



**Swindon Dolphin ASC
Disciplinary Policy
SDP009**



1. INTRODUCTION

Disciplinary rules and procedures are necessary for promoting fairness and consistency in the treatment of members.

This disciplinary policy and procedure should be used to address misconduct or when there has been a breach of the clubs code of conduct.

2. AIMS OF THE POLICY

The aim of this policy is to establish a framework that will:

- Provide a clear procedure for encouraging members to improve their conduct.
- Provide a clear procedure for dealing with unsatisfactory conduct.
- Ensure all members are treated fairly and consistently.

3. GENERAL PRINCIPLES

Swindon Dolphin ASC disciplinary procedure is based on the following principles:

- The disciplinary policy and procedure are designed to be non-discriminatory and are applied irrespective of sex, racial group, sexual orientation, disability, religion, age or any other bias.
- All matters will be dealt with in accordance with the club constitution.
- It is expected that most matters will be dealt with on poolside or at the point of incidence informally at the time of the event.
- Any behaviour that is considered to be unacceptable by coaching staff / teachers may lead to a behaviour "ticket" being issued.
- All matters relating to disciplinary action will be handled as speedily as possible.
- A person wishing to make a complaint about inappropriate conduct should normally do so within 30 days of the incident.
- Persistent or serious breaches of conduct will be reported to the chair of the Disciplinary Sub Committee (DSC) preferably in writing.
- No member will be dismissed or suspended from the club for a first breach of conduct except in the case of gross misconduct.
- Club members will have a right of appeal against any formal disciplinary decision.



3.1 Disciplinary Sub Committee

This should consist of the following individuals

- Welfare Officer (chair of DSC).
- H&S Officer.
- Club Secretary.
- Chief Coach.

4. MANAGING THE SITUATION INFORMALLY

Initially the first step to manage unsatisfactory performance or conduct should be through informal counselling.

In the majority of situations, disciplinary action should only be taken when every reasonable effort has been made to assist the member. This will include managing a situation through informal meetings and discussion and setting clear objectives so that the member is given every opportunity to improve.

When providing informal counselling in relation to misconduct, the coach should arrange an informal meeting with the member and parent/guardian to discuss:

- The specific details of the alleged misconduct and the impact of this on other members and their performance.
- The conduct/behaviour expected (with immediate effect).
- The support that will be provided to ensure the member achieves the required conduct.
- How the members conduct will be monitored and over a specific timeframe. A review date should always be set even if the situation has improved.
- The consequences of failing to achieve or maintain the required conduct.

During informal counselling the member should be given the opportunity to actively contribute to the meeting. The members mitigating circumstances should be considered, as well as the support they believe they require.

Following the meeting, the coach should confirm to the member the key points and agreed actions in writing. A copy should be sent to the Club Secretary.

If the performance or conduct does not improve following informal counselling the coach should consider moving to the next stage and attend a disciplinary interview, in which case they should be given at least **3 working days notice** of the formal disciplinary interview.

The member if under age 18 years must be accompanied by a parent/guardian.

5. FORMAL DISCIPLINARY PROCEDURE

If the conduct of the member fails to improve, it will be necessary to manage the situation in a formal manner. Members will always be given the opportunity at a disciplinary interview to respond to any allegations, which have been raised against them.

The formal disciplinary procedure should take the following format:

- Determining whether the members actions constitute serious/gross misconduct.
- Suspension (if appropriate).
- Investigation.
- Disciplinary interview.
- Deciding on appropriate disciplinary action (if applicable).
- Informing the member of the decision.
- Appeal process.

5.1 Serious or Gross misconduct

Members should be advised of the likely consequences of breaking disciplinary rules. In particular employees should be given a clear indication of the type of misconduct which may warrant dismissal (including summary dismissal, i.e dismissal; without notice).

For an action to constitute serious/gross misconduct and subsequent dismissal, with or without notice, it must be so extreme to destroy the trust and confidence that exists between the club and member so that continued partnership would not be possible.

Examples of serious/gross misconduct include the following:

- Theft.
- Dishonesty.
- Insubordination, including, but not limited to, such breaches of discipline as rudeness or lack of respect to a person of superior authority or to fellow members, or refusal to carry out a reasonable instruction without good reason.
- Assault, in any form, on a member.
- Immoral, inappropriate or disorderly conduct.
- Failure to observe Health and Safety rules, and/or endangering the safety of anyone within the club.
- Vandalism, malicious damage.
- Engaging in any form of harassment, discrimination or victimisation, or inciting others to do so, on any grounds e.g. sex, race, disability, age.
- Abusive or obscene language.
- Illegal behaviour which has an impact on the reputation of the club.
- Behaviour which brings Swindon Dolphin ASC into serious disrepute.

[This list is not intended to be exhaustive]

5.2 Suspension

Suspending a member is a serious step to take and must be considered very carefully. It will only be justified when the continued presence of the member would hinder any investigations or would damage relationships with other members. Having the member suspended ensures that an investigation can be more effectively carried out. Usually suspension is associated with allegations of serious/gross misconduct; however it will not necessarily be justified simply because the allegation is serious/gross misconduct.

The following should be considered when determining if it is appropriate to suspend:

- The severity of the allegations and any supporting evidence.
If, for example, a theft has been witnessed, suspension would probably be appropriate. If however, another member has made unsubstantiated allegations, then suspension may not be appropriate.

The decision to suspend must be made by the chair of the Disciplinary Sub Committee who should advise the member via the members parent/guardian verbally, in the first instance:

- That he/she is being suspended to allow an investigation into the allegations of
- the terms of the suspension:
 - a) the member must be available to attend investigatory interviews and potential disciplinary hearings as appropriate
 - b) the period of suspension will be kept to a minimum, but will vary depending on the complexity of the issue
 - c) other members of the club may need to be informed of the suspension. To ensure the investigation is not hindered, it may be appropriate to advise other members not to speak to the suspended member without prior approval from their club.

These points must be confirmed to the suspended member in writing within 48 hours of the suspension.

5.3 Investigations

When a disciplinary matter arises it is essential that a thorough investigation takes place in order to establish the facts and data, to determine if they are substantive enough to warrant a disciplinary interview.

An investigating officer should be appointed to establish the facts promptly before recollections fade. This may include interviewing witnesses, collecting all relevant documentation. No disciplinary action should be taken before a full investigation has taken place.

5.4 Carrying out an investigation

The investigation should always be carried out by someone other than the members coach.

The level of investigation into a complaint or incidence must be decided by the Disciplinary Sub Committee and must be based on a judgement of its nature, seriousness and how much is known about the circumstances of the misconduct. It is important to remember that it is the purpose of any subsequent disciplinary hearing to make a judgement on the facts presented. Therefore the investigation must focus on relevant facts. In the event that the investigation reveals further incidents, these may be subject to investigation by the Disciplinary Sub Committee.

Investigations that may lead to disciplinary action must take place as soon as possible after any misconduct is alleged and must be completed within 28 days of a complaint being received unless there are justifiable reasons for extending the time frame. Any extension of the time limit must be fully documented by the disciplinary sub committee and agreed in writing by the chair of that committee.

5.5 DSC Chairpersons Preparation

An appropriate member of the Disciplinary Sub Committee (DSC) should be appointed to chair the disciplinary interview.

The DSC chairperson should always have another member of the Exec Committee present as a witness to the proceedings and to provide practical assistance by recording the discussions.

The DSC chairperson should receive a copy of the investigatory report, including all witness statements and then make the following arrangements:

- Select a suitable venue for the disciplinary interview.
- Make arrangements for witnesses to attend. This may involve ensuring that the witness's parents/guardian can also attend. Please note witnesses cannot be compelled to attend a disciplinary interview.
- Advise the member in writing, at least **three days** in advance. The letter should contain the following:
 - Date, time and place.
 - Who will be conducting the interview and any other attendees.
 - Details of the complaint against them and that the interview is of a disciplinary nature. The allegations need to be specified, if an offence relates to dishonesty, this should be specified clearly.
 - In the event that the matter is Serious/Gross Misconduct or a final warning is live they should be warned that the outcome of the meeting could result in termination of membership.
- The member should be advised that they have the right to be accompanied by an adult.
- Copies of any statements regarding the case must be provided in advance to all involved in the disciplinary interview. These may be sent separately but where possible, the member should be in receipt of these with 3 days notice.

It is highly recommended that the 'invite to disciplinary' letter is handed directly to the member at least 3 days in advance of the meeting. If this is not possible, then this should be sent by registered mail to their home address.

5.6 The Disciplinary Interview

The disciplinary interview must be conducted in a professional and courteous manner. If in the opinion of the chairperson, any party should act in a manner, which is contrary to this, then the chairperson may consider terminating the disciplinary interview.

At the start of the interview the chairperson should introduce those present and outline the intended procedure. The member should be asked to confirm that they have received all the relevant documentation. If the member is under the age of 18 years of age and unaccompanied then the meeting should be terminated and rearranged.

The member should be given every opportunity to state their case, any mitigating circumstances, and to cross-examine the person who conducted the investigation and any witnesses that are attending.

If any new facts emerge during the interview the chairperson should decide whether further investigation is necessary and, if so, adjourn the interview pending the completion of further enquiries.

Once all the evidence has been heard and both parties have had an opportunity to sum up their case, the chairperson should adjourn the disciplinary in order to make a decision on whether to take disciplinary action.

If the chairperson is able to make a decision on the same day then the member and their parents/guardian should be asked to wait during the adjournment, and then called back into the disciplinary interview to hear the decision. If it is not possible for the chairperson to make a decision on the day then they should be informed of the reason for this and given a date for the disciplinary interview to be reconvened. Wherever possible the disciplinary interview should be reconvened within five days.

6. MAKING THE DECISION

It may not always be appropriate to take disciplinary action following the disciplinary interview. Alternatively, the DSC Chairperson may decide there is insufficient evidence for disciplinary action, and they may consider informal counselling to be more appropriate.

When the DSC Chairperson decides that disciplinary action is appropriate there are four possible outcomes:

- Formal verbal warning To be used if a member's conduct is unsatisfactory for a minor infringement. This constitutes the first stage of the disciplinary procedure

The verbal warning should be kept on file but disregarded after six months.

- First written warning To be used if a member fails to achieve and maintain the required standard of conduct or receives a further warning on a similar or related issue of conduct.

The warning should be kept on file but disregarded for after 12 months.

- Final written warning To be used if a member fails to achieve and maintain the required standard of conduct or, receives a further warning on a similar or related issue of conduct.

The warning should be kept on file but disregarded after 18 months.

- Dismissal To be used if a member continues to fail to achieve or maintain the required standard of conduct within a reasonable time having received previous disciplinary warnings. Or If a member's behaviour is deemed gross misconduct so severe that it warrants dismissal.

The DSC Chairperson will decide the most appropriate level of warning that should be issued to the member based on the seriousness of the unsatisfactory performance or misconduct. It will therefore not always be appropriate for the level of warning issued to be sequential and it may begin at any stage, or advance to any stage, depending on the seriousness of the offence(s).

It is important for the DSC Chairperson to ensure that the level of warning issued to the employee is reasonable in the circumstances.



7.0 MITIGATING CIRCUMSTANCES

When making the decision the Chairperson should take into account any mitigating circumstances.

- The extent to which the clubs code of conduct have been breached.
- Precedent which has been set in similar cases.
- The members general record.
- Any special circumstances which have been raised by the member at the disciplinary interview.

8. INFORMING THE MEMBER OF THE DECISION

Once an appropriate decision has been made, the DSC Chairperson should reconvene the disciplinary meeting and verbally inform the member of the decision. Where possible, this should take place on the same day or the following day and normally no more than **seven days**. The member should also be informed they may appeal against the decision.

The letter must be accompanied by notes of the disciplinary interview. The member should be asked to comment and sign the disciplinary notes to confirm they are an accurate record of the events.

9. GIVING TIME TO IMPROVE BETWEEN DISCIPLINARY ACTION

The member should be given a reasonable amount of time between disciplinary actions in order to improve their conduct. It is important that the disciplinary letter details the improvement sought and how conduct will be monitored, and the period of time over which it will be monitored and reviewed.

10. DISMISSALS

A member should not be dismissed without prior approval from the Executive Committee.

11. APPEALS

Members who have had disciplinary action taken against them, must be informed of their right of appeal.

Appeals cannot be made against formal verbal warnings.

- At the time of issuing disciplinary action, the member should be advised that they have the right to appeal against the decision made and that appeals against written warnings should be addressed to the Club Chairman.
- The purpose of the appeal is to allow the member the opportunity to challenge the decision where they believe that the disciplinary action was too harsh for the disciplinary offence, or that there was a significant breach of the disciplinary procedure.
- Appeals are invariably very stressful for everyone involved especially the member. They are not usually brought without strongly held convictions.
- All appeals should be made in writing by the member within **14 days** of receipt of the letter confirming the disciplinary action. This can be extended in extenuating circumstances with agreement of the DSC who issued the disciplinary sanction.
- Receipt of the written appeal from the member should normally be acknowledged within **4 days if not immediately.**

11.1 Arranging an Appeal Hearing

Once the member's appeal has been acknowledged a further letter should be sent confirming:

- Time
- Place
- Details of attendees

11.2 Appeals against warnings

The Club Chairman will hear all appeals against written warnings and final written warnings. The Club Chairperson should be accompanied by another member of executive committee usually the Welfare officer, to take notes and support the Chairperson on procedural issues.

The member if under age 18 years must be accompanied by a parent/guardian.

It is important to note that the purpose of the hearing is not to rerun the disciplinary hearing but to consider:

- New evidence introduced by the member.
- Specific appeal reasons.
- Procedural matters.
- Whether disciplinary action was reasonable and appropriate.

The Club Chairman should explore both versions of events and having asked all pertinent questions, the Club Chairman conducting the review should decide whether to reject or uphold disciplinary action. Where new evidence arises during the appeal, the hearing should be adjourned and investigated fully. The member should be informed of the appeal decision in writing within 14 days and there is no further right of appeal.

11.3 Appeals against dismissals

The Club Chairman will also hear appeals against dismissal.

The Club Chairman must inform the member about the appeal decision, within 14 days of the appeal hearing. If this is not possible then the member should be advised the reason for the delay and when they should expect a response.



12. RECORD KEEPING

It is important that records should be kept detailing the nature of any breach of disciplinary or unsatisfactory conduct. The file note should include:

- The complaint against the member.
- The member's defence.
- Findings made and actions taken.
- Whether an appeal was lodged.
- The outcome of the appeal.
- Any grievances raised during the disciplinary procedure.
- Subsequent developments.

Copies of all documents in conjunction with the disciplinary should be retained and should be removed after a reasonable time. All records should be kept confidential and retained in accordance with the disciplinary procedure and the Data Protection Act 1998.

When a warning has expired, all the records relating to the disciplinary should be placed in a sealed envelope, and duly marked "only to be opened by a member of Executive Committee". This envelope should be retained by the Club Secretary.