

## **Guidelines on Grievance and Disciplinary Procedures in Rowing**

The object of these guidelines on Grievance and Disciplinary procedures is to ensure good practice with regard to any individual, club or regional rowing council who may have a complaint or feel that they have been unfairly treated by a Member (organisation) of the ARA, or by the governing body itself, so that that grievance is dealt with at the appropriate level in a fair and timely manner. They are intended to supplement and assist in the operation of existing constitutions. They are not intended to replace existing grievance, disciplinary or appeal procedures which are already in place in respect of competitions, athlete selection, child protection or water safety, nor are they intended to replace or override the relevant procedures existing in the constitutions of club or similar organisations or governing bodies.

This framework should be used at the level appropriate to the grievance, for example an individual with a complaint about treatment by a club should set out their grievance, in the first instance, to that club's chairman, president or as outlined in the organisation's constitution or rules. It may also be effectively used in disciplinary matters to provide a fair, timely and transparent process resulting in natural justice and has been adapted in the relevant section below.

Under either procedure an individual or organisation should be kept informed about the process that will take place, the expected timescales and any possible outcomes. Information should be treated confidentially and shared on a need to know basis during the process, unless there is an agreement between the parties to do otherwise.

Please note that where an individual who is raising a grievance or is the subject of a disciplinary case is under the age of 18 years it is obligatory that the parents or legal guardians of that child must be informed and that the individual is accompanied during any mediation, hearing or appeal.

### **Grievance Procedure**

#### **1. Mediation**

- The constitutional body, or organisation, receiving the grievance should appoint an independent mediator in agreement with the complainant.
- The mediator should advise the terms of the procedure, for example who may attend and the conduct of the meeting.
- Such mediation is not obligatory but may help to resolve the situation, clarify any misunderstandings or help identify the issues in dispute before a hearing is convened.
- The outcome of the mediation stage is not binding but may be referred to in any subsequent hearing or appeal as may any failure or refusal to participate in such proceedings.

#### **2. Hearing**

- If the complainant is not satisfied with the outcome of the mediation he must set out in writing his grievance and request for a hearing and send to the appropriate body within a reasonable timescale. This may vary depending on the issue at hand but should not, where possible, exceed three months.
- The hearings panel should be appointed by the relevant constitutional body.
- At a minimum it should comprise a chairman and two independent members one of whom may have relevant 'expert' knowledge. All panel members must be independent of the dispute.
- The complainant should signify his agreement to the constituted panel.
- The panel must give a fair and independent hearing to both sides of the dispute within an appropriate and agreed timescale.
- The complainant has the right to be accompanied.
- Discussions should be well recorded.

- If either party chooses not to attend the hearing, the panel, if properly constituted, has the right to proceed with the hearing based on written submissions.
- The result and sufficient reason to explain the result of the hearing must be communicated to both parties within 14 days.
- The panel should be aware of the possible outcomes of the hearing in line with the constitutional body's jurisdiction.
- If the outcome of the hearing is unacceptable to either body they have the right to appeal.

### 3. Appeal procedure

- If either party wishes to appeal against the outcome of the hearing they should set out the grounds on which they wish to appeal in writing. This letter should be sent to the chairman of the appropriate body within 14 days of the outcome of the initial hearing being known. An appeal should be granted where there is a "strong arguable case" that either:-
  - a. relevant information was ignored or not considered by the original panel; or
  - b. the disciplinary process was tainted by unreasonable bias or conflict of interests; or
  - c. the provisions of the disciplinary procedure were not adhered to; or
  - d. the original panel exceeded its jurisdiction; or
  - e. the findings of the original panel were irrational or otherwise exhibited an error of general law.
- The constitutional body must appoint an independent appeal panel to consider the appeal, none of whom have had any prior involvement in the matter.
- The appeal panel should be constituted along the same principles as the hearings panel outlined above.
- The chairman of the appeals panel should convene a hearing of the appeals panel in a timely manner and, in consultation with the other panel members, will decide the conduct of the proceedings, if appropriate he may request written submissions and the appeals panel may or may not require the parties to be attend.
- The appellant has the right to be accompanied at an appeals hearing.
- Discussions should be well recorded.
- The outcome and sufficient reason to explain the outcome of the appeal panel will be communicated to both parties within 14 days of the appeal panel hearing.
- The outcome of the appeal will be final.
- Some Governing Bodies such as the FA and the LTA require an appellant to lodge an appeal fee of £100.00 which is non-refundable. This may present a slight deterrent to the lodging of appeals but at the very least would go some way to alleviating the administrative burden involved in facilitating an appeal hearing.

### Disciplinary Procedure

Where a member Club, regional rowing council or the ARA wish to discipline an individual or organisation who has contravened the organisations rules or code of conduct, or who is deemed to have brought the sport or organisation into disrepute, a similar framework should be adopted as outlined below. This framework out the principles required to ensure a fair and transparent process is followed and natural justice is done.

#### 1. Mediation

- The constitutional body, or organisation, wishing to discipline a member should first endeavour to resolve the matter by mediation. It is advisable that an independent person is sought to moderate this meeting.
- The disciplinary case should be set out by the organisation, including where possible details of any rules or agreements that have been deemed contravened.
- The mediator should advise the terms of the procedure, for example who may attend and the conduct of the meeting.
- Such mediation is not obligatory but may help to resolve the situation, clarify any misunderstandings or help identify the issues in dispute before a hearing is convened.
- The outcome of the mediation stage is not binding but may be referred to in any subsequent hearing or appeal as may any failure or refusal to participate in such proceedings.

## **2. Disciplinary hearing**

- If a satisfactory resolution is not reached the organisation must set out in writing the details of the disciplinary case including, where possible, details of any rules or agreements that have been deemed contravened and sent to the person accused within a reasonable timescale. This notice should contain details of the disciplinary procedure, including timescales, and the right of appeal
- A disciplinary hearings panel should be appointed by the organisation in line with its constitution.
- At a minimum the panel should comprise a chairman and two independent members one of whom may have relevant 'expert' knowledge. All panel members must declare any conflicts of interest.
- The individual or organisation against whom the disciplinary action is being taken should signify his agreement to the constituted panel.
- The panel must give a fair and independent hearing to both sides of the dispute within an appropriate and agreed timescale.
- The individual or organisation against whom the disciplinary action is being taken has the right to be accompanied at the hearing.
- If either party chooses not to attend the hearing, the panel, if properly constituted, has the right to proceed with the hearing based on written submissions.
- The panel may wish to call on 'expert' witnesses for advice.
- Discussions should be well recorded.
- The result of the hearing, with sufficient reason to explain the result, must be communicated in writing to both parties within 14 days of the date of the hearing.
- The panel and the accused should be aware of the possible outcomes of the disciplinary hearing in line with the constitutional body's jurisdiction.
- If the outcome of the hearing is unacceptable to either party they have the right to appeal.

## **3. Appeal procedure**

- If either party wishes to appeal against the outcome of the disciplinary hearing they should set out the grounds on which they wish to appeal in writing. This letter should be sent to the chairman of the appropriate body within 14 days of the outcome of the initial hearing being known. An appeal should be granted where there is a "strong arguable case" that either:-
  - a. relevant information was ignored or not considered by the original panel; or
  - b. the disciplinary process was tainted by unreasonable bias or conflict of interests; or
  - c. the provisions of the disciplinary procedure were not adhered to; or
  - d. the original panel exceeded its jurisdiction; or
  - e. the findings of the original panel were irrational or otherwise exhibited an error of general law.
- The organisation must appoint an independent appeal panel to consider the appeal, none of whom have had any prior involvement in the matter.
- The appeal panel should be constituted along the same principles as the hearings panel outlined above.
- The chairman of the appeals panel should convene a hearing of the appeals panel in a timely manner and, in consultation with the other panel members, will decide the conduct of the proceedings. If appropriate he may request written submissions and the appeals panel may or may not require the parties to be attend. If they do attend the accused has the right to be accompanied.
- Discussions should be well documented.
- The outcome of the appeal panel, with sufficient reason to explain the outcome will be communicated to both parties within 14 days of the appeal panel hearing.
- The outcome of the appeal will be final.

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