

DISCIPLINARY PROCEDURE

The aim of Scottish Fencing is 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 by a volunteer or a member of staff. This procedure should be read in conjunction with the procedure for Responding to Concerns about the Conduct of a Member of Staff/Volunteer

1. PRINCIPLES

- a) This procedure is designed to establish the facts quickly and to deal with disciplinary issues consistently.
- b) No disciplinary action will be taken until a matter has been fully investigated.
- c) The member of staff/volunteer involved may be suspended from their role while an investigation is carried out. Suspension is not a form of disciplinary action. A decision to suspend will be made by the President. Notification of the suspension and the reasons will be conveyed in writing to the member of staff/volunteer.
- d) At every stage of the formal disciplinary procedure the member of staff/volunteer will have the opportunity to state his/her case at a disciplinary hearing. If so wished he/she will have the opportunity to be represented or accompanied at the hearings by a third party e.g. a friend or colleague or a trade union representative, (where applicable).
- e) The member of staff/volunteer has the right to appeal against any disciplinary action.
- f) The disciplinary procedure may be implemented at Stage 1, 2 or 3 if the member of staff/volunteer's alleged misconduct warrants such action.

2. THE PROCEDURE

2.1 Initial Assessment/Stage

The purpose of the initial assessment is to clarify the nature and context of the concern. It should determine whether there is reasonable cause to suspect or believe that a child has been abused or harmed, or is at risk of abuse or harm. It will involve asking some basic questions of appropriate individuals with the sole purpose of clarifying the basic facts.

If the nature of the concern suggests a criminal offence has occurred, or that a child may have been abused, then advice must be sought from the police before speaking to child witnesses or to the member of staff/volunteer at the centre of the allegation.

The possible outcomes of the initial assessment are:

1. No further action (facts do not substantiate complaint).
2. Situation is dealt with under formal disciplinary procedures (by sports organisation).
3. Child protection investigation (jointly by the police or social work services).
4. Criminal investigation (by the police).

Where a member of staff/volunteer fails to meet the required standard of behaviour and the shortfall is of a minor nature, the President may decide to speak to the member of staff/volunteer on an informal basis to avoid the need for formal disciplinary action. The President will also advise the member of staff/volunteer of the need to achieve and maintain the standards required. The President may inform the member of staff/volunteer that failure

to achieve the required standards will result in a formal disciplinary hearing, which may result in disciplinary action.

Facts of the conversation should be noted and confirmed in writing to the member of staff/volunteer so there is clarity about what has to be achieved.

Following the initial assessment a period of precautionary suspension may be helpful or necessary while a concern is being further investigated.

2.2 Precautionary Suspension

Precautionary suspension may be considered in the following circumstances:

- if the police or social work services advise suspension
- if the allegation made against the member of staff/volunteer was ultimately to be proved, then there would be a significant concern about the conduct of that member of staff/volunteer towards children or other adults
- if the member of staff/volunteer's attendance or involvement in the club could compromise the investigation
- if Disclosure Scotland notify Scottish Fencing that an individual is being considered for the Children's List.

Suspension is not a form of disciplinary action and does not involve pre-judgment. It should only be considered in the above circumstances.

In all cases of suspension the welfare of children will be the paramount concern.

2.3 Formal Disciplinary Procedure

- Stage 1 – First warning

If conduct is unsatisfactory, the member of staff/volunteer will be given a written warning. Such warnings will be recorded. The warning will expire after [*6 months*] of satisfactory conduct. A final written warning may be considered if there is no sustained satisfactory improvement or change.

- Stage 2 – Final written warning

If the offence is serious, or there is no improvement in standards, or if a further offence of a similar kind occurs, a final written warning will be given. The written warning will expire after [*12 months*]. Action at Stage 3 will be taken if there is no sustained satisfactory improvement or change.

- Stage 3 – Dismissal or Action Short of Dismissal

If the conduct has failed to improve, the member of staff/volunteer may suffer demotion, disciplinary transfer, or dismissal.

Gross misconduct

If, after investigation, it is confirmed that a member of staff/volunteer has committed an offence of the following nature (the list is not exhaustive), the normal consequence will be dismissal without notice or payment in lieu of notice: - theft, damage to property, fraud, incapacity for work due to being under the influence of alcohol or illegal drugs, physical violence, bullying, abuse of a child and gross insubordination.

Following advice from the police, cases that also involve a criminal investigation will not preclude disciplinary action being taken. This is provided sufficient information is available to enable Scottish Fencing to make a decision and that to do so does not jeopardize the criminal investigation. Any decision to dismiss will be taken by Scottish Fencing only after full investigation.

3. APPEALS

A member of staff/volunteer who wishes to appeal against any disciplinary decision must do so to the President within seven working days of the disciplinary decision being made known to them.

The member of staff/volunteer should provide a written statement of the appeal, indicating the grounds for the appeal together with such accompanying documents as they feel appropriate.

The appeal will be heard by the President and a decision on the case made as impartially as possible.

The President will notify the member of staff/volunteer of the decision in writing as expeditiously as possible. The decision of the President is final and there is no right of appeal.

4. REFERRALS TO THE CHILDREN'S LIST

Where an Scottish Fencing takes disciplinary action to remove a member of staff/volunteer from regulated work as a result of harmful behaviour towards a child, then they have a duty to refer the member of staff/volunteer to Disclosure Scotland so that consideration can be given to whether that individual should be barred from any kind of regulated work with children. Without this duty there would be no way of preventing individuals moving undetected to other organisations where they may continue to pose a risk.

The Protection of Vulnerable Groups (Scotland) Act 2007 stipulates that organisations must refer to Disclosure Scotland the case of any member of staff/volunteer who (whether or not in the course of their role within the organisation) has:

- harmed a child
- placed a child at risk of harm
- engaged in inappropriate conduct involving pornography
- engaged in inappropriate conduct of a sexual nature involving a child, or
- given inappropriate medical treatment to a child.

AND as a result:

1. Scottish Fencing has dismissed the member of staff/volunteer.
2. The member of staff/volunteer would have been dismissed as a result of the incident had they not resigned, retired or been made redundant.
3. Scottish Fencing has transferred the member of staff/volunteer to a position in Scottish Fencing which is not regulated work with children.
4. The member of staff/volunteer would have been dismissed or considered for dismissal where employment or volunteer role was not due to end at the expiry of a fixed term contract; or,

5. The member of staff/volunteer would have been dismissed or considered for dismissal had the contract not expired.

Scottish Fencing will also refer the case of a member of staff/volunteer where information becomes available after the member of staff/volunteer has:

- been dismissed by Scottish Fencing
- resigned, retired or been made redundant
- been transferred to another position in Scottish Fencing which is not regulated work with children; and,
- where Scottish Fencing receives information that a member of staff/volunteer who holds a position of regulated work has been listed on the Children's List, the member of staff/volunteer will be removed from the regulated work with children post.