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**Governance Code for Sport**

**Disciplinary Procedures, Grievance and Disputes**

Guidelines

**Disclaimer**

Sport Ireland is making available a range of resources including guidance notes, policy documents and templates for selected areas aligned to the Governance Code for Sport which will support sport organisations, boards, management and staff in the development of relevant governance processes and procedures particular to their own organisation.

For the avoidance of doubt, the final decision on the nature, type, extent and format of approved governance policies, procedures and processes for each organisation is a matter for the board / highest governing structure of the organisation and the resources and material provided may assist the approval process.

This document is not, nor is it intended to be, a definitive statement of the law and it does not constitute legal advice. This document is not a substitute for professional advice from an appropriately qualified source and it is recommended that sport organisations consult their governing document or obtain their own independent legal advice where necessary.

Sport Ireland does not accept any responsibility or liability for any errors, inaccuracies or omissions in this document.

 **How to Use this Document**

The document is designed to assist organisations with their adoption of the Governance Code for Sport by the end of 2021. It provides an overview of key considerations and a framework for initial policy considerations within an organisation.

In all cases an organisational policy will require some adjusting and critical reflection to reflect the procedures, structures and context of the particular organisation.

Managing and supporting staff: why an organisation needs Disciplinary Procedures, Grievance and Dispute Guidelines

It is a reality that, from time to time, disputes will arise within a governing body or organisation.  Directors have responsibility for Dispute Resolution, as per the Governance Code for Sport (the Code).

All five principles of the Code have sub-principles that make it important to have a clear and transparent procedure and policy around discipline, grievance and dispute resolution. The effective handling of disputes is a basic principle of good governance. It is also a requirement of funding from Sport Ireland that National Governing Bodies have an independent mechanism to resolve disputes. The Code of Conduct is also an important element in this process, as it sets out what behaviours staff and volunteers are expected to conform to, and should thus show where there is a breach of the Code of Conduct.

Disputes relating to the rule book and sporting matters also arise. Some of the larger sporting organisations have their own mechanism for resolving sporting disputes, while many other sporting organisations will use the services of Sport Dispute Solutions Ireland, a not-for-profit dispute resolution service for Irish Sport offering mediation and arbitration.

It is important for sport organisations to have clear rules set up regarding what behaviour is acceptable and the process to follow when a human resource dispute arises.  These rules may be contained in the Human Resource policy document, where the disciplinary procedures, grievance and dispute guidelines are outlined.

What dispute resolution mechanisms are made available by a governing body/association will depend on the that association’s needs and capability.  However, it is important that the governing body/association follows its own policy, rules and procedure when dealing with any dispute or disciplinary issue.

It is critical that procedural fairness should be given to any person who is involved in a disciplinary dispute. Governing bodies/associations should publish their process around complaints, discipline, grievance and dispute (e.g. on their website) so that the process is as transparent as possible.

*Ideally the governing body will provide information and training courses to help club volunteers and administrators in managing complaints.*

Grievance and Dispute

A grievance may be defined as: “Where an employee or group of employees perceive a problem/grounds for dissatisfaction with the organisation”.

A dispute may be defined as: “an argument or disagreement, especially an official one between, for example, employees and employers”.

Organisations should have both a simple grievance and dispute policy and a grievance and dispute procedure, with regards to both human resource disputes, and more general disputes. In Type A organisations one simple procedure and policy combined would suffice.

All grievances should be considered as potential disputes and handled in accordance with the agreed grievance procedure. If grievances are not dealt with, and dealt with in a timely fashion, they are likely to get worse and result in bad feeling, poor employee relations, possible resignations, etc. Poor grievance handling affects staff morale, whilst having a correct procedure in place demonstrates the intent of the organisation to act fairly. A good grievance and dispute process can be an important way to release pressures that sometimes build up in the organisation and also reduce the scope for any inconsistency.

Disciplinary Procedures

An important element in any agreements with employees (such as contractual agreements) is the provision for handling grievances or disputes that may arise, whether as a result of a difference of interpretation of the terms of the agreement, or any other conflict issues. Good disciplinary procedures are an essential part of human resources management, essentially to maintain good discipline and morale amongst staff.

It is important that all employers are aware of the practical procedures associated with effective handling of discipline in the workplace. Under the Unfair Dismissal Acts 1977 to 2007 employers are obliged to give an employee a written statement of the disciplinary/dismissal procedure within 28 days after entering a contract of employment. The procedure should be outlined in the employee handbook that is shared with all employees, as well as in the Human Resource policy document.

The need for satisfactory standards of performance and behaviour from employees is at the centre of the employment contract between employer and employee. The onus is on the Board and management to establish these standards, and share expectations with employees. A fair and equitable disciplinary procedure is required to deal with employees who step outside these expected standards. This procedure should be a fair and supportive system which allows the employee time to improve their performance or conduct. With the exception of serious misconduct (e.g. theft), dismissal should only arise when all efforts to improve performance/conduct have been exhausted. Employers must be conscious at all times for the need for natural justice and fair procedure in their dealings with employees.

Sample disciplinary process

Generally, the following process should take place before issuing a warning to an employee:

1. Advise the employee at the outset that an allegation has been made and an investigation will take place

2. Full investigation of the incident

2. Call the employee to the disciplinary meeting, in writing, giving an explanation of why

3. Give the employee an opportunity to bring representation

4. Present the allegation to the employee at the meeting

5. Allow the employee to provide mitigating circumstances

6. Only having considered the employee’s response can a decision be made

7. Send correspondence to the employee confirming the outcome of the meeting

Steps in a disciplinary procedure

An official disciplinary procedure will often follow the following five steps, although these may vary depending on the organisation:

1. Verbal Warning/Counselling

2. Formal Verbal Warning

3. First Written Warning

4. Final Written Warning/Suspension

5. Dismissal

Whose responsibility is it to manage grievances and disputes?

It is the responsibility of the CEO/management team to ensure internal grievances and disputes and disciplinary procedures are managed, whilst the Board will have overall responsibility for ensuring that disputes, grievances and disciplinary matters are handled effectively.

Grievance and Dispute Best Practice

* All involved should be aware of the grievance procedure
* The grievance procedure must be fair and equitable
* All avenues to resolve the grievance should be fully exhausted
* The matter should be worked on as quickly as possible, without any undue delays
* Normal work must continue while the dispute is being settled
* All parties must be committed to resolution of the dispute
* The organisation should adopt a preventative strategy, to prevent grievances arising in the first place

Sport Dispute Solutions

Sport Dispute Solutions Ireland (“SDSI”) is a not-for-profit dispute resolution service for Irish Sport offering mediation and arbitration, in the case of sporting disputes. Sporting disputes are those based around the rule book of the governing body, and may involve, for example, eligibility of an athlete to compete at a specific event, or a dispute between a member and the governing body. SDSI provides a timelier and cost-effective independent dispute resolution facility for Irish Sport than the courts service, which can be more protracted and of less use, for example, in the case of an athlete who is contesting selection around an event taking place a few days later. Provision for Sport Dispute Solutions Ireland in the governing documents of sporting organisations is recommended. Arbitral awards handed down by SDSI are final, binding and enforceable in favour of and/or against the parties. The only instance in which an appeal against an arbitration ward can be made is where the rules of a sporting organisation make provision for an appeal to the Court of Arbitration for Sport (“CAS”) in Lausanne.

Further Reading / Additional Resources

<http://sportdisputesolutions.ie/>

<https://www.workplacerelations.ie/en/>