

WSOR Disciplinary Procedure upon receipt of a complaint against a member of the Society

These procedures are based on the relevant sections of the RFU Disciplinary Regulations.

1. Referral to a Disciplinary Panel

Where the Executive Committee is in receipt of a written complaint about a member, the Secretary will be instructed to convene a Disciplinary Panel to hear the evidence of the complaint.

2. Notice of the Hearing

The Member shall have the right to a written notification of the reason for the proposed action at least 7 days prior to a hearing. This will be sent out by the Secretary. He will prepare the charge(s) and include this in the notification to the subject of disciplinary proceedings.

3. Composition of the Disciplinary Panel

The Secretary will ask the Chairman to convene a Disciplinary Panel. This will be made up of any three members taken from either the Executive Committee, excluding the Secretary, or of those on the list of Life Members. Those selected must have no conflict of interest with the subject of the complaint or the circumstances surrounding it. They will elect from their numbers a member who will act as Chairman. The Secretary (or a suitable deputy) will be asked to record the events of the hearing, but will not be part of the Disciplinary Panel. If the complaint is against an Officer of the Society the Disciplinary Panel will be made up solely of three Life Members or Vice Presidents.

4. Adjournment

4.1 Any person appearing before the Disciplinary Panel as a party (as opposed to attending as a witness) must receive in advance of the hearing notice of the charges to be answered and the need where appropriate to adduce evidence in corroboration or rebuttal. If such a person appearing before the Disciplinary Panel has not been given due notice of the complaint, in accordance with 2 above, the Disciplinary Panel will grant a request for an adjournment.

4.2 The Member may ask for an adjournment to prepare his case and seek witnesses. After reasonable attempts have been made mutually to agree a new date, the member will be advised in writing that, unless a satisfactory reason can be given, his attendance is required at the adjourned hearing and that it will continue in his absence should he fail to appear.

4.3 In the event of a member having been given due and proper notice, failing to attend a hearing, or an adjourned hearing, the case may be adjourned again or may continue in his absence.

4.4 At any adjourned hearing at which a member does not attend, the Disciplinary Panel, if it decides not to hear the case, may suspend a member until such time as he appears, in which event every reasonable attempt will be made to agree with the member the date for a further hearing.

4.5 If the case continues, the Panel may find him guilty in his absence and impose an appropriate sanction as listed under Sanctions.

4.6 Where the member appearing before a Disciplinary Panel is, or is likely to be, subject to civil or criminal proceedings arising from the circumstances which are the subject of the case, the Disciplinary Panel will decide whether it is in the interests of the Society to proceed. If it does not proceed to hear the case and adjourns the matter until the conclusion of the criminal proceedings, it may impose a temporary suspension on the member against whom the allegations are made. Before so doing the Disciplinary Panel must first give the member the opportunity to make representations about temporary suspension.

4.7 The responsibility for determining the date of a hearing rests initially with the Secretary and thereafter solely with the chairman of the Disciplinary Panel, whose decision is final.

5. Presentation of Case

5.1 The person or persons making the complaint shall be invited to present the case and call any witness or evidence to establish the complaint.

5.2 A member is entitled to be represented or assisted by one person of his or her choice.

5.3 All parties must be given the opportunity to state their case in full and to challenge any evidence given or respond to it.

6. Order of Proceedings

6.1 The Disciplinary Panel must follow the laid down procedures, and shall ensure that any member appearing before the Disciplinary Panel is fully aware of those procedures. The chairman of the Disciplinary Panel should explain the procedure before a hearing commences and give the person appearing before the Disciplinary Panel an opportunity to ask questions on matters of procedure which are not clear.

6.2 The member whose conduct is the subject of the inquiry is entitled to be present throughout the proceedings, except during the deliberations of the Disciplinary Panel.

6.3 The Complaint against the member will be read, or details of the conduct alleged will be explained.

6.4 The member appearing before the Disciplinary Panel shall be asked whether the allegations being the subject of the hearing are admitted. The member will be advised that any resulting disciplinary action will reflect a reduction for an early admission of guilt.

6.5 At this stage (or at any other stage considered appropriate by the Disciplinary Panel) a video (or DVD), when available, will normally be shown.

6.6 If the allegations are not admitted the Disciplinary Panel will hear the evidence in the following sequence:-

6.6.1 The Complainant will be invited to comment upon his complaint,

6.6.2 Witnesses supporting the allegation will be heard;

6.6.3 The member against whom the allegations are made shall be entitled to give and to call evidence in rebuttal.

6.6.4 Before being called, witnesses should be asked to retire whilst evidence is being given, but may remain in the room when their evidence is concluded, if they so wish. They will be observers only and may not take any further part in the proceedings unless recalled to answer a question from the Disciplinary Panel chairman.

6.6.5 Questions may be put to each witness upon the conclusion of his/her evidence by or at the request of the member appearing to make or to answer the allegations, or by any member of the Disciplinary Panel.

6.6.6 The member answering the allegations shall have the right of the last word.

6.6.7 Evidence of the member's previous record will not be given until after a finding of fact has been made.

6.6.8 The Chairman will then invite all persons other than the members of the Disciplinary Panel to retire whilst the Panel considers its decision in private. The member charged has no right of access to the deliberations of the Panel. A majority verdict is acceptable, but will be presented as the decision of the Panel.

6.7 If the allegations are admitted or proved to the satisfaction of the Disciplinary Panel then:-

6.7.1 The member facing the allegations may call evidence as to character and address the Disciplinary Panel in mitigation. No other person may address the Disciplinary Panel as of right, but the Disciplinary Panel may seek such further information as it requires from any party.

6.7.2 The member's previous disciplinary record should be ascertained. The punishment should be consistent with similar cases, but the Disciplinary Panel should take into consideration a person's previous record and behaviour.

6.7.3 The Chairman will again invite all persons other than the members of the Disciplinary Panel to retire whilst the Panel considers the penalty to be imposed.

7. Sanctions

The sanctions that may be taken against a member who is found to have committed the act, the subject of the complaint will be, but not limited to the following;

7.1 The member may be issued with a formal written warning as to future conduct.

7.2 The member may be suspended from appointments (applies to referees, Assessors, Advisors & Coaches) for a period decided by the Disciplinary Panel.

7.3 The member may be suspended from a committee (applies to a committee member or member co-opted to a committee) for a period decided by the Disciplinary Panel.

7.4 The member may have his membership terminated sine die or for a period of time deemed appropriate.

7.5 In the case of a criminal offence the Society may hand over notes and other information to the authorities to assist in the pursuit of Justice and suspend the member until the outcome of external proceedings

7.6 Any other sanction that the Disciplinary Panel considers appropriate for a member of the society.

8. Natural Justice and Fairness

8.1 The overriding consideration in the conduct of disciplinary procedures is that they should be fair and just.

8.2 It must always be borne in mind that a Disciplinary Panel is not a court of law and those appearing before it may not be trained advocates and must therefore in the interests of achieving a just and fair result be given every assistance and latitude in presenting their submissions. All procedural and technical considerations must take second place to the paramount object of being as just and fair to all parties as is consistent with a duty to the Society. The Disciplinary Panel must at all times observe the rules of natural justice.

8.3 A Disciplinary Panel must be:

8.3.1 Impartial (that is, free of prejudice or bias and not have an interest in the outcome, other than to see that the decision is fair).

8.3.2 Careful and thorough in their consideration of the procedures and evidence.

8.4 Proceedings, findings or decisions of a Disciplinary Panel shall not be invalidated by reason of any minor defect, irregularity, omission or technicality unless such defect, irregularity, omission or technicality raises a material doubt as to the reliability of the proceedings, findings or decisions.

8.5 All decisions, together with the reasons for those decisions, should be recorded in writing by the Disciplinary Panel

9. Standard of Proof:

The standard of proof in disciplinary cases is the balance of probabilities and not, as in a criminal court, beyond reasonable doubt. The balance of probabilities means that, having heard all the evidence and using their experience to help them to decide what was most likely to have occurred in the circumstances before them, the Disciplinary Panel believes that it is more likely than not that the offence is proved.

The balance of probabilities is a sliding scale: the more serious the allegation, the less likely it is that the event occurred and hence the stronger the evidence needed that it did occur.

10. Appeals Procedure

Any Member who is found guilty of misconduct may, within 14 days appeal against findings of guilt or the severity of the sentence (or both) by writing to the President of the Society. The President will convene an Appeals Panel and sit with two Life Members, to review the decision of the Executive Committee. A chairman shall be elected from the Panel, who will ideally have some legal experience (eg: barrister, solicitor or magistrate). Sanctions may be increased as well as reduced by the Appeals tribunal. The appellant has the right to attend the hearing and be represented, but will not be present whilst the Panel considers its decision. A majority decision is sufficient and that shall be presented as the decision of the Panel. A written adjudication on the findings will be given. The Appeal Panel's decision shall be binding.