



KILMARNOCK HARRIER AND ATHLETICS CLUB (SC046169)

DISCIPLINE POLICY AND PROCEDURE

1 Introduction

- 1.1 This procedure outlines the steps to be taken by Kilmarnock Harrier and Athletic Club in the event of the report on an incident which may merit disciplinary action.

2 Definition and Scope

- 2.1 This policy applies to all Club members including junior members. Since it is only within the power of the Club to apply sanctions to its own members, then it does not apply to members of the public or members of visiting clubs.
- 2.2 The application of this policy includes allegations involving possible criminality, for example, theft, assault or abuse of a position of trust. In such cases the matter in the first instance should be referred to the Police for investigation and action. In this situation any member who is the subject of an allegation should, as a precaution and to protect the member themselves, be suspended from Club activities pending the result of the Police investigation. The procedures outlined in this policy should only be invoked following the results of the Police investigation becoming known, including any disposal by the courts. This process may last about two years, depending on the nature of the allegation.
- 2.3 The policy applies to allegations of a substantive breach of the Club Code of Conduct or of criminal actions that have occurred during Club activities or which have affected Club members. There may be cases where it is appropriate to invoke this procedure in other circumstances, including:
- a member is subject to Police investigation and/or court action the nature of which is prejudicial to the Club, for example sexual assault, or crimes of violence;
 - the actions of the Club member have brought the Club into disrepute; or
 - a complaint is received from another club, or event organiser, about the conduct of a Club member at an externally organised event where the member was representing the Club.
- 2.4 In some circumstances a matter will be better administered under the Club's Grievance Procedure to which reference should be made (see section 4.3)

3 Statement of Principles

- 3.1 The fundamental principle guiding this policy and its application is that all members of the Club share the Club's values and objectives and that they wish to positively engage in a community composed of like-minded individuals. This is founded on positive relationships where disagreement and constructive discussion is a natural part of life. Informal resolution is more likely to be effective in securing improvement, and will almost certainly result in a quicker and positive resolution of the issue. It therefore follows that the use of this procedure should be exceptional. The aim must be to settle all potential disciplinary matters informally with the positive participation of those involved. Coaches, have a key role to play in ensuring members know and understand the expectations on them and the terms of the code of conduct and should exercise first call disciplinary supervision of the athletes in their care. Wherever possible potential infringements of the code of conduct should be referred

to the appropriate coach to discuss with the member(s) concerned. **This given, there are certain issues that are of such gravity that they must be addressed formally and the use of this policy will be the only appropriate response**

- 3.2 Once invoked, the principles which will apply to the application of this procedure are:
- Fairness – all involved are entitled to contribute to the process
 - Transparency – all involved are entitled to have access to the evidence used to reach any decision.
 - Independence – those involved in investigating a grievance and coming to a decision will be independent of the circumstances and people involved.
 - Openness – anonymity is inadmissible and no undertaking of confidentiality can be given.
 - Support – everyone involved is entitled to advice from the Club Trustees, and to have one supporter with them at any meetings.
 - Timeliness – cases will be dealt with as quickly as possible with the aim of conclusion within 35 working days
- 3.3 In some circumstances related either to the nature of the allegation/complaint, or due to the role of those involved, the committee may consider asking a neutral member of another local athletic club, or organisation, to investigate the allegation/complaint.

4 Stages is the Disciplinary Procedure

- 4.1 The stages in this procedure are:
Stage One: the allegation/complaint.
Stage Two: decision on procedural route.
Stage Three: the investigation.
Stage Four: the disciplinary decision and level of sanction,
Stage Five: Appeal.

- 4.2 Stage One: the allegation/complaint.
Complaints can be made to any coach or member of the Club Management Committee. A coach or Committee member receiving such a complaint should clarify whether it is being made under this procedure, or if it is being raised informally. If being raised formally, the matter should then be notified immediately and without delay to the Club Chair giving as much detail as possible, but as a minimum the:
- allegation;
 - date, time and location of the incident;
 - name of the complainant;
 - name or other identity of the subject of the complaint; and
 - name of any witnesses (if known); and

Any member of the Club, including junior members and volunteers, is entitled to raise an allegation/complaint under this policy. A parent or carer of a junior member is entitled raise an allegation/complaint on behalf of the junior member. It is also competent for the Club to use this procedure if an allegation/complaint is received from another club, or event organiser, about the conduct of a Club member at an externally organised event where the member was representing the Club. The allegation/ complaint is best made in writing but can also be done verbally.

An allegation/complaint made by a member of the public can also be handled under this policy provided that the complainant is prepared to state their complaint clearly, either verbally or in writing (including email), and is prepared to give evidence either in the form of a written statement or through an interview with the investigating officer. An exception is the case of a child/vulnerable adult protection or criminal matter where the issue must be dealt with under section 4.3.1.

The Club Chair, or their nominee, will respond acknowledging receipt of the complaint. This will be done within 7 (seven) working days from delivery/receipt of the referral.

4.3 Stage Stage Two: decision on procedural route.

The Club Chair and at least one other Trustee will consider the complaint and decide the procedural route to be used. The options are:

1. immediate referral to the Police/Social Work;
2. move to Stage 3 of this disciplinary procedure;
3. handle under the grievance procedure; or
4. handle as a complaint without disciplinary implication; or
5. take no further action.

In reaching a decision on the appropriate route it is not appropriate to come to a view on whether the allegation/complaint is valid or proven. The decision on the route will be made on the basis of the gravity of the matter should the allegation or complaint be proven or upheld, and in these circumstances what action the Club would take. Further guidance is given below in relation to each route.

4.3.1 Immediate referral to the Police/Social Work

This is appropriate if criminal activity is alleged for example, theft, common assault, sexual assault, or abuse of a position of trust. This route should also be used if a child or vulnerable adult discloses abuse at the hands of a third party even if that individual is not a Club member. A Police/Social Work referral should be made immediately or as soon as practically possible, particularly if it is a matter of child/vulnerable adult welfare. If there is any doubt about using this route, the correct approach is to refer to the Police/Social Work and then allow them to come to a view based on the evidence emerging from their investigations.

Depending on the nature of the allegation a decision should be taken on whether the complainant should be advised to report the matter, or whether this should be done by the Chair or his/her representative. This will be dictated by circumstances and individual judgement will be required at the time. On a child/vulnerable adult protection matter however, the referral must come from the Club with a record kept of the date and time of the referral. In these welfare cases it is also advisable to simultaneously, and without delay to notify Social Services contactable through the **Council's Risk Management Centre 01563 553950 which operates 24/7.**

If the allegation is against a paid employee of the Club then Scottishathletics will be informed immediately and jurisdiction passed to them but with a report also being made to the Police and Social Work. An allegation against a member of staff of the Leisure Trust will be referred to the duty manager, or other responsible member of staff for suitable action making it clear that it is their responsibility to take a decision on Police and Social Work referral.

It is vitally important that no investigation is started by the Club until the outcome of the Police/Social Work investigations is known. This may take a considerable time.

Pending the outcome from Police/Social Work investigations, the member of the Club who is the subject of the allegations should be suspended from Club activities. The Club Welfare officer should be informed if not otherwise aware of the allegation.

At the conclusion of Police/Social Work investigations it may still be necessary to invoke the Club's disciplinary procedures under Stage 3 of these procedures.

4.3.2 Move to Stage 3 of this disciplinary procedure;

The disciplinary route will be appropriate if there has been an alleged infringement of the Code of Conduct or there has been other inappropriate behaviour falling short of criminality. This alleged infringement should be substantive and clear and incapable of, or inappropriate for, informal resolution. The complaint must be capable of corroboration either by the identification of witnesses, video footage, social media traces or documentary evidence. Without such corroboration it will be impossible to prove the allegation.

The Chair should at this stage identify a Club Member (or seek the co-operation of a trusted third party, for example from another Club) to act as the Investigating officer. The investigating officer must be willing to undertake the role and should have the experience or background to enable them to discharge the function effectively.

A timescale for the conclusion of the investigation should be specified at this stage. A decision should be taken if the nature of the allegation requires a suspension from Club activities.

If the subject of the complaint is a paid official of the Club, the matter will be referred to Scottishathletics for action.

The complainant (and their parent if a junior member) should be notified in writing of the decision to start the investigation and given the identity of the investigating officer. Similar information verbally and in writing should be given to the subject of the complaint/allegation (and their parent if a junior member) together with the nature of the complaint and whether a suspension from Club activities has been invoked.

4.3.3 Handle under the grievance procedure

This will be the appropriate if it is alleged:

- Approved club policy has been misapplied resulting in detriment to a member, paid official of the Club, volunteer or supporter of the club.
- Club policy is deficient resulting in detriment or discrimination.
- An office bearer of the Club, paid officer of the Club, coach or member of the administrative team has made a decision resulting in detriment subject to the exclusions noted in section 2.2 below.

In these circumstances, the Club's Grievance Procedure will then be invoked.

4.3.4 Handle as a complaint without disciplinary implication

If the matter is substantive but does not fall within any of the above categories it will be handled as a complaint. Examples might be a member of the public aggrieved by race organisation arrangements, or that access to facilities in a shared let has been restricted by

Club activities, or that Club members are training too frequently on a particular route. Such a complaint will be investigated by the Chair or an office bearer. A holding reply will be issued to the complainant which will be followed within 10 working days by a substantive reply detailing the results of the investigation together with any appropriate improvement action. Disciplinary action may be appropriate as a consequence of new information arising as a consequence of this investigation in which case this new matter will be considered from the start point of this process.

4.3.5 Take no further action

If the matter is minor or not substantive, or if it has already been resolved then it will be appropriate to take no further action. This might be the case, for example, if a substantial amount of time has elapsed between the event that is the source of the complaint and the complaint coming to the attention of the Chair. Such time-expiry will not apply to any allegation in relation to the welfare of vulnerable groups which must be handled under paragraph 4.3.1 even if historic.

In these circumstances the complainant is still entitled to a reply indicating that the matter has been considered.

4.4 Stage Three: the investigation.

The investigating officer will as a minimum:

- a. Arrange to meet the complainant:
 - to clarify, as necessary, the nature of the complaint;
 - gather the identities and contact details of any witnesses;
 - obtain a detailed description of any events that relate to the complaint especially dates, times, places;
 - obtain access to any other evidence eg tape recordings, letters, texts; and
 - discuss any outcome sought by the complainant.
- b. Arrange to meet the subject of the complaint:
 - to elicit the response to the complaint;
 - gather the identities and contact details of any witnesses;
 - obtain a detailed description of any events that relate to the complaint especially dates, times, places;
 - obtain access to any other evidence eg tape recordings, letters, texts; and
 - discuss possible outcomes that the subject of the complainant might consider.
- c. Arrange to meet witnesses:
 - to elicit their account of events in terms of facts and seriousness;
 - gather the identities and contact details of any further witnesses;
 - obtain access to any other evidence eg tape recordings, letters, texts.
- d. Review any documentation:
 - check the Code of Conduct;
 - check any relevant Club policies;
 - check any appropriate national advice;
 - study any documents or equivalent provided by the complainant, subject of the complaint and witnesses.

As appropriate, the investigating officer may also wish to meet relevant coaches, club officers or officials, parents or anyone else willing to contribute to the process.

For the purposes of conducting the interview, the investigating officer should choose a place that is as private as possible, and if necessary in a neutral location. It is permissible to conduct the interview by telephone or equivalent. All participants in the process are entitled to be supported by one person of their choosing. Junior members should be supported by their parent. All participants should be informed of the purpose of the meeting, that participation is voluntary but that no guarantee of confidentiality can be offered. They should also be told that a non-verbatim written record of the meeting will be made. They should also be told that it may be necessary to have a subsequent discussion, if new information comes to light, or if facts are disputed.

If anyone declines an interview, they may provide a written statement to the investigating officer. All possible efforts should be made to facilitate the interview by offering different dates and times. If someone misses an appointment at least one further opportunity should be offered.

The investigating officer should use the opportunity to ask questions to check and cross check facts.

After each interview the investigating officer should compile a written record of the meeting specifying its date, time and venue together with the names of participants. It is not necessary to compile a verbatim record, but the key facts should be recorded in as much detail as necessary. Such records should be written on the assumption that sight of them may be requested by the Club Management Committee or Trustees. The complainant, the subject of the complaint and the witness themselves will be able to see the record if they wish.

The interview process should take no longer than 14 (fourteen) working days. However this can be extended depending on the nature of the complaint. The complainant and the subject of the allegation/complaint should be kept apprised of progress, together with the reasons for any delay.

Following the conclusion of the investigation, a brief report should be written by the investigating officer. The report should be an objective and factual account of:

- who has made the complaint;
- who the complaint is against;
- an identification of the complaint;
- the part(s) of the Code of Conduct to which the complaint relates;
- a brief description of the investigation process and who was involved;
- a summary of the circumstances in which the complaint arose : dates, times, places, who was involved what happened;
- the complainant's account;
- the subject of the complaint's account;
- the perspectives of any witnesses;
- as necessary any information from documents, or elsewhere;
- a synthesis of these accounts clearly identifying the established facts (ie that are corroborated and for which evidence exists); and
- a recommendation on whether there is a case to answer.

The report does not need to include copies of the interview records, but can quote and identify witnesses and sources of evidence. It should be as factual as possible being evidence based. Conjecture and speculation should be avoided. If it is impossible to confirm

a key fact for example when there are only two accounts of events which differ in substance then the report should state clearly that it has not been possible to confirm what happened. It may be that further information is required during the report-writing stage and this is allowed.

The report should be submitted to the Club Chair as soon as it is completed.

4.5 Stage Four: the disciplinary decision and level of sanction

If the recommendation of the investigating officer is any sanction short of suspension, then the Chair and at least one member of the Management Committee should meet the Investigating Officer to test the report, and come to a view on whether a breach of the Code of Conduct has occurred. If so, then the level of sanction should be decided. Sanctions available under this part of the procedure include one or more of:

- restorative practice – the subject of the complaint invited to apologise to the complainant.
- a verbal warning (informal – no record kept);
- a verbal warning (formal - a record kept);
- a written warning; or
- a final written warning.

Note:

A “final written warning” can be in place for a period of up to two years, and has the meaning that any further alleged offence during that period, if held to be substantive at the investigation phase, will automatically be referred to the Management Committee with a view to a motion of suspension or expulsion.

In applying any sanction the Chair should take account of:

- the impact of the incident on the complainant and Club;
- any contextual circumstances such as the level of aggravation;
- any mitigating circumstances such as recent family problems, anxiety over illness;
- the experience and maturity of the subject of the complaint;
- any specific training that has been given, or its absence on the area of concern;
- any disability or learning difficulty on the part of the complainant or subject of the complaint;
- whether the complainant is a member of any group with a protected characteristic, and the complaint relates to that characteristic;
- the level of contrition displayed by the subject of the complaint;
- the previous disciplinary record of the subject of the complaint; or
- any statements from coaches or club officials in support of the subject of the complaint and how they might support them.

The outcome of the procedure should be notified to the subject of the complaint and the complainant. The subject of the complaint will have a right of appeal to the Club Committee for this level of sanction. If this right is invoked, the original decision will be annulled and the procedure outlined below will be adopted, with the full range of sanctions available to the Club Committee.

If the report recommendation is for suspension or expulsion, or if the Club Chair comes to a view that a sanction at this level should be considered then in accordance with the Club Constitution, the Club Chair will convene a special meeting of the Management Committee.

This will consist of at least three members, none of whom should be a Trustee. The date of the meeting will be notified to the members of the Management Committee who are participating, the investigating officer and the subject of the complaint all of whom should be invited to attend. At least 21 days' notice should be given of the meeting. All should receive, in confidence, a copy of the investigating officer's report. The subject of the complaint must be notified that a resolution of suspension or exclusion is a possible outcome of the meeting.

The procedure to be adopted at the meeting.

- The quorum is three members, one of whom will be designated as the Chair with a deliberative and casting vote. The Chair may request the support of a Trustee to advise on procedural issues but who will not participate in deliberations.
- The investigating officer will present their report.
- The subject of the report can ask questions of the investigating officer.
- Members of the Committee can ask questions of the investigating officer.
- The subject of the complaint presents their case, which can be in writing, or verbal, or both.
- The investigating officer can ask questions of the subject of the complaint.
- Members of the Committee can ask questions of the subject of the complaint.
- The investigating officer summarises their case.
- The subject of the complaint summarises their case.
- The investigating officer and subject of the complaint retire.
- The Committee deliberate and come to a decision ideally by consensus and, if necessary, by vote on whether the case is proven and on the appropriate level of sanction. (Two thirds of the members present must agree if the sanction is suspension or expulsion.)
- The investigating officer and subject of the complaint return and are informed of the decision which can be to either dismiss the case or to apply any of the sanction
- The chair of the disciplinary committee writes to the subject of the complaint notifying them of the decision, and, if necessary, their right of appeal.

In applying any sanction the committee should take account of:

- the impact of the incident on the complainant and Club;
- any contextual circumstances such as the level of aggravation;
- any mitigating circumstances such as recent family problems, anxiety over illness;
- the experience and maturity of the subject of the complaint;
- any specific training that has been given, or its absence on the area of concern;
- any disability or learning difficulty on the part of the complainant or subject of the complaint;
- whether the complainant is a member of any group with a protected characteristic, and the complaint relates to that characteristic;
- the level of contrition displayed by the subject of the complaint;
- the previous disciplinary record of the subject of the complaint; or
- any statements from coaches or club officials in support of the subject of the complaint and how they might support them.

5 Appeal

As indicated above the Club Management Committee will consider appeals on any sanction below suspension or expulsion.

In cases where a disciplinary committee has applied a sanction of suspension or expulsion there is a right of appeal. Such an appeal will so far as possible and as is consistent with the club's resources be independent of disciplinary committee.

For this part of the process it is important to establish the grounds on which the appeal has been lodged. It is valid to appeal both the decision to apply a sanction and the level of sanction. In lodging an appeal the appellant must state the basis of the appeal. All appeals should be in writing to the Club Chair. The appeal should state:

- if it is being made about the decision on the Committee's finding of "guilt" or culpability;
- if it is being made on the level of sanction applied; and
- The basis of the appeal which may be related to, for example:
 - Insufficient weight or too much weight attached to a piece of evidence,
 - New evidence or witnesses,
 - The procedure adopted by the disciplinary committee was incorrect, or
 - Insufficient weight attached to wider contextual circumstances

The appeal will be considered by an appeal committee of least three persons nominated by the Chair or his nominee. The committee will be usually drawn from the Charity Trustees, but may include an individual with particular expertise, who may be from outside the club. The Chair will nominate a committee chair who must be a Charity Trustee. At least 10 working days' notice will be given of the meeting.

The procedure to be adopted at the meeting.

- The quorum is three members, one of whom will be designated as the Chair with a deliberative and casting vote.
- The chair of the disciplinary committee will summarise the case and will state the reasons the committee came to its view on both culpability and the level of sanction. They may be supported in this presentation by the investigating officer.
- The appellant can ask questions of the investigating officer and chair of the disciplinary committee.
- Members of the Appeals Committee can ask questions of the chair of the disciplinary committee and investigating officer.
- The appellant presents their case, which can be in writing, or verbal, or both.
- The chair of the disciplinary committee and investigating officer can ask questions of the subject of the complaint.
- Members of the Committee can ask questions of the appellant.
- The chair of the disciplinary committee summarises their case.
- The appellant summarises their case.
- The appellant, chair of the disciplinary committee and investigating officer retire.
- The Appeals Committee deliberate and come to a decision ideally by consensus and, if necessary, by vote on whether the appeal is upheld and, as necessary on the appropriate level of sanction.
- The chair of the disciplinary hearing, investigating officer and appellant return and are informed of the decision.
- The chair of the appeals committee writes to the appellant notifying them of the decision.

6 Keeping Records

- 6.1 The Club will keep confidential records for up to 6 (six) years of:
- a copy of the investigation report;
 - the minute of the disciplinary committee;
 - the minute of any appeals committee meeting;
 - any letters sent notifying participants of the outcomes of disciplinary and appeals hearings.

A final written warning will be deemed to be “spent” two years after it came into effect.

7 Conclusion

- 7.1 This procedure sets out an outline description of the actions to be taken if disciplinary action is being considered or taken. It should be seen as a last resort. Using the procedure will be time consuming and absorb effort and club resources which are likely to be disproportionate. It is also likely that the need for these formal measures will disturb the positive relationships on which all clubs rely to prosper.

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