

Clubs Council Reprimand & Penalties Policy

1. Interpretation

In this Policy, unless the contrary intention appears:

A *Club* is considered to be any group which has been affiliated with ANUSA as a Club by the ANUSA Clubs Council in accordance with the Clubs Council Affiliation Policy.

Actions refer to the options that this Policy makes available to the Clubs Council Executive to utilise in situations where they are deemed necessary.

Executive refers to the Clubs Council Executive.

The *Association* refers to the ANU Students' Association, or ANUSA.

2. Nature of this Policy

- 2.1 This Policy is created in accordance with Section 5 of the Clubs Council Regulations of the Australian National University Students' Association to administer the Council's handling of regulatory violations.
- 2.2 This Policy is binding upon any group that has completed Club affiliation process with the ANUSA Clubs Council in accordance with the Clubs Council Affiliation Policy. This process begins with the submission of technical requirements.
- 2.3 Any part of this Policy which is inconsistent with the Constitution of the Association or the Regulations of the Clubs Council will be considered void to the extent of that inconsistency.

3. Use of Actions

3.1 Situations Warranting Action

3.1.1 The following factors **must** be taken into consideration by the Executive when deciding to take action:

- (a) Whether the Club has, through intent or ignorance, violated the Clubs Council Regulations;
- (b) Whether the Club has, through intent or ignorance, violated any Policy of the Clubs Council;
- (c) Whether the Club has, through intent or ignorance, violated the Constitution of the Association;
- (d) Whether the club has, through intent, ignorance, or the failure to exercise proper skill and care, damaged or significantly risked damage to the Association's legal, financial, or reputational status;
- (e) The severity of any such violation; and
- (f) The severity of any impact upon a third party, including but not limited to: individuals, other Clubs, and/or the Association.

3.1.2 The following factors **may** be taken into consideration by the Executive when deciding to take action:

- (a) The extent to which the Club was aware, or should have been aware, that their conduct would constitute a violation;
- (b) The readiness demonstrated by the Club of a willingness to rectify the violation;
- (c) Any exceptional circumstances which may have been contributed to the conduct of the Club;
- (d) The degree to which fault can be attributed to the Club, including the degree to which other representatives of the Club knew of, or participated in, the violation;
- (e) Whether the Club has violated the spirit of the Clubs Council Regulations or Policies;
- (f) The apparent likelihood that such a violation will recur;
- (g) Any acts committed in bad faith by the Club. These are actions which the Executive deems to be counter to the best interests of students; and
- (h) Any other factor that the Executive deems relevant.

3.2 Making Decisions

3.2.1 All actions are to be used at the discretion of the Executive, with decisions to be made in adherence with the following guidelines:

- (a) The decided-upon penalty must be deemed by the Executive to be a response proportional to the degree of the violation;
- (b) In all cases except where disaffiliation is concerned, the decision to act may be made at a meeting by a simple majority of the present Executive (half of present members +1); and
- (c) Such a decision may also be made by a consensus of not-less than one-third of the Executive outside of a meeting by written approval.
 - (i) This consensus is subject to dissent by any voting member of the Executive. In the case of dissent, the decision must be made at a meeting of the Executive in adherence with 3.2.1(b).
- (d) The decision to disaffiliate a Club is to be made by a supermajority of the present Executive (two-thirds of present members).

3.3 Conveying Decisions

3.3.1 Any action taken by the Executive must be communicated to the Club with consideration of the following guidelines:

- (a) The official delegate email of the Club's delegate must be used by the Executive as the first point of contact;
- (b) The Executive must make all reasonable attempts to ensure communication of any decision made in relation to these policies has been received by office-bearers and members of the Club within 5 academic days; and
- (c) For all actions, excluding the issuance of infractions, a member of the Executive is required to meet with representatives of the offending Club within 5 academic days to communicate the reasoning behind, and effects of, any decision made.

- (i) A Club may accept the offer to meet at their earliest convenience.
 - (ii) A Club may refuse to meet and instead ask for a list of written reasons for the decision. Upon the delivery of this list, the Club may then request a meeting with a member of the Executive to discuss the provided reasons.
 - (iii) After any kind of aforementioned meeting, the Club may instigate the appeals process in accordance with Section 5.
- 3.3.2** The Clubs Council must be notified of any such action taken by the Executive as part of the Chair's report at the next full meeting of the Clubs Council.

4. Available Actions

4.1 Factors to Consider

- 4.1.1** When deciding what action to take against a Club, the Executive must consider section 3.1.1 as equally binding here.
- 4.1.2** The Executive must also follow any directions given specific to the class of action to be taken.
- 4.1.3** The failure of a Club to comply with the decision of the Executive is grounds for the Executive to take further action under this policy.

4.2 Financial Penalties

- 4.2.1** The following actions are available to the Executive:
 - (a) A monetary fine to be levied out of future grant money requested by the Club at a rate to be determined by the Executive.
- 4.2.2** The Executive has no power to compel a club to pay more money than they are able with the funds and property designated as owned by the Club itself.
- 4.2.3** The Executive must additionally consider (where applicable) the following when deciding which action(s) to take:
 - (a) The ability of the Club to pay such a penalty from its own resources;
 - (b) The ability of the Club to continue operating after the penalty is levied;
 - (c) The ability of the Club to recover any funds lost through the violation; and
 - (d) The direct and causal relevance of the penalty to be levied to the violation.

4.3 Variance of Privileges

- 4.3.1** The Executive may vary, to whatever extent it views necessary, the privileges attached to, and associated with, affiliation. All associated privileges are governed by Clubs Council Policies and may include, but are not limited to:
 - (a) Assistance from resources of the Association
 - (b) Free venue hire
 - (c) Free equipment hire
 - (d) Financial grants
 - (e) Any other privilege granted to Clubs generally, or customarily specific to a Club

- 4.3.2** The Executive must additionally consider (where applicable) the following when considering what action(s) to take:
- (a) The relevance of the privilege to be varied to the violation;
 - (b) The proportionality of the action(s) to the violation;
 - (c) The risk associated with the abuse of the privilege(s) in question,
 - (d) Whether the action(s) may act in an onerous or oppressive fashion upon the Club; and
 - (e) Whether the Club's conduct would be a cause for disaffiliation, but the Executive believes that it is reasonable to expect the behaviour will be remedied by the application of this Section.

4.4 Disaffiliation

- 4.4.1** The Executive may disaffiliate a Club in accordance with Section 5 of the *Affiliations Policy*.
- 4.4.2** The following are causes for the Executive to disaffiliate a Club:
- (a) Where a Club has failed to fulfil the requirements laid out in Section 4 of the *Affiliations Policy*;
 - (b) Where a Club has engaged in discriminatory behaviour;
 - (c) Where a Club has dissolved or wound up in accordance with its own constitution;
 - (d) Where a Club has breached provisions in their constitution, or the Constitution or Regulations of the Association, or the Policies or Regulations of the Clubs Council; and
 - (e) Where a Club has acted, either deliberately or recklessly, to cause some egregious harm to any section of the ANU community.
- 4.4.3** The Executive must additionally consider the following (where applicable) when considering whether to disaffiliate a Club:
- (a) Section 3.1.2(d) is a primary and mandatory consideration for Section 4.4; and
 - (b) Whether any other measure laid out in Section 4 would be more appropriate in response to the violation.

5. Appeals

5.1 Beginning an Appeal

- 5.1.1** After attending a meeting in accordance with Section 3.3.1(c)(iii), a Club may apply in writing to the Secretary of the Clubs Council to appeal the decision.
- 5.1.2** The Secretary must facilitate the appeals process, providing for no more than 10 academic days, where reasonable, between advancing steps.
- 5.1.3** The Club must provide grounds under this policy suggesting that the Executive mistakenly decided to take action.

5.2 First Stage Appeal

- 5.2.1** Upon receiving notice from a Club desiring to appeal the Executive's decision to take action, the Executive must consider the grounds provided and weigh them against the original decision.

- (a) Such a process must ensure the application of Section 3.2.1.
- (b) The Club should be invited to attend the meeting, though cannot insist upon its presence for the entire duration of the meeting.

5.2.2 If the Executive is satisfied that the grounds raised by the Club are sufficient that the original decision should not have been made, then it must reverse or reduce the action.

5.3 Further Appeals

5.3.1 If the Club remains unsatisfied with the Executive's decision, or any variance upon that decision, the Club may:

- (a) Appeal in writing to the ANUSA Disputes Committee. This appeal process is subject to all relevant Regulations of the Disputes Committee.
- (b) Appeal to the Clubs Council.

5.3.2 Appealing to the ANUSA Disputes Committee does not affect the Club's right to appeal at any time to the Clubs Council, although any appeal to the Clubs Council foregoes the Club's ability to appeal to the ANUSA Disputes Committee.

5.4 Final Appeal

5.4.1 If the Club is unsatisfied with the result of any decision of the Executive, or of the ANUSA Disputes Committee, the Club may appeal to a full meeting of the Clubs Council.

5.4.2 The Club can submit a motion for appeal to the Secretary of the Clubs Council Executive. This motion can then be introduced at the next full meeting of the Clubs Council.

- (a) This motion follows the standard process of any motion as laid out in the Clubs Council *Standing Orders*.
- (b) In exception to the *Standing Orders*, Section 2.4 *Amendments* does not apply.

5.4.3 The result of any appeal brought before a full meeting of the Clubs Council is considered final.