



## DISCIPLINARY POLICY (RULES & PROCEDURES)

### VERSION CONTROL

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1.0	01/11/2013		Issued
2.0	28.10.15	J. Hay	Update
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## **Introduction and General Principles**

The purpose of these Disciplinary Rules and Procedures (the “Rules”) is to ensure justice in disciplinary proceedings and to provide a framework within which decisions relating to Scottish Squash (SSL) (hereinafter defined) can be made in a fair, consistent, independent and expeditious manner and in accordance with the requirements of natural justice.

It is the policy of SSL to ensure that any disciplinary matters are dealt with fairly, that steps are taken to establish the facts and that, where necessary, there is an entitlement to a fair and reasonable hearing within a reasonable time.

### **1. Definitions and Interpretation**

In these Rules the following terms shall have the following meanings:

“Appeals Panel” means a panel consisting of the Chairman of SSL plus two members of the Management Board of SSL not previously involved with any part of the disciplinary proceedings;

“Articles” means the Articles of Association of SSL from time to time in force;

“Board” shall mean the Management Board of SSL and shall include all Directors and Non-Executive Directors;

“Chair” shall mean the chair of the Disciplinary Committee appointed in accordance with these Rules;

“Chairman” shall mean the Chairperson from time to time of the Management Board of SSL;

“Complainant” shall mean the person(s) alleging a breach of the rules of the sport;

“Compliance Sub-Group” (CSG) shall mean the sub-group of the Management Board that deals principally with matters of Governance and Discipline and ensuring, amongst other things, that all SSL policies are fully compliant with current legislation and guidance;

“Conflict of Interest” shall mean any circumstances where there is or may be a conflict of interest relating to the involvement of an appointed person in the investigation, the hearing or the appeal part of the process;

“DC” means the Disciplinary Committee appointed to deal with all non-staff/non-child protection disciplinary matters and shall comprise the Chair of the Compliance Sub-Group and at least two other members of that Group;

“Director” means any person appointed as a director or non-executive director of the SSL Management Board;

“European Governing Body” means Europeans Squash Federation (ESF) or any subsequent European governing body of the Sport (if any);

“Investigating Officer” means a person appointed by the Chairman to investigate and report on the circumstances of any alleged disciplinary matter;

“Member” means any member of SSL admitted to membership in accordance with the Articles or otherwise in accordance with the rules of the SSL;

“Notice” shall mean the written notice of a complaint or allegation submitted by the complainer alleging a breach of these rules and procedures;

“Person” means a Member or any member, director, official, employee, contractor, worker, agent, coach, volunteer or representative of a Member or/ individual member of a club or league affiliated to a Member and any other person involved in or connected to SSL or the Sport in Scotland;

“Respondent” means the person or persons against whom a disciplinary complaint is made or disciplinary proceedings are brought or intended to be brought under the terms of these Rules;

“Rules of the Sport” means these Rules and any other rules, bye-laws, codes of practice or regulations issued or adopted by SSL or any other rules binding on any Member or Person under the auspices of SSL or any rules, bye-laws or regulations issued or adopted by the World Governing Body;

“SSL” means Scottish Squash Limited, a company incorporated in Scotland (Company Number: SC198965) and having its registered office at Oriam, Heriot Watt University, Edinburgh, EH14 4AS to which these Rules apply;

“Sport” means the sports of Squash and Racketball of which SSL is the Scottish Governing Body;

“UK Governing Body” means the UK governing body of the Sport (if any);

“World Governing Body” means the World Squash Federation (WSF) or any subsequent world governing body of the Sport (if any).

## **2. Notice of a Disciplinary Matter**

- 2.1. Any person wishing to raise a matter under these Rules shall submit to the Chairman a written notice (referred to as the “Notice”);
- 2.2. That Notice shall, as far as possible, include the names, addresses and relevant contact details of all parties relating to the disciplinary matter and notification if any person involved is under the age of 18;

- 2.3. The Notice shall also include a statement describing the nature and circumstances of the dispute or disciplinary matter;
- 2.4. The Notice shall also include, where appropriate, copies of all documents upon which the person is relying or relevant to the disciplinary matter; and
- 2.5. Confirmation of the Rules of the Sport (if any) that have allegedly been breached or confirmation that the act or practice may bring the Sport or SSL into disrepute.

### **3. Administration of Complaints**

- 3.1. On receipt of any non-staff/non-child protection complaint, the Chairman shall forthwith write to the complainant, acknowledging receipt of the complaint and intimating that the complaint/allegation(s) will be looked into and, if appropriate, shall be investigated by an appointed member of the Management Board;
- 3.2. The date of receipt of the Notice by the Chairman shall be the date of commencement of the disciplinary procedure under these Rules (the "Commencement Date");
- 3.3. The Chairman shall then pass the Notice to the Chair of the Compliance Sub-Group for action. The CSG may, in its own right, deal with the matter in its entirety. In more serious or complicated cases, the CSG may decide that a full investigation is warranted and the Chair shall then appoint a member of the Management Board, who is not a member of the CSG nor has any conflict of interest;
- 3.4. The Chair of the CSG shall, as soon as is reasonably practicable, notify the Respondent in writing of receipt of the Notice and shall confirm all details included in the Notice together with, where appropriate, the name of the Board member appointed to investigate the matter.

### **4. Appointment of Investigating Officer**

- 4.1. The Chairman, in consultation with the Chair of the CSG, will determine the gravity of the complaint, and the need for either the CSG (acting as the DC) to consider the complaint on its own, or to request an investigating officer to report on the details of the complaint to the DC;
- 4.2. The Chairman, where necessary, will appoint an Investigating Officer to look into the circumstances of the complaint. The Investigating Officer shall be a member of the Board and will have declared that there is no conflict of interest before conducting the investigation;
- 4.3. The Investigating Officer shall interview the complainant and obtain sufficient information, including interviewing any relevant witnesses, so as to establish whether or not there are grounds to uphold the complaint;

- 4.4. The Investigating Officer shall also interview the Respondent and obtain a full statement from them as to their response to the allegations;
- 4.5. In cases of certain gravity, the Investigating Officer may deem it appropriate to provisionally suspend the Respondent, without prejudice, from SSL and/or any event/competition of SSL but shall only do so after consultation with the Chair of the DC; any such suspension will be enacted by the Chairman;
- 4.6. While suspended, the Respondent shall not participate in any activity related to the Sport (including competition, coaching and/or refereeing) and, if requested by the Investigating Officer, shall not attend at any property of the Member concerned, SSL or any other body associated with the Sport;
- 4.7. The Board, the Members and all Persons must co-operate fully and openly and shall provide all such information as is necessary and reasonably requested by the Investigating Officer in order to establish the facts of the case;
- 4.8. The Investigating Officer, on completion of the investigation, shall provide a brief report to the Chairman, indicating whether or not a breach of discipline may have occurred and whether or not it is appropriate to establish a Disciplinary Committee to hear the evidence presented in connection with the complaint;

## **5. Formation of the Disciplinary Committee**

- 5.1. Where sufficient grounds exist, the Chairman shall task the Chair of the Disciplinary Committee with establishing the Disciplinary Committee and conducting the hearing as soon as reasonably practicable and in any case within 28 days of receipt of the Investigating Officer's report;
- 5.2. The Chair of the DC shall then inform the Respondent in writing of the allegations against them, the basis for these allegations and the initial findings from the investigation within 14 days of the completion of the investigation;
- 5.3. The Chair shall appoint two members of the Compliance Sub-Group to the DC, having established that there is no conflict of interest;
- 5.4. The Chair of the DC is responsible for the control and regularity of the procedures;
- 5.5. The respondent may challenge the appointment of any member of the DC (including the Chair) where there are or may be doubts as to the member's impartiality or independence or where the respondent raises any other valid and material objection(s);
- 5.6. If the respondent intends to challenge any appointment, they shall, within 7 days of the Commencement Date or notification of the members of the DC to them, or any appointment or change in a member of the DC, provide in writing to the Chairman

of the Board the reasons why they are challenging the position of the member of the DC;

5.7. The Chairman shall determine the outcome of the challenge in accordance with the requirements of natural justice and, if the challenge is upheld shall appoint another member in place of the relevant member of the DC. Any decision of the Chairman under this Clause 5.7 shall be final and binding on the parties.

## **6. Jurisdiction of the Disciplinary Committee**

6.1. The Disciplinary Committee (OR CSG), has jurisdiction:

6.1.1. As an appeal body in the event of a suspension or expulsion of a Member or Person from SSL or from any competition or event by the Members or in relation to any other dispute arising between a Member or Person and the SSL; and/or

6.1.2. In the event of any breach of the Rules of the Sport by any Member or Person; and/or

6.1.3. In the event of any Member or Person carrying out any act or practice that in the opinion of the DC is or was detrimental to the interests of the Sport or which may bring the Sport or SSL into disrepute;

6.1.4. In any disciplinary matter which relates to the affairs of SSL or of the Sport on the request of the Members or on request of a third party (including any Member or Person).

6.2. For the avoidance of doubt the DC shall not act in relation to any policy matters that have been determined by the Members in relation to the Company that are not disciplinary matters, in relation to any employment or anti-doping matters (unless it is otherwise determined by the DC) or in any Child Protection issue;

6.3. The DC is competent in disciplinary matters and these Rules shall apply to all Members and Persons. The DC shall have power and competence to resolve all conflicts and disputes between Members, Members and Persons and all conflicts, disputes or matters arising between Members or Persons and SSL in all cases insofar as relevant to the Sport and provided that the matter is a disciplinary matter which falls under the jurisdiction of the DC under the terms of these Rules. For the avoidance of doubt these Rules shall apply to, and the DC shall have jurisdiction in relation to, all Persons notwithstanding that a Person is not a member of SSL;

6.4. The DC shall not deal with disciplinary matters where the, UK Governing Body, European Governing Body or World Governing Body has jurisdiction in accordance with its rules (unless it is otherwise determined by the DC).

## **7. Proceedings of the Disciplinary Committee**

- 7.1. The DC shall conduct the proceedings of any disciplinary matter in such manner as it considers fit. The DC shall act in accordance with these Rules, any other applicable rules or regulations and the Rules of the Sport. Any decision of the DC in relation to the conduct of proceedings shall be consistent with its duties at all times to act fairly and impartially, to allow the parties reasonable opportunity to put their respective cases and to deal with that of their opponent and to avoid unnecessary delay or expense, so as to provide a fair and efficient means for resolving the dispute;
- 7.2. In general, the proceedings of the DC will be presented in writing and information exchanged between the parties may be through all media including fax and email. However, the Chair of the DC may decide to call those concerned in any case in person before the DC and the Respondent has the right to request a hearing. If this is the case the persons concerned will be given as much notice as reasonably practicable and, in any event, not less than 28 days notice and shall be given written notice of the date, time and place of the meeting of the DC and shall be afforded a reasonable opportunity to be heard at the hearing. All parties shall submit all relevant information, correspondence and documents upon which they wish to rely to the DC not less than 14 days prior to the hearing and the DC shall disclose all such information, documentation and correspondence to the other party prior to the hearing (and no later than 7 days prior to the hearing);
- 7.3. The DC shall be entitled to call upon, receive and consider such evidence as it thinks appropriate. The DC may require the attendance at a hearing of any person. In any case where a person required by the DC to attend a hearing refuses or fails to attend, the DC may adjourn the hearing, proceed with the hearing in the absence of that person, allow or refuse to allow the evidence of that person or allow their evidence to be given in any other form. For the avoidance of doubt nothing in these Disciplinary Rules shall prevent the DC from determining the matter in question without the person concerned being present;
- 7.4. At their own request and at their own expense, those concerned will have the right to be heard by the DC alone or through a lawyer or a third party provided that they shall notify the DC at least 14 days (or any shorter period agreed to by the DC) in advance of any hearing of the identity of any such lawyer or third party;
- 7.5. When the DC decides to have hearings, these will not be public and only members of the DC and the parties concerned (together with their duly appointed representatives) shall be entitled to attend. The deliberations of the DC shall be held in private;
- 7.6. Where disciplinary proceedings are taken against more than one Respondent as a result of an incident or incidents occurring at or in connection with the same competition or circumstances, any such proceedings may be heard together, where the Chair of the DC so determines, provided that there is no manifest prejudice to anyone against whom such proceedings are taken;

7.7. All minutes of any meeting of the DC will be approved and signed by the Chair of the DC;

7.8. The decision and/or sanction of the DC shall be in writing and shall be dated and signed by the Chair of the DC and shall state the reasons on which it is based. Notification of the decision and/ or sanction of the DC will be sent to those concerned in such manner that receipt can be proven (provided that it shall be considered sufficient that notification is sent to the persons concerned at their last known address) as soon as reasonably practicable following the determination of a matter and in any event not later than 7 days following the determination of a matter.

## **8. Witnesses or Experts**

8.1. If any party wishes to call a witness or expert before the DC they must notify the other parties as soon as practicable and no later than 14 days (or any shorter period agreed to by the DC) in advance of the identity of any witnesses or experts they wish to call and, if the DC requires it, each party shall disclose the subject matter and content of the evidence on which each such witness or expert will be relying and how their evidence relates to the points at issue. The DC shall have the power to decide (acting reasonably and in the interests of natural justice) whether such witness or experts shall be required to attend or be called to give evidence at any hearing;

8.2. The DC may question a witness or expert at any stage and shall control the questioning of a witness or expert by the other parties;

8.3. The fees and expenses of any witness or expert shall be met in accordance with the provisions of Clause 15 below.

## **9. Voting of the Disciplinary Committee**

9.1. Decisions of the DC on any case shall be determined by a majority vote;

9.2. The DC shall have due regard to natural justice, and the interests of the sport, at all times and the standard of proof in all questions for determination by the DC shall be proof on the balance of probabilities.

## **10. Sanctions of the Disciplinary Committee**

10.1. The disciplinary penalties open to the DC to impose on all Members and Persons include but are not limited to:

10.1.1. Warning: a warning may be given by the DC for a minor act of misconduct. A warning may set out the nature of the misconduct, the change of behaviour required and (if possible) the likely outcome of further misconduct;



10.1.2. Reprimand: a reprimand may be given in a case which is more serious than a minor act of misconduct or where previous warnings have been issued to the Respondent. The reprimand may set out the nature of the misconduct, the change of behaviour required and (if possible) the likely outcome of further misconduct;

10.1.3. Sport Penalties: any such penalties shall be at the entire discretion of the DC to determine as appropriate in the circumstances and may include a temporary ban for the Respondent from participation in competition or any course or activity associated with the Sport;

10.1.4. Financial Penalties: any such penalties shall be at the entire discretion of the DC to determine appropriate in the circumstances and may include a fine on any Person or Member;

10.1.5. Suspension: the Respondent may be suspended from membership of SSL and or from membership of any Member and/or from participation in the Sport in a case of serious misconduct or suspected serious misconduct or where in the opinion of the DC (in their entire discretion) the suspension of the Respondent is required in order to secure the safety of any persons involved in the Sport or the integrity or good reputation of the Sport;

10.1.6. Expulsion: the Respondent may be expelled from membership of SSL and/or from participation in the Sport where the Respondent has been determined by the DC (in their sole discretion) to be guilty of serious misconduct or where in the opinion of the DC in their entire discretion, the expulsion of the Respondent is required in order to secure the safety of any persons involved in the Sport or the integrity or good reputation of the Sport.

10.2. The DC can impose any such measures as it deems necessary on the Respondent to ensure that the matter concerned is not repeated, the safety of those involved in the Sport is protected and that the integrity and good reputation of the Sport is maintained. The DC may impose more than one sanction in relation to a disciplinary matter at its entire discretion;

10.3. The DC and SSL shall retain a record of all sanctions and decisions made by the DC;

10.4. When determining any sanctions the DC shall, without limitation, have regard to:

10.4.1. The seriousness, size and nature of the disciplinary matter;

10.4.2. The extent to which the disciplinary matter was deliberate or reckless;

10.4.3. The general compliance history of the Respondent, and any specific history of the disciplinary matter in question; and

10.4.4. The responsiveness and conduct of the Respondent in relation to the disciplinary matter in question.

## **11. Appeals Procedure**

- 11.1. Any party to a disciplinary matter may appeal a decision or sanction of the DC for the determination of the Appeals Panel within 14 days of the date the decision of the DC is notified to them;
- 11.2. Any such appeal must be made in writing within the timescale set out in Clause 11.1 to the Chief Executive Officer (CEO) advising of their wish to appeal, and the grounds for that appeal, which appeal shall be accompanied by a deposit of £25 which shall be returnable if the appeal is successful. The CEO will be responsible for convening the Appeals Panel at a time and place that is satisfactory to the Appeals Panel;
- 11.3. In the event of an appeal being made to the Appeals Panel under this Clause 11 the decision of the Appeals Panel shall be final and binding on all parties (including any party claiming through or under them) and the parties agree by submitting a matter to the Appeals Panel, to waive irrevocably their right to any other appeal, review, or recourse to any court or other judicial authority, subject to any applicable statutory or other rights;
- 11.4. In the event of an appeal by the Respondent, any sanctions of the DC imposed on the Respondent shall continue to apply until the determination of the appeal, unless it is otherwise determined by the Members of the SSL;
- 11.5. The Appeals Panel shall, subject to Clause 11.1, determine the timescales and procedures for appeals as it (in its sole discretion) considers appropriate. A majority decision of those present and voting on the Appeals Panel shall uphold or dismiss the appeal. In the event of the Appeals Panel being unable to arrive at a majority decision the Appeal will be upheld.

## **12. Conduct and Conflicts of Interest**

The members of the DC cannot take part in any instance or case where they have a conflict of interest or where members of their own association or club, their family or persons having a legal or business link with them are involved. It is the responsibility of each member of the DC to withdraw from a case when a conflict of interest is apparent. In this instance the Chair will appoint another member to the DC. Should the Chair have a conflict of interest and be obliged to withdraw, the Chairman of the Board will appoint another member of the DC as Chair for the purposes of the case in question. Every member of the DC shall be independent, impartial, and shall not act as an advocate for any party.

## **13. Timescale**

The members of the DC will make every reasonable effort to resolve all matters in their hands within a reasonable time and in any case within a period of 3 months from the Commencement Date.

#### **14. Amendments to these Rules**

Amendments to these Rules must be approved by SSL in accordance with their Articles and any other relevant rules of the SSL.

#### **15. Costs**

15.1. The DC may impose in its rulings a finding as to the payment of the DC's reasonably and properly incurred costs. When acting to resolve conflicts between Members or Persons it may rule that one or both parties should bear the costs and in what proportion;

15.2. The parties shall each be responsible for their own legal and other costs unless the parties otherwise agree or unless the DC otherwise directs or unless any applicable Rules of the Sport otherwise provide. The DC shall also have the power unless the parties otherwise agree or any applicable regulations otherwise provide to order that all or part of the legal costs and any other costs incurred by a party be paid by another party;

15.3. Any costs incurred in connection with a referral or appeal made to the Appeals Panel shall be as determined by the Appeals Panel.

#### **16. Confidentiality**

16.1. Subject to the provisions of these Rules, the proceedings of the DC shall be confidential and remain confidential to the DC. The parties and the DC undertake to keep confidential all documents and other materials produced for the purpose of the disciplinary matter by any party and/or participant in the disciplinary matter except to the extent that disclosure may be required by a legal duty, to pursue or protect a legal right, to enforce or challenge an award in bona fide legal proceedings or that such documents may already be in the public domain (otherwise than in breach of this undertaking);

16.2. Notwithstanding Rule 16.1, the DC and/or SSL may publish the DC's award or decision and its reasons unless the parties agree prior to the DC making its award or decision that they should remain confidential. In the case of any disciplinary matter conducted under these Rules the DC and/or SSL may publish generic, non-identifying information in relation to the findings of the DC.

#### **17. Applicable Law**

17.1. These Rules shall be governed by and construed in accordance with the law of Scotland;

17.2. Any application under these Rules to the Appeals Panel shall be governed by the law of Scotland;

17.3. Any appeal carried out by the Appeals Panel shall be carried out in Scotland under the law of Scotland at a location to be agreed between the parties and in the absence of agreement determined by the Appeals Panel.