



DISCIPLINARY PROCEDURE

Bowls Scotland has produced this template disciplinary procedure with support and advice from Harper Macleod LLP. Bowls Scotland would like to thank the Scottish Golf Union and Scottish Ladies' Golf Union whose template disciplinary procedure was used as the basis for producing this document.

This template disciplinary procedure should be used as a guidance document. It should be adapted by bowling clubs to suit their own particular needs and situation. Clubs should take their own independent legal and financial advice relevant to their particular circumstances where necessary.

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1. INTERPRETATION AND DEFINITIONS

1.1 In the interpretation of these procedures, unless the contrary intention appears:

1.1.1 Headings are inserted for convenience only and are not to be used to assist interpretation

1.1.2 Any gender includes all genders, any reference to the singular includes the plural (and vice versa), and references to persons includes bodies corporate, unincorporated associations and partnerships (whether or not any of them have a separate legal personality).

1.2 For the purpose of these procedures the following definitions apply:

"Appeals Committee" means an Appeals Committee appointed by the Club

"Anti-Doping Policy" means the Anti-Doping Policy of the Club

"Appellant" means any member subject to a disciplinary decision who chooses to appeal it

"Case Presenter" means the person appointed to that position by the Club Secretary and/or Vice President.

"Club" means Aberfeldy Bowling Club

"Competition" means any competition organised by the Club

"Complainer" means any person making a complaint about any Member

"Day" means any day other than a Public Holiday

"Disciplinary Committee" means the Disciplinary Committee of the Club

"Member" means any member of the club who is subject of any disciplinary investigation in accordance with these procedures

"Player" means a person who plays the game of bowls

"Procedures" means these Procedures

"Rules of Bowls" means the rules of bowls as defined by Bowls Scotland.

2. OVERVIEW

2.1 These Procedures deal with hearings in respect of:

2.1.1 Breaches of the club rules and regulations as per the Constitution and Bye-Laws or of the Aberfeldy Bowling Club Member Code of Conduct.

2.1.2 Any complaint about any member

2.1.3 Complaints regarding any person competing officially in any Club competition.

2.2 The Procedures apply to all members of the Club.

Disciplinary action may be informal or formal. Informal disciplinary action will involve discussing the problem with the member and/or the complainer through a person nominated by the Club's Board or Management Committee (e.g. the Club Secretary or Vice-President) with a view to resolving the issue. Where the member/complainer is unhappy with the outcome of the informal disciplinary action they will be entitled to go through the formal disciplinary action in accordance with these Procedures. Where the complainer wishes to go through the formal disciplinary procedure the person who was involved in the informal procedure will not ordinarily take up the role of Case Presenter or have any further involvement in the matter.

Formal disciplinary action will be taken in accordance with these Procedures.

3. MEMBERSHIP AND POWERS OF COMMITTEES

3.1 The Club shall establish a Disciplinary Committee which shall have the power to act in the name of the Club and determine disciplinary proceedings coming before it.

3.2 The membership of any Disciplinary Committee will be determined by the Club and will have no fewer than 3 members.

3.3 The Club will establish an Appeals Committee of not fewer than 3 members to consider any competent appeal. None of these members shall be members of the Disciplinary Committee. The President of the Club may be a member of and/or chair the Appeals Committee.

3.4 Any person who sits on either the Disciplinary Committee or Appeal Committee shall:

3.4.1 Be unbiased and have no personal interest in or involvement with the case;

- 3.4.2 Be familiar with these procedures;
- 3.4.3 Act within their powers under these procedures and fairly, reasonably and proportionately at all times;
- 3.4.4 Take advice where appropriate including, if necessary, legal advice or such other expert advice necessary for the fair determination of the matter;
- 3.4.5 Have consideration and respect for all parties; and
- 3.5 Apply the standard of proof as the balance of probabilities. The Appeals Committee will have the power to affirm, vary or set aside any decision of the Disciplinary Committee and to increase, decrease or accept any such penalties already imposed and/or impose any such new penalties as outlined in these Procedures.
- 3.6 Both the Disciplinary and Appeal Committees shall appoint a chair who will preside over each Committee and will be reappointed annually.
- 3.7 Both Committees shall take decisions, including decisions as to guilt and appropriate sanctions, on the basis of a simple majority of Committee members with the Chair holding a casting vote if no majority is reached.
- 3.8 The Disciplinary Committee and the Appeals Committee shall have the power to abridge or extend any time limits set out in these Procedures, if in their reasonable discretion, it is considered appropriate in the circumstances.
- 3.9 The Disciplinary Committee and the Appeals Committee shall not be entitled to introduce or consider opinion evidence other than expert evidence.
- 3.10 Where any complaint is considered by a Disciplinary Committee and/or Appeals Committee, the committee concerned shall be entitled to amend the terms of complaint and/or introduce a new charge to the complaint at any time provided that in all of the circumstances the person against whom the complaint is made shall have a fair opportunity to consider the same and respond.

4. INITIAL COMPLAINT HANDLING

- 4.1 Any complaints about a Member should be made in writing by the complainer and sent to the Club Secretary/Vice-President and be signed and dated.
- 4.2 Any complaint must be lodged within seven days of the alleged incident or grounds for the complaint arising or becoming known or such further time as may reasonably be allowed by the Disciplinary Committee.
- 4.3 The complaint should ordinarily specify the details of the alleged incident or grounds for complaint including, if appropriate, which provision of [e.g. Club Rules, Bye Laws, Code of Conduct etc] has been breached.
- 4.4 The Club Secretary/Vice- President shall appoint a Case Presenter who shall:
 - 4.4.1 Forward a copy of the complaint to the member in question and request a written response within seven days
 - 4.4.2 Decide if further investigation of the complaint is required and carry out all necessary investigations. The Case Presenter should have no role in any decision making part of the informal or formal disciplinary process.
 - 4.4.3 Forward the complaint, written response, investigation report (if appropriate) and any other relevant material, if applicable, to the Disciplinary Committee for consideration as set out below.
- 4.5 Upon receiving a referral from the Case Presenter, the Chair of the Disciplinary Committee shall convene a hearing of the Disciplinary Committee.

5. DISCIPLINARY HEARING

- 5.1 Any person that is subject to a disciplinary hearing (hereinafter referred to as the Member) shall be supplied with a copy of the original complaint and any additional material provided to the Disciplinary Committee, including notice of any witnesses to be called or their evidence
- 5.2 The Member as a person subject to a disciplinary hearing shall have the right to the following:
 - 5.2.1 To be advised of the nature of the charge or complaint;

- 5.2.2 To be present in person at any hearing and to be advised, ordinarily 2 days in advance, of the date, time and place of such hearing;
 - 5.2.3 To representation (legal or otherwise) at this hearing; and
 - 5.2.4 To state his/her case; and
 - 5.2.5 Call relevant witnesses and refer to evidence at this hearing provided always that a list of witnesses and a note of evidence / documents being relied upon has been produced in advance and provided to the Disciplinary Committee and Case Presenter (together with any copies of such documents / evidence) no later than 24 hours before the hearing starts, subject always to the Disciplinary Committee being entitled to regulate its own procedure.
- 5.3 Names of any witnesses being proposed by the Member should be intimated in writing to the Chair person of the Disciplinary Committee
 - 5.4 If the Member is unable to attend at the meeting, he/she should notify the Chair person of the Disciplinary Committee in writing.
 - 5.5 If the Member elects not to attend the meeting without good reason, the disciplinary hearing may proceed in his/her absence.
 - 5.6 Unless the Disciplinary Committee otherwise directs the procedure will be as follows:
 - 5.6.1 The Disciplinary Committee will identify all parties present;
 - 5.6.2 The Disciplinary Committee will outline the process to be followed;
 - 5.6.3 Any preliminary issues shall be dealt with;
 - 5.6.4 The terms of the Complaint will be read out and the Member asked to state his or her position as to whether the Complaint is admitted or denied;
 - 5.6.5 Any evidence will be considered from the Case Presenter including any witnesses produced by the Case Presenter;
 - 5.6.6 Witnesses are to be excluded from the hearing until required to give their evidence and must retire immediately after giving their evidence and answering any questions from the Disciplinary Committee;
 - 5.6.7 The Member will be given an opportunity to respond and present his own case;

5.6.8 Questioning of the parties or any witnesses may only be directed by the Disciplinary Committee or as otherwise permitted by the Disciplinary Committee at its discretion, acting fairly and reasonably;

5.6.9 The Case presenter will be invited to make closing remarks and final submissions;

5.6.10 The Member will be given the opportunity to make closing remarks and final submissions - including submissions on sanctions in the event that the complaint is upheld; and

5.6.11 Notification of the decision, including as to any sanctions, with appropriate reasons shall be issued by the Chair person of the Disciplinary Committee where practicable at the conclusion of the hearing, or in writing, to the parties as soon as practicable following completion of the hearing.

5.7 Where a complaint is denied the Disciplinary Committee shall ensure that it adopts an appropriate procedure to deal with the determination of the matter including adjusting its procedure to decide first on whether the Complaint should be upheld or dismissed; and thereafter, only in the event of upholding a Complaint, shall the question of sanctions be considered.

5.8 The Disciplinary Committee shall typically only receive and consider evidence relevant to sanction once a Complaint has been upheld or admitted, unless the procedure is competently varied, the Member's rights are preserved and the rules of natural justice observed.

6. APPEAL HEARING

6.1 An appeal must be lodged within 5 working days of the decision being notified to the Member and/or Case Presenter. Both of the Member and/or the Case Presenter shall be entitled to enter an appeal.

6.2 An appeal shall be lodged when a Notice of Appeal is received, [accompanied by the Appeal Fee (if appropriate),] by the Club Secretary/Vice-President (or his/her nominee). The Notice of Appeal shall be in writing, signed by the Appellant Member and shall specify:

6.2.1 The name of the Appellant Member;

6.2.2 The decision appealed against;

- 6.2.3 The date of the decision appealed against; and
- 6.2.4 The specific grounds of appeal (including a statement as to whether or not the appeal concerns liability or is in relation to sanction only).
- 6.3 On receipt of an appeal, the Club Secretary/Vice-President will automatically forward all documentation to the Chair of the Appeals Committee.
- 6.4 The Chair of the Appeals Committee shall communicate with the Appellant and:
 - 6.4.1 Set a time, date, and place for the hearing of the appeal;
 - 6.4.2 Advise of the composition of the Appeals Committee;
- 6.5 Issue any directions as may be considered appropriate for the determination of the Appeal.
- 6.6 In any appeal the burden of demonstrating that the earlier decision was in error and should be overturned and/or varied shall lie with the Appellant. The Appellant shall have to first demonstrate that an error has been committed in the decision-making and that the error is sufficiently serious so as to affect the outcome of the proceedings. Only where the Appellant discharges this burden shall the Appeal Committee be entitled to interfere with the earlier decision.
- 6.7 The Appeals Committee shall be entitled to hear and receive such further evidence on appeal as it deems competent and fair but no Appellant Member shall be entitled to introduce new evidence not considered before the Disciplinary Committee. An Appellant Member shall provide a sworn signed statement explaining the circumstances by which the new evidence was not produced at the earlier hearing and shall outline the relevance of the evidence in full and seek permission to introduce new evidence.
- 6.8 Where evidence is given before the Appeals Committee, there shall only be cross examination or questioning of witnesses by the Appeals Committee or with the permission of the Appeals Committee.
- 6.9 Written notification of the decision of the Appeals Committee will be issued to the Appellant member within 7 days stating full reasons for the decision.
- 6.10 The decision of the Appeals Committee is final and binding.

7. SANCTIONS

- 7.1 No sanction shall be imposed on any person or body in disciplinary proceedings unless the alleged misconduct against the person or body is proved on the balance of probabilities.
- 7.2 If a complaint is upheld against a Member, the Disciplinary Committee (and Appeals Committee) shall have the power to impose the following sanctions:
- 7.2.1 Admonishment;
 - 7.2.2 Reprimand/warning;
 - 7.2.3 Suspension from Club membership for a specified period of time (including competition);
 - 7.2.4 Fine;
 - 7.2.5 Suspension from specified Club activities for a period of time or permanently (including but not limited to playing);
 - 7.2.6 Expulsion from Club membership whether for a period of time or on a permanent basis;
 - 7.2.7 Forfeiture of any competition and/or other points as specified;
 - 7.2.8 A combination of any of the above.
- 7.3 When a sanction is imposed consideration will be given to the following:
- 7.3.1 Whether the sanction is reasonable and proportionate in all of the circumstances and
 - 7.3.2 That, where possible, periods of suspension be imposed by reference to specific dates rather than playing days e.g. 1 April to 1 June and taking into account playing consequences of suspension.
 - 7.3.3 Any sanctions imposed by the Disciplinary Committee shall not ordinarily be suspended, on any Notice of Appeal being received in accordance with this Policy, until the outcome of the Appeal Hearing except where an application is made to the Appeals Committee for the staying of any sanction and the application for a stay is considered and is upheld.

8. GENERAL PROVISIONS

- 8.1 The hearing of proceedings by the Disciplinary Committee or the Appeals Committee shall be recorded by the taking of minutes.
- 8.2 Any notices or correspondence to be sent to any Member or person under these procedures shall be sent by recorded delivery, first-class post or, if appropriate, secure electronic mail, to the last known address of that Member or person. Notices and correspondence should be deemed to be delivered in relation to electronic mail and recorded delivery as the next day after sending and in relation to first-class post, on the second day after posting. The relevant time period shall begin on the deemed date of receipt.
- 8.3 Any objection to the composition of any committee shall be deemed to be waived unless intimated within 24 hours of notification.
- 8.4 Any matter not provided for within these rules shall be considered and ruled upon by the appropriate committee having regard to the principles of natural justice.