



DISCIPLINARY POLICY

PURPOSE

This policy has been adopted by the Board of British Curling Ltd, in order to provide a framework and process for any disciplinary/grievance, should they be required. For the avoidance of doubt this policy does not apply to BC curlers when they are on representative duty for England, Scotland or Wales.

1. INTRODUCTION AND APPLICATION OF THIS POLICY

1.1. This Policy applies to all Athletes selected by British Curling (BC) onto sports programmes or teams representing BC and all Connected Persons.

1.2. In addition, in relation to any matter to which the local, national or international Competitions Rules apply, this Policy applies to all Connected Persons.

1.3. This Policy also applies to any other person who voluntarily submits to the disciplinary jurisdiction of BC.

1.4. For the avoidance of doubt, this Policy does not apply to any person by virtue only of that person being an employee of BC. All complaints regarding BC Employees will be investigated and, if appropriate, dealt with under the appropriate procedure in place for employees. Where this Policy does apply to a person who is an employee of BC:-

1.4.1. To the extent that the alleged Disciplinary Matter was committed in the course of that person's employment, he or she shall be subject to disciplinary action as an employee only and not under this Policy.

1.4.2. To the extent that the alleged Disciplinary Matter was committed outside the course of the person's employment, he or she shall be subject to disciplinary action under this Policy. It shall then be a matter for BC as employer to decide whether any further disciplinary action should be taken under the person's terms of employment.

1.5. BC makes and enforces this Policy to ensure compliance with BC's Articles of Association and Regulations is enforced fairly and in accordance with the principles of natural justice.

2. DISCIPLINARY MATTERS

2.1. A BC Athlete or person subject to the disciplinary jurisdiction of BC by virtue of paragraph 1.2 or 1.3 above shall be liable to disciplinary action in accordance with this Policy if their conduct is alleged to be inappropriate, incorrect, improper, unlawful or unsporting and/or has the potential to bring the sport of curling or BC into disrepute. The following non-exhaustive list are examples of conduct which may constitute a breach of this Policy: -

2.1.1. Failing to comply with BC Articles of Association or Regulations;

2.1.2. Doing anything which could harm BC or bring the sport of curling or BC into disrepute;

2.1.3. Failing to comply with a written agreement with or a written undertaking given to BC;

2.1.4. Making an untrue written statement to BC or a person or organisation acting on behalf of BC;

- 2.1.5. Committing a breach of the Code of Conduct (save where the application of specific sanctions under the Code of Conduct have been delegated to the Chief Operating Officer);
- 2.1.6. Failing to treat others in the sport with dignity and respect;
- 2.1.7. Taking any part in doping or corruption;
- 2.1.8. Acting in a way that directly or indirectly adversely affects the welfare or safety of a person under 18 or places them at risk;
- 2.1.9. Acting in a way that directly or indirectly adversely affects the welfare or safety of a Vulnerable Adult or places them at risk;
- 2.1.10. Assisting or encouraging any person, or Associated Body to breach this Policy.

3. JURISDICTION AND POWER

3.1. The Board delegates power and jurisdiction to act in relation to any Disciplinary Matter, including the power to impose appropriate sanctions, to the Disciplinary Panel in accordance with the procedures in this Policy except that:-

- 3.1.1. Allegations relating to doping as defined within the BC Anti-Doping Regulations as approved by the Board shall be dealt with by the UK National Anti-Doping Panel, in accordance with the provisions of the UK Anti-Doping Rules;
- 3.1.2. Allegations that a person has engaged in conduct which directly or indirectly adversely affects the welfare or safety of a person under 18 and/or places them at risk (including any Appeal) shall be dealt with in accordance with the policies adopted from time to time adopted by BC in respect of Child Protection and Safeguarding; and
- 3.1.3. Allegations of a breach of the Code of Conduct, shall, where the Code of Conduct so allows, be dealt with by the Chief Operating Officer who may in turn delegate, in his/her absolute discretion, dealing with such allegations to either the Disciplinary Panel Chair or the Disciplinary Panel Deputy Chair or may refer such allegations to be dealt with under this Policy.

3.2. Disciplinary Action and any resulting sanction under this Policy shall be separate from and may be additional to:-

- 3.2.1. Disciplinary action by an Associated Body, event organiser or related party;
- 3.2.2. Any sanction specifically authorised by regulations (other than this Policy) established by the Board;
- 3.2.3. Action or investigation by the police or statutory authorities in accordance with criminal law or other statutory regulations, whether or not resulting in a conviction, but any action under this Policy may be stayed until the outcome of any criminal or external investigation is concluded save to the extent that an Athlete or Connected Person may be precluded from participating in Curling Activities pending determination of any criminal or external investigation.

3.3. The Board delegates power to the Chief Operating Officer to modify, from time to time and on a non-binding case specific basis, the administrative and investigative procedures only in this Policy in circumstances where the Chief Operating Officer in his/her absolute discretion determines that such modification is necessary to ensure the efficient operation of this Policy.

4. DISCIPLINARY PANEL

4.1. The Board shall appoint no fewer than three individuals who are not Directors to constitute the Disciplinary Panel, designating one of these as Disciplinary Panel Chair and one as Disciplinary Panel Deputy Chair.

4.2. Unless they resign, Disciplinary Panel members shall serve until the end of the third Annual General Meeting following their appointment and thereafter until their successors are appointed. Casual vacancies shall be filled by the Board.

4.3. A Disciplinary Panel member having an interest in a matter to be discussed must declare that interest as soon as he is aware of it and must have no involvement in his capacity as a member during the transaction of that business.

5. DISCIPLINARY SECRETARY

5.1. The Chief Operating Officer shall appoint a person to be Disciplinary Secretary.

5.2. The Disciplinary Secretary shall implement and administer this Policy in accordance with the directions of the Disciplinary Panel Chairman.

5.3. The Disciplinary Secretary may with the approval of the Chief Operating Officer delegate any function in a particular case to another suitable person.

6. APPLICATION FOR INVESTIGATION

6.1. An Athlete or Connected Person (the 'Applicant') may make a written application to the Disciplinary Secretary that an alleged Disciplinary Matter involving a BC Athlete, Affiliated Club, Associated Body or person who is subject to this Policy by virtue of paragraph 1.2 or 1.3 above (the 'Respondent') be investigated.

6.2. The written application shall be in the form specified by the Disciplinary Secretary and shall include the name of the Respondent, the nature and approximate date of the alleged Disciplinary Matter and signed statements by the Applicant and any witnesses.

7. INTERIM SUSPENSION

7.1. The Chief Operating Officer may suspend an Athlete, Connected Person, Affiliated Club or Associated Body from any or all of the privileges of affiliation ('interim suspension') on receipt of either of the following:-

7.1.1. A written application for investigation of an alleged Disciplinary Matter involving an Athlete, Connected Person, Affiliated Club or Associated Body. Such interim suspension may remain in force until not later than the final conclusion of the Disciplinary Action;

7.1.2. Notification by the statutory authorities that an Athlete or Connected Person is under investigation in relation to an alleged offence under the Sexual Offences Act 2003 and any subsequent related legislation. Such interim suspension may remain in force until not later than the legal outcome becomes known.

7.2. An interim suspension shall only be imposed if and for as long as the Chief Operating Officer is satisfied it is necessary in the best interests of BC or the sport.

7.3. The Disciplinary Secretary shall review an interim suspension at least monthly and report any concern that it might be continuing unnecessarily to the Chief Operating Officer.

7.4. Interim suspension shall be a neutral action and shall not imply any prejudgement of the substantive issue.

8. INVESTIGATION

8.1. On receipt of a written application for an alleged Disciplinary Matter to be investigated the Disciplinary Secretary shall inform the Chief Operating Officer. The Chief Operating Officer may seek an informal resolution to the Disciplinary Matter or appoint an Investigator to investigate it.

8.2. The Chief Operating Officer may appoint as Investigator any person or organisation that does not have an interest in the case other than a Director, a Disciplinary Panel member and the Disciplinary Secretary. The Investigator may be internal (eg. staff member) or external to BC.

8.3. When allocated to an Investigator, he/she will inform the Applicant that they are dealing with the matter and inform that the details of the application will be disclosed to the Respondent. They will also inform the Respondent that they are the subject of an application, provide an outline of the allegation, identify who made the complaint (but only when the identification of such person is not confidential for safeguarding reasons) and seek a brief response to the complaint. Such response should include a brief factual response to the allegation.

8.4. The Investigator will then conduct an investigation that is thorough, proportionate, relevant and fair to all parties. Contact with the Applicant, the Respondent and all witnesses will usually be via telephone or email but may be by face to face meetings. The Applicant, the Respondent and any witnesses shall give the Investigator all reasonable assistance, including promptly supplying signed statements if necessary, making themselves available for interview, answering any questions and supplying documentary or other information

8.5. The Investigator shall make a written report which shall include the documentary evidence and a recommendation as to whether the Respondent has a case to answer.

8.6. The Investigator's report shall be submitted to the Chief Operating Officer who shall either confirm the recommendation or arrange for further investigation by the same or a different Investigator.

8.7. If the Chief Operating Officer confirms a recommendation that there is no case to answer the Disciplinary Secretary shall inform the Applicant and the Respondent accordingly. There shall be no appeal against a decision that there is no case to answer but a case may be re-examined if further evidence is later forthcoming.

8.8. If the Chief Operating Officer confirms a recommendation that there is a case for the Respondent to answer the Investigator shall then be responsible for presenting the case to answer to the Disciplinary Committee as set out below.

9. COMPOSITION OF THE DISCIPLINARY COMMITTEE

9.1. A Disciplinary Committee shall comprise of three members of the Disciplinary Panel and will usually be chaired by the Disciplinary Panel Chairman. If the Disciplinary Panel Chairman is unwilling, unable or unavailable to chair the Committee, then the Disciplinary Panel Deputy Chairman shall chair the Committee. If the Disciplinary Panel Deputy Chairman is unwilling, unable or unavailable to chair the Committee, then the remaining members of the Disciplinary Panel shall appoint a Committee chair from amongst their number.

10. DISCIPLINARY PROCEEDINGS

10.1. If the Chief Operating Officer confirms a recommendation that there is a case to answer the Disciplinary Secretary shall give the Respondent written notice together with the Investigator's report. Not later than 14 days after the sending of the notice the Respondent shall send to the Disciplinary Secretary a written answer

thereto, together if desired with signed statements from any witnesses. At the same time the Respondent may request a personal hearing.

10.2. If the Respondent does not request a personal hearing within the prescribed time, the Disciplinary Committee shall adjudicate the matter, taking into consideration the report of the Investigator, the written statements of the Applicant, Respondent and witnesses and any other evidence it thinks appropriate. The Disciplinary Committee may decide to adjudicate a case by correspondence.

10.3. Proceedings, findings or decisions of the Disciplinary Committee shall not be invalidated by reason of any minor defect, irregularity, omission or technicality unless it raises a material doubt as to the reliability of the proceedings, findings or decisions.

11. PERSONAL HEARING

11.1. If the Respondent requests a personal hearing the Disciplinary Secretary shall give the Respondent at least 14 days' notice of the date, place and time of the hearing, which shall be held as soon as practicable and wherever possible within 42 days of receipt of the application for a personal hearing.

11.2. The Respondent may be represented or accompanied at a personal hearing by one other person of the Respondent's choice, who shall not be a witness. This right shall be in addition to the right of a Respondent who is under 18 or a Vulnerable Adult to be accompanied by a parent or carer.

11.3. The Investigator shall be responsible for presenting the case to answer and may:

11.3.1. Call evidence from witnesses;

11.3.2. Cross-examine the Respondent and witnesses who give evidence on the Respondent's behalf;

11.3.3. Address the Committee for up to 10 minutes or such longer period as the chair decides is necessary to provide a fair opportunity to present the case.

11.4. The Respondent or the Respondent's representative shall have the right:

11.4.1. To call evidence from the Respondent and other witnesses to rebut the allegation;

11.4.2. To cross-examine any witness who gives evidence in support of the allegation;

11.4.3. To address the Committee to sum up the answer to the allegation for up to 10 minutes or such longer period as the chair decides is necessary to provide a fair opportunity to sum up the answer.

11.5. Failure of any person to attend the hearing, or to answer any question, or to produce any necessary papers, shall not prevent the Disciplinary Committee from proceeding to a decision.

11.6. The Disciplinary Committee shall consider its decision in private. If the allegation is contested the Disciplinary Committee shall first decide whether or not it is proved on the balance of probabilities and inform the respondent accordingly.

11.7. If the allegation is admitted, or if the Disciplinary Committee finds the allegation proved, the Respondent or the Respondent's representative may speak for up to 10 minutes in mitigation before the Disciplinary Committee decides on any sanction to impose.

11.8. The Disciplinary Committee is entitled absolutely to determine the procedures that will be adopted at any personal hearing

12. SANCTIONS AND COSTS

12.1. If the Respondent admits an allegation or if the Disciplinary Committee finds an allegation proved it may impose any one or more of the following sanctions:

12.1.1. Suspension from some or all of the privileges of affiliation either indefinitely or for a stated period;

12.1.2. A fine to be paid within 28 days;

12.1.3. Censure;

12.1.4. A requirement to give an undertaking in such terms as the Disciplinary Committee may decide; failure to give the undertaking within 14 days or a breach of it within two years shall be deemed a breach of this Policy and upon such breach the offender shall be liable to a sanction in addition to the sanction for the original Disciplinary Matter;

12.1.5. In the case of a former Athlete, Connected Person or former Affiliated Club or Associated Body which has subsequently resigned or otherwise ceased to be affiliated a stipulation that they may not re-affiliate without the express permission of the Board.

12.2. The Disciplinary Committee shall have the power to require a Respondent to pay a contribution towards the costs of the hearing on term terms as the Committee deems appropriate.

13. RECORDS AND CONFIDENTIALITY

13.1. A decision made by the Disciplinary Committee on whether or not a case is found proved and the sanction imposed shall not be confidential save where the Respondent is under 18 or a Vulnerable Adult and the sanction imposed does not involve a suspension in which case the provisions of paragraph 13.3 below apply. A decision which is not confidential shall be publicised on the BC website unless the Disciplinary Committee decides otherwise.

13.2. The Disciplinary Secretary shall within 7 days of the decision notify it in writing to the Respondent, the Applicant and any other Athlete, Connected Person or Associate Body involved.

13.3. In a case of suspension, the Disciplinary Secretary shall publicise the suspension to those likely to be affected.

13.4. The chair of the Disciplinary Committee shall procure that minutes of each hearing which shall contain a record of the procedural business of the meeting and a record of each hearing (which shall be contained in a separate document) are taken. The chair of the Disciplinary Committee shall also provide written reasons for any findings made by the Disciplinary Committee including the sanction, if any, and the factors that were taken into consideration when imposing such sanction.

13.5. Records relating to a Disciplinary Matter shall be kept for two years after any investigation, proceedings and sanction imposed are all completed.

14. APPEALS

14.1. If the Disciplinary Committee finds an allegation proved the Respondent may appeal against the finding or the sanction imposed or both.

14.2. Any Appeal must be made within ten working days in writing to the Chief operating Officer and include a £100 non-refundable administration fee.

14.3. The notification of Appeal must contain the grounds for the Appeal. The only grounds for an Appeal are:-

14.3.1. That there was a material error, either factual or procedural in the original proceedings;

14.3.2. That there is material new evidence that, had it been known at the time of the original proceedings would have affected the decision of the Panel.

14.4. Any Appeal that does not meet one of the criteria in 14.3 above may be refused by the Chief Operating Officer.

14.5. The Appeal shall be heard by an Appeal Panel that shall usually consist of three members of the Disciplinary Panel who were not involved in the original proceedings. If three such individuals cannot be identified then the Chief Operating Officer shall appoint such individuals as he/she thinks appropriate taking into account the nature of the Appeal. In such circumstances, the members of the Appeal Panel can be drawn from both inside and outside the sport.

14.6. The three individuals appointed to the Appeal Panel shall appoint one of their number as the Appeal Chair. An Appeal is not a re-hearing of the original proceedings and whilst it will be necessary for the Appeal Panel to review the evidence by reading the statements and any reports, it will not involve the calling of new witnesses unless the Appeal is based upon the ground specified in 14.3.2 above only.

14.7. The Appeal Chair shall determine the manner in which the Appeal is dealt with, including inviting representations either in writing or in person from the Investigator and/or the Respondent. Once the Appeal Chair is satisfied that the Appeal Panel has sufficient information on which to decide the appeal, they will retire to consider whether the Appeal is upheld or dismissed.

14.8. The Appeal Panel shall have the following powers:-

14.8.1. To dismiss the Appeal;

14.8.2. To alter or vary the original decision;

14.8.3. To quash any sanction and/or substitute it for any other penalty; or

14.8.4. To make any such other order or determination as it may think right or just.

14.9. The decision of the Appeal Panel will be communicated to the Appellant, the original Applicant and the Chief Operating Office by the Appeal Chair in writing within seven days of the Appeal Hearing.

14.10. The decision of the Appeal Panel will be final and binding and there lies no other form of Appeal.

15. PEOPLE UNDER 18

15.1. If an Applicant or Respondent is under 18 at the date of the alleged Disciplinary Matter:-

15.1.1. The Disciplinary Secretary shall consult the person nominated by the Chief Operating Officer to act as Child Protection Officer to ensure their interests are protected;

15.1.2. Any right or obligation under these regulations may be exercised on their behalf by their parent or carer;

15.1.3. Any written communication with them under these regulations shall be copied to their parent or carer.

15.2. If an Applicant, Respondent or witness is under 18 at the date of the alleged Disciplinary Matter they may be accompanied by a parent or carer at any meeting or proceedings.

15.3. When considering any sanction the Disciplinary Committee shall take into account the age of a Respondent under 18 at the date the Disciplinary Matter is alleged to have occurred.

16. VULNERABLE ADULTS

16.1. If an Applicant or Respondent is a Vulnerable Adult:-

16.1.1. The Disciplinary Secretary shall consult the person nominated by the Chief Operating Officer to act as Protection Officer to ensure their interests are protected;

16.1.2. Any right or obligation under these regulations may be exercised on their behalf by their parent, carer or nominated appropriate adult;

16.1.3. Any written communication with them under these regulations shall be copied to their parent, carer or nominated appropriate adult.

16.2. If an Applicant, Respondent or witness is a Vulnerable Adult they may be accompanied by a parent, carer or nominated appropriate adult at any meeting or proceedings.

16.3. When considering any sanction the Disciplinary Committee shall take into account the fact that a Respondent is a Vulnerable Adult.

17. ASSOCIATED BODY

17.1. If a Respondent is an Associated Body:-

17.1.1. Any communication shall be addressed to its General Secretary;

17.1.2. Its General Secretary may exercise its rights and shall carry out its obligations under the Policy on its behalf unless and until it notifies the Disciplinary Secretary in writing that it has nominated another person to do so.

18. DEFINITIONS

'Affiliated Club' means a club affiliated to BC

'Appeal' means an appeal in accordance with paragraph 14 of the Policy

'Appeal Chair' means the person so appointed in accordance with paragraph 14.6 of the Policy

'Appeal Panel' means the panel so appointed in accordance with paragraph 14.5 of the Policy

'Associated Body' means a body associated with BC

'Athlete' means a person selected by BC, participant in a BC programme or person receiving benefit from BC that may be financial, in kind or receipt of services

'BC' means British Curling

'BC Anti-Doping Regulations' means the anti-doping regulations of BC in force from time to time

'the Board' means the Board of Directors of BC

‘Chief Operating Officer’ means the chief officer of BC at the relevant time, or the person performing an equivalent function if there is no chief officer at the time, or their duly appointed deputy

‘the Policy’ means this Disciplinary Policy

‘the Code of Conduct’ means the code of conduct from time to time in force

‘Competitions Rules’ means the current Competitions Rules at the time of the Disciplinary Matter or alleged Disciplinary Matter, provided that where this Policy refers to a specific rule, and the numbering of the Rules for Competitions has changed since this Policy was published, the reference shall be deemed to be to the rule as renumbered in the Rules for Competitions, or the nearest equivalent rule, if applicable

‘Connected Person’ means any Player within the British Curling Programme, Support Personnel, any coach, trainer, selector, health professional, analyst, team official, administrator, director and/or any other person involved with and/or engaged in relation to the game by BC or its National Representative Team, Disciplinary Personnel, any Agent and/or representative of an Athlete/Player, and/or any other individual or entity involved in the organisation, or under the jurisdiction of BC.

‘Curling Activity’ means any activity over which BC exercises jurisdiction, being the sport of curling and any activity connected with curling

‘Investigator’ means the person so appointed in accordance with paragraph 8.1 of the Policy

‘Days’ means calendar days except where it is explicitly stated as working days

‘Director’ means a company director of BC

‘Disciplinary Committee’ means the committee appointed in accordance with paragraph 9 of the Policy

‘Disciplinary Matter’ means a breach of the Articles of Association or Regulations or the Policy or any act, omission, statement or circumstance which consists of anything which is, in any way, contrary to the general law or the rules governing the sport of curling including the Regulations or detrimental to BC or to the interests of the sport of curling. The Articles of Association can be found on the British Curling website or at Companies House

‘Disciplinary Panel’ means the panel appointed in accordance with paragraph 4 of the Policy

‘Disciplinary Panel Chair’ means the person so appointed in accordance with paragraph 4.1 of the Policy

‘Disciplinary Panel Deputy Chair’ means the person so appointed in accordance with paragraph 4.1 of the Policy

‘Disciplinary Secretary’ means the person so appointed in accordance with paragraph 5.1 of the Policy

‘Regulations’ means any regulations from time to time in force as set out by BC

‘Vulnerable Adult’ means an adult who is at risk if the conduct of another person is causing (or likely to cause) the Adult to be harmed, or if the adult themselves engages in conduct that is causing (or likely to cause) self-harm.