

Board Approval	9/9/2020
Review Date	9/9/2022



Disciplinary Procedure

Scottish Rowing
09/09/2020



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Purpose

Scottish Rowing aims to encourage high standards of individual behaviour in all aspects of the sport. This procedure sets out the action which will be taken when the code of conduct is breached.

Scope

This policy applies to any member, director, official, contractor, volunteer, facility user, representative or individual member of an affiliated club and any other person involved in or connected to Scottish Rowing or the sport in Scotland.

This policy does not apply to Scottish Rowing staff, as they are covered separately under the Scottish Rowing staff policies and procedures.

This disciplinary policy will be used:

- a. in the event of any breach of the rules or policies by any individual falling within the scope of the policy; and/or
- b. in any disciplinary matter which relates to the affairs of Scottish Rowing or of the sport on the request of the Board (notwithstanding that such matter has not previously been adjudicated upon by the Board) or on request of a third party.

Where the disciplinary matter relates to Safeguarding, this policy should be followed in conjunction with the Scottish Rowing Safeguarding policies for Children and Vulnerable Adults and in the event of any conflict, the Safeguarding policies should take precedence.

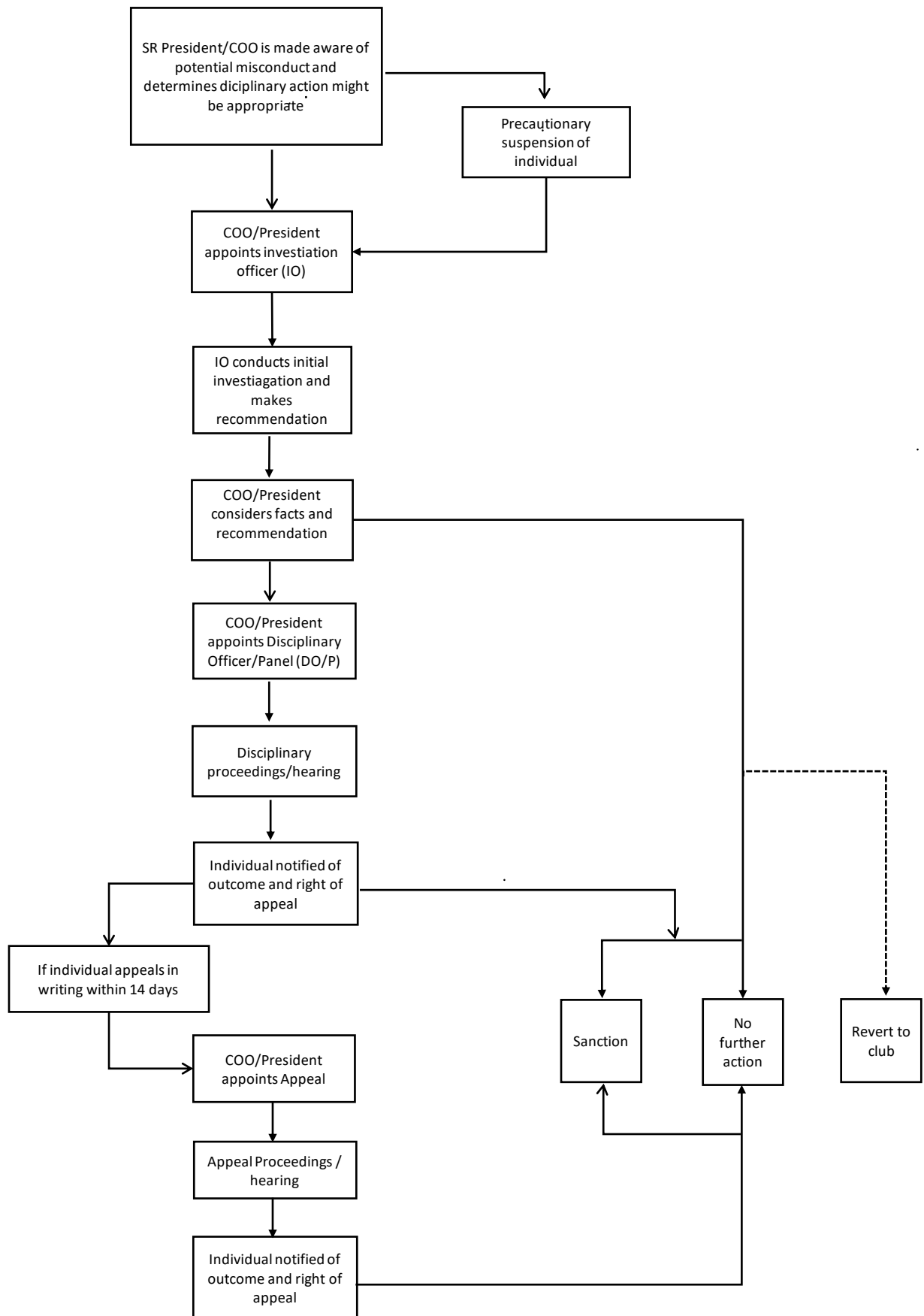
The scope of this policy specifically excludes disciplinary matters where the National Governing Body (British Rowing), or the World Governing Body (FISA) has jurisdiction in accordance with its rules and disciplinary matters relating to anti-doping.

Scottish Rowing member clubs may choose to adopt this procedure, substituting their club where Scottish Rowing is referenced below. In the event a club does not have an alternative written procedure, it is expected that this procedure will be implemented should it be required.

Principles

The aim of this Disciplinary Procedure is to ensure justice in disciplinary proceedings and to provide a framework within which decisions relating to Scottish Rowing can be made in a fair, consistent, independent and expeditious manner and in accordance with the

requirements of natural justice. It is the policy of Scottish Rowing to ensure that any disciplinary matters are dealt with fairly, that steps are taken to establish the facts and that there is an entitlement to a fair and reasonable hearing within a reasonable time by an independent and impartial body.



Initiation

This process will be followed when allegations of misconduct are received by the Scottish Rowing President or COO. This could be the outcome of the Scottish Rowing Complaints Policy or by other means.

Preliminary Assessment

The President, COO or another person appointed by them will carry out a preliminary assessment. For safeguarding matters the preliminary assessment may be carried out by the Scottish Rowing welfare officer.

The possible outcomes of the preliminary assessment are:

1. No further action (facts do not warrant undertaking a disciplinary procedure);
2. Situation is deemed to be a matter which should be dealt with under the jurisdiction of a member club and is referred to the club in question to be dealt with under its internal procedures in the first instance; or
3. Situation is dealt with under Scottish Rowing formal disciplinary procedure (this policy).

Following the preliminary assessment, a period of precautionary suspension may be appropriate or necessary while a concern is being further investigated.

Precautionary Suspension

Precautionary suspension from a role or from accessing Scottish Rowing services may be considered in the following circumstances:

- a. if the police or social work services advise suspension;
- b. if the allegation made against the individual was ultimately to be proved, then there would be a significant concern about the conduct of that individual towards children or other adults;
- c. if the individual's attendance or involvement in Scottish Rowing activities could compromise the disciplinary process;
- d. if Disclosure Scotland notify Scottish Rowing that an individual is being considered for the Children's List; or
- e. The individual is a course provider and concerns relate to the quality of course provision.

Suspension is not a form of disciplinary action and does not involve pre-judgment. It should only be considered in the above circumstances and in the best interests of all parties or if necessary due to the nature of the complaint. Temporary suspension is a neutral act and will not be used punitively.

Formal Disciplinary Action

Roles and appointment

There are three key roles in the management of a disciplinary procedure:

Investigating Officer. The Investigating Officer will conduct the disciplinary investigation to establish the facts surrounding the alleged misconduct.

Disciplinary Officer/Panel. The Disciplinary Officer/Panel (“DO/P”) will conduct the disciplinary proceedings, make a decision on disciplinary action, and communicate the decision to the individual at the centre of the allegation. If appropriate, one person may fulfil the role of Investigating Officer and Disciplinary Officer.

Appeal Officer/Panel. The Appeal Officer/Panel will review the grounds for appeal by the individual and make a determination on the appropriateness of the disciplinary action.

A Disciplinary or Appeals panel will be appointed by the Chair or COO. The panel members can be drawn from the list of nominated club representatives, Board, staff or if necessary to ensure independence, brought in from outside the sport.

Individuals appointed to these roles should:

- be selected taking account of impartiality (that is, have no bias and be unconnected to the incident(s) in question)
- be familiar with the standard procedures
- understand the importance of dealing with matters confidentially
- understand how to manage situations where rumours and intimidation may be present
- have consideration and respect for all parties including witnesses
- make efforts to put people at ease and deal firmly but sensitively with a potentially stressful experience.

The Officer/Panel Members involved in the Investigation or Disciplinary Hearing should not be involved in the Appeal Hearing.

Conflicts of Interest

Individuals should not be appointed to any of the roles above if they have a conflict of interest or where members of their own club, their family or persons having a legal or business link with them are involved. It is the responsibility of each member of the DO/P to withdraw from a case if a conflict of interest is apparent. In this instance the Board will appoint a replacement.

Formal Investigation

The purpose of an investigation is to establish a fair and balanced view of the facts relating to any disciplinary allegations. The following are recommendations for conducting a disciplinary investigation:

Step 1 - Planning the Investigation

The Investigating Officer will establish the precise details of the allegation(s) and seek clarification, if applicable. They will list the parts of any codes of conduct, rules or policies that have allegedly been breached, determine if further information or evidence is needed to establish the facts and define the resources and timelines for conducting the investigation. The Investigating officer will also identify who should be interviewed and the information required.

Where an investigation relates to safeguarding matters, the Scottish Rowing Safeguarding Officer will be consulted and a Safeguarding panel convened where necessary.

Step 2 - Establishing the Facts

The investigating officer above can proceed with any investigation, interview or correspondence for the purpose of obtaining necessary information prior to taking appropriate action.

Step 3 - Assessing the Facts

The Investigating Officer will review all of the evidence to assess the investigation findings and recommend to the Chair/CEO (whichever is managing the process) whether they warrant further disciplinary action. They will prepare an investigation report to summarise the findings and decision.

Disciplinary Proceedings

Where the investigation findings provide sufficient evidence to instigate disciplinary proceedings, the disciplinary procedure below must be followed.

The DO/P shall conduct the proceedings of any disciplinary matter in such manner as considered fit. The DO/P shall act in accordance with these Rules, any other applicable rules or regulations and the Rules of the Sport. Any decision of the DO/P in relation to the conduct of proceedings shall be consistent with its duties at all times to act fairly and impartially, to allow the parties reasonable opportunity to put their respective cases and to deal with that of their opponent and to avoid unnecessary delay or expense, so as to provide a fair and efficient means for resolving the dispute.

In general, the proceedings of the DO/P will be presented in writing and information exchanged between the parties may be through all media including fax and email. However, the DO/P may decide to call those concerned in any case in person before the DO/P.

At every stage of any formal disciplinary procedure, the respondent will have the opportunity to state their case at a disciplinary hearing. They will have the opportunity to be accompanied at any hearing by a third party. The third party cannot answer on behalf of the respondent.

If this is the case the persons concerned will be given as much notice as reasonably practicable and shall be given written notice of the date, time and place of the meeting of the hearing and shall be afforded a reasonable opportunity to be heard. All parties shall submit all relevant information, correspondence and documents upon which they wish to rely to the DO/P and the DO/P shall disclose all such information, documentation and correspondence to the other party prior to the hearing (and no later than 7 days prior to the hearing).

The DO/P shall be entitled to call upon, receive and consider such evidence as it thinks appropriate. The DO/P may require the attendance at a hearing of any person. In any case where a person required by the DO/P to attend a hearing refuses or fails to attend, the DO/P may adjourn the hearing, proceed with the hearing in the absence of that person, allow or refuse to allow the evidence of that person or allow their evidence to be given in any other form. For the avoidance of doubt nothing in this policy shall prevent the DO/P from determining the matter in question without the person concerned present.

If matters come to light at the disciplinary hearing that warrants further investigation, consideration will be given to adjourning the hearing while those matters are investigated. The results of any further investigation will be reported to the individual who will be given an opportunity to comment.

When the DO/P decides to have hearings, these will not be public and only the DO/P and the parties concerned shall be entitled to attend. The deliberations of the DO/P shall be held in private.

Where disciplinary proceedings are taken against more than one respondent as a result of an incident or incidents occurring at or in connection with the same competition or circumstances, any such proceedings may be heard together, where the Chair of the DO/P so determines, provided that there is no manifest prejudice to anyone against whom such proceedings are taken.

All minutes of any meeting of the DO/P will be signed by the DO.

The DO/P meetings will be convened and called for by the DO or upon request of any member of the DP, or the Board in either case by the provision of reasonable notice (such notice not being less than 7 days) to the members of the DO/P. Meetings of the DO/P shall be held at a location in Scotland determined by members of the DO/P or can, with the agreement of all parties be held virtually provided all participants can speak and be heard by all other parties.

Outcomes

The decision and recommended sanction of the DO/P shall be in writing, shall be dated and signed by the DO/P and shall state the reasons on which it is based. Notification of the decision and recommendation will be submitted to a sub-committee of the Scottish Rowing Board for final approval of the recommended sanction. The Board cannot challenge the decision of the DO/P.

Once the sanction has been agreed, the persons concerned will be notified in writing by the DO/P.

Sanctions

The DO/P has the power to recommend has the power to recommend the following sanctions:

- a. A Written warning
- b. A written apology to those affected
- c. A requirement to change the rules of an Affiliated Club
- d. A financial sanction or fine.
- e. A requirement to undertake and evidence relevant training or CPD
- f. Temporary suspension from membership of Scottish Rowing for a set time to be determines and/or from membership of any member club and/or from participation in rowing.
- g. A ban from the sport as a member of Scottish Rowing and/or as member of any member club and/or from participation in rowing for a set time to be determined.
- h. Removal from role.

The following must be considered when deciding on the sanction:

- The nature and seriousness of the misconduct/gross misconduct
- Previous disciplinary record
- The likelihood of repeating the misconduct
- The impact on Scottish Rowing and people connected to the organisation

If a warning is to be given, the length of time for which this will be live should be stated in the letter.

Suspension or expulsion may be used in a case of serious misconduct or where in the opinion of the DO/P the suspension or expulsion of the respondent is required in order to secure the safety of any persons involved in the sport or the integrity or good reputation of the sport.

Once the sanction has been agreed the individual will be written to with confirmation of the sanction and a brief summary of reasons.

Any letter of removal from a role or membership should make clear the reason why the individual is being removed and the date when the termination will take effect. The individual must be informed of their right to appeal and how to go about doing this.

Appeals

An individual who wishes to appeal against any disciplinary decision must do so in writing to the Scottish Rowing President within 14 days of the disciplinary decision notification.

The individual should provide a written statement of the appeal, indicating the grounds for the appeal together with such accompanying documents as they feel appropriate. Such grounds will be limited to new information, not available to the disciplinary hearing or evidence of failure to follow procedure.

The appeal will be heard by an Appeal Officer/Panel and a decision on the case made.

- The Appeal Officer/Panel will notify the individual of the decision in writing as expeditiously as possible. The decision of the Appeal Officer/Panel is final and there is no further right of appeal.
- The person(s) hearing the appeal should not have been involved in the procedure prior to the notification of appeal.
- The appeal hearing should be arranged with advance notice of date, time and venue and should be confirmed in writing to the individual.

Prior to the appeal hearing, the individual should be asked to confirm any grounds on which they are appealing and why they believe the sanction was incorrectly made.

Once any issues have been discussed at the appeal hearing the matter should be adjourned and the individual told that a decision will be made and confirmed in writing.

The decision of the Appeal Officer/Panel should be confirmed in writing to the individual. In accordance with the club's disciplinary procedure the letter should confirm whether there is any further right of appeal.

Scottish Rowing

Date