as well as fairness and consistency in the treatment of individuals.
- 1.6 It is important that members and officers know what standards of conduct and performance is expected of them. As a result full details of this policy/procedure will be given to members in appropriate settings.
- 1.7 This code applies to all members of the Association, but it is an assumed given that the code and judgements within it will be applied against the context of the member under question. This means, for example, that a much higher minimum standard of behaviour would be expected of a sabbatical officer than an ordinary member during any Association activity.

2 SCOPE

- 2.1 Disciplinary action may be taken in respect of any breach of discipline:
 - 2.1.1 On Association or college premises;
 - 2.1.2 While the member is using Association or college facilities or at an Association event;
or
 - 2.1.3 While a member is representing or acting on behalf of the Association at any event of whatever kind and wherever held.
 - 2.1.4 In relation to actions or incidents between two or more representatives of the Association in any or none of the settings above, or in relation to actions or incidents

BCSA CODE OF CONDUCT

between Association representatives and staff or stakeholders.

3 MEANING

3.1 In this code a breach of discipline means (but is not limited to)

3.1.1 Threatening or harassing any other person, whether physically or verbally;

3.1.2 Assaulting any other person;

3.1.3 Damaging any property, whether deliberately or negligently;

3.1.4 Acting in contravention of the Equal Opportunities Policies;

3.1.5 Acting without due regard for the safety of others;

3.1.6 Acting with dishonesty or with intent to defraud;

3.1.7 Infringement of equal opportunities, safe space, safeguarding, no platform or staff protocol policy;

4 PANEL AND SUPERVISING TRUSTEE

4.1 The Executive Team shall annually appoint a non-student trustee to supervise this procedure. They shall annually report to the Executive Team on effectiveness of this code.

4.2 The Executive Team shall also appoint a pool of people from which to form a panel at disciplinary hearings, which will always consist of:

4.2.1 A student officer from the Students Association

4.2.2 A member of staff of the college

4.2.3 The supervising non student representative

4.3 Measures will be put into place to ensure a diverse membership of this committee.

5 COMPLAINTS

5.1 In normal circumstances complaints and grievances will be made to the Supervising representative.

6 COMPLAINTS/RAISING ISSUES/INVESTIGATIONS

6.1 When

6.1.1 A disciplinary matter arises, or

6.1.2 A complaint is made, or

BCSA CODE OF CONDUCT

6.1.3 A matter is referred to the Panel

The Supervising representative shall first determine whether this policy is appropriate for the issue(s) being raised. In making the judgement the Supervising representative will be careful to ensure that matters of misconduct are handled through this procedure. They will also consider whether to refer the matter to the police, or the college disciplinary procedures.

- 6.2 If this procedure is used, the Supervising representative will appoint an impartial third party to investigate the matter. The investigation is to establish the facts and where appropriate obtain statements from any available witnesses. Having carried out an investigation, the investigator will make a report to the Supervising representative. The Supervising representative will then decide whether to drop the matter, arrange informal coaching, advice or counselling, or to arrange for the matter to be dealt with under the disciplinary procedure.
- 6.3 At the start of the investigation, the complainant and respondent will receive an email or letter of formal notification detailing the complaint being investigated and the name and contact details of the person dealing with the investigation.
- 6.4 Respondents are encouraged to submit a statement in response to the complaint. The deadline for doing so is seven working days after the date of formal notification of the investigation. The statement should attach copies of any other documents on which the respondent wishes to rely.
- 6.5 Should the respondent not respond to communications or refuse to engage with the investigation process, s/he will be deemed to have nothing to add to the investigation.
- 6.6 The investigator will consider statements and any other documents received from the complainant and respondent as soon as practicable. The Association aims to confirm the outcome of its investigation to the complainant, the respondent, and other interested parties within 14 working days of the date of the formal notification of the investigation, subject to having been able to contact all relevant parties within this time. If it is not practicable to comply with these deadlines, for example due to relevant parties being on holiday, they may be extended by discretion, normally up to a maximum of 7 further working days.
- 6.7 It should be recognised that being the subject of a complaint can be a difficult time for an individual, and so the Association will undertake the investigation with appropriate discretion, care and consideration.
- 6.8 No officer or representative should comment publicly on any incident that is being dealt with under this procedure. Failure to observe this requirement will result in disciplinary action being taken under this code.

7 INFORMAL PROCEDURES

- 7.1 Minor cases of misconduct and poor performance are best dealt with informally. It may be necessary to issue an informal warning, but the Supervising representative will ensure that these areas are discussed with the objective of helping the member to

BCSA CODE OF CONDUCT

make appropriate improvements. At this stage the member will be made fully aware of what steps need to be taken to address the conduct issue. They will also be told when this will be reviewed and over what period.

- 7.2 Members will be informed of what action will be taken if they fail to improve either their performance or conduct (see below). Informal warnings and/or counselling are not part of the formal disciplinary procedure and members should be made aware of this.

8 STAGES OF DISCIPLINARY ACTION

- 8.1 The Supervising representative will decide whether a matter should be dealt with informally or formally under the disciplinary procedure. Disciplinary panels and appeal panels will be made up of different people for fairness.

- 8.2 There are different types of action that can be taken that vary in their severity. The disciplinary hearing will decide the severity of the misconduct and the appropriate action.

- 8.3 These are:

8.3.1 Formal verbal warning

8.3.2 Written warning

8.3.3 Termination or suspension of any or all membership entitlements or some act of partial suspension, which in the case of employed elected officers could result in contract termination

9 DISCIPLINARY HEARINGS

- 9.1 Before a decision is reached or any disciplinary action taken there will be a disciplinary hearing at which the member will have an opportunity to state their case and answer the allegations that have been made. The appointed investigator will present their findings at the disciplinary hearing.

- 9.2 The Panel will hear the case. The member will be notified of a disciplinary hearing in advance and will be provided copies of statements given by any witnesses or other written evidence to be used. Hearings will be arranged as far as possible at a mutually convenient time and place and the member will have the right to be accompanied by a colleague or representative of their choice.

- 9.3 During a disciplinary hearing, the case against the member will be presented in detail by the appointed investigator. If the member challenges the substance of the witness statements then witnesses may be called to the hearing where the member or their representative will have the opportunity to ask questions of the witness.

- 9.4 Where disciplinary action is necessary the member will be informed of the decision.

This will be in writing and will state:

9.4.1 Detail of the misconduct that has resulted in the disciplinary action

BCSA CODE OF CONDUCT

9.4.2 The level of disciplinary action

9.4.3 Any recommendations/action required to prevent future disciplinary action

9.4.4 The consequence of failure

9.4.5 Details of the appeal mechanism

9.4.6 If appropriate the length of time the warning will last before it is disregarded.

10 FORMAL VERBAL WARNING

10.1 This will occur in cases of minor infringements and can be given by a member of the Panel. A note of the warning will be kept on file for six months but then disregarded for disciplinary purposes. The warning will be given in the presence of the panel and the member will be entitled to have a colleague or representative present when the warning is given.

11 FORMAL WRITTEN WARNING

11.1 This will occur when the infringement is more serious or is a failure to improve behaviour during the currency of the previous warning and can be given by the Panel. A copy of the written warning will be kept on file for twelve months but then disregarded for disciplinary purposes.

12 SUSPENSION OF BENEFITS OR OTHER SANCTION

12.1 If a member's conduct still fails to improve the final stage may be:

12.2.1 Where a person, in a paid role, is suspended pending a hearing or whilst an investigation is carried out they will continue to be paid by the organisation.

13 DISCIPLINARY TERMINATION OF ALL MEMBERSHIP ENTITLEMENTS

13.1 The decision to suspend or terminate entitlements (as listed above) is taken by the Panel.

The member will be informed as soon as is reasonably practicable, of the following:

13.2 The decision and the reasons for the termination or suspension of entitlements,

13.3 The date on which the agreement between the Association and the member will terminate,

13.4 Information on the right of appeal including how to make the appeal and to whom.

13.5 The decision to suspend or terminate entitlements shall be confirmed in writing.

13.6 At any of the above stages the panel may resolve to:

BCSA CODE OF CONDUCT

13.6.1 Recommend that the member should undergo training, where appropriate arranged through the college.

14 SUMMARY TERMINATION OF ENTITLEMENTS

14.1 In rare circumstances a member's entitlements may be summarily terminated 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.

14.2 Acts that may constitute gross misconduct are:

14.2.1 Theft, fraud and deliberate falsification of records.

14.2.2 Physical violence or threats

14.2.3 Deliberate damage to Association, College or personal property

14.2.4 Serious incapability whilst representing the Association brought about through alcohol or illegal drugs

14.2.5 Misuse of Association's or College's property or name

14.2.6 Bringing the Association or College into serious disrepute

14.2.7 Serious infringement of health and safety rules

14.2.8 Serious bullying or harassment

14.2.9 Sexual misconduct

14.2.10 Serious infringement of equal opportunities, safe space, no platform, safeguarding or staff protocol policy

14.3 Because the ability to hold elected office is dependent upon membership status and is also 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.

15 SUSPENSION

15.1 In certain circumstances for example cases involving gross misconduct, where relationships have broken down or where it is considered there are risks to property or the Association's responsibilities to other parties, consideration should be given to a period of suspension of membership rights with or without entitlements whilst an unhindered investigation is conducted.

15.2 Such a suspension should only be imposed after careful consideration and should be reviewed regularly to ensure that it is not unnecessarily protracted. Excluding a member from participation in Association activities is not in itself a form of disciplinary

BCSA CODE OF CONDUCT

action whilst the investigation is progressing. The member will be entitled to seek advice, for example legal advice, the cost of which will be met by the member.

- 15.3 Because the ability to hold elected office in the Association is dependent upon membership status and is also one of the rights and privileges of membership, suspension of entitlements would represent a suspension of that holding of office.

16 APPEALS

- 16.1 A member will notify the Panel of their intention to appeal against disciplinary action within six working days of receipt of the confirmation letter. The appeal should be made in writing stating the grounds upon which the appeal is to be made and be received by the Panel within a further 10 working days.

- 16.2 An appeal hearing will normally be held within ten working days of receipt of the letter of appeal. 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:

16.2.1 A student representative

16.2.2 A member of college staff

16.2.3 A member of Student Representative Council

- 16.3 A member will have the right to be accompanied by a colleague or a representative of their choice. The member will be notified of the results of the appeal in writing within five working days of the hearing.

- 16.4 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:

16.4.1 Unfairness of judgement

16.4.2 The severity of the penalty

16.4.3 New evidence coming to light

16.4.4 Procedural irregularities

16.4.5 Extenuating circumstances

16.4.6 Bias of disciplining officer

16.4.7 Unfairness of the interview

- 16.5 Possible outcomes of an appeal

16.5.1 The appeal is upheld and the disciplinary sanction reduced or removed

BCSA CODE OF CONDUCT

16.5.2 The appeal is upheld and there is a request for a re-investigation or rehearing

16.5.3 The appeal is denied and the original decision is upheld

17 RECORDING DISCIPLINE

17.1 Accurate records will be kept detailing:

17.1.1 Any breach of disciplinary rules or unsatisfactory performance,

17.1.2 The member defence or mitigation,

17.1.3 The action taken and the reasons for it,

17.1.4 Whether an appeal was lodged, its outcome and any subsequent developments.

17.2 These records are to be kept confidential and retained in line with the above disciplinary procedure and the Data Protection Act 1998. Copies of any meeting records will normally be given to the individual concerned (in certain circumstances information shall be withheld for example to protect a witness).