



# **Complaints and Disciplinary Code**

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## **Introduction**

### **General**

It is the right of an IMMAA Member to make a Complaint where standards of care, treatment and practice are perceived to fall short of what is acceptable and should be expected. Likewise, it is the right of IMMAA Clubs and the Board to take Disciplinary Action against any Member(s) or Club(s) and others outlined in paragraph 1.2 of the IMMAA Complaints and Disciplinary Code for misconduct that has been committed by a Respondent.

### **Simple and Clear Rules**

The Complainant and Respondent and the Complaints and Disciplinary Committees should have ease of access to clear and simplified rules and to fair procedures in dealing with any Complaint or Disciplinary Action.

### **Consistency**

These Rules (Part 1 of this document) and Procedures (Part 2 of this document) are designed to provide a high quality and consistent approach to Complaints. These Rules and Procedures deal with Complaints from IMMAA Members or from an appropriate person acting on behalf of an IMMAA Member, and Disciplinary Action against IMMAA Members and others outlined in paragraph 1.2 of the Rules.

### **Local Level**

It should be emphasised that Disputes/Complaints should be dealt with at local level until all resolutions at this level have been exhausted. In the event that the matter is not resolved satisfactorily at local level, the matter can then be brought to the IMMAA Complaints and Disciplinary Committee. If either party is still not satisfied with the outcome, there is the right to challenge the decisions of IMMAA Complaints and Disciplinary Committee.

### **Responsiveness**

Responding effectively and in a timely manner to Complaints is a key element of quality service. Cooperation with any investigation of the Complaint is essential and the use of a standardised approach is of benefit to Complainants and to all involved.

### **Mediation**

IMMAA supports Mediation as a form of dispute resolution. Mediation is appropriate for Complaints only. Where the Complaints and Disciplinary Committee consider a Complaint appropriate for resolution by Mediation then the parties to the Complaint are compelled to participate in the Mediation. The Mediation does not prejudice either party's right to proceed to a formal Hearing should the Mediation not result in a settlement of the Complaint.

### **Two Parts**

This document is divided into two parts. Part 1 deals with the scope of the disciplinary rules, offences and sanctions. Part 2 covers the rights and obligations of parties and the procedures to be used before the Complaints and Disciplinary Committee.

## **Excluded Complaints**

These Rules and Procedures are not an appropriate mechanism for dealing with certain Complaints such as allegations of physical or sexual abuse or other potential child abuse issues for which other procedures exist using the appropriate statutory authorities. In respect of allegations of physical or sexual abuse or other potential child abuse issues, parties are referred to the IMMAA Safeguarding Children Policies and Procedures as amended from time to time.

These Rules and Procedures are also not an appropriate mechanism for dealing with Complaints against employees of IMMAA. Such Complaints should be referred to the relevant employer – in general this will be the employee's direct supervisor. These Rules and Procedures provide guidance to Members as to the appropriate mechanism for dealing with Complaints or issues that may arise in relation to their membership of IMMAA, and to whom each type of Complaint should be referred.

## **Omissions**

If there is an omission in these Rules and Procedures, then the Complaints and Disciplinary Committee shall decide in accordance with the IMMAA custom and practice or, in the absence of custom and/or practice, in accordance with the spirit of these Rules and Procedures.

## **Amendments**

IMMAA may review and amend these Rules and Procedures from time to time, particularly where required by legislative updates or legal developments. IMMAA will also review, and may amend, the monetary value of the Complaint and Appeal fees and/or the penalties payable by Clubs under these Rules and Procedures on an annual basis. IMMAA will undertake a formal review of the Rules and Procedures before at least triennially.

Each Club and member must accept these Rules and Procedures as a condition of membership.

# **PART 1 – IMMAA COMPLAINTS AND DISCIPLINARY RULES**

## **1. JURISDICTION**

Any of the following will be dealt with under these Rules and in accordance with the Procedures unless otherwise indicated:

- Offences;
- breaches of these Rules;
- breaches of the IMMAA Memorandum and Articles of Association;
- breaches of IMMAA Rule Book;

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- breaches of IMMAA Code of Conduct for Safeguarding Children Policies and Procedures, as amended from time to time; or
- breaches of other IMMAA regulations in existence.

In doing so the Complaints and Disciplinary Committee shall determine the offence(s) committed and the sanctions to be imposed.

These Rules together with the Complaints and Disciplinary Procedures (Part 2) regulate the organisation and function of the bodies responsible for taking decisions and the procedures to be followed by these bodies.

In the absence of a specific provision in these Rules, the Complaints and Disciplinary Committee shall decide according to the general principles appearing in these Rules or, failing that, according to the general principles of Irish law.

1.1 The Rules apply in respect of:

(a) Complaints against natural and legal persons as specified in Paragraph 1.2 of these Rules; and

(b) Disciplinary matters against any natural or legal persons as set out in paragraph 1.2 of these Rules.

1.2 The following natural and legal persons are subject to these rules:

- Member of IMMAA
- Coach/Official
- Participant in an Event
- Club
- Parent

1.3 Notwithstanding any other provisions in these Rules, the following matters are excluded from the provisions of these Rules and Procedures:

- Employment and quasi employment contractual disputes, which shall include coaching staff
- Breaches of any technical provisions of any Competition Rules (other than in respect of eligibility). Such breaches shall be dealt with in accordance with the provisions of such Competition Rules. For the avoidance of doubt, this paragraph shall not cause matters outside any technical breaches of any Competition Rules (as may be determined by the Complaints and Disciplinary Committee at its discretion) to be excluded from the provisions of these Rules and Procedures;
- Complaints relating to Board Members of IMMAA (which shall be referred to the Chairperson of the Board)
- Allegations of child abuse. Such allegations shall be referred to the statutory authorities and be dealt with as per process under IMMAA Safeguarding Children Policies and Procedures, as amended from time to time
- Competition administration (IMMAA organized competition). Such matters shall be referred to the Tournament Director of that particular competition
- Criminal matters. Such matters shall be referred to the statutory authorities
- Anti-doping matters. Such allegations shall be dealt with in accordance with the Irish Anti-Doping Rules

## **2. OFFENCES**

- Breach of any rules, statutes, codes, regulations specifically provided for section 3.2 of the Rule book
- Offensive behaviour to other Participants
- Unsporting behaviour
- Violation of instructions and directives from IMMAA officials
- Damaging the dignity of a person or a group of persons, in any way whatsoever, in particular due to race, disability, gender, sexual orientation, religion or ethnic origin
- Violation of contractual obligations towards IMMAA
- Cheating
- Inciting hatred or violence
- Fighting
- Aggressive or threatening behaviour
- Bullying
- Ineligibility
- Racism
- Intimidation or threats
- Coercion
- Discrimination
- Foul language
- Disparaging comments
- Forgery or falsification
- Corruption
- Acts or omissions bringing the sport of MMA into disrepute
- Curfew violation
- Alcohol or substance use
- Criminal conviction which is likely to bring IMMAA into disrepute
- Mischievous or vexatious Complaints

## **3. SANCTIONS**

### **3.1 Warnings**

Prior to imposing an Immediate Sanction, where appropriate, a Responsible Person may issue any of the following Warnings in any sequence to a Member at an Event prior to imposing an Immediate Sanction:

- Verbal Warning
- Written Warning

### **3.2 Immediate Sanctions**

The following Immediate Sanctions may be imposed by a Responsible Person to a Member at an Event:

- Time Out from the Event
- Removal of Privileges at the Event
- Suspension from the Event
- Expulsion from the Event

### **3.3 Interlocutory Sanctions**

3.3.1 On confirmation that a Respondent has received a conviction for a criminal offence, which is likely to bring the Club, Sport or IMMAA into disrepute, then the

Chair of the Board of IMMAA shall be empowered to suspend a Respondent from Membership and/or from future participation in a Club, Event and/or from attending a Club, or Event.

3.3.2 The Chair of the Board of IMMAA shall be empowered to impose a suspension on a Respondent pending the determination of a Complaints and Disciplinary Committee where the gravity of the Complaint received shall warrant immediate suspension.

### **3.4 Non Immediate Sanctions**

3.4.1 The Complaints and Disciplinary Committee has sole jurisdiction to impose a Non Immediate Sanction save where a Fast Track Committee is convened under clause 1.6 of these Procedures.

3.4.2 Non Immediate Sanctions may only be imposed by the Complaints and Disciplinary Committee following a decision either on foot of consideration of all of the documents relating to the Complaint or on foot of an Oral Hearing.

3.4.3 Any suspension or removal from Membership or from a Club must be notified to the Board of IMMAA at their next meeting.

3.4.4 The following Non Immediate Sanctions may be imposed by a Complaints and Disciplinary Committee:

- Reprimand
- Severe Reprimand
- Written Warning
- Removal of privileges
- Suspension from participation in
  - Events
  - Team/squad
- Suspension from Membership
- Expulsion from Membership
- Fine
- Other.

## **4. MITIGATING AND AGGRAVATING FACTORS**

4.1 A Complaints and Disciplinary Committee shall take into account mitigating and aggravating factors once a decision on culpability is reached but prior to the imposition of a sanction.

4.2 A Complaints and Disciplinary Committee shall take into account the following factors:

- Age
- Co-operation
- Prior warnings
- Prior record
- Apology made
- Remorse
- Gravity of offence
- Effect on victim
- Effect of sanction on Respondent
- Any other factor deemed relevant

## **PART 2 – IMMAA COMPLAINTS AND DISCIPLINARY PROCEDURES**

### **INTRODUCTION**

#### **Complaint**

A member or Club of IMMAA may bring a Complaint against another member or Club

#### **Disciplinary Action**

A Club or IMMAA may initiate Disciplinary Action against a Member in respect of alleged misconduct.

Only IMMAA may initiate Disciplinary Action against a Club in respect of alleged misconduct.

#### **Guidance**

The Procedures set out below are intended to provide a step by step guideline as to how a Complaint or Disciplinary Action should be commenced, investigated, decided on and appealed for the benefit of any Complainant, Respondent or Complaints and Disciplinary Committee.

#### **Mediation**

In respect of a Complaint only, the Chairman of the Complaints and Disciplinary Committee (CDC) may, prior to a formal hearing, refer the parties to a Complaint to Mediation.



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Members of IMMAA agree to refer any Complaint to Mediation as organised by IMMAA as recommended by the Chairman of the CDC.

### Local Level

Complaints and Disciplinary Actions relating to incidents at club level should be dealt with by the Complaints and Disciplinary processes at that level, save in respect of First Instance Matters which shall be referred immediately to the IMMAA Complaints and Disciplinary Committee.

### Technical Breaches

The primary function of the Complaints and Disciplinary Committee is to hear and decide Complaints and Disciplinary Action. They attempt to do so in a fair and swift manner. In so far as there may be minor technical breaches of these Procedures, Complainants and Respondents must recognise that laymen, who are volunteers, may on occasion administer justice somewhat robustly. Such breaches as such do not constitute cause for dismissal on appeal of a decision.

### Appeal

If either party is dissatisfied with the decision of the Complaints and Disciplinary Committee then they may appeal that decision. Appeals will be heard by a three member panel of Board members, including one of the either the President or Chairman.

### JSI Arbitration

If a party is dissatisfied, with the decision of the CDC and the Appeals Panel then a challenge may be brought to JSI Arbitration only on the basis of the illegality of the decision or procedures used by the Complaints and Disciplinary Bodies.

## **1. GENERAL**

### **1.1. PROOF**

The Complaints and Disciplinary Bodies shall make decisions on culpability based on the 'balance of probabilities' meaning that the incident in question was more likely than not to have occurred.

### **1.2 CONFIDENTIALITY**

Members of the Complaints and Disciplinary Committee shall keep all information disclosed to them confidential and no disclosure of any detail shall be made to any third party unless in the administration of their disciplinary function. The administration of a disciplinary function may require the disclosure of certain offences and sanctions to be made to other persons at Club, National or International level but only where strictly required.

### **1.3 YOUNG PEOPLE (UNDER 18 YEARS OF AGE)**

- Any Member under 18 years of age shall be accompanied by his/her guardian or parent at any Hearing.
- Any Member under 18 years of age who is a Complainant or a Respondent is obliged to be present at a Hearing.
- Any Member under 18 years of age who is present at a Hearing as a complainant, Respondent or witness shall be obliged to give evidence (either in writing or at the Hearing, depending upon the circumstances).

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- In all cases, but particularly where the subject of the Complaint is under 18 years of age, steps should be taken to ensure the fair treatment of both parties, and advice should be sought if necessary.
- The Complaints and Disciplinary Committee shall ensure a Children's Officer is present where the matter concerns a Member under 18 years of age.

### 1.4 ROLE OF CHILDREN'S OFFICER

- The IMMAA Children's Officer is appointed by the IMMAA Board or by the Club in the case of the Club Children's Officer (CCO).
- The role of the Children's Officer in the context of these Rules and Procedures is to promote and safeguard the rights of child Members in respect of the initiation, investigation, resolution, Hearing, Appeal and implementation of any sanction in respect of a Complaint or Disciplinary Action.
- The Children's Officer shall be a notice party to any Hearing involving a child in a Complaint or Disciplinary Action.
- The Children's Officer shall receive a copy of the Complaint or Notice of Disciplinary Action and any response thereto together with any supporting documentation submitted, where a Complaint or Notice of Disciplinary Action involves a child Member.
- The Children's Officer shall assist any child Member in respect of the meaning and interpretation of rules and procedures and processes involved in a Complaint or Disciplinary Action.
- The Children's Officer shall not act as an advisor to any child Member in respect of proving or disproving any facts relating to a Complaint or Disciplinary Action.
- The Children's Officer shall immediately liaise with the Parent of a child Member of any Complaint or Disciplinary Action involving that child Member.
- The IMMAA Children's Officer shall actively support whichever process is deemed to be appropriate by the Chair of the CDC in the resolution of a Complaint where it is in the best interests of the child Member.
- The Children's Officer may attend Mediation if the Mediator deems it appropriate and/or where requested to do so by the child Member.
- Prior to any Hearing in respect of a Complaint or Disciplinary Action involving a child, the Complaints and Disciplinary Committee shall correspond with and, if the Children's Officer deems it necessary, meet with the Children's Officer to receive guidelines for the Complaints and Disciplinary Committee.
- In particular the Children's Officer may give guidelines to the Complaints and Disciplinary Committee on the following subjects:
  - Rules, regulations and guidelines relevant to the welfare of the child
  - How evidence should be delivered by parties
  - How to conduct the Hearing in the most child-friendly manner
- The Children's Officer shall have the right to serve notice on the CDC in respect of any concerns of non-compliance by a Committee in respect of best practice for child welfare at a Hearing or to the Secretary of the Club or Region.
- The Children's Officer shall be present at any Hearing before the Complaints and Disciplinary Committee where the Complainant or Respondent is a child.
- The Children's Officer does not have a right to deliver submissions or actively participate at a Hearing unless invited to do so by the Complaints and Disciplinary Committee.

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- The Complaints and Disciplinary Committee are not permitted to invite submissions from the Children's Officer in respect of any factual matter in dispute or on any issue of culpability.
- The Complaints and Disciplinary Committee are permitted to invite submissions from the Children's Officer solely in respect of child welfare issues in the context of the Hearing.
- The Children's Officer shall not sit on any Complaints and/or Disciplinary Committee and shall not have any role whatsoever in the decision making process.

### 1.5 EXEMPTION FROM LIABILITY

Members of Complaints and Disciplinary Committee may not be held personally liable for any deeds, acts or omissions relating to any disciplinary procedure.

### 1.6 FAST TRACK HEARINGS

In exceptional and urgent circumstances, where it is not possible to convene a Hearing before the Complaints and Disciplinary Committee in the normal course prior to an Event, then either party may apply to the Chair of the CDC in the event of the Chair's unavailability the President of IMMAA to arrange an expedited Hearing and they (Chair of CDC or President) shall have discretion to decide on the appropriate Members and quorum for the expedited hearing process.

### 1.7 COSTS/EXPENSES

Any costs or expenses incurred by a Member (or any of his/her witnesses, if relevant) in relation to any matter under these Procedures will be the sole responsibility of that Member. The Complaints and Disciplinary Committee shall have no authority to make any award for costs.

There is a cost for each Club and IMMAA in administering the Complaints and Disciplinary process. Accordingly, Members when making a Complaint or making an Appeal will be subject to an administration fee as set out below in this document. Where a Complaint is upheld or where an Appeal is upheld, the administration fee may be reimbursed to the Complainant. For the avoidance of doubt, no such fee shall be payable in respect of any Complaint and/or Disciplinary Action brought by any appointed Official, or Officer IMMAA.

### 1.8 CRIMINAL CHARGES

The Complaints and Disciplinary Committee reserves the right to suspend a Member or where that Member is subject to a criminal charge where that charge has the potential to bring the Club or IMMAA into disrepute. Once the matter has been dealt with by the statutory authorities, the Complaints and Disciplinary Committee reserves the right to take further action in accordance with these procedures, as appropriate.

In the event of criminal charges being initiated in relation to the alleged misconduct of a Member, then the Member may be suspended pending the outcome of the said charges, which will be referred to the statutory authorities. Once the statutory authorities have dealt with the matter, even if the Member concerned is not eventually convicted of the charge, the Club/IMMAA shall nevertheless have the right and power to review all circumstances in accordance with these Rules and Procedures, and decide to continue the suspension or expel the Member, if it deems it necessary in the interests of the Club/IMMAA the Sport as a whole.

### 1.9 POOR PRACTICE

It should be noted that allegations of breaching the IMMAA Safeguarding Children Policies and Procedures (as amended from time to time) are not necessarily suspected child abuse. A breach of the code of conduct can be due to poor practice which should be dealt with pursuant to these Rules and Procedures. If assistance is required in order to define what is abuse vis-a-vis poor practice the Club/National Children's Officers should be contacted for advice. Matters of poor practice are dealt with pursuant to these Rules and Procedures.

### 1.10 SUSPENSION PENDING HEARING

A Complaints and Disciplinary Committee shall be empowered to impose a suspension on a Respondent pending the determination of a Complaint where the gravity of the Complaint received shall warrant immediate suspension.

This provision is appropriate where a serious offence is committed by a Member/Club which is unlikely to be disciplined before the occurrence of the next Event that the Member/Club participates in.

### 1.11 COMMUNICATION

All communications to or from any party will be conducted primarily by email. An email shall be deemed to have been received within 24 hours of sending, unless documentary proof is adduced to prove otherwise.

### 1.12 NOTIFICATION TO IMMAA

IMMAA must be notified if a Member is suspended, stepped down from a position or expelled from a Club at any stage during a process.

Notification should be received in writing from the person or club imposing the sanction stating the sanction imposed, the outcome and their authority in the process.

### 1.13 MEDIATION AS AN ALTERNATIVE

Mediation is a flexible process conducted confidentially in which a neutral person actively assists parties in working towards a negotiated agreement of a dispute or difference, with the parties in ultimate control of the decision to settle and the terms of resolution.

Mediation is appropriate to a Complaint only.

The CDC may recommend Mediation in appropriate Complaints. Where the CDC so recommends, the parties to the Complaint shall be bound to refer that dispute to Mediation. Participation in Mediation does not prejudice either party's right to a formal Hearing before the Complaints and Disciplinary Committee.

In the event that Mediation is unsuccessful, the Complaint may then proceed through the appropriate Complaints and Disciplinary mechanism.

## 2. COMPLAINTS AND DISCIPLINARY BODIES

### 2.2 RESPONSIBLE PERSON

2.2.1 Immediate Sanctions may only be imposed by Responsible Persons at an Event

2.2.2 The Responsible Person need not give a warning as per clause 3.1 of the Rules herein

2.2.3 The imposition of a warning is not bound by the sequence of warnings as set out in clause 3.1 of the Rules herein

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2.2.4 The imposition of an Immediate Sanction need not be imposed in the order set out at Rule 3.2 of the Rules

2.2.5 Responsible Persons shall, where a Respondent is under 18 years of age, notify the parents of the Respondent of the Immediate Sanction where such Immediate Sanction involves expulsion from an Event, and/or where a number of warnings and Immediate Sanctions have been imposed prior to the expulsion

2.2.6 Responsible Persons shall prepare a report for the Complaints and Disciplinary Committee within three days of the incident only if:

- i. an Immediate Sanction has been imposed and
- ii. where the Responsible Person deems it necessary that further sanction be imposed on a Respondent (without commenting on what that further sanction should be).

2.2.7 The report prepared by Responsible Persons shall contain:

- i. details of the nature of the misconduct;
- ii. the rule breached;
- iii. Immediate Sanction imposed; and
- iv. time, date and venue of the Event

### 2.3 COMPLAINTS AND DISCIPLINARY COMMITTEE

2.3.1 The Complaints and Disciplinary Committee, which shall consist of a minimum of three persons over 18 years of age.

- a) Every person appointed to sit on a Complaints and Disciplinary Committee must be an IMMAA registered member:
- b) A written record of the appointed Complaints and Disciplinary Committee must be kept;
- c) No more than one person from any Club may sit on a Complaints and Disciplinary Committee.

2.3.2 A Children's Officer may not sit on the Complaints and Disciplinary Committee. See clause 1.4 of Part 2 (Procedures) of this document for details of the role of the Children's Officer with regard to the Complaints and Disciplinary Rules and Procedures.

2.3.3 A quorum of three Members shall be sufficient to convene a meeting/Hearing of the Complaints and Disciplinary Committee.

2.3.4 The Complaints and Disciplinary Committee shall be empowered to delegate any particular function to one Member of the Complaints and Disciplinary Committee, save and except for any decision making on culpability.

2.3.5 Subject to the remainder of this clause, the Chairperson of the CDC shall, on receipt of a Complaint or Disciplinary Action, appoint three persons from the CDC to deal with such Complaint or Disciplinary Action. The Chairperson may, at their discretion, appoint further persons from the CDC where the Chairperson believes that it is warranted due to the seriousness of the Complaint or Disciplinary Action. Any such panel shall be deemed to represent the CDC as a whole.

2.3.6 The Chairperson of the CDC shall be appointed by the Board of IMMAA.

2.3.7 No person appointed to the Complaints and Disciplinary Committee shall stand for more than three years.

2.3.8 Any Member of the Complaints and Disciplinary Committee shall decline to participate in the consideration of certain Complaints if there would be serious grounds to question his/her impartiality such as having a direct or indirect interest in the outcome of the proceedings.

2.3.9 The Complaints and Disciplinary Committee (or any panel of the Complaints and Disciplinary Committee nominated to hear a particular matter) shall act on a simple majority vote (+ 51%) in arriving at its decision/s.

2.3.10 The Complaints and Disciplinary Committee shall have jurisdiction to impose any sanctions as set out in sections 3.2 and 3.3 of the Disciplinary Rules.

## 2.4 CHAIR OF THE COMPLAINTS AND DISCIPLINARY COMMITTEE

2.4.2 The Chair of the CDC shall have the following functions:

- (i) To be the recipient of any written Complaint and Disciplinary Report
- (ii) To investigate a Complaint or Disciplinary Report. Where any Complaint or Disciplinary Report makes reference to suspected child abuse the Chair shall immediately notify the National Children's Officer and Statutory Authorities.
- (iii) To investigate an incident which comes to the attention of the Chair but which is not contained in a Complaint or Disciplinary Report;
- (iv) To determine whether a prima facie case has been made against a Respondent on receipt of a Complaint or an incident which comes to the attention of the Chair but which is not contained in a Complaint or Disciplinary Report
- (v) To refer the Complaint/Disciplinary Report to the Committee where in the opinion of the Chair a prima facie case to answer has been established;
- (vi) To dismiss a Complaint where after an investigation, in the opinion of the Chair, a prima facie case to answer has not been established
- (vii) To dismiss a Complaint where an invalid Complaint has been made
- (viii) To determine if the Complaint has been made in the correct jurisdiction and within the correct timeframes
- (ix) To receive any fees on behalf of IMMAA in respect of a Complaint or Appeal, to pass such fees to the IMMAA Office and to instruct and advise the IMMAA Office where any fee needs to be returned
- (x) To refer the parties to a Complaint to Mediation, where appropriate (a Complaint may be referred to Mediation but not a Disciplinary Action)
- (xi) To correspond with and notify the parties of all necessary information prior to a Hearing before the Complaints and Disciplinary Committee
- (xii) To prepare documents for the Complaints and Disciplinary Committee
- (xiii) To present the case in respect of a disciplinary matter before the Complaints and Disciplinary Committee, including the calling of witnesses etc;
- (xiv) To maintain a record of decisions of the Complaints and Disciplinary Committee;
- (xv) To liaise with the President of IMMAA or his/her delegate and to return all records to the Office on completion
- (xvi) To ensure that sanctions are observed by Respondents

2.4.3 Where the Chair has any actual, perceived or potential conflict of interest, he/she shall stand aside from investigating the Complaint/Disciplinary matter and the President of IMMAA shall appoint another person in respect of that particular matter. In the event that the Chair does not stand aside, the President of IMMAA shall be entitled to remove the Chair from the investigation and appoint another.

2.4.4 The Chair is not obliged to investigate any Complaint/Disciplinary Report.

2.4.5 In the course of an investigation of any Complaint/Disciplinary Report, the Chair may consider any evidence he/she deems relevant and shall have the right to make enquiries of any individuals and seek any information or documents in relation to the matter. For the avoidance of doubt, where necessary, the Chair is entitled to consult with the

judge/official/Responsible Person to clarify any issues arising in relation to a Disciplinary Report, including his/her handwriting.

2.4.6 Prior to referring the matter to the Complaints and Disciplinary Committee, the Chair shall notify the Respondent and any other relevant party with the following information and documentation:

- i) Copy of the written Complaint/Disciplinary Report
- ii) The relevant rule allegedly breached
- iii) Copy of supporting documents relied on by either party
- iv) The parties to the Complaint
- v) The procedures involved
- vi) The possible sanctions
- vii) The rights of the parties at the Hearing
- viii) Any other procedural requirements

The Secretary of the Complaints and Disciplinary Committee will notify the time, date and venue of the Hearing

### **3. COMMENCEMENT**

#### **3.1 Disciplinary Action**

Disciplinary Action may be commenced in the following ways:

3.1.1 By a Responsible Person who imposes any Immediate Sanction against a Member.

3.1.2 On receipt of a written report from a Responsible Person

3.1.3 By the Chair of the CDC becoming aware of any alleged breach of rules or regulations or any allegation of misconduct.

#### **3.2 Complaints**

The Complaints procedure may be commenced when any party (which includes a Club) makes a written Complaint against a Member or Club.

3.2.1 The Complaint shall be delivered in writing to the Chairman of the CDC.

3.2.2 For a Complaint to be valid, the written Complaint shall be made:

3.2.2.1 In writing on the Complaint Form (see Appendix 1);

3.2.2.2 Delivered to the Chair of the CDC within 14 days of the date of the alleged incident unless the Chair is satisfied that there are exceptional circumstances to extend beyond the 14 days deadline.

3.2.2.3 Be accompanied by a fee of €50 for First Instance Complaints or €100 for Appeals or such other amount as determined by the IMMAA Office from time to time, (unless otherwise indicated in these Rules and Procedures and which fee shall not include any subsequent fee imposed payable in respect of any Appeal of any decision).

### **4. MEDIATION**

4.1 In respect of any Complaint made, which the Chair of CDC deems to be appropriate for Mediation, the parties, in the first instance, agree to refer such Complaint to Mediation. No Disciplinary Action shall be mediated.

4.2 Where the Chair of the CDC deems it appropriate to refer the Complaint to Mediation, the Chair will contact the parties within seven days of receipt of such Complaint outlining the reference to Mediation and the contact details for the Mediator.

4.3 The time period within which to make and process a Complaint is stayed pending the outcome of the Mediation process.

4.4 IMMAA shall maintain a panel of Mediators.

4.5 The Mediator will make contact with the parties directly and will arrange meetings with each of the parties and will conduct the Mediation in any manner the Mediator deems appropriate.

4.6 The Mediator will use his/her best endeavours to convene the Mediation within seven days of receipt of the Complaint from the Chair of the CDC.

4.7 The Mediator shall notify the Chair of the CDC within 24 hours after the Mediation of the outcome i.e. whether the process resulted in settlement or not. The Mediator shall keep the terms of any such settlement strictly confidential save where required for proper administration and records.

4.8 In the event that the Mediation does not result in settlement of the Complaint, the Chair of the CDC shall refer the Complaint to the Complaints and Disciplinary Committee for formal resolution.

4.9 IMMAA may agree to discharge the specific expenses of the Mediator as advised to the parties.

## **5. COMPLAINTS AND DISCIPLINARY HEARING**

5.1 Where a Hearing shall take place, within 14 days of receipt of a Complaint or the commencement of Disciplinary Action, the Secretary of the Complaints and Disciplinary shall write to the relevant parties advising them of:

- (i) Composition of the Committee
- (ii) Declaration that the Committee Members have no interest in the outcome
- (iii) The parties to the Complaint/Disciplinary Action
- (iv) The offence alleged and relevant rule
- (v) The rights of the parties
- (vi) List of witnesses to be called
- (vii) Procedures involved
- (viii) Potential sanctions
- (ix) Confirmation of documents to hand
- (x) Invitation for any further evidence to be relied on/submissions in writing
- (xi) Time, date and venue for Hearing

The Committee shall have discretion to extend the deadline in exceptional circumstances

5.2 In circumstances where an expedited process is necessary, the Chair of the CDC may designate himself/herself or another Member from the Complaints and Disciplinary Panel to serve as the Committee in the event that it is not possible to constitute the entire Committee in an expedited manner. In such cases, the Chair or the person designated by the Chair shall have all the powers of a Committee as if a Committee had been duly convened.

5.3 The Committee, in its discretion, may invite other persons (including but not limited to witnesses, officials or experts) to provide evidence or assistance to the Committee in any form.

5.4 The Committee shall decide either to convene an Oral Hearing or to decide the matter on a "documents only" basis. In considering the above the Committee shall have regard to the gravity of the Complaint or Disciplinary Action amongst other matters.

5.5 The Committee shall conduct the Hearing of any matter in any manner which it deems appropriate

5.5.1 The Committee shall have the power to convene any meetings by way of teleconference



5.5.2 The Committee shall have the discretion to accept testimony by telephone, written statement or submission, whether by fax, email or other means

5.5.3 The Committee shall have the power to decide on the admissibility, relevance and weight of any evidence (including the testimony of any fact or expert witness) and shall not be bound by any laws or rules regarding the conduct of Court proceedings in relation to such matters. Facts may be established by any reliable means, including admissions.

5.6 The parties to a Hearing are entitled to:

(i) Be accompanied at the Oral Hearing if one is convened, by either another Member of IMMAA or a close family Member or someone in loco parentis such as an unrelated guardian or custodian. Legal representatives shall not be permitted;

(ii) Call witnesses. Such witnesses may only be present to give their evidence and which witnesses may be questioned by the Committee;

(iii) Make submissions in writing or otherwise.

5.7 Where a party exercises any or all of the rights as set out in 5.6 (i) or 5.6 (ii) above then the party shall notify the Chair of the CDC and the other party of the names of any persons accompanying and the names of any witnesses. The Committee shall have due regard to section 1.3 of these Procedures where the witness is under 18 years of age.

5.8 A Children's Officer shall be present at the Hearing where the Complainant or Respondent is under 18 years of age. The Children's Officer shall attend to ensure that the rights of the child are protected at the Hearing. The Children's Officer shall be entitled to make observation to the Committee but shall not be permitted to make any decision on culpability.

5.8.1 Where the witness is under 18 years of age, the Children's Officer shall also be permitted to be present and in this regard. Full permission of the Parent of the witness must be given in order for the witness to be present.

5.9 In the case of a Complaint, in the event of the non-attendance, without reasonable cause (considered by the Committee to be justifiable reason for non-attendance) of a Complainant at a Hearing, the Complaint against the Respondent shall be taken no further. In the event of non-attendance, without reasonable cause, of a Respondent at a Hearing, the Committee will be entitled to base its decision on the information and evidence it has received.

5.10 The Committee may adjourn or rearrange the Hearing at its discretion. An adjourned or rearranged Hearing shall take place as soon as is practicable, and the suspension of the Member, if already imposed, shall be automatically extended until the rearranged Hearing takes place.

5.11 In the case of a Disciplinary Action, the Chair of the CDC shall present the case against the Respondent, and the Chair of the CDC shall be entitled to introduce such evidence and witnesses as the Chair may at his/her discretion decide is appropriate. In the case of a Complaint, the Complainant shall present the case against a Respondent.

5.12 The Chair of CDC/Complainant (as the case may be) shall have the burden of proving the alleged Offence(s) or rule breach(es). The standard of proof shall be whether the Chair/Complainant has established the Offence(s) or rule breach(es) on the balance of probabilities. Where facts are established by virtue of a Disciplinary Report the burden of proof is then on the Respondent to establish the contrary on the balance of probabilities.

5.13 Facts established in a Court Hearing where that Court has imposed sanction on a Respondent shall be irrefutable evidence of those facts against a Respondent in a Complaint or Disciplinary Hearing.

5.14 A Disciplinary Report shall be, until the contrary is established to satisfaction of the Committee, sufficient evidence of:

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- (i) the qualifications and authority of any official/judge/citing commissioner/Responsible Person who has reporting authority; and
- (ii) the authority of the official/judge/Responsible Person who signed the Disciplinary Report;
- (iii) the facts stated in the Disciplinary Report.

5.15 On deciding culpability but prior to the imposition of a sanction, the Committee shall take into account any aggravating/mitigating factors.

5.16 After deciding on culpability of the Respondent, the Committee shall impose a sanction as set out in clause 3.3 and clause 3.4 of the Rules.

5.17 The decision of the Committee shall be made and notified in writing to the relevant parties within three days of the Hearing, unless the Committee deems an extension of time necessary. The CDO shall retain the decision on a register and shall notify the IMMAA Office accordingly.

5.18 The written decision shall be in a format as set out in the appendices. The decision shall include reference to the parties' right to appeal the decision to within 14 days of the date of the decision.

5.19 Pending the appeal, the original sanction imposed by the Committee shall remain in force.