

1. Definition

The essence of misconduct under these regulations is:

a)

Improper interference with the functioning or activities of LWRC.

b)

Action which otherwise improperly damages LWRC or its reputation.

1.2 Particular definitions

In particular, the following non-exhaustive list shall constitute misconduct, whether occurring at the club meeting under the auspices of the club or elsewhere, whether involving Wheelchair Rugby affairs directly or otherwise:

a) Breach of the Clubs Protection of Children and Vulnerable Adults Policy;

b) Any conduct which constitutes a criminal offence;

c) Disruption of or improper interference with the functions, duties or activities of any member or official of the Club or any visitor to the Club;

d) Obstruction of or improper interference with the functions, duties or activities of any member or official of the Club or any visitor to the Club;

e) Violent, indecent, disorderly, threatening, intimidating or offensive behaviour or language;

f) Sexual, religious, disability or racial harassment of any member of the Club or any visitor to the Club;

g) Fraud, deceit, deception or dishonesty in relation to the Club or its members or visitors;

h) Cheating or fraudulent behaviour at any event under the auspices of the Club;

i) Theft, misappropriation or misuse of Clubs property or the property of its members;

- j) Misuse or unauthorised use of premises used by the Club;
- k) Damage to Club property or property of staff employed by the Club or its members caused intentionally or recklessly;
- l) Action likely to cause injury or impair safety on the Clubs premises
- m) Failure to respect the rights of others to freedom of belief and freedom of speech;
- n) Breach of the provisions of any Laws of the Club;

2 INVOLVEMENT OF THE POLICE AND CRIMINAL COURTS

2.1 Misconduct which is also a criminal offence

The following procedures apply where alleged misconduct is reported to the Committee and the misconduct, if proved, would also constitute an offence under the criminal law.

2.2 Definition of a serious offence

A guideline to what constitutes a serious offence is that the offence is likely to attract a custodial sentence if proved in a criminal court, or that it is triable as a criminal offence on indictment.

2.3 Offences other than serious offences

Where the Committee does not regard the alleged offence as constituting a serious offence, it may be dealt with internally. If the offence is reported to the police, action may be deferred or a disciplinary investigation suspended at the discretion of the Committee until the police and courts have dealt with the matter.

2.4 Serious offences

In the case of serious offences, suspension or exclusion from the Club will be taken and will be so taken if the Club's Child Protection and Vulnerable Adults Policy so provides until the matter has been reported to the police and either a prosecution has been completed or a decision not to prosecute has been taken. In the event of acquittal of criminal charges, the Club reserves the right to initiate internal disciplinary proceedings on the basis of the behaviour bringing the Club into disrepute.

2.5 Serious offences which are not reported to the police

The Club has the right to report any criminal offence to the police. However if a person claims to be the victim of a serious offence committed by a member but does not wish the police to be involved, the Committee may at his or her discretion agree not to report the matter to the police. In such circumstances the Committee will assess each case and decide whether or not internal disciplinary measures should be taken for the serious offence.

2.6 Imposition of penalty after sentence imposed by criminal court

Where a finding of misconduct has been made under these regulations, and a member has also been sentenced by a criminal court on the same facts, the penalty imposed by the criminal court will be taken into account in deciding the penalty under these regulations.

3 SUSPENSION OR EXCLUSION

3.1 Suspension or exclusion pending hearing or trial

A member who is the subject of a complaint of misconduct or against whom a criminal charge is pending or who is the subject of police investigation may be suspended from the Club and must be suspended if the Club's Child Protection and Vulnerable Adults Policy so provides or excluded from certain activities of the Club by the Committee pending disciplinary hearing or trial.

3.2 Suspension

A member who is suspended from the Club is prohibited from entering Club's premises and from partaking in any activity organised under the auspices of the Club. Suspension may be subject to qualification, such permission to undertake particular activities. An order of suspension will be notified in writing to the member, and may include a requirement that the member shall have no contact with a named person or persons.

3.3 Exclusion

A member may be excluded from certain individual activities or classes of activity, whilst being able to take part in other activities of the Club. The terms of the exclusion will be notified in writing to the member. An order of exclusion may include a requirement that the member shall have no contact with a named person or persons.

3.4 Representations

Unless the matter is deemed to be urgent by the Committee, no member shall be suspended or excluded unless given an opportunity to make representation to the Committee. The presentations may be made in person or in writing, as the member chooses, and may be put forward by the member or by the member's advisor, friend or representative. In cases deemed to be urgent by the Committee, a member may be suspended or excluded with immediate effect. An opportunity will be given for the member, or the member's advisor, friend or representative order to make representations as soon as reasonably practicable.

3.5 Periodic review

A decision to suspend or exclude a member shall be subject to review at the request of the member after four weeks. Such a review will not involve a hearing, but the member either personally or through an advisor, friend or representative, will be entitled to make written representations. The review will be conducted by the Committee. In addition to this review, the Committee shall review the suspension or exclusion on receipt of altered circumstances, which might affect the serious offence.

4 PROCEDURE FOLLOWING AN ALLEGATION OF MISCONDUCT

4.1 Establishing a prima facie case

Allegations of misconduct by a member under these regulations should be made in writing, in confidentiality to the Chairman of the Club at its registered office within twenty one days of the alleged offence being uncovered, however The Chairman may extend that time at his or her discretion in exceptional circumstances. The Chairman will refer them to the Committee. The Committee will consider whether the available evidence supports a prima facie case of misconduct. In making this consideration, the Chairman may call for additional written evidence in support of the case.

4.2 Prima facie case not established.

The Committee may dismiss the complaint immediately if he or she believes that there is no case for the member to answer, or that it is for some other reason appropriate to do so.

4.3 A case to answer

If the Committee decides that there is a case to answer then he or

she may consider whether the matter is appropriate to be considered summarily without recourse to a disciplinary committee. In the event that the Chairman considers it so appropriate, and the member wishes there to be a disciplinary hearing, then this option should be considered only when the likely penalty for a finding of misconduct for the allegation would realistically not include expulsion from the Club. The procedures for considering the matter summarily are set out in Section 6 of these regulations.

4.4 Referral to a Disciplinary Committee

If the Chairman does not consider it appropriate to deal with the matter summarily, then it shall be referred to a Disciplinary Committee, under the procedures set out in Section 7 of these regulations

5 SUMMARY PROCEDURE

5.1 Procedure

If the matter is dealt with summarily, the Chairman will consider written or oral evidence as he or she thinks fit. The Chairman will find that an allegation of misconduct has been proved only if, on the evidence, he or she is satisfied that an allegation has been proved in his or her absolute discretion. If a finding is so made, any of the penalties set out in Section 8 of these regulations may be made, other than expulsion from the Club.

5.2 Report

After the termination of the proceedings, the Chairman will write a report. In the event of a finding that the allegation has been proved, the report will set out the misconduct alleged, a brief summary of the evidence received, the grounds for the finding that the allegation has been proved, the penalty imposed, and the factors taken into account in deciding the penalty. A copy of the report will be sent to the member and to the Committee and to any other relevant party who has a material interest in the outcome within two weeks of determining that the matter will be dealt with under Summary Procedure.

6 DISCIPLINARY COMMITTEE

6.1 Composition

The Chairman will appoint members of the Disciplinary Committee, and invite one of them to be its Chairman. The Committee will have three or five members, at the discretion of the Chairman of the Board. The members of the Committee will normally include one member of the Board, and may include persons from outside the Club. In making

the appointments, the Chairman shall have regard to the need to ensure that all members of the Committee are impartial and that the Committee contains the necessary skills to evaluate the evidence. The member concerned will be informed of the composition of the Disciplinary Committee at the point where he receives notice of the hearing and will be informed of his right to object to any member of the committee providing that he has sound reasons. The objection must be made in writing within seven days of being informed of the Committee. In the case of such an objection, the Chairman will identify an acceptable alternative.

6.2 Assistance to the Committee

The Secretary of the Club ("Secretary") or a nominee will act as clerk to the Committee, to give advice and to assist the Committee as it thinks fit. The Secretary will arrange for a note of the proceedings to be taken. The Committee may seek legal advice, and may invite the Club solicitor to be present at part or all of the hearing.

6.3 Representation

The member may be present at all disciplinary hearings, and may be represented by an advisor, friend or other representative. If the member is so represented, should it become necessary to ensure good order in the hearing, the Chairman of the Committee may stipulate that the member may speak only when called upon to give evidence by his or her representative.

6.4 New hearing

The Committee will rely only on evidence presented at the hearing. The deliberations and decisions of anyone previously considering the matter shall be irrelevant for the Committee's purposes.

6.5 Standard of proof

The burden of proof shall be with the Club, and the Committee will find that an allegation of misconduct has been proved only if, on the evidence before it, it is satisfied in its absolute discretion that an allegation of misconduct has been proved.

6.6 Majority verdict

If members of the Committee cannot agree, the verdict of the Committee will be that of the majority of its members.

6.7 Procedure

Subject to the provisions of these regulations, the order of proceedings shall be at the discretion of the Committee. The Complainant must submit written statements within seven days of making the complaint. This should be followed by a written statement and any supporting documents or witness statements from the member in question.. Members of the Committee may ask questions of any witness. The Committee may ask for additional enquiries to be undertaken, and may call for additional witnesses to attend.

6.8 Joint hearings

If two or more members are involved in related misconducts, the Committee may, at its discretion, deal with their cases together.

6.9 Evidence

The evidence presented at the hearings will normally be oral evidence, given by witnesses appearing in person. However both the accused member and Complainant should be encouraged to submit a written statement in advance of the hearing. Should evidence be relied upon from a witness, then a written statement from the witness should be submitted first.

6.10 Presentation of the case

The Chairman will appoint a member of the Club or a lawyer to present the allegations against the accused member.

6.11 Written allegations

The Secretary or nominee, on behalf of the Committee, will ask the case presenter to set out the allegation or allegations in writing in advance of the hearing. A copy will be sent to the accused member at least two weeks before the hearing.

6.12 Written witness statements in advance of the hearing

The Secretary or nominee, on behalf of the Committee, may call for written witness statements in support of the allegations in advance of the hearing. If such statements are obtained, members of the Committee will be entitled to see them in advance of the hearing and copies will be made available to the accused member at least one week before the allegation is heard.

6.13 Opening and closing addresses

The case presenter shall be entitled to address the Committee before calling witnesses, and at the conclusion of the evidence called on behalf of the accused member. The member, or representative, may address the

Committee before calling witnesses and after the case presenter's final address.

6.14 Submission that there is no case to answer

At the conclusion of the evidence in support of the allegations against the member, the member, or representative, may submit that no case has been made out against the member which requires an answer. The case presenter has the right to reply. If the Committee finds that, on the evidence, there is no case to answer, it must dismiss the allegation.

6.15 Time limits

The Committee may impose time limits on oral addresses and submissions.

6.16 Witnesses in support of the allegations

The allegation against the member will be put first. The case presenter will ask questions of each witness giving evidence in support of the allegation. These must not be leading questions. The witness may be cross-examined by the member or representative. Witnesses may be re-examined, but concerning only those matters raised in cross-examination, for the purpose of clarification.

6.17 Witnesses against the allegation

If the case proceeds, the member may then give evidence. At the conclusion of the member's evidence, the case presenter may cross-examine. The member may give evidence to clarify matters raised in cross-examination. The member or representative may then call further witnesses, who may be similarly cross-examined and re-examined.

6.18 Recall of witnesses

A witness may be recalled to give further evidence only with the leave of the Committee.

6.19 Relevance

The Committee will refuse to admit evidence that is, in its opinion, irrelevant to the issues raised.

6.20 Adjournment

The Committee shall have power to adjourn a hearing to another date, as it thinks fit.

6.21 Report

At the termination of the proceedings, the Chairman of the Disciplinary Committee will write a short report. In the event of a finding that the allegation has been proved, the report will set out the misconduct alleged,

a brief summary of the evidence received, the grounds for the finding that the allegation has been proved, the penalty imposed, and the factors taken into account in deciding the penalty. A copy of the report will be sent to the member and to the Chairman of the Board and to any other party deemed to have a material interest in the outcome, though in the latter case the report may be censored within seven days.

Where the misconduct concerns the anti-doping policy, a copy may also be required to be sent to UK Sport and the British Paralympic Association.

6.22 Chairman's right to stop the proceedings

The Chairman has the power to suspend the activity of the Disciplinary Committee at any time, and to stop the proceedings against the member if he or she believes it to be appropriate to do so.

7 PENALTIES

7.1 Imposition of penalties

If an allegation of misconduct is proved against a member, penalties may be imposed by the Chairman in the case of matters dealt with summarily, or by the Disciplinary Committee in other cases. The penalties are set out below. A member may not be expelled from the Club following an allegation heard under the summary procedure. The member or representative shall be entitled to make representations in mitigation before the penalty is decided.

7.2 Matters to be considered

When determining penalties, consideration will be given to the seriousness of the misconduct, the circumstances of the misconduct, and the general personal circumstances of the member. Due regard should also be paid to the seriousness with which the Club regards proven deliberate cheating and the misuse of drugs in the sport. The regulations of the IWRP must also be referred to.

7.3 Types of penalty

A member found to have an allegation of misconduct proved may be:

a) Absolutely discharged, which means that although the member is technically found to have had proved against him or her the allegation of misconduct alleged, no blame should be attached to the actions of the member.

b) Admonished

c) Cautioned which means that no penalty is imposed, but if the member is found to have had proved against him or her the allegation of misconduct on a subsequent occasion within a specified period, he or she will then be dealt with for both offences

d) Conditionally discharged, which means that no penalty is imposed, subject to the member fulfilling certain stipulated conditions including future good behaviour over a specified period of time. If the conditions are not met, a penalty may be imposed following a further hearing, which shall concern itself only with whether the conditions had been broken

e) Excluded from certain activities of the Club, such as participating in competitive matches, for a fixed period of time

g) Suspended from the Club for a fixed period of time

h) Expelled from the Club

8 APPEALS

8.1 Right to appeal against a finding that an allegation has been proved
A member may appeal against a finding that an allegation has been proved. The appeal must be made in writing to the Secretary within fourteen days of the date of the report, who will refer it to the Chairman. The member must set out the grounds on which the appeal is based. The appeal will be heard by an Appeal Committee set up for the purpose by the Chairman one of whose members shall be appointed as Chairman of the Appeal Committee. It will normally consist of three persons and must be wholly independent of the Disciplinary Committee and one of which must be from another sporting organisation. The member concerned may object to the appointment of any member of the Disciplinary Committee in writing within seven days of being informed of the composition of the Committee giving reasons for the objection.

The Chairman may replace the member of the Disciplinary Committee should he or she consider there are valid reasons to do so.

8.2 Nature of appeal against a finding that an allegation has been proved
There is no entitlement to a re-hearing of the case, which will be allowed only in very exceptional circumstances. Those hearing the appeal may overturn the finding that an allegation has been proved where they consider it just to do so. In particular, a finding may be overturned in the light of new evidence; or where it is considered that the original hearing was not conducted fairly; or where the finding that an allegation has been proved was unreasonable in the light of the findings of fact. At the discretion of the member, the appeal may be presented in person or in writing, and the member may be represented by an advisor, friend or other representative.

8.3 Right to appeal against imposition of penalty

A member may appeal against a penalty imposed following a finding of guilt. The appeal must be made in writing to the Secretary within fourteen days of the date of the report, who will refer it to the Chairman. The member must set out the grounds on which the appeal is based. The appeal will be heard by an Appeal Committee set up for the purpose by the Chairman, one of whose members shall be appointed as Chairman of the Appeal Committee. It will normally consist of three persons and must be wholly impartial and independent of the Disciplinary Committee.

8.4 Nature of appeal against imposition of penalty

Those hearing the appeal against penalty may impose a lesser or greater penalty, having considered whether the original penalty imposed was fair and reasonable in the light of all the circumstances of the case, and the member's general personal circumstances.

8.5 Power not to hear the appeal

The Appeal Committee will firstly consider the written appeal from the member and decide whether sufficient grounds are shown to proceed with the appeal. The Appeal Committee is empowered to decide not to hear the appeal in which case the decision of the Disciplinary Committee will stand.

8.6 Procedure of appeal

If the Appeal Committee decide to hear the appeal, the member or representative may present the appeal in writing or orally, at his or her discretion. The burden of proof rests with the member. The hearing shall proceed on similar lines to that outlined in Section 7 (*mutatis mutandis*), with the evidence presented being relevant only to the grounds for the appeal.

8.7

Findings of the Appeal Committee in an appeal against a finding that an allegation has been proved Where the appeal is against a finding that an allegation has been proved, the Appeal Committee may, after due consideration:

- a) Dismiss the appeal in which case the original findings of the Disciplinary Committee will stand
- b) Grant the appeal in which case the allegation in respect of the accused member will be recorded as not proved
- c) Exceptionally invite the Chairman to form a new Disciplinary Committee for the purposes of re-hearing the case.

8.8

Findings of the Appeal Committee in an appeal against penalty

Where the appeal is against penalty, the Appeal Committee may, after due consideration:

- a) Dismiss the appeal allowing the original penalty to stand
- b) Dismiss the appeal but impose a greater penalty, or alter or amend any conditions imposed by the originally penalty
- c) Grant the appeal and impose a lesser sentence, or reduce or remove any conditions imposed by the original sentence.

8.9

Report

After the termination of the proceedings, the Chairman of the Appeal Committee will write a short report. In the event of a finding that an allegation has been proved, the report will set out the misconduct alleged, a brief summary of the evidence received, the grounds for the finding that an allegation has been proved, the penalty imposed, and the factors taken into account in deciding the penalty. A copy of the report will be sent to the member and to the Chairman and to any other party deemed to have a material interest in the outcome, though in the latter case the report may be censored. Where the misconduct concerns the anti-doping

policy, a copy may also be required to be sent to UK Sport and the British Paralympic Association.