



HR06-P01 DISCIPLINARY POLICY (RULES & PROCEDURES)

VERSION CONTROL

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1.0	01/11/2013		Issued
2.0	28/10/2015	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.

This policy will be used to guide any complaints made about a breach of a SSL Code of Conduct.

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, if SSL deems appropriate, there will be a fair hearing within a reasonable time.

1. Definitions and Interpretation

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

“Appeals Panel” means an independent panel consisting of panel members not previously involved with any part of the disciplinary proceedings. The Appeals Panel will ordinarily comprise three independent panel members but the quorum shall be two independent panel members;

“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;

“Codes of Conduct” are those which apply to coaches, members, players, volunteers and any other involved parties as amended from time to time by SSL. Such codes of conduct are available on the SSL website.

“Complainant” shall mean the person(s) alleging a breach of the rules and/or applicable code of conduct of the sport;

“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 disciplinary matters. No member of the DC with an interest in the case to be heard shall be appointed or otherwise sit. The DC will ordinarily comprise three independent panel members but the quorum shall be two independent panel members ;

“Decisions” shall be by majority unless there is a tie in which case the Chair shall have the casting vote;

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

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

“Investigating Officer” means a person appointed by the Chair of the Risk & Compliance Sub Committee 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. For the purpose of this policy, SSL will continue to have jurisdiction over any member after membership with SSL ends, in the event that an alleged breach or any matter arising further to this policy is alleged to have occurred during any period of membership and remains to be dealt with; or in the event that any proceedings are not completed at that time;

“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;

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

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;

“Risk & Compliance Sub Committee” 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;

“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;

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

“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 a written notice to SSL at info@scottishsquash.org – marked ‘FAO The Chair of the Risk & Compliance Sub-Committee’ (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. The Notice shall identify which Rules of the Sport and/or SSL Code of Conduct have allegedly been breached or allegation 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 complaint, SSL 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 Risk & Compliance Sub Committee;
- 3.2. The date of receipt of the Notice by SSL shall be the date of commencement of the disciplinary procedure under these Rules (the “Commencement Date”);
- 3.3. The Chair of the Risk & Compliance Sub Committee shall decide whether the matter can be brought to a conclusion or if further investigation is required. If the matter is to be brought to a conclusion, the Chair of the Risk & Compliance Sub Committee will advise the complainant accordingly.

4. Appointment of Investigating Officer

- 4.1. If further investigation is required, the Chair of the Risk & Compliance Sub Committee will appoint an Investigating Officer to look into the circumstances of the complaint;
- 4.2. The Chair of the Risk & Compliance Sub Committee shall, as soon as is reasonably practicable, notify the Complainant in writing of the decision to investigate;
- 4.3. The Chair of the Risk & Compliance Sub Committee shall notify the Respondent in writing of the receipt of the complaint and the decision to investigate. The Chair of the Risk & Compliance Sub Committee will confirm the details of the Investigating Officer;
- 4.4. In cases of certain gravity, the Investigating Officer may recommend to provisionally suspend the Respondent, without prejudice, from SSL and/or any event/competition of SSL but any decision to suspend shall be taken by the Chair of the Risk & Compliance Sub Committee;
- 4.5. While suspended, the Respondent shall not participate in any activity related to the Sport (including competition, coaching and/or refereeing);
- 4.6. 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;
- 4.7. The Investigating Officer shall interview all interested parties and, on completion of the investigation, provide a full report to the Chair of the Risk & Compliance Sub Committee, indicating whether or not it is appropriate to establish a Disciplinary Committee (DC) (hereinafter defined) to hear the evidence presented in connection with the complaint;
- 4.8. The decision as to whether a complaint should be put before a DC will be made by the Chair of the Risk & Compliance Sub Committee, following receipt of the full report from the Investigating Officer. The decision to proceed to a DC is final and binding and is not a decision that may be appealed or otherwise challenged. The Chair of the Risk & Compliance Sub Committee shall communicate the decision to all parties. SSL shall not be obliged to provide to a Member reasons for bringing or refusing to bring a complaint.

5. Proceedings of the Disciplinary Committee

- 5.1. The Chair of the Risk & Compliance Sub Committee shall appoint a DC in accordance with the definition outlined in section 1 of this policy, including the appointment of a Chair for the DC. The Chair of the DC shall notify the parties of the date, time and place of the hearing;

- 5.2. A complaint may be brought notwithstanding that the party against whom the complaint is brought may be separately under investigation by any regulatory authority or in respect of any alleged criminal conduct arising from the same or connected circumstances. Proceedings further to this policy shall not be automatically stayed if there are criminal proceedings connected to or arising out of the same circumstances as the complaint;
- 5.3. Unless otherwise directed by the SSL DC, the party against whom the complaint is brought shall set out, in writing, no later than seven days prior to the commencement of the hearing (i) whether or not they accept the complaint in whole or in part (including but not limited to whether the complaint should be upheld); (ii) whether they have any preliminary matters to raise and (iii) who shall attend the hearing and in what capacity. At the same time, copies of any documentary or other evidence to be produced and relied on at the hearing must be lodged by the party with the DC and provided to the other side. The DC, and any future Appeals Panel, shall at all times conduct all proceedings in an inquisitorial manner;
- 5.4. The DC shall have the power to regulate its own procedure and to determine any matter arising under or in connection with this policy (except in relation to appeals when the Appeals Panel shall be entitled to exercise such powers) and in so doing may waive any requirement of and/or extend any period of time provided for in this policy. All decisions and procedural direction taken shall have due regard to the requirements of natural justice. Subject to the foregoing it shall ordinarily be for the Investigating Officer to place before the DC the complaint and all supporting material. The function of the Investigating Officer shall be to assist in the proceedings by taking such steps as are reasonably necessary in assisting the DC's inquisition of the complaint;
- 5.5. The Investigating Officer is not acting as a "prosecutor" or "against" the party in respect of whom proceedings have been put before the DC. Without limitation to the ways in which the Investigating Officer may assist the DC, they shall be able to answer questions, furnish information, guide generally and highlight matters of policy and/or principle relevant to the matters under consideration;
- 5.6. For the purposes of this policy, the Investigating Officer shall be regarded as a party to proceedings, allowing, for example, an appeal to be pursued in the name of the Investigating Officer for SSL. Without limiting the circumstances in which an appeal may be taken, this will allow an appeal to be advanced if, for example, an error has been made by the DC concerning an important principle to SSL, or a sanction issued on disposal is unduly lenient;
- 5.7. It shall be the duty of any party wishing to call a witness to ensure their attendance. Subject at all times to the direction and control of the Chair of the DC, the parties can take evidence from witnesses, and cross examine witnesses (through the Chair) at any hearing. Witnesses must be pre-notified. The DC can require an explanation in writing of the anticipated relevance of the witness evidence. The DC can decline

to allow a witness to attend and give evidence if the DC considers the witness to be irrelevant to the issue(s) to be considered;

5.8. The DC shall not be bound by any rule of evidence and shall be entitled to receive and consider such evidence as it considers appropriate, including expert evidence, attaching such weight to evidence put before it as it sees fit. The DC shall have the power to summon witnesses to any hearing or call for any documents or other evidence to be produced at or in advance of any hearing and all persons and parties who are subject to this policy shall comply and cooperate with the same. At any hearing, the DC shall be entitled to ask such questions of any witness as it considers fit and undertake such investigations as it considers appropriate. The DC shall also be entitled to require questions or witnesses to be put through the Chair, rather than directly, whether those questions are in “chief” or “cross” examination of the witness;

5.9. Ordinarily a decision shall be taken as to whether or not the complaint is upheld or not, and separately a decision shall be taken as to sanction, albeit both decisions can be taken at the same hearing;

5.10. The DC shall have the power to postpone or adjourn a hearing on the application of any party to the proceedings or on its own motion.

6. Representation before the Disciplinary Committee or Appeals Panel

6.1. Any individual, club or other party in respect of whom a complaint is made may be legally represented at any hearing. In addition, any individual who is a member of a club in membership of SSL and who wishes to be accompanied by a club official may request the same. Where a club is the subject of proceedings, the club should be represented by no more than two officials at the club;

6.2. Any individual who is the subject of a complaint or who is a witness and is under the age of 18 years shall be entitled to be accompanied by one of his or her parents or legal guardian.

7. Deliberations

7.1. The deliberations of the DC and the Appeals Panel shall be in private.

8. Notification of decisions

8.1. The decision shall be notified in writing to all interested parties as soon as reasonably practicable after conclusion of the hearing and where practicable no later than 10 working days from the date of the hearing. When it considers it appropriate, the DC may deliver an oral decision at the conclusion of a hearing. In the event that an Appeal is lodged, the DC shall be entitled to supplement its reasons either at its own discretion or at the direction of the Appeals Panel.

9. Sanctions of the Disciplinary Committee

- 9.1. The disciplinary penalties open to the DC to impose on all Members and Persons include but are not limited to:
 - 9.1.1. 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;
 - 9.1.2. 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;
 - 9.1.3. 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;
 - 9.1.4. 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;
 - 9.1.5. Suspension: the Respondent may be suspended from membership of SSL, for a specified period of time, 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;
 - 9.1.6. 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.
- 9.2. 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;
- 9.3. The DC and SSL shall retain a record of all sanctions and decisions made by the DC;
- 9.4. When determining any sanctions the DC shall, without limitation, have regard to:

- 9.4.1. The seriousness, size and nature of the disciplinary matter;
- 9.4.2. The extent to which the disciplinary matter was deliberate or reckless;
- 9.4.3. The general compliance history of the Respondent, and any specific history of the disciplinary matter in question; and
- 9.4.4. The responsiveness and conduct of the Respondent in relation to the disciplinary matter in question.

10. Appeals Procedure

- 10.1. The party who has been the subject of a decision of the DC shall have the right of appeal against such decision to the Appeals Panel, but only if a notice of appeal is lodged in writing with the SSL CEO (or SSL President if the Appellant is the CEO) within 14 calendar days of the issue of the written decision of the DC. Such notice shall state the ground(s) of appeal and contain the full reasons and basis on which the ground(s) of appeal are being pursued.
- 10.2. The grounds on which an appeal can be pursued are:
 - 10.2.1. the decision was wholly unreasonable (the DC upheld the complaint when no DC acting reasonably would have);
 - 10.2.2. the sanction as wholly unreasonable (the sanction imposed is one which no DC acting reasonably would have imposed);
 - 10.2.3. there has been a major procedural error which has led to an unsafe decision;
or
 - 10.2.4. the interests of justice require an appeal be heard.
- 10.3. The CEO shall on receipt provide the Appeal to the Chair of the Risk & Compliance Sub-Committee. On receipt, the Chair of the Risk & Compliance Sub-Committee shall appoint, in accordance with the definition in this policy, an Appeals Panel to consider the complaint, however, the Chair of the Risk & Compliance Sub-Committee shall be entitled to refuse to put forward an appeal and shall be entitled to dismiss the appeal without further procedure if in the view of the Chair of the Risk & Compliance Sub-Committee the appeal, as set out, has no reasonable prospects of success.
- 10.4. The Appeals Panel shall be entitled to regulate its own procedure in accordance with the principles outlined above for first instance proceedings. The appeal may be determined by way of written representations and without the need for a personal hearing at the discretion of the Appeals Panel.

- 10.5. Appeals shall proceed by way of review. At all times the Appeals Panel shall have regard to and respect the wide margin of discretion that the DC has in making determinations at first instance. A re-hearing (*de novo*) of the case considered at first instance shall not be permitted unless (a) an application is made in writing by the party pursuing the appeal; (b) the Appeals Panel is satisfied that there was an error in the decision of the DC and that error requires the case to be re-heard *de novo*; and (c) the circumstances are exceptional and there are compelling reasons to hear the case *de novo*.
- 10.6. Admission of any new evidence not considered at first instance shall only be permitted at the discretion of the Appeals Panel and ordinarily upon cause shown by the person lodging the appeal including a full written explanation as to why the evidence was not produced earlier and placed before the DC at first instance. At the appeal hearing the Appellant shall not without the express consent of the Appeals Panel advance any ground of appeal not specified in the original notice of appeal.
- 10.7. Where an appeal hearing is to take place in person the Appellant and any other party to the appeal proceedings shall have the right to be present and be accompanied by their legal representative, if any, at the hearing of the appeal. SSL may attend through the CEO, Chair of the Risk & Compliance Sub-Committee or a nominee of either and with the aid of legal representation should they so choose.
- 10.8. In disposing of the appeal, the Appeals Panel may decide to:
- 10.8.1. affirm the decision of the DC;
 - 10.8.2. uphold the appeal by setting aside the decision appealed against and quashing any penalty imposed by the DC;
 - 10.8.3. uphold the appeal in part by setting aside part only of the decision appealed against and/or modify, reduce or increase any penalty imposed;
 - 10.8.4. substitute for the decision appealed against a decision to find the relevant party guilty of a lesser or more serious offence and/or to impose a lesser penalty or penalties;
 - 10.8.5. uphold the appeal and remit the issue to the DC for reconsideration and re-determination by them;
 - 10.8.6. defer consideration of the appeal pending receipt of information, evidence or clarification from the DC or from a person not present at the appeal hearing;
 - 10.8.7. stay a suspension imposed by the DC pending the determination of an appeal; and/or

10.8.8. take any steps which in the exercise of its discretion the Appeals Panel consider it appropriate to take in order to deal justly with the appeal.

10.9. The decision of the Appeals Panel shall be advised to the Appellant as soon as practicable after the conclusion of the hearing. When it considers it appropriate the Appeals Panel may deliver an oral decision at the conclusion of a hearing.

10.10. Where an appeal is taken the determination arrived at and/or the sanction imposed by the DC shall not be automatically stayed pending resolution of the appeal. A party against whom a decision has been made and by whom an appeal has been taken shall be entitled to ask that the imposition of the determination and/or sanction be stayed pending resolution of the appeal and the Appeals Panel shall consider the same as a preliminary matter. The Appeals Panel will, when deciding whether to stay any determination or sanction, have regard to all such matters as it considers appropriate in determining the application including but not limited to the interests of the sport, any prejudice that may arise and the impact that any such stay may have on any other party.

11. Conduct and Conflicts of Interest

The members of the Appeals Panel cannot take part in any instance or case where they have a conflict of interest or where members of their own club, their family or persons having a legal or business link with them are involved. It is the responsibility of each member of the Appeals Panel to withdraw from a case when a conflict of interest is apparent. In this instance the Chair of the Appeals Panel will appoint another member to the Appeals Panel.

12. Timescale

The members of the Appeals Panel will make every reasonable effort to resolve all matters in their hands within a reasonable time.

13. Standards and Burden of Proof

The standard of proof on all matters shall be proof on the balance of probabilities. For the avoidance of doubt, no burden rests with the Chair of the SSL Risk & Compliance Sub-Committee. Rather the applicable committee/panel shall satisfy itself by applying the foregoing standard.

14. Multiple Incidents

Where conduct proceedings, however arising, are taken against more than one person or club as the result of a related incident or incidents such proceedings may be heard together, where the Chair of the Risk & Compliance Sub-Committee or DC so determines, provided there is no manifest prejudice to any person against whom such conduct proceedings are taken.

15. Confidentiality

- 15.1. Subject to the provisions of these Rules, the proceedings of the DC or Appeals Panel shall be confidential and remain confidential to the DC or Appeals Panel. The parties and the DC or Appeals Panel 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);
- 15.2. Notwithstanding Rule 16.1, the DC or Appeals Panel and/or SSL may publish the DC or Appeals Panel award or decision and its reasons unless the parties agree prior to the DC or Appeals Panel making its award or decision that they should remain confidential. In the case of any disciplinary matter conducted under these Rules the DC or Appeals Panel and/or SSL may publish generic, non-identifying information in relation to the findings of the DC or Appeals Panel.

16. Additional Provisions Procedures

- 16.1. Procedures or proceedings under this policy or any decision of a DC or Appeals Panel shall not be quashed or held invalid by reason only of any defect, irregularity, omission or technicality unless such results in a material doubt as to the reliability of the findings or decision of the DC or Appeals Panel, or results in a miscarriage of justice.
- 16.2. In respect of any matter not provided for in this policy, a decision of the DC or, as the case may be, the Appeals Panel shall be taken according to the general principles of fairness and justice.
- 16.3. The SSL Risk & Compliance Sub-Committee Chair may appear at any hearing in person or through a nominee and they may be legally represented.
- 16.4. As a general rule all parties shall bear their own costs and expenses. In respect of an appeal, an appellant shall lodge £250 with the notice of appeal (unless waived by the Chair of the Risk & Compliance Sub-Committee) as a contribution towards administrative costs of the appeal. No action shall be taken to register or progress an appeal until SSL has received the appeal fee (unless waived by the Chair of the Risk & Compliance Sub-Committee) in cleared funds. Failure to ensure that SSL is in receipt of the appeal fee (unless waived by the Chair of the Risk & Compliance Sub-Committee) by no later than 7 days from the date of lodging of the appeal shall lead to the appeal being dismissed.
- 16.5. The Chair of the Risk & Compliance Sub-Committee shall be entitled to co-opt (i) any person from any panel maintained by Sport Resolutions; or (ii) any other person with suitable experience; to the SSL Risk & Compliance Sub-Committee on a

term or temporary basis for the purposes of appointment to any DC or Appeals Panel.

16.6. Where any member of a DC or Appeals Panel is unable to sit or to continue sitting in any matter the remaining members shall be entitled to continue to sit as a committee/panel and determine all matters before them, or the Chair of the Risk & Compliance Sub-Committee shall be entitled to appoint a further person to the applicable committee/panel.

16.7. In the event of non-attendance by any party to proceedings the committee/panel may continue and hear any matter and reach a conclusion in the absence of that party, including but not limited to reaching a determination, imposing a sanction or disposing of an appeal in that party's absence.

16.8. The decisions of DC's that are not competently appealed and the decisions of any Appeals Panel shall be final and binding on all parties.

17. 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.

18. Applicable Law

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

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

18.3. 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.

Appendix – Notice of a Disciplinary Matter Flowchart

NOTICE OF A DISCIPLINARY MATTER FLOWCHART

