

## **Complaints and Disciplinary**

### **LDS DISCIPLINARY PROCEDURES & GUIDELINES (How to Deal with a Complaint) 1. Disciplinary Procedures**

LDS is committed to providing a sporting environment where the ethical principles contained in the LDS Codes of Ethics and Conduct are represented and promoted. LDS believes that these values and ideals shall guide the actions of all members of the Association.

Members shall conduct themselves in a manner consistent with the principles and ethical standards set out in the LDS Codes of Ethics and Conduct and those who fail to meet these standards shall be subject to the disciplinary sanctions identified in this policy.

Any members sanctioned under this policy may be subject to the disciplinary rules and processes of other associations, clubs and Governing Bodies of Sport in which they are involved. In serious cases, members may also be subject to criminal prosecution.

## **2. Complaints**

A complaint concerning a member of LDS may be made by any member of the general public including but not limited to a performer, a representative of a club or sports organisation, a coach, a parent or any representative of LDS.

Complaints should be directed to the Disability Sport Officer as the appropriate representative of LDS. If the complaint is concerning the Disability Sport Officer, the complaint should be directed towards the LDS Chair.

A complaint concerning the conduct of a member of LDS shall:

- • Be made in writing (or an alternative formal means of communication);
- • Identify the LDS member against whom the complaint is being lodged;
- • Set out the nature of the complaint;
- • Identify the name and address of the complainant; and
- • Be signed by the complainant.

Upon receiving the complaint in the required format, the Disability Sport Officer must then determine whether the complaint comes within the scope of this policy.

If, in the sole discretion of the Disability Sport Officer, the complaint does not fall within the scope of this policy, the Disability Sport Officer will inform the complainant in writing, after which time the matter shall be considered closed.

## **3. Action**

If it is decided that the complaint falls within the scope of the LDS Codes of Ethics and Conduct policy, the LDS Representative will forward the complaint to the LDS Disciplinary Committee. The Disciplinary Committee consists of the LDS Chair, LDS Disability Sport Officer and the LDS Lead Officer for the protection of children, young people and vulnerable adults.

A copy of the complaint will also be sent to the member against whom the complaint has been made within three working days of receiving the complaint. The member will have ten working days to respond in writing to the LDS Representative.

Once this response has been received, and taking into consideration the nature of the complaint, the LDS Representative shall determine which course of action to take:

- • The complaint is without merit, in which case the LDS Representative shall inform both the complainant and the member against whom the complaint has been made, of this decision in writing, after which time the matter will be considered closed; or
- • That disciplinary action against the member is warranted, in which case the LDS Representative shall refer the case to the LDS Disciplinary Committee.

#### **4. Possible Outcomes**

Once the LDS Disciplinary Committee has reviewed the complaint the following outcomes, singly or in combination, may be applied:

- • A written reprimand to be placed in the member's file;
- • A verbal and/or written apology;
- • Further education, training or counselling;
- • Publication of the details of the sanction;
- • Suspension from LDS for a specified period of time;
- • Termination of membership from the Association;
- • Any other sanction(s) deemed appropriate in the circumstances.

Unless the LDS Disciplinary Committee decides otherwise, any of the above sanctions applied shall not take effect until the time period for appeals has expired or an appeal has been decided. Likewise, no publication of the details of the outcome shall be permitted until such time.

Notwithstanding the procedures set out in the LDS Codes of Ethics and Conduct, any member who is convicted of a criminal offence involving sexual exploitation, invitation to sexual touching, sexual interference, sexual assault or aggravated assault, shall face an automatic suspension from LDS for a period of time corresponding to the length of criminal sentence imposed by the Court, and may face further disciplinary action by LDS in accordance with this policy.

#### **5. Delegation**

The LDS CHAIR/Chair may delegate their responsibility under the LDS Codes of Ethics and Conduct, as they deem appropriate, in the event that they are absent, or have a conflict of interests.

#### **6. Appeals Procedure**

Except where otherwise provided, an appeal of any conduct matter shall be conducted in accordance with the LDS Appeals Procedure.

Any member of LDS who is subject to a decision pursuant to the LDS Codes of Ethics and Conduct shall have the right to appeal against that decision.

The member wishing to appeal a decision shall have ten working days from the date on which notice of the original decision was received, to submit written notice of his or her appeal to the Disability Sport Officer.

An appeal may only be heard if there are sufficient grounds for the appeal. Sufficient grounds for the appeal include LDS or its representatives:

- • Making a decision for which they do not have authority or jurisdiction as set out in the LDS governing documents;
- • Making an error in procedure; or
- • Making a decision in the absence of material evidence which was not available at the time of the original decision.

The Disability Sport Officer will decide whether or not there are sufficient grounds for appeal.

If the appeal is denied on the basis of insufficient grounds, the appellant shall be notified of this decision in writing, giving reasons. This decision is at the sole discretion of the Disability Sport Officer and may not be appealed.

If the Disability Sport Officer is satisfied that there are sufficient grounds for appeal, he or she directs that an Appeals Committee be appointed to hear the appeal.

The members of the Appeals Committee shall have no significant relationship with the appellant, shall have had no involvement in the decision being appealed, and shall be free from any other actual or perceived bias or conflict.

The Disability Sport Officer is required to provide a complete record to the Appeals Committee to include:

- • The decision under appeal;
- • Reason for the decision;
- • The original complaint;
- • All documentary evidence, including the investigation report; and
- • Transcripts of evidence (excluding transcripts of argument) if taken during the

disciplinary hearing.

Within three days of concluding the appeal, the Appeals Committee shall issue its written decision with reasons. In making the decision the Appeals Committee shall have no greater authority than that of the original decision-maker and may decide:

- • To void or confirm the decision being appealed;
- • To refer the matter back to the initial decision-maker for a new decision; and/or
- • To determine how costs of the appeal should be allocated.

## **7. Arbitration**

If the appellant is not satisfied with the decision on appeal, the matter shall be referred to the Regional Development Manager from Scottish Disability Sport, Scottish Disability Sport as the partner body will establish an appropriate panel to consider the complaint.

The parties to arbitration shall enter into a formal Arbitration Agreement and the decision of any arbitration shall be final and binding and not subject to any further review by any court of competent jurisdiction or any other body.

## **8. Jurisdiction**

The LDS Codes of Ethics and Conduct shall be governed by and construed in accordance with the laws of the UK in which the appeal hearing must take place.

No action or legal proceedings shall be commenced against LDS in respect of a dispute unless LDS has refused or failed to abide by the provisions for appeal and/or arbitration of the dispute, as set out in the LDS Codes of Ethics and Conduct.

### **Responding To a Complaint at Branch or National Level**

Supporting Notes

#### **Receiving a Complaint**

Always ensure that these are put down in writing to ensure that a consistent record of facts is registered. If the person raising the concern is unable to put this in writing it is permitted that the concern is written on behalf of this individual. It must however, be identified who is making the complaint and who has written the complaint.

#### **Designated Contact**

It is important to have an identified Representative (this designated individual is the Disability Sport Officer) who will deal with any complaints that arise. Members should be provided with contact details for this individual. A second individual should also be identified in case a complaint arises concerning the LDS Representative, or if the LDS Representative is unavailable, e.g. on holiday. Again, members should be made aware of these contact details (this designated individual is the LDS Chair).

#### **Is There A Case To Be Answered?**

Once an issue has been raised it is up to the LDS Representative to investigate the facts and decide whether or not there is a case to be answered. If, following investigation, it is decided that there is a case to be answered, the matter will be dealt with by the LDS Representative and, where necessary, referred to the Disciplinary Panel. If it is decided there is no case to be answered, the matter will be considered closed. Details of the matter, the investigation and the outcome will be kept on file. This information will be stored confidentially for five years. If after this time no further matters concerning this individual have arisen, the files may be destroyed.

#### **Disciplinary Committee**

The disciplinary committee will consist of three members. These members should be drawn from a pool of six identified individuals with expertise in various areas. It is preferable that three of these individuals should be from separate organisations, e.g. Scottish Disability Sport..

The designated officer who gathers the facts and decides if there is a case to answer should not be a member of the disciplinary committee.

**Right of Appeal**

Following the decision of the Disciplinary Committee, where required the opportunity of Appeal is available to anyone under investigation as part of the principle of natural justice.