

# **Disciplinary Procedures for Affiliated Members**

## Welsh Athletics Disciplinary Procedures for Affiliated Members

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## **Glossary of Terms**

In these Procedures the following words shall have the meaning set out opposite them:

### **"Appeal"**

means an appeal from a decision of a Disciplinary Panel under the Disciplinary Procedures;

### **"Appeal Panel"**

the appeal panel appointed under the Disciplinary Procedures;

### **"Board"**

the board of Welsh Athletics from time to time as constituted under Welsh Athletics' Memorandum and Articles of Association;

### **"Chair"**

the person appointed from time to time to be the chair of the Disciplinary Panel or the Appeal Panel (as the context requires) under these Procedures;

### **"Chief Executive"**

The Chief Executive of Welsh Athletics Ltd., or his or her nominee

### **"Complainant"**

the person who makes a Complaint or allegation of misconduct against the Respondent (under these Disciplinary Procedures) and may be an individual, a Club, an Association or any other body within the jurisdiction of Welsh Athletics;

### **"Complaint"**

a Complaint referred to the Investigating Officer and made by a party who is an individual, a Club, an Association or any other body that is subject to Welsh Athletics' jurisdiction and which alleges a breach of a rule, policy, procedure, code of conduct, or similar regulation;

### **"the Decision"**

the written decision of either the Disciplinary Panel or the Appeal Panel (as the case may be) given in accordance with these Procedures;

### **"Disciplinary Panel"**

the disciplinary panel appointed pursuant of the Disciplinary Procedures;

### **"the Disciplinary Procedure"**

the procedures set out in above, as amended from time to time;

**"Interested Party"**

any person or member, who in the Investigating Officer's opinion, is likely to be affected by the outcome of any Complaint raised under these Procedures;

**"Investigating Officer"**

the investigating officer(s) appointed by the Welsh Athletics Welfare Officer on a case by case basis or generally and includes any deputy appointed by him;

**"National Association"**

Welsh Athletics Limited (company number 6179841); England Athletics Limited (company number 65583713); Scottish Athletics Limited (company number SC217377); and Athletics Northern Ireland or such other successor bodies

**"Natural Justice"**

A term that denotes the basic principles of justice, which are considered so fundamental as to be self-evident. The principles of natural justice include, for example, the following:

- there is a duty to give a fair hearing to everyone with a concern in the case.
- there may be a duty to explain the reasoning behind a decision.
- there is an obligation for the decision maker to be impartial.

Kelvin's English Law Glossary 2002. Where a person's legal rights are concerned, the principles of natural justice are bolstered by Art. 6 (1) of the European Convention on Human Rights, and the Human Rights Act, 1998.

**"Notice"**

the notice of the Complaint to be given to the Investigating Officer;

**"the Objection"**

any objection by the Appellant to the composition of the Disciplinary Committee or Appeal Panel notified to the Welsh Athletics Lead Welfare Officer;

**"The Panel"**

The disciplinary panel or appeal panel that may be convened to conduct a disciplinary hearing or appeal hearing under these procedures;

**"a Party"**

A party to the proceedings conducted under these procedures

**"these Procedures"**

the rules and procedures set out in this document;

**"Regional Chair"**

A person elected for the time being as a member of a Regional Council of Welsh Athletics and appointed by his or her peers as Chair of the Regional Council, or his or her nominee;

**"Welsh Athletics Lead Welfare Officer"**

a person employed as Lead Welfare Officer for Welsh Athletics, or his or her nominee;

**"Respondent"**

the person who is the subject of the Complaint by a Complainant (under these Disciplinary Procedures) and may be an individual, a Club, an Association or any other body within the jurisdiction of Welsh Athletics. It is not, however, applicable to paid employees whilst carrying out their duties under the terms of their employment: in these cases the Terms and Conditions of their employment will apply;

**"Rules for Competition"**

the rules for competition of UK Athletics adopted by the UKA Board from time to time;

**"Misconduct"**

improper or unprofessional conduct;

**"Serious Misconduct"**

examples of serious misconduct include, but are not restricted to:

- Theft
- Fraud
- Physical violence to another person
- Sexual abuse to another person
- Deliberate damage to property
- Serious negligence resulting in damage to property, loss or injury
- Serious acts of insubordination
- Incapability brought about by alcohol or illegal drugs
- Serious infringement of health and safety regulations
- Serious bullying, harassment or discrimination;

**"UKA"** UK Athletics Limited.

Words denoting the singular number shall include the plural number and vice versa and words denoting the masculine gender shall include the feminine gender and vice versa.

**1. Guiding Principles**

1.1. There are standards of conduct and behaviour required of all athletes and volunteers and others engaged in athletics and regrettably there will be occasions when someone will breach those standards. Although such incidents are rare it is important that Welsh Athletics is seen to deal with breaches in a fair, consistent and timely manner.

1.2. The vast majority of people engaged in athletics in Wales are committed to the sport and take part because they choose to do so. The use of formal disciplinary procedures by Welsh Athletics to deal with such individuals should only be resorted to when all other avenues to resolve the matter have been

pursued, or are considered inappropriate. In general wherever possible complaints should be resolved within the relevant club or association and informal resolutions of complaints is preferable if appropriate in all the circumstances of the matter.

1.3. Confidentiality, diligence, fairness, impartiality, natural justices are key features of these procedures and will be applied at all times.

1.4. This document describes the procedures to be followed in the event of a Complaint of an alleged breach, as described above.

## **2. Jurisdiction of the Welsh Regions**

2.1. The Board and General Council of Welsh Athletics may delegate specific management and governance functions to its Regional Councils. These functions can if appropriate include a responsibility to investigate, hear and resolve any Complaints that are referred to it.

2.2. These Disciplinary Procedures shall incorporate responsibility for all activities within the sport when they concern affiliated members and associations, including county associations, clubs or individual members.

2.3. It is accepted that Welsh Athletics may refer certain responsibilities to UK Athletics when considered appropriate.

## **3. Role and Jurisdiction of Welsh Athletics**

3.1. Welsh Athletics is the governing body for all branches of athletics in Wales incorporating cross country, fell and hill, race walking, trail running, road running and track and field.

3.2. The Articles of Association of Welsh Athletics Ltd grant authority for disciplinary matters in Section 7 (e):

3.2.1. "The directors, following consultation with the General Council, may from time to time make, vary and revoke Membership Rules relating to all aspects of membership of the Company including, (without limitation) Membership Rules setting out disciplinary procedures for members and athletes."

3.3. Welsh Athletics is an employer and any grievance or disciplinary matters concerning members of Welsh Athletics' staff shall be dealt with under separate procedures.

## **4. Role & Jurisdiction of UK Athletics (UKA)**

4.1. UK Athletics Limited has its own disciplinary rules and dispute resolution and disciplinary procedures, adopted by its Board under UKA's Articles of Association.

4.2. Jurisdiction under Rules for Competition

4.2.1. Under the Rules for Competition Welsh Athletics have their own jurisdiction to resolve disputes arising in certain areas (namely eligibility (Rules 3 and 6), hardship (Rule 6), permission to promote (Rule 12), misconduct (Rule 22) and protests (Rule 23)). Welsh Athletics have their own procedures for

disputes and disciplinary matters falling within their jurisdiction (see below) and these may provide for an appeal to UKA.

4.2.2. UKA also has jurisdiction under the Rules for Competition to deal with appeals from decisions of Welsh Athletics under Rules 22(4) and 23(5) and a general jurisdiction to resolve disputes under Rule 23(6). Such appeals or dispute resolution would be dealt with in accordance with UKA rules and procedures.

#### 4.3. Jurisdiction under Welfare Policy and Procedures

4.3.1. Under UKA's welfare policy and procedures, it is envisaged that in certain circumstances UKA will exercise disciplinary jurisdiction. UKA has exclusive jurisdiction over licensed coaches and officials (who are dealt with under separate procedures). Either Welsh Athletics or UKA may have a disciplinary jurisdiction where the person concerned is not licensed but otherwise participates in the sport. Where UKA deals with such a matter it would do so under its own rules and procedures.

#### 4.4. Jurisdiction under the Athlete Agreement in relation to members of the GB and NI Team and World Class Pathway Funded Athletes.

4.4.1. UKA has entered agreements with athletes who are funded through World Class Pathway (WCP) and also those (non-funded) athletes who are members of the GB and NI Team. Under those agreements, UKA has exclusive disciplinary jurisdiction and its rules and procedures apply.

#### 4.5. Jurisdiction over Clubs

4.5.1. The Articles of Association of UKA recognise only those clubs and organisations, which are Affiliated or Associate Members of a National or Regional Association. UKA has the right to withdraw or cancel an Affiliated or Associate Membership by a majority vote of its Executive Board if, after investigation, the Executive Board is of the opinion that this is in the interests of UKA.

#### 4.6. Separate Rules and Procedures

4.6.1. UKA has separate rules and procedures, which apply in relation to:

- 4.6.1.1. an anti-doping rule violation alleged to have been committed (the Anti - Doping Rules);
- 4.6.1.2. a coach who has his or her UKA Coaching Licence withdrawn (Appeal Procedures for Coaches);
- 4.6.1.3. an official who has his or her UKA Licence withdrawn (Appeal Procedures for Officials);
- 4.6.1.4. a Complaint received against an employee or consultant engaged by UKA;
- 4.6.1.5. a challenge by an athlete to a selection decision taken by UKA;
- 4.6.1.6. a challenge by an athlete to a decision taken in relation to his/her membership of the WCP.

4.7. Copies of UKA rules and procedures are available on request from UKA.

## **5. Misconduct & Jurisdiction**

### **5.1. Complaints of Misconduct**

A Complaint may be made against a Respondent and may be referred to a Disciplinary Panel where he:

- 5.1.1.1. refuses or neglects to comply with Welsh Athletics' Articles of Association;
- 5.1.1.2. breaches rules 12(8), 14(6), 14(9), 19, 22(1), 22(2) and 22(3) of the UKA Rules for Competition;
- 5.1.1.3. breaches UKA's Welfare Policies and Procedures or any terms of reference, regulations or other rules of UKA as adopted by Welsh Athletics;
- 5.1.1.4. behaves in a manner which is or is likely to be prejudicial to an event organised under UKA or Welsh Athletics' Rules or the administration of a training facility;
- 5.1.1.5. behaves (whether by action or omission) in a manner which is disgraceful or opposed to the general interests of Welsh Athletics or the sport of athletics or which brings the sport into disrepute; or
- 5.1.1.6. behaves in a manner that is otherwise considered by Welsh Athletics to be unacceptable and contrary to the conduct expected of a person participating in athletics.

### **5.2. Serious misconduct**

examples of serious misconduct (refer to glossary):

## **6. Rapid Repatriation**

6.1. Managers of Welsh Athletics' National and Regional Teams and training squads in the United Kingdom and abroad, appointed by or on behalf of Welsh Athletics, may (in conjunction with the coaching staff for that team or training squad and Welsh Athletics Head of Operations and Teams or members of his or her staff authorised by him or her) take immediate disciplinary action to repatriate or otherwise exclude any member of the team or training squad due to misconduct after the team or training squad has been formed (i.e. the members of that team or squad have come together either at the point of departure from the UK or at the competition or training venue, whichever is the earlier). For the disciplinary action for the sole purpose of altering the composition of the team or squad of which they are in charge.

6.2. In the event of such immediate disciplinary action being taken, the team leader/manager shall report the matter to Welsh Athletics Lead Welfare Officer as soon as practical but at least within 24 hours of the event. Welsh Athletics may at its discretion invoke disciplinary proceedings under Clause 5.2 above, if it considers further action is necessary.

### **6.3. Jurisdiction over Misconduct**

- 6.3.1. Welsh Athletics shall have exclusive jurisdiction to investigate and discipline alleged misconduct by athletes who have signed an athlete agreement or who are current members of the Welsh Athletics Team.



- 6.3.2. Misconduct falling within Clause 5.1.1.2 above shall be dealt with by Welsh Athletics, subject to an appeal to UKA under Rule 22(4) of the Rules for Competition.
- 6.3.3. Notwithstanding Clause 5.1, misconduct which is not within UKA's exclusive jurisdiction or which is alleged to have been committed by other persons under UKA's jurisdiction shall be reported to Welsh Athletics for it to take such action as it deems necessary. In cases where Welsh Athletics takes no further action, UKA may charge the person concerned with misconduct and take disciplinary action under their own Disciplinary Procedures. In cases concerning a breach of UKA's Welfare Policies and Procedures, Welsh Athletics may refer the matter to UKA for it to resolve under their own Disciplinary Procedures.

#### **6.4. Disputes and Appeals**

6.4.1. The National Associations have jurisdiction under the Rules for Competition to decide disputes arising under Rule 3 (Club Membership), Rule 6 (Eligibility Committee and Hardship Applications), Rule 12 (Permission to Promote), Rule 22 (Misconduct) and Rule 23 (Protests and Appeals). UKA has jurisdiction to deal with appeals from these decisions under Rules

6(8), 12(6), 22(4), 23(5) and 24(6) of the Rules for Competition.

#### 7. Procedure by Welsh Athletics on Receipt of Complaint

7.1. This section of the Discipline Procedures describes the steps to be taken when the initial

Complaint is made to Welsh Athletics or delegated to it by UKA.

#### 7.2. Making a Complaint

- 7.2.1. Any party who is an affiliated member of Welsh Athletics, and may include an individual, a Club, an Association or any other body that is subject to Welsh Athletics' jurisdiction, may make a Complaint where they consider a matter falls within the definition of misconduct above
- 5.1.1.1.- 5.1.1.6. (refer to glossary of terms for definition).
- 7.2.2. The party making a Complaint shall do so by giving notice in writing to the Welsh Athletics Lead Welfare Officer as soon as practicable and in any case within 30 calendar days of the incident and shall set out full details of the Complaint and the alleged Respondent.

#### 7.3. Responsibility of the Welsh Athletics Lead Welfare Officer

7.3.1. The Welsh Athletics Lead Welfare Officer (or a nominated deputy) shall have responsibility for the management of complaints, disciplinary investigations and hearings in accordance with the procedures set down in these Discipline Procedures. This responsibility shall extend to making every reasonable effort to select an Investigating Officer and Disciplinary Panel, who at all times may be expected to operate these Discipline Procedures in a fair and impartial manner, solely on the basis of the evidence before them.

#### 7.4. Action on the receipt of a Complaint

7.4.1. If a Notice is received by Welsh Athletics outside the 30 day period, it may, in exceptional circumstances and with complete discretion, process the Complaint.

7.4.2. Where the matter (in the view of the Welsh Athletics Lead Welfare Officer or their nominated deputy) justifies such action, he or she must refer the matter to the police for investigation and must then postpone consideration of the matter under these Procedures until the police investigation has been concluded;

7.4.3. Where the matter does not amount to an allegation of serious misconduct and arises from one or more incidents within an affiliated club, association or any other body that is subject to Welsh Athletics' jurisdiction, the Welsh Athletics Lead Welfare Officer may, at his or her discretion and for the purpose of achieving resolution of the matter, refer the matter to the club or association concerned, for them to deal with under their own procedures.

#### 7.5. Referral to the Investigating Officer

7.5.1. Where it is not appropriate to deal with the complaint or dispute under the provisions of 6.3.1; 6.3.2; 6.3.3, the Welsh Athletics Lead Welfare Officer, or his or her nominee, shall deal with the matter by way of Formal Resolution and shall appoint an Investigating Officer to investigate the matter and complete a report for the Disciplinary Panel. In the interests of impartiality, the Investigating Officer shall not have had any previous direct involvement in the matter, which has given rise to the Complaint.

7.5.2. Details of all Complaints shall be given to the Investigating Officer by the Welsh Athletics Lead Welfare Officer in the form of a Notice. The Notice shall be given in writing as soon as practicable and ideally within two weeks of the receipt of the Complaint and shall set out details of the Complaint etc. and the terms of reference of the investigation.

7.5.3. If a Notice is received by the Investigating Officer outside the specified period, he or she may, in exceptional circumstances and with complete discretion, process the Complaint.

7.5.4. The Investigating Officer will have complete discretion on seeking an informal resolution prior to embarking on a formalised process where possible.

#### **8. in the case of a Dispute, either:**

9. (a) with the agreement of the parties refer the Dispute for mediation, by appointing an appropriate mediator or by appointing an independent organisation to mediate the dispute and inform the parties and any Interested Parties of such referral; or

10. (b) convene an Arbitral Panel to consider the Dispute in accordance with the Dispute Resolution Procedures or refer the matter for arbitration by the Sports Dispute Resolution Panel Limited (or another body established to resolve disputes by means of arbitration) in accordance with its rules;

10.1.1. As soon as practicable (and without prejudicing any investigation into the matter by Welsh Athletics or another party) the Welsh Athletics Lead Welfare Officer shall give the Respondent written notice

- 10.1.1.1. Of the nature of the complaint;
- 10.1.1.2. Specify who the appointed Investigating Officer is
- 10.1.1.3. That there is to be an investigation into the case;

10.1.2. The Investigating Officer shall:

- 10.1.2.1. Carry out such investigations and gather such evidence as he or she in their sole discretion considers appropriate;
- 10.1.2.2. Take such steps as he or she thinks appropriate to ensure that the Respondent concerned is informed of the evidence against him or her and has the opportunity to respond to the allegations and evidence before any report of the investigation is completed. Any response must (unless the Investigating Officer decides otherwise) be in writing;
- 10.1.2.3. Complete a report for the Disciplinary Panel in relation to the breach of the relevant rule, policy, procedure or code of conduct, which may include a recommendation as to the outcome of the case if appropriate.

## **10.2. Suspension**

If the Investigating Officer considers that a Complaint or Appeal is to be referred to a Case Management Group, the Investigating Officer will cast the final decision to decide whether or not the seriousness of the matter requires the Respondent to be suspended from Competition or official participation in athletics pending determination of the matter. A Respondent so suspended may apply to the Disciplinary Panel or Arbitral Panel considering the matter for the suspension to be lifted. Any Respondent so suspended shall be entitled to a full expedited hearing. For the avoidance of doubt, the Investigating Officer may communicate the fact of the suspension to relevant third parties.

## 10.3 Costs

10.3.1 Each party shall bear its own costs (including but not limited to legal costs, scientific or other experts' fees, witness costs) in connection with Complaints made or Disputes or Appeals brought under these Procedures.

10.3.2 The costs of any mediator shall be shared by the parties equally and the costs of any arbitration body appointed shall be borne by the parties in such proportions as the arbitration body shall rule at the conclusion of the matter.

## **Section B:**

### 11. Hearing by the Disciplinary Panel

11.1. The Welsh Athletics Lead Welfare Officer shall appoint a Disciplinary Panel of three members, one of whom shall be designated as Chairman, appointed by the Lead Welfare Officer. These members shall be from people active in athletics, save that the Investigating Officer shall not be eligible for this Panel.

11.2. In the interests of fairness and impartiality none of the members of The Panel, including a co-opted member, if any, shall have been directly involved in the matter being heard. The Lead Welfare Officer and/or Investigating Officer are authorised to appoint co opted members, where it has been identified that there is a requirement for a specialist opinion on the Panel.

11.3. The Welsh Athletics Lead Welfare Officer shall inform the Respondent of the composition of The Panel.

11.4. The Respondent may object to the composition of The Panel by notifying the Welsh Athletics Lead Welfare Officer of the Objection and setting out the reasons for such an Objection no later than seven calendar days from the date of being informed of the composition of The Panel.

11.5. The Welsh Athletics Lead Welfare Officer shall, within seven calendar days (or such shorter time limit imposed by the Welsh Athletics Lead Welfare Officer) from the date of receipt of an Objection, notify in writing the parties that either:

11.5.1. The composition of The Panel has changed (in which case the Welsh Athletics Lead Welfare Officer shall provide details of the new Disciplinary Panel); or

11.5.2. The composition of The Panel has not changed (in which case the Welsh Athletics Lead Welfare Officer shall give reasons why it has not accepted the Respondent's Objection).

11.6. The decision by the Investigating Officer on the composition of The Panel shall be final.

## 12. Pre-hearing procedures

12.1. Where the Disciplinary Panel has been convened the Investigating Officer shall forthwith:

12.1.1. Send a copy of the Complaint together with the charge and evidence gathered against the Respondent by Special Delivery post to the Respondent's last known address. In all cases the Investigating Officer shall ensure that the Respondent is given full disclosure of the matter in dispute in writing.

12.1.2. Ask each party to submit written evidence in support of their case.

12.1.3. Inform all parties that they must provide in writing to the Investigating Officer within fourteen calendar days or such alternative time limit as the Investigating Officer shall decide any information and copies of all documents relating to the Complaint that either party wishes the Disciplinary Panel to consider in relation to the matter;

12.1.4. Upon receipt of such documents under the clause above supply copies of such information to the Disciplinary Panel and the other parties within a further seven calendar days.

12.1.5. Inform the Respondent that if no reply is received within the period of fourteen calendar days (or such alternative time limit imposed by the

Investigating Officer under (Clause 12.1.3 above) the Panel will consider the Complaint on the basis of the facts and statements in its possession.

12.1.6. Give all parties a minimum of fourteen calendar days notice of the date, place and time of the hearing when the Disciplinary Panel is to consider the matter;

12.2. The Chair of the Disciplinary Panel, in consultation with the Investigating Officer, shall be entitled to make directions as to any further exchange of evidence. The Chair may rule:

12.2.1. that the hearing takes place on paper; evidence provided via telephone; video link or all parties attend and give oral evidence.

12.2.2. that the Disciplinary Panel is convened by telephone or video conference (provided that all information has been supplied to both parties and each has had the opportunity to respond to information supplied by the other).

12.3. The Investigating Officer shall also seek clarification of any matter that has previously been raised by either party or at the request of the Disciplinary Panel members;

After the hearing, the Disciplinary Committee shall provide its full Decision in writing to the Lead Welfare Officer for onward transmission to the respondent within 7 days via the appointed Panel Secretary, the Panel Secretary will be appointed by the Investigating Officer. The Disciplinary Committee may decide any issue by majority. The Decision shall include:

- (a) a summary of the Complaint;
- (b) the Disciplinary Committee's decision in relation to the Complaint and its reasons;
- (c) the appropriate sanction (if any) to be imposed on the Respondent in accordance with the section 12.5.2 of these Disciplinary Procedures.

The Welsh Athletics Lead Welfare Officer or Investigating Officer shall present the case but he or she shall not be a member of The Panel.

### **13 The Hearing**

A hearing conducted under these procedures is not a judicial hearing and so evidence given will not be delivered under oath. The Panel adjudicating a hearing will, however, endeavour to apply the rules of Natural Justice and the hearing will be held in private.

Where the facts in the case are not contested by the Respondent the Panel may resolve the matter by considering the written facts as provided by the Complainant and other witnesses, without calling oral evidence.

13.1. The Lead Welfare Officer shall decide the arrangements for and conduct of the Hearing.

13.2 The Panel must also consider any written submission made by the Respondent.

13.2.1 They may also rely upon a written and or oral submission by the Investigating Officer, which may include a recommendation as to disposal of the case.

### 13.3 Facts Contested:

- 13.3.1.1 Where the facts in the case are contested by the Respondent the Panel may resolve the matter by considering all the evidence made available to it including oral and written evidence from Welsh Athletics, the Complainant and other witnesses. It may question Welsh Athletics, the Complainant and any witnesses present in relation to the matter. It may call upon either of Welsh Athletics or the Complainant to supply additional evidence and may adjourn the hearing for that or any other purpose.
- 13.3.1.2 The Panel must also consider any written submission made by the Respondent and any written evidence provided by witnesses called on his or her behalf.
- 13.3.1.3 In the event that The Panel finds the Respondent guilty of misconduct they may rely upon a written and or oral submission by the Investigating Officer, which may include a recommendation as to disposal of the case.

13.3.2 The Chair of The Panel may vary this procedure in his or her absolute discretion if, after discussion with the other parties, he or she is of the opinion that such change would assist the Hearing process in a fair and impartial way.

13.3.3 The Panel shall decide any matter on the basis of a simple majority.

### 13.4 Powers of the Disciplinary Panel

13.4.1 The Panel may reject the Complaint or, where the Complaint is upheld, impose such sanctions upon the Respondent as it thinks fit including without limitation:

- 13.4.1.1 a warning in respect of the misconduct committed;
- 13.4.1.2 a recommendation to the athletics club of which he or she is a member to terminate his or her membership or remove him or her from any official position within the club;
- 13.4.1.3 a requirement to complete education or training;
- 13.4.1.4 in the case of a Respondent who is an athlete suspension from competition (or official participation within athletics) or from taking part in any event organized or run under the UKA Rules for Competition for a specified period;
- 13.4.1.5 In the case of a Respondent who is a coach or technical official a recommendation to UKA that the Respondent's licence to coach or officiate be suspended for a period of time;
- 13.4.1.6 suspension for a specified period or removal from any office held within Welsh Athletics;
- 13.4.1.7 exclusion from holding office within Welsh Athletics for a specified period of time;
- 13.4.1.8 any combination of the above.

13.4.2 In the event that a Respondent fails or refuses to comply in whole or in part with the sanctions imposed by The Panel, The Panel may reconvene at its own discretion and treat the failure or refusal as a fresh Complaint and deal with the matter and impose any sanction in accordance with these procedures.

13.5 The decision of The Panel shall be issued in writing to the parties concerned not more than fourteen calendar days from the date of the Hearing. The decision shall be accompanied by details of any disciplinary action that has been agreed by The Panel.

13.6 Any suspension, disqualification or expulsion shall normally run with immediate effect from the date of the Disciplinary Hearing. The panel may take into account any period of suspension served prior to the hearing date

13.7 Any other interested parties affected by the decision of The Panel shall be notified of the decision in addition to those referred to at 13.5, above.

After the hearing, the Disciplinary Committee shall provide its full Decision in writing to the Lead Welfare Officer. The Disciplinary Committee may decide any issue by majority. The Decision shall include:

- (a) a summary of the Complaint;
- (b) the Disciplinary Committee's decision in relation to the Complaint and its reasons;
- (c) the appropriate sanction (if any) to be imposed on the Respondent

The Welsh Athletics Lead Welfare Officer or Investigating Officer shall present the case but he or she shall not be a member of The Panel.

## **14 Appeal**

14.2 The letter (13.5) notifying the decision of The Panel shall also set out the right to Appeal.

14.3 The Respondent or Welsh Athletics (but not the individual(s) or organization(s) that originally made the Complaint), may appeal against the decision of The Panel, by serving a Notice of Appeal on the Lead Welfare Officer of Welsh Athletics within fourteen calendar days of receiving the written decision. The Notice of Appeal must state the grounds on which the verdict of The Panel is challenged. The notice must be accompanied by a cheque for £100 made payable to Welsh Athletics (the Deposit) this deposit shall be held by WA and repaid to the respondent in the event the appeal panel so decides.

14.4 The Lead Welfare Officer shall acknowledge a Notice of Appeal within seven calendar days of its receipt and shall establish an Appeal Panel within a further fourteen calendar days.

14.5 The Welsh Athletics Lead Welfare Officer, shall appoint an Appeal Panel of three members who have not been involved directly, either in the events giving rise to the Hearing, or in the Hearing itself.

14.6 The Lead Welfare Officer shall inform the Appellant and other Party of the composition of the Appeal Panel.

14.7 Either party may object to the composition of the Appeal Panel by notifying the Lead Welfare Officer of the Objection and setting out the reasons for such an Objection no later than seven calendar days from the date of being informed of the composition of the Panel.

14.8 The Lead Welfare Officer shall, within fourteen calendar days (or such shorter time limit imposed by the Chief Executive) from the date of receipt of an Objection, notify in writing the parties that either:

14.8.1 the composition of the Panel has changed (in which case the Lead Welfare Officer shall provide details of the new Appeal Panel); or

14.8.2 the composition of the Panel has not changed (in which case the Lead Welfare Officer shall give reasons why it has not accepted the Respondent's Objection).

14.9 The decision by the Panel Chair on the composition of the Panel shall be final.

14.10 Within fourteen calendar days (or such shorter time limit imposed by the Lead Welfare Officer) from the date of receipt by the Chief Executive of the Notice of Appeal or within fourteen calendar days (or such shorter time limit imposed by the Lead Welfare Officer) from the date the Lead Welfare Officer responds to the Objection under Clause 14.7 above (as appropriate), the Chair of the Appeal Panel, in consultation with the Investigating Officer, shall give such directions to the Complainant and Respondent and any Interested Parties as are appropriate for consideration of the matter, and in particular:

14.10.1 the date and place at which the Appeal Panel will meet to determine the Appeal, provided that the Appeal shall not be heard later than three months from the date of the receipt of the Notice by the Lead Welfare Officer unless there are exceptional circumstances which should permit a longer period of time;

14.10.2 whether the appeal will proceed by way of written submissions or an oral hearing; and

14.10.3 whether the parties should be required to submit statements of their evidence and/or written submissions prior to the hearing and, if so, a timetable for doing so and the procedure for exchanging such statements and written submissions.

## 15 Jurisdiction of the Appeal Panel

15.2 The Chair of the Appeal Panel may decide on its own jurisdiction, including whether the Appeal Panel is properly constituted and what matters have been submitted.

## 16 Powers of the Appeal Panel

16.2 The Appeal Panel shall meet on the date fixed by the Lead Welfare Officer.



16.3 The Appeal Panel may at its sole discretion disregard any failure by a party to adhere to this appeal procedure and may give such further directions as may be appropriate.

16.4 Prior to and at the hearing, the Chair, after consulting with the Investigating Officer, may give such directions whether or not made at the request of the parties, for the proper conduct of the hearing as he or she deems may be reasonably necessary for the fair conduct of the hearing, including changes to the procedure as set out in these Procedures.

16.5 Any such hearings shall be in private unless the Appellant and other Party agree otherwise, or unless the Appeal Panel directs. The Appeal Panel shall have power to make a decision on the facts as it thinks fit and may:

- 16.5.1 quash the original decision;
- 16.5.2 Confirm the original findings
- 16.5.3 the case be reheard (re-trial)
- 16.5.4 increase the original sanction;
- 16.5.5 abate the original sanction;

16.6 The Appeal Panel shall inform the Appellant and other Party and Interested Parties (if any) of its decision within fourteen calendar days together with written reasons for its decision. The decision of the Appeal Panel shall be final and binding on the Appellant and other Party and Interested Parties. The Appeal Panel shall decide on any issue by majority.

16.7 A supporter, who must be named, may accompany the Respondent throughout the appeal process.

## 17 Records of Hearings and Appeals

17.2 The decisions of Disciplinary Panels, including appeals, shall be recorded and retained in confidential records for a period of time specified by The Panel, which shall not be less than six years. Supporting documentation shall also be retained in the same fashion.

### 17.3 Notification to Welsh Athletics

17.3.1 A record of the proceedings and decisions of Club Disciplinary Panels, and Appeal Panels, including any sanctions imposed, shall be sent to the Lead Welfare Officer of Welsh Athletics within fourteen calendar days of the Hearing.

### 17.4 Notification to UKA, National Association and others

17.4.1 Where appropriate and in the absolute discretion of the Chair of a Hearing or Appeal Panel, details of a decision, including sanctions imposed, may be communicated to UKA, a National Association, county association, club or other body where it is considered necessary to ensure compliance with a sanction, or for the safety and well-being of those engaged in athletics activity. UKA/WA may determine to publish details on their websites.

## 18.0 Co-operation of Respondents/Appellants and Other Parties

18.1 The procedures described in these Discipline Procedures assume that the Respondent/Appellant and other parties will co-operate in the interest of resolving the issue in question. In the absence of such co-operation, or if it is withdrawn at any stage, Welsh Athletics reserves the right to proceed with a Hearing or an Appeal based on such evidence and information as it is able to obtain.

## **Section C:**

### **19 Dealing With Persistent/Vexatious Complaints/Allegations Of Misconduct**

#### **19.1 Introduction**

19.1.1 Welsh Athletics will follow these procedures and will do everything it reasonably can to resolve issues of Complaint. Occasionally, Complainants or those making allegations of misconduct may focus solely on their concerns to the extent of placing an undue strain on time and resources of Welsh Athletics and causing undue stress to staff and volunteers involved.

19.1.2 Welsh Athletics staff and volunteers are expected to deal with individuals in a respectful and professional manner and to follow appropriate procedures; however there are instances when nothing more can reasonably be done to rectify a real or perceived problem. At this stage it is important to ensure that Complaints procedures and those for investigating allegations of misconduct have been followed correctly and that all elements of the Complaint or allegation have been adequately addressed. This policy for dealing with persistent or vexatious Complaints should only be invoked in exceptional circumstances.

#### **19.2 Definition of a vexatious Complaint**

19.2.1 A written or verbal report of alleged improper conduct made to Welsh Athletics intending the report to be acted upon, where there is a demonstrable absence of reasonable grounds for suspecting the improper conduct, and the report is considered to have been made to cause distress.

#### **19.3 Definition of a persistent Complaint**

- 19.3.1 Where an individual persists in pursuing a Complaint when appropriate procedures have been followed and exhausted.
- 19.3.2 Where the substance of a Complaint is continually being changed or new issues continually being raised to prolong contact.
- 19.3.3 When an individual is unwilling to accept documented evidence as part of the Complaints response, or deny receipt of an adequate response in spite of correspondence specifically answering their concerns.
- 19.3.4 When an individual persists in raising issues of Complaint outside the remit of Welsh Athletics.
- 19.3.5 Where an individual has:
  - 19.3.5.1 threatened or used physical violence towards staff or volunteers dealing with the Complaint; or

- 19.3.5.2 harassed or been verbally aggressive on more than one occasion towards staff or volunteers dealing with the Complaint.
- 19.3.6 Where an individual has had an excessive number of contacts with Welsh Athletics staff or volunteers during the investigation, e.g. personally, or by telephone, fax, email.
- 19.3.7 Where an individual has made unreasonable demands about the investigation of their Complaint (e.g. responses being made more quickly than time limits set down).
- 19.3.8 Where an individual is known to have recorded meetings or conversations without the prior knowledge or consent of the other parties involved.

#### 19.4 Handling Persistent Complaints/Allegations of Misconduct

- 19.4.1 It will be for the Welsh Athletics Lead Welfare Officer to consider the nature of the Complaint against the above criteria and to identify or classify such Complaints as 'persistent' or 'vexatious' in agreement with the Chief Executive. The two together, will determine the most appropriate course of action from the following options:
  - 19.4.1.1 Try to resolve the issue before invoking this procedure, by contacting the individual in writing to explain the difficulties and set out a code of behaviour for the parties involved if Welsh Athletics is to continue processing the Complaint. This may involve requiring the Complainant to communicate in a particular way, for instance in writing only, or with a specific volunteer or member of staff.
  - 19.4.1.2 Decline contact with the Complainant or restrict contact to a specific format (as above). If staff or volunteers are to withdraw from a telephone conversation with the individual, an agreed script should be made available for their use.
  - 19.4.1.3 Notify the Complainant in writing that the Chief Executive has responded fully to the points raised and has tried to resolve the Complaint but there is nothing further to add and continuing contact on the matter will serve no useful purpose. The Complainant will also be notified that the correspondence is at an end. Further correspondence will be acknowledged but not answered.
  - 19.4.1.4 In extreme cases, it might be necessary to take legal advice/action to deter an individual from frequenting Welsh Athletics premises or contacting Welsh Athletics staff.

## Appendix I

### Guidance on Conduct of Hearings

This guidance is designed to assist Chairs and members of Disciplinary Hearing Panels to conduct hearings and to provide guidance to possible outcomes and panel decisions.

#### Conduct of the Hearing

1. Chair of Panel introduces fellow Panel members and confirms identity and status of all other persons present;
2. Chair reminds all parties of the confidentiality of the Hearing and that Hearing will be held in private.
3. Chair informs all parties that a Hearing conducted under these procedures is not a Judicial Hearing and so evidence given will not be delivered under oath. The Panel adjudicating the Hearing will, however, apply the rules of Natural Justice. For example the duty to give a fair hearing to everyone with a concern in the case, the duty to explain the reasoning behind any decision and the obligation for any decision-makers to be impartial.
4. Chair informs the parties that the Panel will make its decisions on whether the Respondent is guilty of misconduct on the basis of a balance of probabilities. This means that it must be demonstrated that it is "more probable than not" that the Respondent is guilty of misconduct. The panel will consider whether or not on the balance of probabilities the allegations are substantiated by the facts of the case.
5. Chair confirms that the Respondent and Panel members have previously received copies of all relevant documentation. (In the event that documents have not been exchanged as required, the Chair may consider an adjournment – see paragraph 11 below.)
6. The Panel must consider any written and or oral submission made by the Respondent and any written and or oral evidence provided by witnesses called on his or her behalf.
7. The Panel will then consider their decision in private. The Panel shall decide any matter on the basis of a simple majority and may reject the complaint or may partially or fully uphold the complaint.
8. If the Panel upholds the complaint they must then consider the most appropriate manner to resolve the case and in so doing may take account of all relevant information disclosed during the Hearing, including any submission made by or on behalf of the Respondent.

9. In consideration of what sanction to impose the panel should consider the following criteria:

- a. the nature and seriousness of the misconduct including whether the misconduct involved dishonesty, culpable or reckless neglect;
- b. the Respondent's conduct record and, in particular, whether any misconduct of a similar kind has occurred before and the period of time which has elapsed since any previous misconduct.
- c. where relevant, the length of time over which the misconduct occurred;
- d. the number of breaches;
- e. any steps taken by the Respondent to avoid a recurrence of the misconduct;
- f. whether any admission, and regret is expressed by the Respondent;
- g. the extent to which the Respondent has derived benefit, or stood to derive benefit, from the misconduct;
- h. any steps taken by the Respondent to compensate or provide restitution to the Complainant;
- i. the degree of co-operation with the Investigation;
- j. any penalties previously imposed by Welsh Athletics and UK Athletics in similar cases;
- k. the need to deter the Respondent and other Members from future misconduct; and
- l. the need to demonstrate to the athletics community and society in general, that Welsh Athletics takes firm action intended to promote the standards of conduct and behaviour required of all athletes and volunteers and others engaged in athletics.

10. The powers of the Panel are to issue:

- i. a warning in respect of the misconduct committed;
- ii. a recommendation to the athletics club of which he or she is a member to terminate his or her membership or remove him or her from any official position within the club;
- iii. a requirement to complete education or training;
- iv. in the case of a Respondent who is an athlete suspended from competition (or official participation within athletics) or from taking part in any event organized or run under the UKA Rules for Competition for a specified period;
- v. In the case of a Respondent who is a coach or technical official a recommendation to UKA that the Respondent's license to coach or officiate be suspended for a period of time;

- vi. suspension for a specified period from any office held within Welsh Athletics;
- vii. exclusion from holding office within Welsh Athletics for a specified period of time;
- viii. any combination of the above.

11. The Chair of The Panel may vary this procedure in his or her absolute discretion if, after discussion with the other parties he or she is of the opinion that such change would assist the Hearing process in a fair and impartial way.

12. The decision of The Panel shall be issued in writing to the Respondent and other parties concerned not more than ten days from the date of the Hearing. The decision shall be accompanied by details of any disciplinary action that has been agreed by The Panel. The letter to the Respondent should also set out the right to appeal if applicable. Any suspension shall normally run with immediate effect from the date of the Panel Hearing.

13. Where appropriate and in the absolute discretion of the Chair of a Disciplinary Panel, details of a decision, including sanctions imposed, may be communicated to UKA, a National Association, county association, club or other body where it is considered necessary to ensure compliance with a sanction, or for the safety and well-being of those engaged in athletics activity.

14. A record of the proceedings and decisions of Disciplinary Panels, including any sanctions imposed, shall be sent to the Chief Executive of Welsh Athletics within fifteen days of the Hearing.