

Misconduct Policy

Owner	PIC	Approval Date	December 2019
Approved by	Board	Review Date	June 2020

1. Purpose

The Misconduct and Disciplinary Policy provides for a course of action for UN Youth to follow in the event of a breach of the expectation of the organisation at events or by Officeholders in the course of their duties. This may stem from an allegation as long as the action alleged about is inconsistent with the Code of Conduct.

Nothing in this policy shall affect the ability of a volunteer to submit a complaint via the UN Youth Complaints Process, or the powers, duties and functions of the Board of Directors.

Nothing in this Policy should be interpreted as requiring any allegation to be heard if the Welfare Arbitrator or Disciplinary Panel is satisfied that the allegation is unjustifiable or vexatious in nature.

Each incident of misconduct should be resolved in such a way that the mental and physical health and safety of all attendees, especially children, are protected and the organisation is disrupted by the minimum necessary to remedy the breach and advance UN Youth's welfare commitment.

2. Definitions

Expectations of the organisation: The expectations organisation are defined by UN Youth documents including but not limited to: codes of conduct, event terms and conditions, Governing Documents including the constitution, all policies and protocols, notably the Welfare Protocols. Additionally all participants, volunteers and officeholders are expected to act in an ethical and legal manner

Misconduct: Occurs when the expectations of the organisation are breached, intentionally or accidentally, by any member of UN Youth. Misconduct can be "victimless" or result in victims unable or unwilling to come forward.

Serious Misconduct: The Welfare Arbitrator or Disciplinary Panel can classify Misconduct as Serious Misconduct if the misconduct has caused severe damage to the reputation of UN Youth New Zealand or harm, or the risk of harm, to the members of the organisation or to any other persons. This can include but is not limited to:

- Dishonesty, theft, or falsification of any record, document and/or evidence.
- Assault or bodily harm of any person involved within UN Youth
- Bullying or harassment, including cyberbullying of any person involved within UN Youth
- Acts considered by UN Youth to be dishonest or unethical which may bring the organisation into disrepute, or discredit its image.
- Failure to observe safety rules or acting in an unsafe manner which puts anyone in danger.
- Serious breach of any UN Youth policy or protocol.

Welfare Arbitrator: A Volunteer who is given responsibility for handling any alleged breaches of the expectations of the organisation at a UN Youth event.

Disciplinary Panel: A panel formed from this policy that is given responsibility for handling any alleged breaches of the expectations of the organisation originating from outside of events.

3. Principles

Fairness. All allegations and those being accused should have a fair opportunity to share their perspectives on the allegation and surrounding circumstances.

Right to Response. Any individual being the subject of a Misconduct process should be given ample opportunity to give an informed response to the allegation.

Impartiality. All arbitrations and resulting disciplinary measures should be dealt with in a consistent manner without bias or special preference to any one party, including apparent bias or pre-determination. Those dealing with allegations must not become personally involved in the conflict.

Respect. All parties involved in a Misconduct process should be shown dignity, treated with integrity, and have their personal welfare considered at all times.

Confidentiality. The organisation must respect the privacy of those raising allegations and those being accused, and hold this in the highest regard reasonable. This includes ensuring that the only people who are aware of the object of allegation and surrounding circumstances are those whose knowledge is necessary for the effective operation of this policy.

Mana. The mana of all parties to an allegation must be upheld to the highest extent possible in the circumstances.

Withdrawal. At any time, the person raising the allegation has the right to withdraw an appeal, complaint or grievance without prejudice.

Responsiveness: Those conducting the process should have the ability to respond to the allegation quickly and ensure an efficient arbitration process is held.

Proportionality. Disciplinary measures should be proportional to the nature of the misconduct and the context in which it occurred, including surrounding circumstances and intention of the party carrying out the misconduct.

4. Disciplinary Panel

Appointment: Matters may be referred to a Disciplinary Panel for investigation and decision by the National President, National Welfare Officer, National Volunteers Officer, Board Chair, or Board Volunteers Representative.

Conflicts: Panel members must be free of potential conflicts of interest when they are appointed. Panel members must resign when new conflicts of interest arise.

Membership: The Panel will consist of:

- 3 National Executive Officers or any member of the Welfare Committee, as appointed by the National Executive. In the event of a participant, volunteer or officeholder misconduct outside of the National Executive.
- 3 Board Directors excluding the National President, as appointed by the Board, in the event of misconduct by a National Executive Officers or Board Members.
- If the Panel contains less than 3 people at any point in time, the body that originally appointed the Panel will appoint an additional member under the same conditions as when the Panel was originally appointed.

5. Welfare Arbitrator

The Welfare Arbitrator will be the Regional President or their delegate for regional events.

The Welfare Arbitrator will be the National President or their delegate for International or national events.

6. Investigations

All investigations conducted under this policy must be undertaken in accordance with the following principles:

- Each incident of misconduct should be resolved in such a way that the mental and physical health and safety of all attendees, especially children, is protected and UN Youth's operations are not disrupted by the minimum necessary to remedy the breach and advance UN Youth's welfare commitment;

- All people concerned must be advised of their right to:
 - Be provided with a copy of the relevant Protocols;
 - Decline to respond;
 - Provide their version of events before any sanctions are imposed on them;
 - Be supported by a member of UN Youth physically present at the event;
- All investigations shall comply with the principles outlined in this policy, including that misconduct should be investigated and resolved speedily;
- The welfare coverage of any event should not be unduly disrupted by any investigation.

7. Conflicts of Interest

The National Welfare Officer, Regional Welfare Officers, WC Members, Welfare Officers, Heads Of Welfare, Welfare Arbitrators, and investigators shall not exercise any function vested in them by this section if they possess a real or perceived conflict of interest. Conflicts of interest include, but are not limited to:

- Any set of circumstances that creates a risk, or the perception of risk, that professional judgement or actions regarding the wellbeing of any participant or UN Youth will be unduly influenced by a secondary interest;
- The implication of that person in the misconduct of these Protocols;
- Being a Volunteer for an International Event where another Volunteer for that International Event is alleged to be in breach of these Protocols;
- The person being physically or mentally unfit to fulfil their duties.

Disclosure: When such a person becomes aware of a conflict of interest, they must disclose it in accordance with the Conflict of Interest Policy, and recuse themselves from the matters that give rise to the conflict of interest.

Welfare Arbitrator Replacement: Where the Welfare Arbitrator is recused, a delegated National Executive officer for national events, or a Regional Council member for regional events will be acting Welfare Arbitrator for the entirety of the investigation and arbitration process.

Disciplinary Panel Replacement: Where a Disciplinary Panel Member is found to be conflicted, the conflicted Panel Member is recused and the body that originally appointed the Panel will appoint an additional member under the same conditions as when the Panel was originally appointed.

8. Breach and Disciplinary Measures

Where an individual is found to have committed any form of misconduct the Welfare Arbitrator or Disciplinary Panel can enforce disciplinary measures in accordance with Schedule 1. The Welfare Arbitrator or Disciplinary Panel can enforce additional sanctions at their discretion.

The Welfare Arbitrator or Disciplinary Panel should consider restorative measures before enforcing disciplinary measures.

The Welfare Arbitrator or Disciplinary Panel should consider all mitigating factors relevant to the investigation when determining disciplinary measures or additional sanctions.

The Welfare Arbitrator cannot rule on breaches of the Governing Documents. If finding the conduct of any member of the organisation is in breach of the Governing Documents of UN Youth, the Welfare Arbitrator can suspend said member from the organisation until the matter is heard by the Disciplinary Panel.

No participant shall be the subject of disciplinary measures who:

- Seeks medical treatment for an alcohol or other drug-related overdose for the sole violation of using or possessing alcohol or drugs; Including any persons who sought help for the intoxicated participant;
- Brings, in good faith, notice of an alleged breach to the attention of Volunteers and did not themselves breach the Code of Conduct;

9. Appeal

Any decision of a Welfare Arbitrator can be appealed by raising a grievance through a written complaint submitted under UN Youth's Complaints and Grievances Policy.

Any decision of the Disciplinary Panel must be appealed to the Board within fourteen days of the decision. In accordance with section 27.4 of the Constitution, decisions can be appealed on the grounds of:

- Breach of the principles of natural justice;
- That the Panel's Decision was unreasonable;
- A member of the Disciplinary Panel was biased, or was unfit to decide on the matter.

10. Related Documents

- Events Misconduct Procedure
- General Misconduct Procedure
- Complaints and Grievances Policy
- Misconduct Policy Flowchart

Schedule 1: Disciplinary Measures

The Welfare Arbitrator or Disciplinary Panel can enforce additional sanctions at their discretion such as issue an apology.

Measure	Seriousness	Imposition Authority
No action	Misconduct	Welfare Arbitrator/Disciplinary Panel
Formal Warning		
Temporary removal from event (time out)		Welfare Arbitrator
Removal from event for one day		
Removal from event	Serious Misconduct	Disciplinary Panel
Compulsory re-training for a volunteer		
Implementing compulsory supervision of a volunteer for a defined period		
Removal and Suspension from holding office		
Suspension from attending UN Youth events for a maximum of one year		
Termination of Membership		
<i>Report to government authorities, e.g. Police</i>	<i>Serious</i>	<i>Board for organisation matters. Victim for all other matters</i>