

# Complaints & Disciplinary Rules and Procedures



*Sport Starts Here.*

## CONTENTS

Introduction .....	Page 3
Definitions .....	Page 5
<b>1 .</b>	
<b>PART ONE - THE RULES</b>	
1.0 Jurisdiction.....	Page 7
1.4 Exclusions .....	Page 8
2.0 Offences.....	Page 8
3.0 Sanctions.....	Page 9
3.1 Warnings .....	Page 9
3.2 Immediate Sanctions .....	Page 10
3.3 Interlocutory Sanctions .....	Page 10
3.4 Non Immediate Sanctions .....	Page 10
4.0 Mitigating & Aggravating Factors .....	Page 11
<b>2 .</b>	
<b>PART TWO - THE PROCEDURES</b>	
Introduction .....	Page 12
1.0 General .....	Page 13
2.0 Complaints & Disciplinary Bodies.....	Page 16
2.2 Complaints & Disciplinary Officer .....	Page 16
2.3 Responsible Person .....	Page 17
2.4 Hearings Committee .....	Page 18
3.0 Commencement .....	Page 18
3.1 Disciplinary matter.....	Page 18
3.2 Complaint.....	Page 19
4.0 Complaints Procedure.....	Page 20
4.3 Mediation.....	Page 20
5.0 Hearings Procedure .....	Page 21
6.0 Complaints vis a vis Club Committees .....	Page 23
7.0 Appeals/Arbitration.....	Page 24
8.0 Appendix.....	Page 25

## INTRODUCTION

Following a review of Gymnastics Ireland Complaints and Disciplinary Rules & Procedures, this document replaces the previous version relating to complaints and disciplinary matters.

This document has been divided into (i) Rules and (ii) Procedures to be used during the Complaints and Disciplinary process.

The Rules document clarifies for members who are the subject of a complaint or disciplinary action, what act or omission can give cause to a Complaint or disciplinary action, and what sanction can be imposed on a Participant or Unit.

The Procedures document is an explanatory document to clarify the stages of the complaints and disciplinary process from start to finish. This is a guideline for the Hearings Committee as well as Complainants and Respondents as to how the process for a complaint or disciplinary matter commences and finishes.

It is the right of a member of Gymnastics Ireland 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 Gymnastics Ireland clubs and Gymnastics Ireland itself to take disciplinary action against a member and other units for any act or omission for breaches of these Rules or any other rules, codes or regulations of Gymnastics Ireland or of the Federation Internationale De Gymnastique (FIG).

Amendments may be made from time to time to these Rules and Procedures so long as these amendments do not conflict with the Gymnastics Ireland Constitution.

Any penalty imposed on an individual or unit shall be operative throughout Gymnastics Ireland until the penalty period has ceased.

These Disciplinary Rules allow for the inclusion of the Federation Internationale De Gymnastique rules "2009 FIG Rules."

Each Club shall endeavour to appoint a Complaints & Disciplinary Officer ("CDO") and a Hearings Committee in place who shall be appointed at a Club AGM or EGM. Failure to so appoint by Clubs will result in any complaint or disciplinary arising at Club level being administered at national level. The Hearings Committee shall hear all Complaints and disciplinary matters referred to it.

Complaints and disciplinary matters which occur at club level should be dealt with by the Complaints & Disciplinary bodies at club level. Complaints and disciplinary matters which occur at regional or national level shall be dealt with by the Gymnastics Ireland Complaints and Disciplinary committee.

A distinguishing feature of the revised rules is the provision that any complaint entering the process can now be referred directly to mandatory mediation.

Another distinguishing feature of the process is that an appeal from a decision of a club or Gymnastics Ireland Hearings Committee will be made to Sport Dispute Solutions Ireland (SDSI). There is no internal right of appeal. Instead there is a limited external right of appeal to SDSI.

Sport Dispute Solutions Ireland (SDSI) is an independent arbitral body which was set up by the Federation of Irish Sport in 2005. National Governing Bodies which have signed up to SDSI arbitration bind their members so that any challenge to decisions of the internal bodies of those National Governing Bodies shall be referred to SDSI arbitration and therefore challenges cannot be taken to the Courts.

Gymnastics Ireland has signed up to SDSI arbitration.

Sport Dispute Solutions Ireland (SDSI) arbitration is a sport specific independent arbitral tribunal which has jurisdiction to hear the appeals of decision making bodies within a National Governing Body.

Gymnastics Ireland members can be assured of a fresh hearing before the SDSI Appeals Committee. This ensures that members will be availing of a quick, cost effective and very thorough appeal hearing before a distinctly independent appeals committee.

Responding effectively and in a timely manner to complaints is a key element of quality service. Co-operation with the investigation of the complaint is essential and the use of a standardised approach is of benefit to complainants and to all involved.

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 Code of Ethics and Good Practice for Youth Sport in Gymnastics Ireland document as amended from time to time.

All persons who administer Complaints and disciplinary matters at any level in Gymnastics Ireland shall not be liable to the Parties for any act or omission in connection with their function, role or service provided by such persons in relation to the administration of complaints and disciplinary matters.

If there is an omission in these rules, then the Complaints & Disciplinary Bodies shall decide in accordance with the Gymnastics Ireland custom or, in the absence of custom, in accordance with the spirit of the rules.

Gymnastics Ireland may review and amend these Rules and Procedures from time to time, particularly where legislative updates or legal developments require it. Gymnastics Ireland will also review, and may amend, the monetary value of the complaint fees and/or the penalties payable by Members, Clubs under these Procedures on an annual basis.

## DEFINITIONS

**Affiliate Member:** means an Affiliate Member as defined in the Gymnastics Ireland Constitution.

**Board:** means the members of the Board for the time being of Gymnastics Ireland.

**Code of Ethics:** means the Gymnastics Ireland Code of Ethics and Good Practice for Youth Sport in Gymnastics Ireland based on the Sport Ireland Safeguarding Code for Children & Young People in Sport and as amended from time to time

**Complaint:** means an expression of discontent in writing, accompanied by all relevant documentation in support of the complaint and the appropriate fee.

**Complainant:** means the person making the complaint.

**Complaints and Disciplinary Officer (“CDO”):** means the individual member appointed to process and investigate Complaints and process disciplinary matters.

**Complaints and Disciplinary Bodies:** means the Complaints & Disciplinary Officer and Hearings Committee

**Disciplinary Report:** means a report from an official/judge/Responsible Person or any clarification or addition thereto

**Hearings Panel:** means the persons appointed pursuant to Rule 2.4.1 from which the Complaints and Disciplinary Committee shall be constituted. The hearings panel shall consist of a minimum of 6 persons and a maximum of 15 persons.

**Hearings Committee:** means the persons appointed to hear a Complaint / Disciplinary matter.

**Club:** means any Club as defined in the Gymnastics Ireland Constitution.

**Event:** means any Club, or Gymnastics Ireland national or international event which means any training session, competition or Gymnastics Ireland educational course.

**First Instance Matter:** means a matter that is within the first instance jurisdiction of Gymnastics Ireland because it falls within one of the following categories:

- a. a serious claim or allegation which, if substantiated, has the possibility of bringing Gymnastics Ireland into disrepute;
- b. a majority of a Club involved in the decision to bring a Complaint against a Member to the extent that the Club could not form a Complaints and Disciplinary Committee that would be free from conflicts of interest; or
- c. a complaint is brought by a Member against a Club Committee as a whole such that the Club could not form a Complaints & Disciplinary Committee that would be free from conflicts of interest.
- d. a complaint relating to a National event or occurring at a National High-Performance Centre

**Gymnastics Ireland:** means **Gymnastics Ireland Limited**.

**Mandated Person** – As per Children First National Guidance are people who have contact with children and/or families and who, because of their qualifications, training and/or employment role, are in a key position to help protect children from harm. Mandated persons have two main legal obligations under the Children First Act 2015. These are:

1. To report the harm of children above a defined threshold to Tusla;
2. To assist Tusla, if requested, in assessing a concern which has been the subject of a mandated report

**Member:** means Member of Gymnastics Ireland as defined in the Gymnastics Ireland Constitution.

**Officer:** means the officers of the Board as set out in the Constitution and includes a person who holds an executive position on a Club or Gymnastics Ireland, normally the Chairperson, Treasurer and Secretary.

**Official:** means any person who officiates at or assists in the running of a competition.

**Parent:** means the legally appointed person responsible for a child - parent or guardian

**Participant:** means any member or person who participates in activities organised or sanctioned by Gymnastics Ireland in any capacity, including but not limited to a gymnast, official coach, manager, doctor, or spectator.

**Procedures:** means these Gymnastics Ireland Complaints and Disciplinary Procedures.

**Respondent:** means the person responding to or the subject of a complaint or disciplinary action

**Responsible Person:** means the Member in ultimate authority over a Member, team or delegation at an Event. At a training session, the coach is the Responsible Person. At a national competition, Marketing and Events Manager (or appointed person in their absence) is the Responsible Person. At an international competition the head of the team delegation shall be the Responsible Person.

**Spectator:** means any person who neither participates in nor officiates at an event but who attends in a capacity to support a participant or participants.

**Unit:** means any team, association, club or committee or sub-committee or other grouping within Gymnastics Ireland.

# **PART 1**

## **Complaints and Disciplinary Rules (‘the Rules’)**

### **1. JURISDICTION**

#### **1.1 General**

In addition to the offences under these Rules, any complaint or disciplinary matter arising out of, under or in connection with any breach of or any act or omission prohibited in the following documents shall be dealt with under the Rules and Procedures: -

- (i) Gymnastics Ireland Code of Ethics and Good Practice for Youth Sport
- (ii) Gymnastics Ireland Rules and Regulations
- (iii) Gymnastics Ireland Constitution
- (iv) FIG Rules and Regulations, FIG Code of Points (all disciplines), FIG Code of Ethics, FIG Code of Discipline, FIG Statutes (hereinafter collectively referred to as “FIG Rules”).

Nothing in these Rules and Procedures shall affect the power of a Judge to apply the FIG Rules in the administration of any competition. In the event that a Judge seeks to invoke a disciplinary sanction on foot of misconduct by a Participant then the sanction shall be imposed in accordance with these Rules and Procedures.

The Complaints and Disciplinary Bodies shall determine if an offence has been committed and the sanctions to be imposed, if any, at club or national level.

The Rules together with the Procedures regulate the organisation and function of the Complaints and Disciplinary Bodies responsible for taking decisions and the procedures to be followed by these bodies.

In the absence of a specific provision in these Rules or in other disciplinary provisions of the FIG Regulations, the Complaints and Disciplinary Bodies shall rule according to the general principles appearing in these Rules or, failing that, according to the general principles of Irish law.

The FIG Code of Points relates to competition regulation and is not the authoritative document in respect of complaints or disciplinary matters.

- 1.2 The following natural and legal persons agree to and are subject to these rules:
- (a) Member
  - (b) Participant in an Event
  - (c) Affiliate Member
  - (d) Any Unit
- 1.3 The Rules apply in respect of:
- (a) Complaints against any natural or legal persons as set out in paragraph 1.2
  - (b) Disciplinary matters against any natural or legal persons as set out in paragraph 1.2
- 1.4 Exclusions:
- (a) Employment and quasi employment contractual disputes.
  - (b) Complaints or disciplinary matters relating to persons sitting on the Board or other committees of the Board. Such Complaints shall be referred to an ad hoc Hearings Committee composed of non-Members who shall be appointed by the CDO. The hearing of any such Complaints or disciplinary matters shall otherwise be conducted in accordance with these Rules and Procedures.
  - (c) Allegations of child abuse. Such Complaints shall be referred to the statutory authorities by the GI Mandated Person, Designated Liaison Persons or Children's Officers without prejudice to exercising the powers as specified in Clause 3.3.
  - (d) Criminal matters. Such Complaints shall be referred to the statutory authorities.
  - (e) Anti-doping matters. Such Complaints shall be dealt with in accordance with the Irish Anti-Doping Rules.
  - (f) Competition administration.

## **2. OFFENCES**

- (a) Breach of any the rules, statutes, codes, regulations and Codes of Ethics more specifically provided in rule 1.1.
- (b) Aggressive or threatening behaviour
- (c) Offensive behaviour to other gymnasts, judges or Gymnastics Ireland officials
- (d) Unsportsmanlike behaviour
- (e) Violation of instructions and directives from Gymnastics Ireland officials
- (f) Damaging the dignity of a person or a group of persons, in any way whatsoever, in particular due to his colour, race, handicap, sex, sexual orientation, religion or ethnic origin;

- (g) Violation of contractual obligations towards Gymnastics Ireland.
  - (h) Cheating
  - (i) Fighting
  - (j) Inciting hatred or violence
  - (k) Bullying
  - (l) Ineligibility - including but not limited to age and club affiliation.
  - (m) Intimidation or threats
  - (n) Coercion
  - (o) Discrimination
  - (p) Foul language
  - (q) Disparaging comments
  - (r) Forgery or falsification
  - (s) Corruption
  - (t) Acts or omissions bringing the sport of gymnastics into disrepute
  - (u) Alcohol or substance abuse by minor Members at an Event
  - (v) Criminal investigation for indictable offences
  - (w) Criminal conviction likely to bring Gymnastics Ireland into disrepute.
  - (x) Mischievous or vexatious Complaints
  - (y) Participation at an Event without the permission of Gymnastics Ireland.
  - (z) Purporting to represent Gymnastics Ireland without the permission of Gymnastics Ireland
- (aa) Taking part in a competition or display organised by a club or committee not affiliated to Gymnastics Ireland with the exception of those sanctioned events listed in the Rules and Regulation.
- (aa) Other

### **3. SANCTIONS**

#### 3.1 Warnings

Prior to imposing an Immediate Sanction, where appropriate a Responsible Person may issue the following warnings to a Participant at an Event: -

- (a) First verbal warning
- (b) Second verbal warning
- (c) Written Warning

3.2 Immediate Sanctions

The following Immediate Sanctions may be imposed by on a Participant at an Event: -

- (a) Suspension from the Event
- (b) Expulsion\* from the Event

\* Expulsion from an Event at any level shall automatically prevent the Respondent from participating in the next two Events at that level in which the Respondent is due to participate

3.3 Interlocutory Sanctions

3.3.1 On confirmation that a Respondent is under criminal investigation for an indictable criminal offence, which if proven, is likely to bring the Club, or Gymnastics Ireland into disrepute, then the Hearings Committee shall be empowered to suspend a Respondent from membership and/or from future participation in a Club, or national Event and/or from attending a Club or national building pending the outcome of a criminal investigation but without necessarily convening an oral hearing on the matter.

3.3.2 A Hearings Committee shall be empowered to impose a suspension on a Respondent pending the determination of a Complaint where in the opinion of the Hearings Committee the gravity of the Complaint received shall warrant immediate suspension.

3.4 Non Immediate Sanctions

3.4.1 The Hearings Committee has sole jurisdiction to impose a Non Immediate Sanction save where a fast track committee is convened under Clause 5.2 of the Procedures.

3.4.2 Non Immediate Sanctions may only be imposed by a Hearings Committee following a decision on foot of an oral hearing.

3.4.3 The following Non Immediate Sanctions may be directed or imposed by a Hearings Committee:

- (a) Apology
- (b) Reprimand
- (c) Written warning
- (d) Fine
- (e) Suspension from participation in an Event or in a team for a specified duration or number of Events
- (f) Suspension from Membership/ Affiliation
- (g) Expulsion from Membership/ Affiliation
- (h) Suspension of use of brevets or diplomas awarded
- (i) Suspension from coaching
- (j) Suspension/expulsion from office of a person on the Gymnastics Ireland Board
- (k) Cancellation of results of a competition
- (l) Obligation to restore the financial benefits and prizes received.
- (m) Restriction from attending Events.
- (n) Completion of an education or training course

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

- 4.1 A Hearings 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 Hearings Committee shall take into account the following factors: -
- (a) Age
  - (b) Cooperation
  - (c) Prior warnings
  - (d) Repeat offences
  - (e) Apology made
  - (f) Remorse
  - (g) Gravity of offence
  - (h) Effect on victim
  - (i) Effect of sanction on Respondent
  - (j) Any other factor deemed relevant

## **PART 2**

# **Complaints and Disciplinary Procedures**

### **INTRODUCTION**

The procedures are to be used in respect of (i) complaints and (ii) disciplinary matters.

The Procedures set out below are intended to provide a step by step guideline as to how a Complaint or disciplinary matter should be commenced, investigated, decided on and appealed.

Before the Formal Complaints procedures are instigated, Members must consider the complaint and if action required the following steps must be taken in the order of a) Informal dispute resolution through the CDO and b) Mediation by a SDSI appointed mediator

Any complaint that comes before the CDO, may be referred to mediation at the discretion of the CDO. If the mediation process does not lead to a satisfactory conclusion then the Formal Complaints procedure may be adopted upon application by either party.

While Gymnastics Ireland is supportive of informal resolution of complaints at Club level, Gymnastics Ireland does not take any responsibility for the outcome of such informal procedures.

Complaints relating to incidents at a certain level e.g. club level should be dealt with by that club. Complaints and disciplinary matters occurring at national level shall be dealt with by the Gymnastics Ireland CDO at first instance.

The primary function of the CDO is to process and investigate Complaints and process disciplinary matters.

The primary function of the Hearings Committee is to hear evidence in respect of a Complaint or disciplinary matter, to decide on culpability and to impose a sanction.

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 robustly and such breaches as such do not constitute cause for dismissal on appeal of a decision.

If either party is dissatisfied with the final outcome, then they may appeal the matter to Sport Dispute Solutions Ireland.

## 1. GENERAL

### 1.1 DEVIATION

Any deviation from these Rules or the procedures referred to in these Rules shall not invalidate any finding, procedure, decision or result under these Rules unless the person relying on such deviation establishes that it casts material doubt on the validity of such finding, procedure, decision or result and the other parties to the proceedings cannot rebut that doubt or otherwise establish the validity of such finding, procedure, decision or result.

### 1.2 DAYS

Unless otherwise specified, time periods in these Rules are total consecutive days irrespective of weekends or holidays. When a deadline falls on a weekend or a statutory holiday, the next working day shall be the deadline for the purpose of these Rules.

### 1.3 TECHNICAL DEFECTS

All acts done in good faith by any Person in the implementation of these Rules, notwithstanding that it is afterwards discovered that there was some defect in the appointment or authority of such Person so acting, shall be as valid as if every such Person had been duly appointed or authorised.

### 1.4 LIABILITY

None of Gymnastics Ireland Ltd, members, officers, employees, agents, representatives and other Persons involved in the administration of these Rules shall be liable to any Person in any way, in relation to acts done or omitted to be done in good faith in connection with these Rules.

### 1.5 SEVERABILITY

If any clause or provision of these Rules is held invalid, unenforceable or illegal for any reason, these Rules shall remain otherwise in full force apart from such clause or provision which shall be deemed deleted insofar as it is invalid, unenforceable or illegal.

### 1.6 DISCRETION

Where a matter arises that is not otherwise provided for in these Rules, the Person or body called upon to resolve the matter shall have discretion to do so in such manner as he or she or it sees fit, provided that such resolution does not materially undermine the reliability of proceedings under these Rules or otherwise cause material injustice to the Participant to whom these Rules are being applied.

### 1.7 CONFIDENTIALITY

The Complaints and Disciplinary Bodies 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, or National level but only where strictly required. The Documents produced during any proceedings shall remain private unless required by

1.8 MINORS

Any Member under the age of 18 shall be accompanied by their guardian or parent at a hearing.

Any Member under the age of 18 who is a Complainant or a Respondent is obliged to attend any hearing and where appropriate, by video link.

In all cases, but particularly where the subject of the Complaint is under 18, steps should be taken to ensure the fair treatment of both parties, and advice should be sought if necessary from the Club and National Children's Officer /CEO.

The Hearings Committee shall ensure a Children's Officer is present at a hearing where the matter concerns an under 18 year old Member. The Children's Officer shall be invited to make submissions on behalf of the child at the hearing.

The Hearings Committee shall never exceed three persons when an under 18-year-old is providing evidence.

1.9 COSTS/EXPENSES

Any costs or expenses incurred by a Member (or any of their witnesses but not including the CDO and/or the Hearings Committee) in relation to any matter under the Procedures will be the sole responsibility of that Member. The Hearings Committee shall have no authority to make any award for costs.

There is a cost for each Club and Gymnastics Ireland in administering the Complaints and Disciplinary process. Accordingly Members when making a Complaint only will be obliged to pay an administration fee. Where a Complaint is upheld, the administration fee will be reimbursed to the Complainant.

1.10 CRIMINAL CHARGES

The Hearings Committee shall have the right to suspend a Member where that Member is subject to a criminal charge where that charge has the potential to bring Gymnastics Ireland into disrepute. Once the matter has been dealt with by the statutory authorities, the Hearings Committee reserves the right to take further action as appropriate.

In the event of criminal charges being initiated in relation to the alleged misconduct of a Member the subject of the Complaint received, then the Member may be suspended pending the outcome of the said charges, which will be referred to the statutory authorities. Once the appropriate statutory authorities have dealt with the matter, even if the Member concerned is not eventually convicted of the charge, the Hearings Committee shall nevertheless have the right and power to review all circumstances in accordance with this procedure and decide to continue the suspension or expel the Member, if it deems it so necessary in the interests of Gymnastics Ireland as a whole.

1.11 POOR PRACTICE

Allegations of a breach of Gymnastics Ireland Code of Ethics and Good Practice for Youth Sport 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 Procedures.

1.12 SUSPENSION PENDING HEARING

A Hearings Committee shall be empowered to impose a suspension on a Respondent pending the determination on culpability where the gravity of the Complaint/ disciplinary matter shall warrant immediate suspension.

1.13 NOTIFICATION TO GYMNASTICS IRELAND

Gymnastics Ireland shall be notified if a Member is suspended, is stepped down from a position or expelled from a Club. Notification should be received in writing from the person or committee imposing the sanction stating the sanction imposed, the outcome and their authority in the process.

1.14 SERVICE

All communications shall either be hand-delivered or sent by post, e-mail or facsimile transmission to the CDO c/o Gymnastics Ireland Ltd, Irish Sport HQ, National Sports Campus, Blanchardstown, Dublin 15 or c/o the relevant Club address and to the Complainant/Respondent.

Any such communications shall be deemed to be delivered:

- a) If hand-delivered, at the time of delivery;
- b) If posted at the expiration of 48 hours after the envelope containing same shall have been put in the post; and
- c) If sent by e-mail or facsimile transmission at the expiration of 12 hours after receipt of same has been acknowledged to the sender thereof.

1.15 MEDIATION

Gymnastics Ireland recognises the benefits of Mediation as a method of dispute resolution and has provided for it in Part 4 below, Informal Complaints Procedure.

## **2. COMPLAINTS AND DISCIPLINARY BODIES (Club and National)**

2.1 THE FOLLOWING BODIES SHALL BE EMPOWERED TO IMPOSE SANCTIONS: -

- (a) Responsible Person
- (b) Hearings Committee

2.2 COMPLAINTS & DISCIPLINARY OFFICER

The Board of Gymnastics Ireland shall appoint a Complaints & Disciplinary Officer (“CDO”). The Gymnastics Ireland Policy & Welfare Manager will act as the Gymnastics Ireland CDO.

The equivalent Committee at Club level shall appoint the Club CDO.

2.2.1 The CDO shall have the following functions:

- (i) To receive a written Complaint and Disciplinary Report.
- (ii) To investigate a Complaint. .
- (iii) To investigate an incident which comes to the attention of the CDO 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 CDO but which is not contained in a Complaint or Disciplinary Report.
- (v) To refer the Complaint/Disciplinary Report to the Hearings Committee where in the opinion of the CDO a prima facie case to answer has been established.
- (vi) To dismiss a Complaint where after an investigation, in the opinion of the CDO a prima facie case to answer has not been established.
- (vii) To refer the parties to a Complaint, to mediation after the informal complaints procedure has concluded, where deemed appropriate.
- (viii) To correspond with and notify the parties of all necessary information prior to a hearing before the Hearings Committee.
- (ix) To prepare papers for the Hearings Committee.
- (x) To present the case in respect of a disciplinary matter before the Hearings Committee.
- (xi) To maintain a record of decisions of the Hearings Committee.

2.2.2 Where the CDO has any actual, perceived or potential conflict of interest, he shall stand aside from investigating the Complaint/disciplinary matter and the CEO of

Gymnastics Ireland/ Club Board of Management shall appoint another CDO in respect of that particular matter. In the event that the CDO does not stand aside, the Gymnastics Ireland CEO shall be entitled to remove the CDO from the investigation and appoint another CDO.

- 2.2.3 The CDO is not obliged to investigate any Complaint/Disciplinary Report.
- 2.2.4 In the course of an investigation of any Complaint/Disciplinary Report the CDO may consider any evidence he or 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 CDO is entitled to consult with the judge/official/Responsible Person to clarify any issues arising in relation to a Disciplinary Report, including his or her handwriting.
- 2.2.5 The CDO is not required to notify a Participant of the investigation while it is ongoing.
- 2.2.6 Prior to referring the matter to the Hearings Committee the CDO 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
  - (iii) The parties to the Complaint
  - (iv) The procedures involved
  - (vi) The possible sanctions
  - (vii) The rights of the parties at the hearing
  - (v) Any other procedural requirements
  - (vi) That the Chairman of the Hearings Committee will notify of the time date and venue of the hearing

## 2.3 RESPONSIBLE PERSON

- 2.3.1 Immediate Sanctions may only be imposed by a Responsible Person at an Event.
- 2.3.2 The imposition of an Immediate sanction need not be imposed in the order set out at Rules 3.1 and 3.2 of the Disciplinary Rules.
- 2.3.3 A Responsible Person shall specify the date and nature of the misconduct and the rule allegedly breached in writing prior to imposing an Immediate Sanction.
- 2.3.4 A Responsible Person shall, where a Respondent is under 18, 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 other Immediate Sanctions have been imposed prior to the expulsion sanction away from home.
- 2.3.5 A Responsible Person shall prepare a Disciplinary Report for the Hearings Committee within three days of the incident or as soon as possible thereafter only if (i) an Immediate Sanction has been imposed and (ii) where the Responsible Person deems it necessary that further sanction are necessary (without commenting on what that further sanction should be).

2.3.6 The Disciplinary Report prepared by a Responsible Person shall contain (a) party affected (b) details of the nature of the misconduct (c) the rule breached (d) Immediate Sanction imposed and (e) time, date and venue of the Event.

2.3.7 A Respondent may challenge the imposition of an Immediate Sanction which involves expulsion from an Event to the Hearings Committee, such a challenge to be heard as expeditiously as possible.

#### 2.4 HEARINGS COMMITTEE

2.4.1 The Hearings Panel shall be appointed by the Board of Gymnastics Ireland and the Club equivalent at AGM or EGM.

2.4.2 The Hearings Committee shall be jointly selected by Gymnastics Ireland CEO and Gymnastics Ireland Chairperson at national level or by the Club chairperson at club level.

2.4.3 A quorum of 3 persons shall be sufficient to convene a hearing of the Hearings Committee.

2.4.4 The Hearings Committee shall be empowered to delegate any particular function to one member of the Hearings Committee.

2.4.5 A Children's Officer may not sit on a Hearings Committee.

2.4.6 On appointment, the Hearings Committee shall appoint a chairperson

2.4.7 No person appointed to the Hearings Panel shall stand for more than five years.

2.4.8 Any person selected to sit on the Hearings Committee who has any actual, perceived or potential conflict of interest in the outcome of the hearing shall stand aside from hearing the Complaint/disciplinary matter. An alternative person shall be appointed from the Hearings Panel by Gymnastics Ireland CEO or Club chairman.

2.4.9 The Hearings Committee shall act on a simple majority vote (+ 51%) in arriving at a decision. No minority or dissenting decisions shall be produced. In the event of a majority decision, this shall be the decision of the Hearing Committee.

2.4.10 The Hearings Committee shall have jurisdiction to impose any sanction as set out in sections 3.3 and 3.4 of the Disciplinary Rules.

### 3. COMMENCEMENT

#### 3.1 Disciplinary Matter

The Complaints and Disciplinary process is initiated in respect of a disciplinary matter in any of the following circumstances: -

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

3.1.2 By a CDO on receipt of a (i) Complaint in writing or (ii) report from an official/Judge/Responsible Person.

3.1.3 By a CDO on becoming aware of any alleged breach of rules, regulations or codes or any act of misconduct.

#### 3.2 Complaint

The Complaints and Disciplinary process is initiated in respect of a Complaint in the following circumstances: -

3.2.1 When the CDO receives a valid Complaint in writing.

3.2.1.1 A valid Complaint shall state (i) the nature of the Complaint and (ii) the date of the incident (iii) the rule allegedly breached.

3.2.1.2 A valid Complaint shall be made within 14 days of the occurrence of the subject matter of the Complaint, save where exceptional circumstances are proven to the satisfaction of the CDO.

3.2.1.3 A valid Complaint shall be accompanied with payment of a fee to be borne by the Complainant of €100 for a Complaint made at Club level and €500 for a Complaint made to any other level. The fee for any Complaint upheld will be refunded to the Complainant.

3.2.1.4 A valid Complaint elevated by a Club to national level for mediation shall be accompanied with payment of a fee of €250 which shall be borne by the Club.

3.2.1.5 A valid complaint that is requested by any party to go to a formal hearing (following Informal dispute resolution through the CDO and Mediation by a SDSI appointed mediator) shall be accompanied with a payment of €500 which shall be borne by that party

## 4. COMPLAINTS PROCEDURE

4.1 On receipt of a Complaint (but not a disciplinary matter) by the CDO, the following steps shall be taken in the following order:

- (i) Informal dispute resolution through the CDO.
- (ii) Mediation by a SDSI appointed mediator
- (iii) Formal Hearing on payment of €500
- (iv) Arbitration.

4.2 Where appropriate, the CDO shall approach both parties to attempt to resolve the dispute on an informal basis within a 14-day period. An extension to this 14-day limit may be considered by the CDO in exceptional circumstances.

4.3 In the absence of reaching a resolution, the CDO may require the parties to engage in outlined as follows:

- (i) It shall be mandatory for both parties to the Complaint to participate in mediation.
- (ii) The mediation shall be conducted under the then current mediation procedures of Sport Dispute Solutions Ireland (SDSI) mediation and shall precede any such Complaint being heard before a Hearings Committee of Gymnastics Ireland or in SDSI arbitration.
- (iii) The CDO shall appoint a SDSI mediator to attempt to resolve the Complaint between the parties.
- (iv) The costs and expenses of the mediation shall be underwritten by Gymnastics Ireland. Such costs and expenses do not include either party's professional advisors, who are specifically excluded from participating in the mediation session or the fee required if a club is elevating the complaint to national level for mediation.
- (v) The initial mediation session shall be held within fourteen (14) days after the appointment of the mediator. The CDO shall have the discretion to extend this deadline where deemed appropriate.
- (vi) The parties acknowledge and agree that mediation proceedings are settlement negotiations, and that, to the extent allowed by applicable law, all offers, promises, conduct and statements, whether oral or written, made in the course of the mediation by any of the parties shall be confidential and inadmissible in any subsequent Gymnastics Ireland hearing or in SDSI arbitration.
- (vii) Any party seeking to refer the matter to the formal Hearings Procedure following mediation, shall notify the CDO within 14 days of the Mediation session. The notifying party is liable to pay the referral fee of €500.
- (viii) On receipt of such notification, the CDO shall initiate the Hearings Procedure by referring the matter and the Complaint Report to the Chairperson of the Hearings Committee.

## 5. HEARINGS PROCEDURE

- 5.1 Within 14 days of receipt of the Complaint/ Disciplinary Report, the Chairperson of the Hearings Committee shall write to the relevant parties advising them of
- (i) The relevant rule and offence alleged
  - (ii) Composition of the committee
  - (iii) Declaration that the committee members have no interest in the outcome
  - (iv) Confirmation of documents to hand
  - (v) Invitation for any further clarification / submissions in writing
  - (vi) Invitation of any further evidence to be relied on
  - (vii) Rights of the parties
  - (viii) Time, date and venue for hearing

The Hearings Committee shall have discretion to extend the deadline where they deem it appropriate.

- 5.2 In circumstances where an expedited process is necessary the Chairperson of the Disciplinary Panel, may designate himself or herself or another member of the Disciplinary Panel to serve as the Hearing Committee in the event that it is not possible to constitute a Hearing Committee in an expedited manner. In such cases, the Chairperson shall have all the powers of a Hearing Committee as if a Hearing Committee had been duly convened.
- 5.3 The Hearings 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 parties are entitled at a hearing to: -
- (i) Be accompanied at the hearing, by either a Member of Gymnastics Ireland or if the Member is a minor, by a parent or guardian.
  - (ii) Call witnesses. Such witnesses may only be present to give their evidence and which witnesses may be questioned by the Hearings Committee.
  - (iii) Make submissions in writing or otherwise.

Where a party exercises any or all of the rights as set out in (i), (ii) or (iii) above then the party shall notify the CDO, chairperson of the Hearings Committee and the other party of the names of any persons accompanying and the names of any witnesses.

- 5.5 The Hearings Committee shall conduct the hearing in any matter that it deems necessary.
- 5.5.1 The Hearings Committee shall have the discretion to accept testimony by telephone, written statement or submission, whether by fax, email or other means.
- 5.5.2 The Hearings 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 In the event of the non-attendance, without reasonable cause (considered by the Committee to be justifiable reason for non-attendance), of a CDO or Complainant at a hearing, the Complaint/disciplinary action against the Respondent shall be dismissed
- 5.7 In the event of non-attendance, without reasonable cause, of a Respondent at a hearing, the Hearings Committee will be entitled to proceed to hear the matter and decide the matter based on the information and evidence before it. The Hearings Committee may draw an adverse inference against a Respondent who fails to appear at the hearing after being given reasonable notice of the hearing, or the Participant's refusal to answer questions put to him or her by the Complainant/CDO or by the Hearings Committee.
- 5.8 The Hearings 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.
- 5.10 In the case of a disciplinary action the CDO shall present the case against the Respondent. In the case of a Complaint the Complainant shall present the case against a Respondent.
- 5.11 The CDO/Complainant shall have the burden of proving the alleged rule breach(es). The standard of proof shall be whether the CDO/Complainant has established the 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.
- 5.12 Facts established by a decision of a Court which is not the subject of a pending appeal shall be irrefutable evidence of those facts against a Respondent.
- 5.13 A Disciplinary Report shall be, until the contrary is established to satisfaction of the Hearing Committee, sufficient evidence of:
- (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.
- 5.14 On deciding culpability but prior to the imposition of a sanction, the Hearings Committee shall take into account any aggravating/mitigating factors into account.
- 5.15 After deciding on culpability of the Respondent the Hearings Committee shall impose a sanction as set out in clause 3.3. and 3.4 of the Complaints & Disciplinary Rules.
- 5.16 The decision of the Hearings Committee shall be made and notified in writing to the relevant parties within 3 days of the hearing, unless the Hearings Committee deem an extension of time necessary. The CDO shall retain the decision on a register.
- 5.17 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 SDSI within 14 days of the date of the decision.
- 5.18 Pending the appeal the original sanction imposed by the Hearings Committee shall stand.

**6. COMPLAINT TAKEN BY OR AGAINST A CLUB COMMITTEE (OR BY MEMBER OF THE COMMITTEE AGAINST A MEMBER OF THE CLUB).**

- 6.1 A Club Committee Member or the Club Committee as a whole may make a complaint against a Club Member or vice versa.
- 6.2 Where a Club Committee Member makes the Complaint or where the Complaint is made against a Club Committee Member, the Club Hearings Committee must be appointed without inclusion of that Club Committee Member.
- 6.3 Where a Complaint is made by a Club Member against a Club Committee or vice versa, then jurisdiction should be declined by the Club to determine the Complaint and a reference should be made to the Gymnastics Ireland Hearings Committee.

## 7. APPEALS/ARBITRATION

- 7.1 A decision of the Club/Gymnastics Ireland Hearings Committee may be appealed exclusively by referral to Sport Dispute Solutions Ireland, within 14 days from receipt of such decision, for final and binding arbitration in accordance with the Sport Dispute Solutions Ireland Arbitration Rules. The arbitral award issued by SDSI may be appealed exclusively by referral to the Court of Arbitration for Sport (CAS) in Lausanne, Switzerland, within 21 days from receipt of such arbitral award, for final and binding arbitration in accordance with the CAS Code of Sports-related Arbitration.
- 7.2 The appeal to SDSI arbitration shall be limited to the legality of the procedures used and/or the decision made.
- 7.3 The appellant shall deliver a written notification to appeal to the secretary of SDSI within 14 days of receipt of the Hearings Committee decision specifying (a) date of decision (b) the grounds of appeal (c) copy of relevant documentation together with (d) and SDSI fee.
- 7.4 A copy of the Notice of Appeal shall be sent by registered post to the CEO of Gymnastics Ireland and the CDO and Complainant/Respondent to any appeal.
- 7.5 No Member, Participant, Unit or Gymnastics Ireland Ltd, its Affiliate members may issue Court proceedings relating to such dispute in any Court in any jurisdiction.
- 7.6 No Member, Participant, Unit or Gymnastics Ireland Ltd, or its Affiliate members shall refer a dispute to SDSI Arbitration or CAS arbitration until all available avenues of resolution under the Gymnastics Ireland Rules have been exhausted

For more details on Sport Dispute Solutions Ireland refer to <http://sportdisputesolutions.ie/>

## **8. APPENDIX**

The following letters/forms will support the process:

- Gymnastics Ireland C&D Document 1 - Complaint Form
- Gymnastics Ireland C&D Document 2 - Request from a Club to GI CDO to proceed with Formal Mediation
- Gymnastics Ireland C&D Document 3 - CDO Investigation report form to CEO or Club Chairperson (complaint only)
- Gymnastics Ireland C&D Document 4 - Notification letter from CDO to Respondent
- Gymnastics Ireland C&D Document 5 - Notification letter from Hearings Committee to Respondent & CDO
- Gymnastics Ireland C&D Document 5 (a) - Notification letter from Hearings Committee to Respondent & Complainant
- Gymnastics Ireland C&D Document 6 - Notice of decision by Gymnastics Ireland Hearings Committee
- Gymnastics Ireland C&D Document 7 - Notice of decision by Club Hearings Committee
- Gymnastics Ireland C&D Document 8 - Confirmation of Immediate Sanction by Responsible Person
- Gymnastics Ireland C&D Document 9 - Responsible Person Disciplinary Report
- Gymnastics Ireland C&D Document 10 - Request Form to Challenge an Immediate Sanction
- Gymnastics Ireland C&D Document 11 - Presenting a Complaint - Help Notes
- Gymnastics Ireland C&D Document 12 - Some Q & A's
- Gymnastics Ireland C&D Document 13 - Request from any party seeking to refer the matter to the formal Hearings Procedure following mediation



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