

Disciplinary Procedure

PERTSHIRE HIGHLAND GAMES ASSOCIATION

Review Date: - 26 February 2009

General

Disciplinary matters, applying to all matters of Perthshire Highland Games Association. (Further referred to as the PHGA), will be dealt with by the Elected Officers of the PHGA in the first instance and if necessary subsequently by the Full Executive Committee and if appointed a Disciplinary Committee. All members of the PHGA agree to fully comply with this code of conduct and specific codes of conduct for their role and be bound by its terms as under noted.

Disciplinary action against PHGA members, including expulsion without notice, may be taken for offences of misconduct or breach of club's rules. However it is recognised and accepted that every member

- Has the right to expect fair and consistent treatment
- Has the right to adequate notice from the PHGA
- Has the right to appeal against the PHGA Secretary's judgement or Disciplinary Committee's decision in all disciplinary matters.
- Has the right to representation
- No member will be expelled for the first breach of PHGA's rules except in cases of "gross misconduct". However all disciplinary actions taken by PHGA will be duly recorded and placed on file for reference at a future date.

1. Offences Leading to Disciplinary Action

The under noted actions by members may be interpreted by the Executive Committee to fall within this Code. However the lists are not to be considered as fully inclusive or covering all possible offences.

"*Misconduct*" is the carrying out of an offence considered to be of a minor nature (unless frequently repeated) and will normally incur a written warning from the Elected Officers together with a demand for full and appropriate corrective action. Examples of offences that may be considered misconduct include: -

- Discourteous, crude or offensive behaviour at games, training session or organised PHGA event.
- Conduct of an unsafe nature
- Offensive disregard for equipment or property
- Refusal to carry out reasonable instructions issued by event officials or organisers
- Failure to attend or participate in events or meetings organised by the Club
- Failure to comply with or adhere to the relevant code of conduct for their position within the club
- Any other actions of similar gravity to the above, at the discretion of the Elected Officers.

Repetition of the above offences or failure to comply with any demands made in writing by the Elected Officers may result in further action by the Elected Officers involving a disciplinary hearing.

"*Serious Misconduct*" is the carrying out of an offence of such gravity that in the opinion of the Elected Officers it warrants a PHGA disciplinary hearing. Examples of offences, which may be considered as serious misconduct include: -

- Misconduct offences above if specially grave or repeated
- Deliberate or consistent breaches of PHGA rules
- Any attempt to achieve gains or advantage over others by unfair or unscrupulous means
- Theft or misappropriation
- Use of threatening or abusive behaviour
- Participating in the sport whilst under the influence of drugs or alcohol
- Malicious interference with equipment or property
- Disregard for one's own or other people's safety

- Any other action, which in the opinion of the PHGA Officers may bring the sport or the PHGA into disrepute, or which left unpunished, may result in the detriment of the PHGA or its members.

“*Gross Misconduct*” is action of such seriousness that the Elected Officers will require the immediate expulsion of the offender from the association. The Elected Officers may by means of an executive decision summarily expel such and offender without invoking a disciplinary hearing. The expelled member will have the right to a disciplinary hearing as soon as this can be arranged but will remain expelled until and unless such a hearing overturns the executive decision. Examples of gross misconduct are:-

- Physical violence of assault towards other persons at a PHGA event or related activity, including serious threatening, intimidating or forceful behaviour
- Reckless disregard of safety and basic safety rules
- Being convicted of criminal offences involving physical violence or abuse
- Other acts that are considered to be of an extremely serious nature perpetuated against the PHGA, its members or any other party.

Child Protection – if the matter relates to a child protection issue follow the child protection procedures for dealing with a complaint then follow disciplinary procedure after outcome has been reached. If in doubt contact the local social services duty team for advice on how to deal with the complaint and the offender.

2. Disciplinary Procedure

On receipt of a written complaint from a member, the governing body, the Games organisers or any other party the Elected Officers with advice from a Legal Advisor should they so wish, will decide whether the complaint falls within the scope of this disciplinary code. If in their opinion it does, then the Elected Officers will decide as to the type of offence as per (section 1) above.

If the offence is considered to be one of simple misconduct, the PHGA Secretary will write to the offender with a formal written warning including the demand for an apology or other corrective action the Elected Officers may deem appropriate. The Elected Officers will also attempt to obtain approval for their action from the complainant.

A disciplinary file will be opened by the Elected Officers in which will be placed copies and records of the original complaint, together with the written warning and any other correspondence.

The action outlines above will normally finalise the process unless any of the parties involved object strongly to the Elected Officers decision in which case they may appeal directly to the Executive Committee for a final decision.

Should the complaint be considered by the Elected Officers as one of serious misconduct, then the following procedure will be implemented: -

- The Elected Officers will appoint an Investigating Officer who will research evidence presented and, if possible, will obtain further written evidence, witness statements, etc.
- If necessary the Investigating Officer will consult all relevant witnesses for supportive evidence
- Advise complainant that if a disciplinary hearing is called, then the complainant and all relevant witnesses will be obliged to attend and give evidence. (Non attendance at a hearing will only be allowed in extenuating circumstances, i.e. Ill-health, threat of violence or intimidation etc). In such circumstances instances a sworn declaration must be submitted to the Executive Committee.
- Contact the member subject of the complaint to advise of the official complaint and request the member to submit a written statement of events
- In cases of disputes of a personal nature, the Elected Officers will attempt to resolve the situation amicably and to the mutual satisfaction of the parties concerned.

- If settlement cannot be agreed between the parties, or if the offence merits it, then a disciplinary hearing will be arranged as soon as possible.
- Contact the Club's Legal Advisor if required and supply copies of all evidence
- Notify all parties as to the hearing date and ensure the parties have all relevant copies of paperwork in good time prior to the hearing, copies to be sent by 1st class recorded delivery.

3. Disciplinary Hearing

- The PHGA's secretary shall take charge of the hearing and all questions will be addressed through the Secretary
- A disciplinary committee will be appointed which will consist of: -
 1. the club chair person
 2. two members of the Executive Committee
- The club will appoint a case presenter, who will normally be the Investigating officer
- All witnesses to be interviewed and all written evidence to be reviewed at the hearing.
- No witnesses or statements can be introduced at the hearing without prior notice and copies of all written evidence produced for consideration prior to the hearing, to be available in advance to the parties
- The Disciplinary committee may adjourn the hearing to allow further evidence to be referred to if the disciplinary committee considers it fair to do so.
- After the disciplinary committee has reached a decision, the subject of the complaint to be notified in writing of such decision and informed of any penalties within 7 days of the decision being reached, penalties will be effective from the date of the decision.

4. Penalties

Following the hearing, the disciplinary committee will apply such penalties as the disciplinary committee consider appropriate, including temporary or permanent expulsion of the offender from the PHGA leagues, such penalties will have immediate effect, notwithstanding the possibility of an appeal in accordance with (Section 5) under noted. Offences of cheating or being under the influence of alcohol or drugs during a PHGA training sessions Highland Games or those involving threats of physical violence, will carry automatic expulsion from the club and will preclude the offender from taking part in any PHGA organised activity in an official capacity. The PHGA will in all cases comply with the requirements of the Governing body and PHGA child protection policies including immediate notification of the police where required.

5. Appeals

If an appeal of the decision or penalty is to be made then written notice of appeal by way of 1st class recorded delivery to the club secretary must be given by the offender, within 28 days of being notified of the decision. No appeal will be valid or considered after that period has elapsed. It will not be sufficient to state "I wish to appeal", the offender must give full written grounds for the appeal, stating exactly what is being appealed against and the reasons for this. An appeal together with full and recorded argument may be considered relative to: -

- the decision
- the penalty
- other

An appeal hearing will be convened as soon as practicable and will consist of an Appeal Committee of 3 members of the Executive Committee who did not take part in the first hearing and who will elect their own Chairperson (who will have the casting vote).

New evidence cannot be presented at the appeal hearing. The Appeal Committee shall have power to amend or revoke any decision made at the previous disciplinary hearing

The decision of the Appeal Committee is final and binding on the parties and not subject to further appeal.