

Disciplinary and Grievance Policy

Document Control

Document Title:	Disciplinary and Grievance Policy		
Document Purpose:	Behaviour and Standards that fall outside of the Club's expectations need to be addressed in a managed way. This policy provides a process for dealing with disciplinary and grievance issues in a structured and managed way.		
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1. Policy Statement

- 1.1. Exeter Rowing are committed to providing a fair, consistent, and proportionate approach to the handling of grievances and disciplinary matters.
- 1.2. It is the Club's intention to promote a culture where it is safe and acceptable for any person to raise any grievance or concerns.
- 1.3. No person should be victimised for raising concerns or making a compliant.

2. Scope

- 2.1. This policy applies to all members, officials and associates of members (i.e., Parents or Partners)

3. Objectives

- 3.1. The complaints and disciplinary policy and procedure is designed to provide an open and transparent route for complaints to be made under this procedure, to be resolved fairly and within a reasonable period.

4. General Principles

- 4.1. The Management Committee is responsible for managing the affairs of the Club. The Management committee holds a list of approved members identified to deal with complains and grievances as outlined in section 12 below
- 4.2. The Members of the Club are expected to support the Club by observing the Club Policies, Rules and Codes of Conducts. Members who fail to do so may be subject to disciplinary action.
- 4.3. In addition to this the Club must promote fair and consistent treatment of all. Members of the Club may feel aggrieved by actions of others within the Club and may wisht to raise a Grievance
- 4.4. Where an individual who is raising a grievance or is the subject of a disciplinary action is a young person, classified as a Junior by the current British Rowing Rules of Racing, it is mandatory that the parents or legal guardians of that young person must be informed and that the individual is accompanied during any part of the process outlined in this policy.
- 4.5. In a situation where the parents / guardian chooses not to accompany, the young person may nominate a friend or another person (over the age of 21 years) or in default the Club Welfare Officer will accompany.
- 4.6. This procedure seeks to operate in a fair manner; it does not seek to reproduce elements of the criminal law or criminal justice system. It is not a formal legal process, and the rules of evidence in English law do not apply; the standard of proof required is the balance of probabilities: that is, it is more likely than not that the alleged misconduct occurred. The procedure complies with the rules of natural justice, which confer on a member right to know the case against them; the right to be given an opportunity to defend themselves; the right to confidentiality and the right for the case to be considered by an impartial arbiter.
- 4.7. The Club will wherever possible seek to adhere to the time limits outlined within these procedures, but in cases where there are special circumstances which require variance from specified time limits, members will be advised of the reasons for this.

5. Grievance Procedure

- 5.1. All Grievances should be raised in writing to the Club Secretary.
- 5.2. Upon receipt of a Grievance, the secretary shall:
 - Acknowledge receipt of the grievance within a reasonable period (where possible 48 hours) and provide the complainant with a copy of the Club's complaints procedure.

- Appoint an independent mediator, from the approved list (see 4.1 above) in consultation with the complainant. If a mediator cannot be appointed from the approved list. The club reserves the right to appoint a mediator from another Exe Water Sports Association or West of England Amateur Rowing Association Club
The decision of the Club Secretary on this appointment is final
- 5.3. The mediator should seek to establish the full details of the matter and consider the substance of the issue raised. The mediation is not binding but may help to resolve the situation, clarify any misunderstandings, or help identify the issues in dispute.
 - 5.4. The mediator shall seek to resolve the Grievance to the satisfaction of all parties. A written record of the details of the matter, and the outcome of the mediation will be provided to all parties and kept in the club's confidential records. The outcome of the mediation stage is not binding but may be referred to in any subsequent hearing or appeal
 - 5.5. Should the Mediator conclude that the matter would be more appropriately dealt with by way of a Hearing under the Club's disciplinary procedures then this matter shall be referred to the Club Secretary to be dealt with under that process.
 - 5.6. If the complainant is not satisfied with the outcome of the mediation, they must set out in writing the reasons for their position and request a hearing within 14 days of the outcome of the mediation.
 - 5.7. The hearing should be held within a reasonable timescale which generally should not exceed one month from the receipt of the request for a hearing.
 - 5.8. The complainant and the party complained about must be given at least 14 days' notice of the Grievance hearing in writing. This notice will include:
 - Details of the Grievance raised,
 - Date, Time, and Location of the hearing
 - The fact that both parties have the right to attend to state their case and may be accompanied by a representative or friend.
 - 5.9. The Hearing Panel should be appointed by the Club Secretary from the club membership, with the chair of the panel being selected from the list of approved members described in 4.1 above. All panel members must be independent from the dispute
 - 5.10. The complainant should signify their agreement to the members of the panel.
 - 5.11. The panel must give a fair and independent hearing to both sides of the dispute within an appropriate and agreed timescale.
 - 5.12. The parties to the grievance each have a right to be accompanied by a person of their choosing to any hearing or other meetings in connection with a hearing.
 - 5.13. Hearings can be conducted in person or if this is not practical by telephone or video conference.
 - 5.14. The Grievance Hearing shall:
 - Outline the Complaint
 - Consider the Mediators report and the issues involved. If considered necessary, the Hearing Panel may call witnesses
 - Allow each party or their representative (but not both) to state their case.

- Decide on the merit of the complaint and if necessary, seek to agree a means to resolve the Grievance
 - Should the Hearing panel find that a breach of Articles of Association and/or Code of Conduct and /or other Club policy has occurred, such that disciplinary action is appropriate then the Grievance procedure shall be terminated, and a Disciplinary action commenced. In accordance with section 6 below
- 5.15. If either party chooses not to attend the hearing in person or by telephone the Panel, if properly constituted, has the right to proceed with hearing in their absence or based on written submissions.
- 5.16. The result of the hearing and sufficient reason to explain the decision must be communicated to both parties within 14 days and the Panel shall report the outcome of the Hearing to the next available meeting of the Management Committee along with any recommendations for further actions.
- 5.17. If the outcome of the hearing is unacceptable to either party, they have the right to request an appeal

6. Disciplinary Procedure

- 6.1. Any complaint against a member of the club shall be in writing to the Club Secretary
- 6.2. On receipt of a complaint notice the Club Secretary shall:
- Acknowledge receipt of the grievance within a reasonable period (where possible 48 hours) and provide the complainant with a copy of the Club's complaints procedure.
 - Appoint an independent Investigating Officer. The Investigating Officer shall normally be a Member of the Management or Rowing Committee from the Club's approved list. the club reserves the right to appoint a mediator from another Exe Water Sports Association or West of England Amateur Rowing Association Club The decision of the Club Secretary on this appointment is final
- 6.3. The Investigating Officer shall seek to establish the full details of the issue and consider if the matter raised would be considered a breach of the Club's Articles of Association and/or Code of Conduct and /or other Club policy such that (if proven) the act (or omission) could be deemed misconduct. The investigation must be thorough and impartial and may involve to speaking to all parties and any witnesses. The investigating officer will conclude their investigation and report their findings to the Club Secretary. The Investigating Office may be required to product a written report.
- 6.4. If the Club Secretary considers that there may be a case to answer, then a hearing panel will be convened. The panel will comprise of three independent members from the approved list, one of whom may have relevant expert knowledge
- 6.5. Wherever practical, the panel members should have no conflicts of interest but if this is not possible any panel member with a conflict must declare it to all the parties in the proceedings.
- 6.6. The Disciplinary hearing should be held within a reasonable timescale which generally should not exceed one month from the receipt of the request for a hearing.

- 6.7. The parties to the grievance each have a right to be accompanied by a person of their choosing to any hearing or other meetings in connection with a hearing.
- 6.8. Hearings can be conducted in person or if this is not practical by telephone or video conference.
- 6.9. The complainant and the party complained about must be given at least 14 days' notice of the Disciplinary hearing in writing. This notice will include:
- Details of the allegation, including, where possible, details of any club rules, codes of conduct, or policies that have been deemed to be contravened
 - Details of the Club's disciplinary procedure, including timescales, and the right of appeal.
 - Date, time, and location of hearing
 - The fact that the Member has the right to attend to state his/her case and may be accompanied by a representative or friend.
 - That the hearing could result in disciplinary action and that any previous warnings will be considered when deciding the action to be applied.
- 6.10. The Disciplinary Hearing shall:
- Outline the Complaint
 - Consider the Investigating Officer's report and the allegation(s) involved. If considered necessary the Disciplinary Sub Committee may call witnesses, including 'experts'
 - Allow the Member or their representative (but not both) to state their case.
 - Decide on the merit of the complaint
- 6.11. If either party chooses not to attend the hearing in person or by telephone the Panel, if properly constituted, has the right to proceed with hearing in their absence or based on written submissions.
- 6.12. Should the panel find that a breach of breach of the Club's Articles of Association and/or Code of Conduct and /or other Club policy has occurred, the disciplinary action may be applied, as outlined in Section 7 below
- 6.13. Written confirmation of the disciplinary decision will be sent to the Member by the chairperson of the panel within 14 days of the hearing and contain the following information: -
- The decision and reasons for the decision
 - In the case of warnings, the fact that there is time limit after which the warning may be disregarded for future disciplinary purposes
 - The right of appeal and the appeal procedure.
- 6.14. The Chairperson of the panel shall report the outcome of the Hearing to the next available meeting of the Management Committee and to the Board of Directors.

7. Discovery of Suspected Criminal Conduct

- 7.1. Where during the Disciplinary Investigation the Investigating Officer becomes aware of, or suspects criminal conduct, they should inform the Directors Immediately.

- 7.2. The directors will review the information, and in consultation with British Rowing may refer the matter to the relevant authorities.
- 7.3. Suspected Criminal Conduct does not require the clubs disciplinary process to be pause¹ or stopped and should continue under the supervision of a nominated lead Director who will work with the Investigating Officer for the duration of the process but will be excluded from involvement in future decision making to ensure fairness and impartiality at future stages of the process.

8. Sanctions

8.1. Verbal Warning.

- 8.1.1. A Verbal Warning may be appropriate if the act or omission is considered minor misconduct and is unlikely to be repeated.
- 8.1.2. This warning will be noted by the Club Secretary for future reference.
- 8.1.3. Verbal warnings will lapse and be disregarded for any future disciplinary purposes after a period of six months.

8.2. Written Warning.

- 8.2.1. A Written Warning may be appropriate if the matter is judged misconduct or is likely to be repeated or has occurred whilst a Verbal Warning is still in force.
- 8.2.2. This warning will be noted and retained by the Club Secretary for future reference.
- 8.2.3. Written warnings will lapse and be disregarded for any future disciplinary purposes after a period of one year.

8.3. Withdrawal of Membership.

- 8.3.1. Withdrawal of membership from the Club may be appropriate if the matter is judged gross misconduct that seriously affects the interests and/or good reputation of the Club, (or is a further misconduct that has occurred whilst a Written Warning is still in force).
- 8.3.2. The panel may suspend a member's membership with immediate effect which will remain in place until any appeal process has concluded, or the appeals period has lapsed.
- 8.3.3. The ultimate decision, and notification of a member's expulsion is the responsibility of the Directors².

8.4. Referral To British Rowing.

- 8.4.1. In addition to the sanctions available to the club, it may refer the matter to British Rowing for further sanctions or investigation.

9. Appeals

- 9.1. A member may appeal against a decision of the Grievance and Disciplinary Hearing. The Appeal is to the Directors of the Club (excluding those Directors that may have been members of hearing panel or the Investigating Officer)

¹ Northwest Anglia NHS Foundation Trust v Gregg [2019] EWCA Cave 387
<https://www.gl.law/insight/news/disciplinary-procedures-and-police-investigations/> (accessed 1/9/2021)

² Section 19, Articles of Association.

- 9.2. The Appeal process is NOT designed to hear the case again. It is only designed to ensure that if the Grievance and Disciplinary panel failed in some way to consider the matter fairly and properly, then a review is available.
- 9.3. The Appeal must be made by written notice to the Club Chairperson within 14 days of receiving the Grievance or Disciplinary Hearing decision. The Appeal Notice must state the grounds for the Appeal
- 9.4. An Appeal hearing must only be granted where there is a **'strong arguable case'** that at least one of the following applies:
 - relevant information was ignored or not considered by the original sub-Committee.
 - the process was tainted by unreasonable bias or conflict of interests.
 - the provisions of this Grievance or Disciplinary procedure were not adhered to.
 - the findings of the original hearing were irrational or otherwise exhibited an error of general law.
- 9.5. If the appellant cannot clearly establish one or more of these criteria, then the Appeal must not be allowed. The Club Chairperson will rule if the appeal is valid or not and his / her decision is final.
- 9.6. On receiving the valid written Appeal notice the Club Secretary shall call a Special meeting of the Club Directors (subject to 9.1 above) to hear the Appeal.
- 9.7. The Chairperson of the hearing panel will attend the Special Committee meeting to explain the process leading to the decision.
- 9.8. The party(s) involved may be accompanied by a representative and they or their representative (but not both) will be allowed to explain their grounds for appeal and why the Sub Committee decision is disputed.
- 9.9. If any party chooses not to attend the Appeal hearing, the Special Committee may proceed with the hearing based on written submissions to hand.
- 9.10. The Special Committee Meeting will vote by simple majority. The decision is final.
- 9.11. Written confirmation of the decision and sufficient reason to explain the outcome must be communicated to all parties within 14 days of the appeal hearing.

10. Disciplinary offences which are also subject to criminal investigation

- 10.1. When a case is being investigated by the police, the club will first and foremost co-operate with the criminal investigation. This will not preclude the club from taking precautionary action where there is deemed risk to the wider Club community.
- 10.2. When a complaint is made by a member against a member which results in an investigation by the police, the Club reserves the right to inform the complainant of any requirements that the police have placed on the Club's Disciplinary case.
- 10.3. When a matter is subject to police investigation as well as the Club's Disciplinary procedure the Club reserves the right to communicate with the police as relevant.
- 10.4. When there is a criminal investigation, the Authorised Officer will make regular contact with the Member under investigation of the Disciplinary and

Grievance Policy and/or police to review any progress and/or change in status regarding the case. When there are updates to the progress and/or change in status regarding the case the student must update the Authorised Officer within 24 hours.

10.5. When a charge or conviction has been brought, the Investigating Officer will make recommendations to the Club Directors who will recommend next steps in-line with the Disciplinary process into account the following guidance:

- When the member has been charged or convicted of a criminal offence, the Club will review if the offence(s) are a breach of the Club's Regulations that may be considered under the procedure. In the case that the matter has resulted in a conviction in a criminal court this shall be taken as conclusive evidence that the alleged offence has occurred, and no investigation shall be required by the Club.
- When a charge or criminal conviction has been made, the focus of the Club's disciplinary proceedings may include an assessment of the risk posed to other members. It may also include assessment of the material impact caused by reputational damage to the Club, particularly when this impedes or interferes with the normal operations of the Club, or when it affects important relationships between the Club and key individuals, agencies, and stakeholders. If disciplinary action is taken, the penalty imposed by the court shall be considered when determining any further penalty.
- When a member has been acquitted the Club will consider the decision of the court.

11. Precautionary action in advance of a disciplinary hearing

11.1. When the nature of the alleged disciplinary offence suggests that there may be risk to the safety of others, or where the member accused may be at risk of harm, or where the member's presence at the club may impede an investigation, the Investigating Officer should request the Club Safety or Club Welfare Officer undertake a risk assessment, this may result in action as follows:

- As a first step they may require the member to comply with specific conditions as laid out in a precautionary contract. The precautionary contract should not be regarded as a penalty and does not indicate that the student is presumed guilty of any offence. The purpose of the precautionary contract is to outline the expectations of the members conduct during a period of investigation for example, it could include agreeing not to contact another member or not to attend the club at certain times. The consequence of any breach of these conditions may result in escalation of the disciplinary process.
- A request may be made to the Club Directors to suspend the membership of the individual or individuals involved, until such a time as any criminal proceedings and/or Club disciplinary proceedings have concluded. A precautionary suspension or exclusion should not be regarded as a penalty and does not indicate that the member is presumed guilty of any offence.
- The decision to temporarily suspend and/or exclude they may be communicated verbally in the first instance. When this is the case, written confirmation outlining the reasons for this decision and notice of the right of appeal should be provided within two working days.

11.2. A member may exercise the right to appeal against the imposition of a precautionary contract in writing to the Directors.

12. Confidentiality

12.1. The Club's aim is to deal with Grievance and Disciplinary matters sensitively and with due respect for the privacy of any individuals involved.

12.2. All members must treat as confidential any information communicated to them in connection with an investigation or disciplinary matter. Any Member who breaches this rule will be subject to disciplinary action.

12.3. Members, and anyone accompanying Members (including witnesses and note takers), must not make electronic recordings of any meetings or hearings conducted under this procedure. This rule helps us to comply with the Data Protection Act 1998. Any Member who breaches this rule will be subject to disciplinary action.

12.4. Member will normally be told the names of any witnesses whose evidence is relevant to disciplinary proceedings against them, unless we believe that a witness' identity should remain confidential.

13. Approved List

13.1. The club shall hold a list of members that the Directors delegate authority to act on their behalf for the purposes of this policy.

13.2. Membership of the list is by appointment of the Directors at their discretion as it is a direct delegation of their authority.

13.3. Members may be required to undertake training to ensure they have the suitable skills and knowledge to properly undertake the requirements of the Grievance and Disciplinary Policy.

13.4. The approved list is available to Club Members upon request.

14. Monitoring And Review

14.1. The Club Directors will monitor the implementation of the formal stages of this policy for compliance and consistency and to identify any learning points.

14.2. A formal review of this policy will take place if there is a significant change in relevant legislation, British Rowing Guidance or club need which triggers a review.

15. Vexatious Use of the Policy

15.1. Exeter Rowing Club reserves the right not to pursue grievances or that are frivolous or vexatious, or that merely repeat issues that have already been considered.

15.2. Further details can be found in the Clubs **Error! Reference source not found.**

1. Version Control

Version	Date	Author	Amendments
1	-	-	Original Club Disciplinary Policy
2	1/9/2021	S Gibson	Draft for Adoption at AGM