

Disciplinary rules and procedures?

This paper is based on the Labour Relations Agency Code of Practice

Disciplinary rules and procedures are necessary for promoting orderly working relations as well as fairness and consistency in the treatment of individuals. They enable the sport to influence the conduct of staff/ volunteers/athletes/parents and deal with problems of poor practice thereby assisting the sport to operate effectively.

Rules set standards of conduct and performance at the club; procedures help ensure that the standards are adhered to and also provide a fair method of dealing with alleged failures to observe them.

It is important that our staff/volunteers know what standards of conduct and performance are expected of them. These are set out in our codes of conduct. The management committee should also know and be able to apply the rules and the procedures they are required to follow.

Management is responsible for maintaining discipline and setting standards of performance within the club and for ensuring that there are appropriate disciplinary rules and procedures covering issues of staff/volunteer conduct and performance. However (Name of organisation) recognise the rules and procedures need to be accepted as reasonable both by those who are covered by them and those who operate them. Management have therefore secured the involvement of staff/volunteers when formulating new or revising existing rules and procedures.

Disciplinary rules are essential for the efficient and safe performance of coaching & playing and for the maintenance of satisfactory relations within the club and between staff/volunteers and management. It is unlikely that any set of disciplinary rules can cover all circumstances that may arise. However, our code of conduct does cover issues such as misconduct, substandard performance, harassment or victimisation, misuse of club facilities including computer facilities (e.g. e-mail or Facebook etc.), poor timekeeping and unauthorised absences.

Our rules are set out clearly in our code of conduct in writing and are made available to all staff/volunteers, at induction & on our web sites site.

Staff/volunteers are made aware of the likely consequences of breaking disciplinary rules or failing to meet performance standards. In particular, they are be given a clear indication of the type of conduct, often referred to as gross misconduct, which may warrant being asked to leave the club. Acts which constitute gross misconduct are those resulting in a serious breach of contractual terms and they include the following:

- (i) theft, fraud and deliberate falsification of records;
- (ii) physical violence;
- (iii) serious bullying or harassment;
- (iv) deliberate damage to property;

- (v) serious insubordination;
- (vi) misuse of an organisation's property or name;
- (vii) bringing the employer into serious disrepute;
- (viii) serious incapability whilst on duty brought on by alcohol or illegal drugs;
- (ix) serious negligence which causes or might cause unacceptable loss, damage or injury;
- (x) serious infringement of health and safety rules; or
- (xi) serious breach of confidence (subject to the Public Interest Disclosure (Northern Ireland) Order 1998).

This list is not intended to be exhaustive.

Disciplinary procedures should not be viewed primarily as a means of imposing sanctions. Rather they should be seen as a way of helping and encouraging improvement amongst staff/volunteers whose conduct or standard of behaviour is unsatisfactory. When drawing up and applying disciplinary procedures (Name of organisation) have considered the requirements of natural justice. This means staff/volunteers should be informed in advance of any disciplinary hearing of the allegations that are being made against them together with the supporting evidence and be given the opportunity of challenging the allegations and evidence before decisions are reached. This is only if this is an internal matter, if it is a child protection concern and the matter has been reported to the statutory authorities then (Name of organisation) will not become involved in any opportunity for the individual to challenge the allegation until the statutory authority have completed their investigation.

Staff/volunteers should also be given the right of appeal against any decisions taken. Consequently our disciplinary procedures should:

- (i) be in writing;
- (ii) specify to whom they apply;
- (iii) be non-discriminatory;
- (iv) provide for matters to be dealt with without undue delay (this may be dependent on any external investigation by a statutory authority);
- (v) provide for proceedings, witness statements and records to be kept confidential;
- (vi) indicate the disciplinary actions which may be taken;
- (vii) specify the levels of management which have the authority to take the various forms of disciplinary action;
- (viii) provide for staff/volunteers to be informed of the complaints against;
- (ix) provide staff/volunteers with an opportunity to state their case before decisions are reached;
- (x) provide staff/volunteers with the right to be accompanied to any disciplinary hearing;
- (xi) ensure that, except for gross misconduct, no worker/volunteer/volunteer is dismissed for a first breach of discipline;
- (xii) ensure that disciplinary action is not taken until the case has been carefully investigated (either externally or internally);
- (xiii) ensure that staff/volunteers are given an explanation for any penalty imposed; and
- (xiv) provide a right of appeal - normally to a more senior manager/senior coach - and specify the procedure to be followed.

It is important to ensure that all manager/senior coaches and understand the organisation's disciplinary procedure.

When a disciplinary matter arises, the relevant supervisor or manager/senior coach should first establish the facts promptly before recollections fade, and where appropriate obtain statements from any available witnesses. It is important to keep a record for later reference. Having clarified all the facts the manager/senior coach or senior coach should decide whether to: drop the matter; arrange informal coaching or counselling; or arrange for the matter to be dealt with under the disciplinary procedure.

Minor cases of misconduct and most cases of poor performance may best be dealt with by informal advice, coaching and counselling rather than through the disciplinary procedure. Sometimes (Name of organisation) may issue informal oral warnings - but they need to ensure that problems are discussed with the objective of encouraging and helping staff/volunteers/athletes/parents to improve. It is important that staff/volunteers/athletes/parents understand what needs to be done, how performance or conduct will be reviewed and over what period. They should also be made aware of what action will be taken if they fail to improve either their performance or conduct. Informal warnings and/or counselling are not part of the formal disciplinary procedure and the worker/volunteer should be informed of this.

In certain circumstances, for example in cases involving gross misconduct, where relationships have broken down or where it is considered there are risks to an employer's property or responsibilities to other parties, consideration should be given to a brief period of suspension with pay whilst an unhindered investigation is conducted. Such a suspension should only be imposed after careful consideration and should be reviewed to ensure it is not unnecessarily protracted. It should be made clear that the suspension is not considered as disciplinary action.

Before a decision is reached or any disciplinary action taken there should be a disciplinary hearing at which staff/volunteers/athletes/parents have the opportunity to state their case and to answer the allegations that have been made. Wherever possible the hearing should be arranged at a mutually convenient time and the coach informed in advance of the hearing.

Where the facts of a case appear to call for formal disciplinary action a formal procedure should be followed. The type of procedure will vary according to the circumstances of the organisation.

Depending on the outcome of the procedure some form of disciplinary action may be taken as follows:

First Warning:

Oral - In the case of minor infringements the staff/volunteers/athletes/parent should be given a formal oral warning. They should be advised of the reason for the warning, that it constitutes the first step of the disciplinary procedure and of their right of appeal. A note

of the oral warning should be kept but should be disregarded for disciplinary purposes after a specified period (e.g. six months).

Final Written Warning:

Where there is a failure to improve or change behaviour during the currency of a prior warning, or where the infringement is sufficiently serious, the staff/volunteers/athletes/parent should normally be given a final written warning. This should give details of the complaint, warn the worker/volunteer that failure to improve or modify behaviour may lead to dismissal or to some other action short of dismissal and refer to the right of appeal. The final written warning should normally be disregarded for disciplinary purposes after a specified period (e.g. 12 months).

Dismissal or Other Sanction:

If the worker/volunteer's conduct or performance still fails to improve the final step might be disciplinary transfer, disciplinary suspension without pay, demotion, loss of seniority, loss of increment (provided these penalties are allowed for in the contract in the case of paid staff) or dismissal. See referral to Independent Safeguarding Authority section for duties if the issue was related to safeguarding.

The decision to dismiss:

Where a disciplinary suspension without pay is imposed it should not exceed any period allowed by the contract of employment. Should be taken only by the appropriate designated manager/senior coach and the worker/volunteer should be informed as soon as reasonably practicable of the reasons for the dismissal, the date on which the contract between the parties will terminate, the appropriate period of notice (or pay in lieu of notice) and information on the right of appeal including how to make the appeal and to whom. The decision to dismiss should be confirmed in writing. Employees with one year's continuous service or more have the right, on request, to have a written statement of particulars of reasons for dismissal.

Severity of the penalty.

When operating disciplinary procedures Governing bodies should be particularly careful not to discriminate on the grounds of race, gender, religion, political opinion or disability.

Criminal charges or convictions outside employment.

These should not be treated as automatic reasons for dismissal. The main consideration should be whether the offence is one that makes staff/volunteers/athletes/parent unsuitable for their role. In all cases Governing bodies, having considered the facts, will need to consider whether the conduct is sufficiently serious to warrant instituting the disciplinary procedure. For instance, staff/volunteers/athletes/parent should not be dismissed solely because a charge against them is pending or because they are absent as a result of being remanded in custody.

Appeals

The opportunity to appeal against a decision is essential to natural justice. Staff/volunteers may choose to raise appeals on a number of grounds which could include

the perceived unfairness of the judgement, the severity of the penalty, new evidence coming to light or procedural irregularities. These grounds need to be considered when deciding the extent of any new investigation or re-hearing in order to remedy previous defects in the disciplinary process.

When considering the reasons for substandard performance Governing bodies should bear in mind the provisions of the Disability Discrimination Act 1995.

Appeals should be dealt with as promptly as possible. A time limit should be set within which appeals should be lodged. This time limit may vary between organisations but five working days for lodging an appeal is usually appropriate. A time limit should also be set for hearing the appeal.

Wherever possible the appeal should be heard by an appropriate individual, usually a senior manager/senior coach, not previously involved in the procedure.

Individuals should be informed of the arrangements for appeal hearings.

The staff/volunteers/athletes/parent should be informed of the results of the appeal and the reasons for the decision as soon as possible and this should be confirmed in writing. If the decision constitutes the final stage of the organisation's appeals procedure this should be made clear to the staff/volunteers/athletes/parent.

Records

Records should be kept detailing the nature of any breach of disciplinary rules or unsatisfactory performance, the staff/volunteers/athletes/parents defence or mitigation, the action taken and the reasons for it, whether an appeal was lodged, its outcome and any subsequent developments. These records should be kept confidential and retained in accordance with the disciplinary procedure and the Data Protection Act 1998, which requires the release of certain data to individuals on their request. Copies of any meeting records should be given to the individual concerned although in certain circumstances some information may be withheld, for example, to protect a witness.

Refer to the Independent Safeguarding Authority (from December 2012 this will know as the Disclosure and Barring Service), any individual who has harmed, or who poses a risk of harm to vulnerable groups for consideration for barring (see Referral to Independent Safeguarding Authority

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Every Governing Body has a duty to make a referral to the Department if a worker/volunteer/volunteer;

- has been dismissed, would have been dismissed or considered for dismissal had they not resigned, or been made redundant; or
- has been suspended or transferred (temporarily or otherwise) from a regulated activity

Further action

Rules and procedure should be reviewed periodically in the light of any developments in employment legislation or good employment practice and if necessary, revised in order to ensure their continuing relevance and effectiveness. Any amendments and additional rules imposing new obligations should be introduced only after reasonable notice has been given to all staff/volunteers and, where appropriate, their representatives have been consulted. Except in very exceptional circumstances, where legal advice should be sought, changes to individual contracts may only be made with agreement.

GRIEVANCE PROCEDURES

Why have a grievance procedure?

In any organisation staff may have problems or concerns about their work, working environment or working relationships that they wish to raise and have addressed. A grievance procedure provides a mechanism for these to be dealt with fairly and speedily, before they develop into major problems and potentially collective disputes.

Formulating procedures

It is in everyone's best interest to ensure that staff grievances are dealt with quickly and fairly and at the lowest level possible within the organisation at which the matter can be resolved.

Essential features of grievance procedures

Grievance procedures enable individuals to raise issues with management about their work, or about their Governing bodies', clients' or their fellow staff actions that affect them. It is impossible to provide a comprehensive list of all the issues that might give rise to a grievance but some of the more common include: terms and conditions of employment; health and safety; relationships at work; new working practices; organisational change and equal opportunities.

Procedures should be simple, set down in writing and rapid in operation. They should also provide for grievance proceedings and records to be kept confidential.

It is good practice for individuals to be accompanied at grievance hearings

Wherever possible every worker/volunteer should be either given a copy of the procedures or provided with access to them (e.g. in the personnel handbook or on the company intranet site) and have the detail explained to them. For new employees this might best be done as part of any induction programme.

Where the grievance cannot be resolved informally it should be dealt with under the formal grievance procedure.

First Stage:

Worker should put their grievance, preferably in writing, to their immediate line manager/senior coach. Where the grievance is against the line manager/senior coach the matter should be raised with a more senior manager/senior coach. If the grievance is

contested the manager/senior coach should invite the worker to attend a hearing in order to discuss the grievance and should inform the worker/volunteer of his or her statutory right to be accompanied depending on the nature of the grievance). The manager/senior coach should respond in writing to the grievance within a specified time (e.g. within five working days of the hearing or, where no hearing has taken place, within five working days of receiving written notice of the grievance). If it is not possible to respond within the specified time period the worker should be given an explanation for the delay and told when a response can be expected.

Second Stage: If the matter is not resolved at Stage 1 the worker should be permitted to raise the matter in writing with a more senior manager/senior coach. The manager/senior coach should arrange to hear the grievance within a specified period (e.g. five working days) and should inform the worker of the statutory right to be accompanied (see Section 3). Following the hearing the manager/senior coach should, where possible, respond to the grievance in writing within a specified period (e.g. ten working days). If it is not possible to respond within the specified time period the worker should be given an explanation for the delay and told when a response can be expected.

Final Stage: Where the matter cannot be resolved at Stage 2 the worker should be able to raise their grievance in writing with a higher level of manager/senior coach than for Stage 2. The choice of this person will depend on the organisation but could include directors or in certain cases the Chief Executive or Managing Director. Worker should be permitted to present their case at a hearing and should be informed of their statutory right to be accompanied. The manager/senior coach dealing with the grievance should give a decision on the grievance within a specified period (e.g. ten working days), and clearly indicate that this is the final stage of the grievance procedure. If it is not possible to respond within the specified time period the worker should be given an explanation and told when a response can be expected.

In most organisations it should be possible to have at least a two-stage grievance procedure. However, where there is only one stage, for instance in very small firms where there is only a single manager/senior coach, it is especially important that the person dealing with the grievance acts impartially.

In certain circumstances it may, with mutual agreement, be helpful to seek external advice and assistance during the grievance procedure. For instance where relationships have broken down an external facilitator might be able to help resolve the problem. Where the grievance is against the Chief Executive or Managing Director an external stage using some form of alternative dispute resolution might be helpful.

Special considerations

Some organisations may wish to have specific procedures for handling grievances about unfair treatment, for example, discrimination or bullying and harassment, as these subjects are often particularly sensitive.

Organisations may also wish to consider whether they need a whistle-blowing procedure in the light of the Public Interest Disclosure (Northern Ireland) Order 1998. This provides strong protection to worker/volunteers who raise concerns about wrongdoing (including frauds, dangers and cover-ups). While the Order reassures worker/volunteers that it is safe to raise such a concern internally, it also protects disclosures to key regulatory authorities and - provided they are reasonable and made with good cause – wider disclosures.

Sometimes a worker/volunteer may raise a grievance about the behaviour of a manager/senior coach during the course of a disciplinary case. Where this happens and depending on the circumstances, it may be appropriate to suspend the disciplinary procedure for a short period until the grievance can be considered. Consideration might also be given to bringing in another manager/senior coach to deal with the disciplinary case.

Records

Records should be kept detailing the nature of the grievance raised, the Governing Bodies response, any action taken and the reasons for it. These records should be kept confidential and retained in accordance with the Data Protection Act 1998, which requires the release of certain data to individuals on their request. Copies of any meeting records should be given to the individual concerned although in certain circumstances some information may be withheld, for example, to protect a witness.