

Disciplinary Procedures for Staff, Coaches and Volunteers

Mackie Academy Former Pupils Rugby Football Club encourages high standards of behaviour and action will be taken when members of staff/coaches/volunteers breach the code of conduct in line with these club Disciplinary Procedures.

Sports organisations should encourage high standards of behaviour and action should be taken when members of staff/coaches/volunteers breach the code of conduct. A disciplinary procedure allows inappropriate behaviour to be addressed fairly and consistently. Child protection within an organisation is greatly enhanced by having a good disciplinary procedure.

1. PRINCIPLES

- a) This procedure is designed to establish the facts quickly and to deal with disciplinary issues consistently
- b) No disciplinary action will be taken until a matter has been fully investigated
- c) The member of staff/coach/volunteer involved may be suspended from their role while an investigation is carried out. Suspension is not a form of disciplinary action. A decision to suspend will be made by the Executive Secretary. Notification of the suspension and the reasons will be conveyed in writing to the member of staff/coach/volunteer
- d) At every stage of the formal disciplinary procedure the member of staff/coach/volunteer will have the opportunity to state his/her case at a disciplinary hearing. If so wished he/she will have the opportunity to be represented or accompanied at the hearings by a third party e.g. a friend or colleague or a trade union representative, (where applicable)
- e) The member of staff/coach/volunteer has the right to appeal against any disciplinary action.
- f) The disciplinary procedure may be implemented at Stage 1, 2 or 3 if the member of staff/coach/volunteer's alleged misconduct warrants such action.

2. THE PROCEDURE

2.1 Initial Assessment/Stage

The purpose of the initial assessment is to clarify the nature and context of the concern. It should determine whether there is reasonable cause to suspect or believe that a child has been abused or harmed, or is at risk of abuse or harm. It will involve asking some basic questions of appropriate individuals with the sole purpose of clarifying the basic facts.

If the nature of the concern suggests a criminal offence has occurred, or that a child may have been abused, then advice must be sought from the police before speaking to child witnesses or to the member of staff/coach/volunteer at the centre of the allegation.

The possible outcomes of the initial assessment are:

- 1. No further action (facts do not substantiate complaint)
- 2. Situation is dealt with under formal disciplinary procedures (by sports organisation)
- 3. Child protection investigation (jointly by the police or social work services)
- 4. Criminal investigation (by the police).

Where a member of staff/coach/volunteer fails to meet the required standard of behaviour and the shortfall is of a minor nature, the Executive Secretary may decide to speak to the member of staff/coach/volunteer on an informal basis to avoid the need for formal disciplinary action. The

Executive Secretary will also advise the member of staff/coach/volunteer of the need to achieve and maintain the standards required. The Executive Secretary may inform the member of staff/coach/volunteer that failure to achieve the required standards will result in a formal disciplinary hearing, which may result in disciplinary action.

Facts of the conversation should be noted and confirmed in writing to the member of staff/coach/volunteer so there is clarity about what has to be achieved.

Following the initial assessment a period of precautionary suspension may be helpful or necessary while a concern is being further investigated.

2.2 Precautionary Suspension

Precautionary suspension may be considered in the following circumstances:

- if the police or social work services advise suspension
- if the allegation made against the member of staff/coach/volunteer was ultimately to be proved, then there would be a significant concern about the conduct of that member of staff/coach/volunteer towards children or other adults
- if the member of staff/coach/volunteer's attendance or involvement in the club could compromise the investigation
- if Disclosures SCRO notifies Scottish Rugby that an individual is being considered for the Children's List.

Suspension is not a form of disciplinary action and does not involve pre-judgment. It should only be considered in the above circumstances.

In all cases of suspension the welfare of children will be the paramount concern.

2.3 Formal Disciplinary Procedure

- Stage 1 – First warning

If conduct is unsatisfactory, the member of staff/coach/volunteer will be given a written warning. Such warnings will be recorded. The warning will expire after 6 months of satisfactory conduct. A final written warning may be considered if there is no sustained satisfactory improvement or change.

- Stage 2 – Final written warning

If the offence is serious, or there is no improvement in standards, or if a further offence of a similar kind occurs, a final written warning will be given. The written warning will expire after 12 months. Action at Stage 3 will be taken if there is no sustained satisfactory improvement or change.

- Stage 3 – Dismissal or Action Short of Dismissal

If the conduct has failed to improve, the member of staff/coach/volunteer may suffer demotion, disciplinary transfer, or dismissal.

Gross misconduct

If, after investigation, it is confirmed that a member of staff/coach/volunteer has committed an offence of the following nature (the list is not exhaustive), the normal consequence will be dismissal without notice or payment in lieu of notice: - theft, damage to property, fraud, incapacity for work due to being under the influence of alcohol or illegal drugs, physical violence, bullying, abuse of a child and gross insubordination.

Following advice from the police, cases that also involve a criminal investigation will not preclude disciplinary action being taken. This is provided sufficient information is available to enable the club to make a decision and that to do so does not jeopardize the criminal investigation. Any decision to dismiss will be taken by the club only after full investigation.

3. APPEALS

A member of staff/coach/volunteer who wishes to appeal against any disciplinary decision must do so to the Executive Secretary within seven working days of the disciplinary decision being made known to them.

The member of staff/coach/volunteer should provide a written statement of the appeal, indicating the grounds for the appeal together with such accompanying documents as they feel appropriate.

The appeal will be heard by the Club's Management Committee and a decision on the case made as impartially as possible.

The Club's Management Committee will notify the member of staff/coach/volunteer of the decision in writing as expeditiously as possible. The decision of the Club's Management Committee is final and there is no right of appeal.

4. REFERRALS TO THE CHILDREN'S LIST

Where a club takes disciplinary action to remove a member of staff/coach/volunteer from regulated work as a result of harmful behaviour towards a child, then they have a duty to refer the member of staff/coach/volunteer to Disclosures SCRO so that consideration can be given to whether that individual should be barred from any kind of regulated work with children. Without this duty there would be no way of preventing individuals moving undetected to other organisations where they may continue to pose a risk.

The Protection of Vulnerable Groups (Scotland) Act 2007 stipulates that organisations must refer to Disclosures SCRO the case of any member of staff/coach/volunteer who (whether or not in the course of their role within the organisation) has:

- harmed a child
- placed a child at risk of harm
- engaged in inappropriate conduct involving pornography
- engaged in inappropriate conduct of a sexual nature involving a child, or
- given inappropriate medical treatment to a child.

AND as a result:

1. The club has dismissed the member of staff/coach/volunteer
2. The member of staff/coach/volunteer would have been dismissed as a result of the incident had they not resigned, retired or been made redundant
3. The club has transferred the member of staff/coach/volunteer to a position which is not regulated work with children
4. The member of staff/coach/volunteer would have been dismissed or considered for dismissal where employment or volunteer role was not due to end at the expiry of a fixed term contract; or,
5. The member of staff/coach/volunteer would have been dismissed or considered for dismissal had the contract not expired.

The club will also refer the case of a member of staff/coach/volunteer where information becomes available after the member of staff/coach/volunteer has:

- been dismissed
- resigned, retired or been made redundant
- been transferred to another position in which is not regulated work with children; and,

where the club receives information that a member of staff/coach/volunteer who holds a position of regulated work has been listed on the Children's List, the member of staff/coach/volunteer will be removed from the regulated work with children post.

SPECIAL CONSIDERATIONS - SPEAKING TO CHILDREN DURING THE INVESTIGATIVE PROCESS OR AS PART OF A DISCIPLINARY HEARING

In establishing the facts of any concern or complaint, it may be necessary to speak to a child or children who were involved in the alleged incident.

In some circumstances, it would not be appropriate for the person conducting the investigation to speak to a child involved in the incident. In particular, if the nature of the concerns suggests a criminal offence has occurred or that a child may have been abused, then it is the job of specially trained and competent police officers and social workers to interview the child.

If there is any doubt as to whether it is okay to speak to a child, advice will be sought from the police or social work services.

In cases where the nature of the complaint or concern is such that the police or social work services are not involved, careful consideration should still be given before approaching children to give information as part of the initial investigation process or as part of a disciplinary hearing.

To minimise distress or anxiety for the child, the following will be considered:

- The age, gender and background of the child i.e. will they require an interpreter?
- Whether the child has any learning or physical disability which might affect their ability to communicate with others
- The child's emotional state
- Timing and location of interview, bearing in mind the child's daily routines
- What you will do if the child becomes upset
- Obtaining consent from the parents/ carer
- Any other information which may be relevant.

Parties should decide whether it is absolutely necessary for the child to be involved in a disciplinary hearing. If the child is to be involved consideration should be given to the following:

- Allowing the child to be accompanied by a relative or other responsible adult (preferably someone who is not involved in the case)
- The environment or room layout - how intimidating it could appear to a child
- The number of people present - try to ensure only those who need to be there are present whilst the child gives evidence
- The age of the child
- The nature of the evidence the child may be giving
- The nature of the relationship between the child and the subject of the hearing
- The tone and style of questioning i.e. clear, non-threatening with sufficient opportunity for the child to consider the questions and answer them.

These considerations should be balanced against the need to ensure a fair hearing.

NOTICE OF PRECAUTIONARY SUSPENSION - TEMPLATE

Date

Dear

I am writing to tell you that you that following the suspension interview/notification of your consideration for listing to the Children's List, you will now be suspended for duration of time/until outcome is determined if you are barred from regulated work with children.

This is in response to

You will next be informed of any disciplinary action that will follow the investigation period.

Yours

Signed
[Role Title]

NOTICE OF DISCIPLINARY HEARING - TEMPLATE

Date _____

Dear

I am writing to tell you that you are required to attend a disciplinary hearing, which is to be held at _____ on _____ at _____ am/pm.

At this meeting the question of disciplinary action against you, in accordance with Mackie Academy Former Pupils Rugby Football Club's Disciplinary Procedure, will be considered with regard to:

Description of incident e.g. “An incident which took place on [date] between yourself on the one hand and x on the other when it was alleged that you...”

Please find enclosed the following available evidence: *e.g. written witness statements where available.*

You will have the opportunity at the hearing to respond to the incidents as described and to the enclosed evidence.

You are entitled, if you wish, to be accompanied by a friend or a colleague.

If you are unable to attend this meeting, please contact [insert name] on [insert number], as a matter of urgency to arrange an alternative date. You are required to take all reasonable steps to attend the meeting. Failure to attend without good reason could result in the meeting being held, and a decision being taken, in your absence.

Yours

Signed
[Role Title]

Enclosed:

- Disciplinary Procedure

NOTICE OF WRITTEN WARNING OR FINAL WRITTEN WARNING - TEMPLATE

Date

Dear

You attended a disciplinary hearing on . I am writing to confirm the decision taken that you be given a written warning/final written warning under the first/second stage of the Scottish Rugby Disciplinary Procedure.

This warning will be recorded but will be disregarded for disciplinary purposes after a period of 6 months/12 months, provided your conduct improves.

- a) The nature of the unsatisfactory conduct or performance was: *[insert]*
- b) The conduct or performance improvement expected is: *[insert]*
- c) The timescale within which the improvement is required is: *[insert]*
- d) The likely consequence of further misconduct or insufficient improvement is: *[insert]*

You have the right of appeal against this decision. Please submit your appeal in writing to within [x working] days of receiving this disciplinary decision.

Yours

Signed
[Role Title]

NOTICE OF DISMISSAL OR ACTION SHORT OF DISMISSAL - TEMPLATE

Date

Dear

You attended a disciplinary hearing on . I am writing to confirm the decision taken that you be *[dismissed/demoted/transferred]* under the final stage of the Scottish Rugby Disciplinary Procedure.

The reasons for your *[dismissal/demotion/transfer]* are:

This will take effect from *[insert date]*.

You have the right of appeal against this decision. Please submit your appeal in writing to *[role title]* within *[x working]* days of receiving this disciplinary decision.

Yours

Signed
[Role Title]

NOTICE OF APPEAL HEARING AGAINST DISCIPLINARY ACTION - TEMPLATE

Date

Dear

You have appealed against the [*written warning/final written warning*] confirmed to you in writing on

Your appeal will be heard by at on at .

You are entitled to be accompanied by a friend or a colleague.

The decision of this appeal hearing is final and there is no further right of review.

Yours

Signed
[*Role Title*]

**NOTICE OF RESULT OF APPEAL HEARING AGAINST DISCIPLINARY ACTION -
TEMPLATE**

Date

Dear

You appealed against the decision of the disciplinary hearing that you be [*dismissed/subject to disciplinary action*].

The appeal hearing was held on

I am now writing to confirm the decision taken by [*name of manager who conducted the appeal hearing*], namely that the decision to [stands/is revoked].

Specify if no disciplinary action is being taken or what the new disciplinary action is.

You have now exercised your right of appeal under the Scottish Rugby Disciplinary Procedure and this decision is final.

Yours sincerely,

Signed
[Role Title]