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**Disciplinary Policy**

**Version 1**

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**Approved by Committee: 28 September 2022**

**Sponsor: Chairperson**

**1. Policy Statement**

1.1. The North Highland Harriers (NHH) Disciplinary Policy provides a process for conducting disciplinary action in order to address unacceptable conduct or behaviour. It consists of a procedure to investigate complaints promptly, fairly and consistently as well as the power to impose sanctions if necessary. This policy reflects guidance issued by Scottish Athletics (SA) and UK Athletics (UKA) regarding managing disciplinary matters and shall be reviewed every 3 years.

1.2. This policy applies to any person who is a member of NHH and includes athletes, volunteers, and coaches (whether club members or independent coaches working with club members).

**2. Disciplinary Matters**

2.1. Anyone coming under the scope of this policy shall be subject to disciplinary action in accordance with this policy if their conduct or behaviour constitutes a Disciplinary Matter, examples of which include but are not limited to:

a. Failing to comply with any NHH, SA or UKA policy, code of conduct or regulation.

b. Inappropriate, incorrect, improper, unlawful or unsporting behaviour.

c. Doing anything which has the potential to bring the club or sport into disrepute.

d. Failing to treat others with dignity and respect.

e. Any other action the Committee interpret as a Disciplinary Matter.

**3. Jurisdiction and Power**

3.1. The Committee retains jurisdiction to act in relation to any Disciplinary Matter, including the power to impose appropriate sanctions, except for:

3.1.1. Allegations relating to doping shall be dealt with by the UK National Anti-Doping Panel, in accordance with the provisions of the relevant UK Anti-Doping regulations.

3.1.2. Allegations or concerns that a person has engaged in conduct which directly or indirectly adversely affects the welfare or safety of an Under 18 or an Adult At Risk, and/or places them at risk, shall be dealt with exclusively by UKA in conjunction with SA and must be reported in line with the UKA safeguarding policies and procedures.

\*If you consider a child is at immediate risk of harm contact the police on either 999 or 101.

3.2. Disciplinary action under this policy shall be separate from and may be additional to:

3.2.1. Any sanction imposed by SA or UKA under a separate process.

3.2.2. 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 paused until the outcome of any criminal or external investigation is concluded, save to the extent that any person may be suspended and/or precluded from participating in club activities pending determination of any criminal or external investigation.

**4. Application for Investigation (Making a Complaint)**

4.1. A club member, or any other person (the Applicant), may make a written application for investigation (complaint) to the Chairperson that an alleged Disciplinary Matter involving someone who is subject to this policy (the Respondent) be investigated. The application shall include the name and contact details of the Applicant, the identity of the Respondent, the nature and date(s) of the alleged Disciplinary Matter and the names of any known witnesses. For the purpose of this procedure a written statement may be an email, electronic letter or hand written letter.

4.2. If the complaint relates to the conduct of the Chairperson the application should be submitted to the Secretary. In this circumstance the Secretary shall perform the role of the Chairperson for the purpose of this procedure.

4.3. If the Disciplinary Matter relates to conduct towards an Under 18 or an Adult At Risk, the club shall follow the UKA Safeguarding procedures and report it to the UKA Safeguarding team through the club’s Welfare Officer.

4.4. The Chairperson may seek an informal resolution in the first instance, depending on the circumstances and severity of the case. The Chairperson may appoint a suitable person to help mediate. If an informal resolution cannot be achieved or the severity of the complaint justifies formal investigation, then the Chairperson shall inform the Committee.

4.5. If the Applicant or the Respondent is a member of the Committee then they shall not perform the role of a Committee member for the purpose of this procedure and shall not be included in the discussion when the Chairperson informs the Committee regarding the complaint.

4.6. If the complaint relates to the conduct of the Welfare Officer then the SA welfare team shall be informed.

**5. Interim Suspension**

5.1. Prior to formal investigation the Committee may suspend a Respondent from club activities (Interim Suspension) but this shall only be imposed if the Committee is satisfied it is necessary in the best interests of the club, its members, and the sport. Such Interim Suspension may only remain in force until the disciplinary process has concluded.

5.2. The Committee may also impose an Interim Suspension if they are notified by the police or statutory authorities that a club member is under investigation in relation to an alleged offence that is relevant to club activities. Such Interim Suspension may only remain in force until the legal outcome becomes known and the club’s disciplinary process has concluded.

5.3. Interim Suspension shall be a neutral action and shall not imply any prejudgment of the circumstances under investigation.

5.4. SA must be informed of any Interim Suspension of a club member. To discuss a potential suspension prior to imposing, contact welfare@scottishathletics.org.uk. All communications with the SA welfare team shall be conducted through the club’s Welfare Officer.

**6. Investigation**

6.1. The Committee shall appoint an Investigator to formally investigate the complaint. The Investigator may be any club member who is independent of the alleged circumstances. The Chairperson shall not be the Investigator.

6.2. The Investigator shall inform the Applicant in writing that they are dealing with the matter and inform them that the details of the application will be disclosed to the Respondent.

6.3. The Investigator shall also inform the Respondent in writing that they are the subject of a complaint, provide an outline of the allegation, identify the Applicant (but only when their identity is not confidential for safeguarding reasons), and seek a brief factual response to the complaint.

6.4. The Investigator shall conduct an investigation that is prompt, thorough, proportionate and fair to all parties. Contact with the Applicant, the Respondent and any witnesses may be face to face or remotely via telephone, video conference, or email. The Applicant, the Respondent and any witnesses shall give the Investigator reasonable assistance, including promptly supplying statements, making themselves available for interview, answering any questions and supplying documents or other evidence. If the Respondent fails to co-operate, the Investigator shall be permitted to continue with the investigation. Failure to co-operate is itself a breach of policy.

6.5. The Investigator shall compile a written report which shall include the documentary evidence and a recommendation as to whether or not the Respondent has a case to answer. The report shall be submitted to the Secretary who shall forward it to the Committee in strictest confidence and shall not be circulated further. The Committee shall either confirm the Investigator’s recommendation or arrange for further investigation by the same or a different Investigator.

6.6. If the Committee confirms there is no case to answer, the Chairperson shall inform the Applicant and the Respondent accordingly in writing. There shall be no appeal against a decision that there is no case to answer, but the case may be re-examined if new evidence arises.

6.7. If the Committee confirms there is a case for the Respondent to answer, the Chairperson shall inform the Applicant and the Respondent accordingly in writing and establish a Disciplinary Panel.

**7. Disciplinary Panel**

7.1. The Committee shall appoint no fewer than three club members to constitute a Disciplinary Panel and designate one of those as the chair. The Committee shall only appoint members who are independent of the alleged circumstances and those involved. Any nominated panel member who has an interest in the case shall declare it as soon as possible and the Committee shall reappoint the position. The Chairperson and the Investigator shall not be members of the panel.

7.2. The panel chair shall give written notice to the Respondent that a Disciplinary Panel has been established and explain the panel’s intentions to adjudicate on the alleged Disciplinary Matter. A copy of the Investigator’s report shall be included. The notice shall request the Respondent to provide a written response within 14 days together with statements from any witnesses and any supporting evidence. The notice shall also inform the Respondent they are entitled to a Personal Hearing.

7.3. If the Respondent does not request a Personal Hearing within the prescribed time outlined in the notice, the Disciplinary Panel may decide to adjudicate the case by written correspondence only, taking into consideration the Investigator’s report, the written statements of the Applicant, Respondent and witnesses and any other evidence. Alternatively the Disciplinary Panel may request a Personal Hearing.

7.4. If a Personal Hearing is requested it shall be held as soon as practicable and the Disciplinary Panel shall give the Respondent at least 14 days’ notice of the date, time and venue. The chair of the Disciplinary Panel shall be entitled to determine the format of the Personal Hearing and shall be responsible for managing the proceedings. Failure of any person to attend the hearing, or to answer any question, or to produce any necessary evidence, shall not prevent the Disciplinary Panel from proceeding to a decision. The Respondent is entitled to be accompanied at a Personal Hearing by one other person of the Respondent’s choice who shall not be a witness.

7.5. The Disciplinary Panel shall consider its decision in private. If the allegation is contested the Disciplinary Panel shall judge whether or not it is proved on the balance of probabilities and shall inform the Respondent accordingly. If the allegation is admitted, or if the Disciplinary Panel finds the allegation is proved, the Disciplinary Panel shall permit the Respondent to present a plea in mitigation before the panel decides on any sanction to impose.

7.6. The Disciplinary Panel may impose any sanction (or a combination of sanctions) that they believe is just depending on the circumstances of the case and mitigation. Examples include:

a. Receive a written warning valid for a stated period.

b. Be required to attend a relevant training course.

c. Be suspended from some or all club activities for a stated period.

d. Be required to leave or be dismissed by the club.

e. Receive any other sanction as the Disciplinary Panel may decide.

7.7. Proceedings, findings or decisions of the Disciplinary Panel 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.

7.8. The chair of the Disciplinary Panel shall notify the Respondent and the Applicant in writing of the finding and any sanction(s) imposed within 7 days of the judgement and inform the Committee. SA shall be informed of any suspension of a club member.

7.9. The decision made on whether or not a case is found proved and the sanction imposed shall not be regarded as confidential except where the Respondent is Under 18 or an Adult At Risk.

7.10. The chair of the Disciplinary Panel shall collate a record of the proceedings. This shall include the minutes of each hearing, the reasoning for any findings made including the sanction (if any) and the factors that were taken into consideration when imposing such sanction. These records shall be confidential and kept securely in line with the NHH Data Protection Policy for two years after any investigation, proceedings, and sanction imposed are all completed.

**8. Appeals**

8.1. If the Disciplinary Panel finds an allegation proved, the Respondent may appeal against the finding or the sanction imposed or both. The appeal must be made within 14 days in writing to the Chairperson and contain the grounds for the appeal. The only grounds for an appeal are:

8.1.1. There was a material error, either factual or procedural in the original proceedings.

8.1.2. There is new material evidence that had it been known at the time of the original proceedings would have likely affected the decision of the panel.

8.2. The Chairperson shall decide whether to accept or refuse the appeal based on the above criteria. If accepted the Chairperson shall convene an Appeal Panel along with two other club members who have not been involved in the original proceedings or otherwise have an interest in the case. The Chairperson shall be the chair of the Appeal Panel.

8.3. An appeal is not a re-hearing of the original proceedings and whilst it will be necessary to review the evidence, it will not involve the calling of new witnesses unless new evidence arises.

8.4. The chair of the Appeal Panel shall determine the manner in which the appeal is dealt with, including inviting representations either in writing or in person from the Applicant and/or the Respondent. Once the chair is satisfied that the panel has sufficient information, they will consider their decision in private. The Appeal Panel shall have the power to: overturn or amend the original finding; substitute or amend the original sanctions; or to dismiss the appeal.

8.5. The chair of the Appeal Panel shall notify the Respondent and the Applicant in writing of the decision within 7 days of the judgement and inform the Committee. The decision of the Appeal Panel shall be final and binding.

**9. Under 18s and Adults At Risk**

9.1. An Under 18 is anyone who was under 18 on the date of the alleged Disciplinary Matter.

9.2. An Adult At Risk is anyone over 16 years who is unable to safeguard their own interests and are at risk of harm because they are affected by: disability, mental disorder, illness, or physical or mental infirmity, as defined under the Adult Support and Protection (Scotland) Act 2007.

9.3. If an Applicant or Respondent is Under 18 or an Adult At Risk:

9.3.1. The Disciplinary Panel shall consult the Welfare Officer to ensure their interests are protected and that UKA safeguarding protocols are correctly followed.

9.3.2. Any right or obligation under these procedures may be exercised on their behalf by their parent, carer or a nominated appropriate adult.

9.3.3. Any written communication with them under these procedures may be copied to their parent, carer or nominated appropriate adult.

9.4. If an Applicant, Respondent or witness is Under 18 or an Adult At Risk they may be accompanied by a parent, carer or nominated appropriate adult at any meeting or hearing.

9.5. When considering any sanction, the Disciplinary Panel shall take into account the fact that a Respondent is Under 18 or an Adult At Risk.