

# Athlone Sub Aqua Club



*Tigh-na-Mara  
Brick Island  
Coosan Road, Athlone*



## **Disciplinary and Grievance Policy and Procedure**

### **1. Introduction**

- 1.1 This Disciplinary and Grievance Policy and Procedure exists to assist Athlone Sub Aqua Club maintain discipline within its organisation and deal with any instances of misconduct that may occur.

### **2. Objectives:**

- 2.1 The specific objectives of this Disciplinary and Grievance Policy and Procedure are to:
- Facilitate allegations of misconduct to be presented to the club.
  - Enable the club to conduct a fair, objective and impartial process of investigation into allegations of misconduct.
  - Provide safeguards to persons facing allegations of misconduct.
  - Enable the club to determine proportionate sanctions if allegations of misconduct are upheld.

### **3. Scope:**

- 3.1 Persons who are subject to the disciplinary jurisdiction of Athlone Sub Aqua Club shall include:
- Members of the club.
  - Persons who at the time of the alleged offence would ordinarily have been members of the club but for the fact that they had not paid their club subscription.
  - Members of the club that resign their membership whilst disciplinary proceedings are on-going against them.
  - Any other person who voluntarily submits in writing to the disciplinary jurisdiction of the club.

### **4. Offences**

- 4.1 For the purpose of this policy an offence is defined as any act or omission relating to but not limited to participation in diving, snorkelling and any of the clubs activities and/ or management, administration and functioning of the club which consists of, involves or results in anything which in anyway could be considered as inappropriate, offensive, dangerous, or damaging to the club.
- 4.2 An attempt to commit an offence, which is interrupted only by an act or circumstances not within the control of the alleged offender, shall be dealt with in the same manner as if the offence was committed.
- 4.3 Any person aiding or abetting another person in the commission of an offence shall be dealt with in the same manner as if he/she had committed the offence.
- 4.4 The club's disciplinary jurisdiction exists in addition to any liability under the criminal or civil law that may arise in relation to the offence.

4.5 The attached *Appendix* to this Disciplinary and Grievance Policy and Procedure contains some examples of offences that fall within the disciplinary jurisdiction of the club.

## **5. Disciplinary Committee**

5.1 Because of the serious nature of disciplinary proceedings and the need for consistent procedures to be followed, authority to deal with disciplinary matters shall be vested in the club's Board of Directors.

5.2 The Board of Directors shall meet as a Disciplinary Committee to consider disciplinary matters.

5.3 A Director shall be ineligible to act as a member of the Disciplinary Committee if he/she:

- Was a party to the making of an allegation of an offence.
- Was a witness to the alleged offence.
- Was a participant in the alleged offence.
- Has any relationship with the party making the allegation of an offence that would make it inappropriate for him/her to partake on the Disciplinary Committee.
- Has any relationship with the alleged offender that would make it inappropriate for him/her to partake on the Disciplinary Committee.

## **6. Complaints**

6.1 Any person, whether or not a member of the Athlone Sub Aqua Club, may present a complaint regarding an alleged offence to the club provided:

- He/she is the victim of an alleged offence or where appropriate the parent or legal guardian of a minor who is a victim of an alleged offence.
- He/she, not being a victim of an alleged offence or the parent or legal guardian of a minor who is a victim of an alleged offence, believes that an offence has been committed.

6.2 The complaint, which must be in writing and signed by the person making the complaint (hereinafter called the 'complainant'), is required to set out:

- The full name and address of the complainant.
- The full name of the person against whom the complaint is being made (hereinafter called the 'respondent') and his/her address if known.
- A summary of the facts.
- Details of any witnesses.
- Reference to any relevant documents.

6.3 The complaint must be sent to the club Secretary within 3 months of the date of the occurrence of the alleged offence.

6.4 The Secretary shall, within 7 days after receipt, send a copy of the complaint to the club Chairman.

6.5 The complainant may withdraw the complaint at any time prior to a final decision being made by the Disciplinary Committee regarding the offence.

## **7. Disciplinary Hearing**

7.1 The Chairman must convene a Disciplinary Hearing to hear a complaint of an alleged offence by the Disciplinary Committee.

7.2 The Disciplinary Committee shall be entitled to be advised and represented by a third party at the Disciplinary Hearing and in relation to all matters associated with the hearing.

7.3 This Disciplinary Hearing is required to take place within 28 days of the complaint having been received by the Chairman.

- 7.4 Notice should issue to the complainant at least 14 days in advance of the Disciplinary Hearing. This notice, which must be accompanied by a copy of this Disciplinary and Grievance Policy and Procedure, should:
- Provide details of the date, time and place of the Disciplinary Hearing.
  - Outline the nature of the complaint.
  - Inform the complainant that the Disciplinary Committee is meeting to hear the complaint.
  - Invite the complainant to attend the Disciplinary Hearing to present his/her case.
  - Inform the complainant that in making his/her case that he/she can be advised and represented by a third party.
  - Advise the complainant that he/she may call witnesses to assist his/her case.
- 7.5 Notice should issue to the respondent at least 14 days in advance of the Disciplinary Hearing. This notice, which must be accompanied by a copy of this Disciplinary and Grievance Policy and Procedure, should:
- Provide details of the date, time and place of the Disciplinary Hearing.
  - Outline the nature of the complaint.
  - Inform the respondent that the Disciplinary Committee is meeting to hear the complaint.
  - Advise the respondent that sanctions will apply in the event that the complaint is upheld.
  - Invite the respondent to attend the Disciplinary Hearing to present his/her defence.
  - Inform the respondent that in making his/her defence that he/she can be advised and represented by a third party.
  - Advise the respondent that he/she may call witnesses to assist his/her defence.
- 7.6 No later than 7 days before the Disciplinary Hearing the complainant and the respondent shall send to the club Secretary copies of all documents and a summary of the evidence on which they intend basing their case/defence, the names and addresses of witnesses that they intend to call and the name of any representatives that may be attending the hearing to assist them with their case/defence.
- 7.7 The complainant and the respondent shall present themselves in person at the Disciplinary Hearing to present their case and defence respectively.
- 7.8 Witnesses called to support the complainant and the respondent shall present themselves in person at the Disciplinary Hearing to present their evidence. The Disciplinary Committee may, however permit a witness to give evidence to the Disciplinary Hearing over the telephone provided:
- The witness clearly identifies himself/herself before giving evidence.
  - A telephone with a loudspeaker/microphone is used so that all present at the Disciplinary Hearing are able to hear the evidence presented.
  - The Chairman informs the witness before he/she gives evidence of the names of those present at the Disciplinary Hearing and of such details of the Disciplinary Hearing as the Chairman deems appropriate.
- 7.9 In circumstances where a person fails to attend a Disciplinary Hearing without just cause the Disciplinary Committee may continue with the hearing.
- 7.10 The complainant and the respondent have the right to question each other and their respective witnesses.
- 7.11 The Disciplinary Committee shall have the right to question the complainant, the respondent and their respective witnesses
- 7.12 Witnesses shall not be present at the Disciplinary Hearing until it is their turn to present evidence. Having presented their evidence and responded to any questions witnesses are obliged to leave the Disciplinary Hearing.

- 7.13 The respondent, when presenting his/her case, may make representations to the Disciplinary Committee with a view to mitigating any sanction that may be imposed.
- 7.14 The Disciplinary Committee having heard the case presented by the complainant, the defence put forward by the respondent and the evidence of their respective witnesses shall retire separately to consider its decision.
- 7.15 The Disciplinary Committee, in determining whether or not an offence has been committed, shall confine itself to considering the merits of the case presented by the complainant, the defence put forward by the respondent and the evidence of their respective witnesses.
- 7.16 In reaching its decision the Disciplinary Committee is required to determine whether or not an offence has been committed on the balance of probabilities.
- 7.17 The Disciplinary Committee shall make its decision on whether or not an offence has been committed and any sanctions to be imposed by means of a majority vote. The Chairman shall have a casting vote in the event of an equality of votes.
- 7.18 If having decided that an offence has not been committed the Disciplinary Committee shall declare the complaint as not upheld.
- 7.19 If having decided that an offence has been committed the Disciplinary Committee shall determine the sanction to be imposed.
- 7.20 Notice of the Disciplinary Committees decision should be communicated in writing to the complainant and respondent advising them of their rights of appeal.
- 7.21 The decision of the Disciplinary Committee shall be final and binding, subject to the right to appeal.
- 7.22 The Chairman, may limit the proceedings of a Disciplinary Hearing to dealing only with the mitigating circumstances put forward by a respondent and the determination of a sanction in circumstances where he/she admits to the offence anytime after the complaint was made.
- 7.23 The Disciplinary Committee may adjourn and reconvene a Disciplinary Hearing in order to allow sufficient opportunity for the complainant, respondent and witnesses to present their respective arguments and evidence, to create adequate opportunity for the Disciplinary Committee to make its decision on whether or not an offence has been committed and/or the sanction to be imposed and in any other circumstances that would warrant such a decision.
- 7.24 The Chairman shall cause sufficient notes of the Disciplinary Hearing to be recorded for the purposes of the record and any possible appeal.

## **8. Sanctions**

- 8.1 The sanctions that may be imposed by the Disciplinary Committee consist of:
- *Apology* either in writing or in person to any persons as directed by the Disciplinary Committee.
  - *Warning* as to future conduct.
  - *Reprimand* consisting of a verbal and/or written rebuke.
  - *Suspension* from part of or all of the clubs activities and/or part or full use of the club's facilities for a defined period or an indefinite term pending the fulfilment of any conditions that may be imposed by the Disciplinary Committee.
  - *Expulsion* from all club activities/facilities. This sanction will apply to very serious offences or where there is a repetition of offences.
- 8.2 In determining a sanction the Disciplinary Committee may take into consideration any finding made by the club or any outside agency against the respondent in relation to any previous offence.

8.3 Where it is determined that multiple offences have been committed and that a number of sanctions apply the Disciplinary Committee have the discretion to decide whether only the most severe sanction should apply or if some or all of the sanctions should be imposed. In cases where a number of sanctions are imposed the Disciplinary Committee may decide whether such sanctions should apply concurrently or consecutively.

8.4 The Disciplinary Committee shall have the discretion to suspend a sanction. The following provisions apply to any decision by the Disciplinary Committee to suspend a sanction:

- All sanctions other than an apology, warning, or a reprimand may be totally suspended for such period as the Disciplinary Committee may determine.
- A sanction so suspended shall not be implemented if the respondent commits no further offence within such a period.
- If a further offence is committed within such a period the suspended sanction will automatically come into immediate effect together with any sanction imposed for the further offence.

## **9. Appeals**

9.1 All decisions issued by the Disciplinary Committee may be appealed exclusively to CFT within 14 days from the date of receipt of the decision.

9.2 All decisions issued by CFT may be appealed exclusively to Just Sport Ireland for final and binding arbitration in accordance with the Just Sport Ireland Arbitration Rules.

## **10. Publicity**

10.1 Where the Disciplinary Committee finds that the respondent has committed an offence, club members shall be made aware of the decision and the sanctions involved as soon as possible. This decision and the sanctions involved should also be reported at the club's next Annual General Meeting.

10.2 Where the Disciplinary Committee has decided to impose a sanction consisting of a suspension or expulsion, the club Secretary may bring such a decision to the attention of all parties that have a legitimate interest e.g. CFT.

10.3 Where the Disciplinary Committee finds that the respondent has not committed an offence, the respondent may choose (such choice to be notified in writing to the club Secretary) whether or not the decision is to be communicated to club members as soon as possible and/or reported at the club's next Annual General Meeting.

## **11. Minors**

11.1 For the purpose of this policy minors are defined as persons less than 18 years of age.

11.2 If the complainant is a minor, then

- A parent or legal guardian shall be notified in writing of the receipt of the complaint. The parent or guardian shall also:
  - Receive copies of all communications sent to the complainant.
  - Have the right to act on behalf of the complainant.
  - Have the same rights as the complainant to be heard at such Disciplinary Hearings and Appeals that relate to the complainant.

11.3 If the respondent is a minor, then

- A parent or legal guardian shall be notified in writing of the complaint at the same time as the respondent. The parent or guardian shall also:
  - Receive copies of all communications sent to the respondent.
  - Have the right to act on behalf of the respondent.
  - Have the same rights as the respondent to be heard at such Disciplinary Hearings and Appeals that relate to the respondent.

- 11.4 If a witness is a minor, then
- A parent or legal guardian shall be notified in writing that the witness may be appearing at the Disciplinary Hearing. The parent or guardian shall also:
    - Be informed of the complaint.
    - Receive copies of all communications sent to the witness.
    - Have the right to attend any Disciplinary Hearing or Appeal at which the witness is presenting evidence

## **12. Remission**

- 12.1 Where a suspension or expulsion has been decided by the Disciplinary Committee the respondent may apply for remission of the suspension or expulsion as follows:
- In the case of a suspension for a defined period, the application for a remission may be made after the expiry of not less than two thirds of the period of the suspension.
  - In the case of a suspension for an undefined period pending the fulfilment of a condition, the application for a remission may be made after the expiry of not less than one year from the date that the suspension came into effect.
  - In the case of an expulsion, the application may be made after the expiry of not less than 7 years from the date on which the expulsion came into effect.
- 12.2 Any such application for a remission of a suspension or an expulsion should be made to the club Chairman in writing and shall be decided by the club's Directors whose decision shall be final.
- 12.3 The Directors may make enquiries, request information and/or request persons to attend a meeting in order to assist them make a decision on an application for remission of a suspension or an expulsion.
- 12.4 The Directors, in making their decision on an application for a remission of a suspension for a defined period, may remit either the whole or part of the remainder of the period of the suspension.
- 12.5 The Directors, in making their decision on an application for a remission of a suspension for an undefined period pending the fulfilment of conditions, may vary the conditions or convert the sanction into a suspension for a defined period.
- 12.6 The Directors, in making their decision on an application for a remission of an expulsion, may remit the expulsion entirely or convert it into a suspension for a defined period or undefined period subject to the fulfilment of any conditions that the Directors may impose.
- 12.7 Following each occasion on which an application for remission of a suspension is rejected a further application may not be made until a further period of not less than 1 year has elapsed.
- 12.8 Following each occasion on which an application for remission of an expulsion is rejected a further application may not be made until a further period of not less than 7 years has elapsed.

## **13. Suspension Pending the Outcome of a Disciplinary Hearing**

- 13.1 The Directors, following the receipt of a complaint, shall have the power to suspend any person accused of an offence from participating in part of or all of the clubs activities and/or part or full use of the club's facilities pending the outcome of a Disciplinary Hearing if they are of the opinion that such a decision is in the best interest of the club and its members.

## **14. Frivolous, Vexatious and Malicious Complaints**

- 14.1 The making of a frivolous, vexatious or malicious complaint under this Disciplinary and Grievance Policy and Procedure shall be regarded as a serious offence.

## **15. Notices**

- 15.1 Notices to be sent by the club to any person under this policy shall be deemed to have been served if:
- Sent to them by ordinary post to their address appearing on the club's register of members or failing that to their last known address, or
  - Sent to them electronically to their e-mail address appearing on the club's register of members or failing that to their last known e-mail address.

## **16. Variations and Waivers**

- 16.1 The Directors have the power to vary or to waive any aspect of the procedural requirements of this Disciplinary Policy and Procedure where they are of the view that such a variation or waiver would not be prejudicial to any person.
- 16.2 Time limits specified in this Policy and Procedure may be extended at the Directors discretion where it is deemed appropriate to do so in view of the complexity of the matter or any other relevant factor. Any variation to time limits should however ensure that subsequent disciplinary proceedings proceed with all reasonable expedition.

## **17. Confidentiality**

- 17.1 No person may attend a Disciplinary Hearing other than the members of the Disciplinary Committee, the complainant, the respondent and if applicable any witnesses, representatives and parents/guardians involved.
- 17.2 The Directors will determine what matters relating to a Disciplinary Hearing should remain confidential. Information should only be disseminated on a need to know basis as determined by the Directors.

## **18. Implementation, Monitoring and Review**

- 18.1 Overall responsibility for the implementation of this Disciplinary and Grievance Policy and Procedure rests with the Directors of Athlone Sub Aqua Club.
- 18.2 The Directors shall make all of its members and other relevant persons aware of the provisions of this Policy and Procedure.
- 18.3 The Directors shall subject this Policy and Procedure to on-going monitoring and review to ensure that it contributes effectively to the maintenance of discipline and dealing with any instances of misconduct that may occur.
- 18.4 Any amendment carried out by the Directors following a review of this Policy and Procedure shall not apply to any disciplinary proceedings current at the date of the Directors decision to make such an amendment.
- 18.5 Any queries concerning the operation of this Policy and Procedure should be directed to the club's Directors.

***This policy and procedure was approved at a Board of Directors Meeting held in the Tigh na Mara on Wednesday 10<sup>th</sup> February 2010 and will take immediate effect from this date.***

### **Signed:**

*Brian Duffy* (Chairman) **Date:** 10<sup>th</sup> Feb. 2010

*Deborah Riley* (Secretary) **Date:** 10<sup>th</sup> Feb. 2010

## Appendix: Examples of Offences

The following is a list of examples of offences that may be subject to a complaint. It is stressed that these are only examples of offences and the list is not exhaustive.

| <b>Offence</b>                                       |
|--|
| Deliberate compromising of club's insurance position |
| Conduct unbecoming of a club member                  |
| Aggressive behaviour - verbal abuse                  |
| Bringing the club into disrepute                     |
| Making a frivolous, vexatious or malicious complaint |
| Deliberate disregard for the authority of the club   |
| Aggressive behaviour – physical abuse                |
| Stealing   |
| Bullying   |
| Discrimination                                       |
| Embezzlement   |
| Harassment   |
| Sexual Harassment                                    |
| Breach of suspension imposed by club                 |