



Complaints and disciplinary procedure

Introduction

The ARA is committed to ensuring that all children¹ who participate in rowing have a safe and positive experience.

This document, which is supplementary to the ARA's *Safeguarding and Protecting Children (SPC) Policy*, sets out the procedures to be followed by the ARA whenever any enquiry and/or investigation is undertaken by it in relation to any concerns regarding child welfare or child protection or other breaches of the *SPC Policy* and procedures that have not been otherwise resolved.

This complaints and disciplinary procedure is intended to provide a comprehensive, fair and equitable process for the purpose of any enquiry into any concerns or complaints received and will apply to all individuals working or participating within rowing whether in a paid or voluntary capacity². Throughout the document all references to gender shall be deemed to include the opposite so that 'he' is equivalent to 'she', and so on and vice versa.

So far as is practicable, confidentiality will be maintained at all times in respect of all those involved in any enquiries or investigations unless there is an overriding obligation in the interests of the safety or protection of children for such information to be shared with other interested parties³. Any such information shared shall be on a need-to-know basis only and following the guidelines set out in the Child Protection in Sport Unit's *Protocol for Information Sharing*.

Awareness of an individual's behaviour and practices should be an intrinsic part of a standard supervisory process.

All matters relating to emotional/physical/sexual abuse or neglect or persistent poor practice must be reported to the club welfare officer and as soon as reasonably practicable thereafter to the ARA child protection officer (CPO) or his nominated deputy in line with the procedures set out in the ARA's *SPC Policy*.

In the exercise of its duty of safeguarding and protecting children, the ARA will normally place the details (name, date of birth and address) of any individual who is temporarily suspended or permanently disqualified onto the ARA child protection data system. This is to make it available to coaching and development officers and designated ARA regional officers with responsibility for welfare for the purposes of enforcement and crime prevention.

The ARA shall not be liable to any suspended or disqualified individual, club or organisation for any loss, however caused, whether direct, indirect, economic or consequential (including without limitation loss of profits, savings or opportunity) arising out of or in connection with such suspension and/or disqualification or under the ARA child protection complaints and disciplinary procedure.

Section one – Child welfare and protection

1. As part of the ARA's ongoing commitment to safeguarding and protecting children, it is a requirement of any person participating in the sport of rowing (as an employee or volunteer) who has significant access to children, or to personal data and contact details for children, to be vetted. This includes completing an Enhanced Criminal Records Bureau (CRB) Disclosure. Individuals against whom allegations of abuse or persistent poor practice have been made may also be required by the ARA to complete a CRB Disclosure. Guidance on how to do this is given in SPCG15 which is supplementary to the *SPC Policy*.
2. Individuals who have been requested by the ARA to complete an Enhanced CRB Disclosure Application will be given 14 days to return the completed form to the child protection officer (CPO). Failure to complete a check satisfactorily may result in further action being initiated, eg temporary suspension or permanent disqualification from any or all rowing activities.
3. The ARA requires that all ARA affiliated members, Council members and ARA Regional Councils adopt and implement the ARA *SPC Policy* and procedures, its supplementary guidance sheets and any amendments to these as approved by Council.
4. All ARA member clubs with one or more members under the age of 18 years, and all member clubs where children visit or attend regularly, must nominate a club welfare officer. The role of the CWO is set out in Section 6.1 of the *SPC Policy* document.
5. Subject to further enquiry in any individual case, it will be regarded as inappropriate for coaches and others in a position of trust to engage in an intimate relationship with a person under the age of 18. Any person in a position of trust must declare

1. Children in this document refers to those aged under 18 years.

2. The ARA will have jurisdiction to hear complaints in respect of: Any ARA employees; any rower (including sweep or sculling, cox or person participating in indoor rowing (ie on simulated land rowing on machines)) or other person within rowing who has agreed or is deemed to have agreed to comply with the ARA regulations or policies; and any person within rowing who has agreed or is deemed to have agreed to comply with his Regional Council, or club policies or with the ARA's regulations and policies.

3. Information will be shared with the ARA child protection officer, case manager and Case Management Group. It may be shared with the relevant regional/club welfare officers. Any decision to temporarily suspend or permanently disqualify any individual will be communicated to all regions with designated welfare officers and/or to CDOs in order to enforce the suspension and/or disqualification. The identity of children will be protected where possible.

any such relationship to his club welfare officer or a club officer.

6. Concerns in relation to children may fall within one of two categories as follows:

6.1 Safeguarding (child welfare)

Concerns about safeguarding may include poor practice, bullying, grooming, harassment or emotional abuse, and may include incidents where the Local Authority Children Services (formally social services) and/or police are involved. Where the Children Services or the police are not already involved and the concerns or matters raised are such as to warrant their involvement, the ARA will notify them of the matters which have been brought to their attention. The club welfare officer and the ARA child protection officer should immediately be informed with regard to the concerns raised.

6.2 Child protection

Child protection includes concerns involving physical abuse, sexual abuse or neglect. This category will also include any matters which are the subject of civil or criminal investigation or proceedings and for the avoidance of doubt, any matters which are the subject of Children Services or police investigation even where such investigation remains to be completed. Any such matters should immediately be referred to the club welfare officer who in turn should notify the ARA child protection officer or his nominated deputy. In an emergency the police or Children Services should be contacted directly and the club welfare officer and ARA child protection officer informed of the contact as soon as reasonably practicable thereafter.

7. In respect of any such matter which is notified to the ARA, the ARA may, in order to ensure the welfare and safety of the child or other children within rowing, impose a temporary suspension upon an individual in respect of whom the concerns have been raised, pending the outcome of further enquiries and/or investigation.

8. Where a temporary suspension is imposed this will be a suspension from participation in all rowing activities which may involve contact with children.

9. If any individual is temporarily suspended and, during the course of the suspension, the ARA is informed that a breach or abuse of the suspension is or has taken place, the individual will be given a written warning. Failure to adhere to the terms of the written warning may result in a permanent disqualification from any or all rowing activities.

Section two – Initial action and investigation

1. Upon the receipt of any concerns or complaints the Case Management Group (CMG) shall decide at which level the enquiry or investigation shall take place. It may recommend one or more of the following:

- Refer the case back to the club to investigate the matter (in the case of a concern or referral). Where a matter is referred back to a club, a report of the investigation and outcome of the case must be sent to the ARA CPO within a reasonable time which should not ordinarily exceed one month.
- Refer the matter to the police and/or Children Services.
- Carry out an independent ARA investigation.

If an ARA investigation reveals a potential or actual breach of law then the ARA investigation may be deferred and a referral will be made to police and/or Children Services.

2. During the investigative process, any or all of the following actions may be instigated:

2.1 An ARA investigation into the concerns may be initiated.

2.2 Any ARA membership and/or associated benefits may be temporarily suspended.

2.3 A Criminal Records Bureau check may be required of the individual.

2.4 The matter may be referred back to the CMG for consideration (see Section 4).

2.5 If the behaviour giving rise to the concern is alleged to have happened during the course of the individual's employment, he will be subject to whatever disciplinary procedures and sanctions are stated in his employment contract. The ARA may decide to await the outcome of such procedures before initiating or completing its own investigation.

2.6 Any concerns relating to matters of child protection will be referred to the police and/or Children Services for consideration as to whether a criminal/civil investigation into the allegation will be initiated. The ARA may decide to await the outcome of such investigations before initiating its own investigation. The outcome of these investigations will not necessarily influence the ARA's own investigation although any evidence used in the external investigation may be taken into consideration.

2.7 The individual against whom allegations have been made may be temporarily suspended from any or all rowing activities under the auspices of the ARA pending the outcome of any such police and/or Children Services and/or ARA investigation where such a suspension is deemed by the ARA to be in the interests of the welfare and safety of the child involved and/or other children who come or may come into contact with the individual, or if advised by the statutory agencies.

4. A temporary suspension or permanent disqualification may include but is not limited to the following activities: Coaching; umpiring; team management; club officer; rowing; coxing; training and racing; first aiding; boat man; club welfare officer; general volunteering and any other activity relating to rowing or involvement or association with any of the ARA's affiliated clubs or associations.

5. Position of trust applies to any individual in any occupation in rowing that involves tutoring, mentoring, supervising or acting in loco parentis to a person under the age of 18 years.

Section three – Safeguarding and protecting children investigation process

1. If an investigation is deemed necessary by the CMG and/or the ARA child protection officer, the ARA will write to the individual concerned asking him to contact the ARA as soon as possible (this is to facilitate delivery of possibly sensitive material to an agreed address). Where possible, within seven days, the ARA shall write further to notify him of the intention to investigate, the nature of the investigation and the reasons for this. If a temporary suspension has been imposed by the ARA in the interests of child safety, the individual will also be informed of this. Note: This applies only if notification would not jeopardise any police and/or Children Services investigation or place any child or children at risk.
2. The individual who is the subject of the investigation may be temporarily suspended from any rowing activities pending the outcome of an investigation if there is a need to ensure the welfare and safety of the young person or young persons involved or other young persons who come or may come into contact with the individual in question.
3. The ARA may appoint an independent investigator to carry out any investigations or the child protection case manager (CPCM) may carry out the investigation. The investigator will operate impartially and independently of the ARA child protection officer, the ARA and the CMG.
4. Once appointed, the investigator shall contact the individual concerned direct to inform him of the investigator's appointment. This contact should be made no later than seven days after the ARA has written to the individual to notify him of the intention to investigate.
5. Any investigation will be conducted as promptly as possible. The individual concerned should be aware that the length of the investigation will be dictated by the number and availability of persons to be interviewed or contacted.
6. During the investigation process there will be regular communication between the ARA child protection officer and investigator, as well as the ARA and the individual who is the subject of the investigation, as to the progress of the investigation, either through the ARA CPO, CPCM or other designated person within the ARA.
7. The individual concerned should be updated, in writing, as to the progress of the investigation as a matter of course at least once every six weeks.
8. The individual being investigated shall not approach, intimidate or influence any witness involved in the investigation.
9. The individual concerned will normally be interviewed at the end of the investigation.
10. Upon the conclusion of the investigation the investigator will present his findings to the ARA in the form of a written report and a decision will be made by the CMG in accordance with Section 4.

Section four – Case Management Group (CMG)

1. Upon receipt of the investigator's report and/or any enquiry findings, the ARA CPO will convene a meeting of the CMG to consider the report and other information relevant to the individual. The individual will be offered an opportunity to make a written submission to the CMG. Appointment to, membership of, and removal from the CMG is governed by the procedures in Appendix One.
2. The ARA child protection officer will ensure that the CMG is presented with the findings of the investigation and/or enquiry and any written submission from the individual to allow the CMG to consider the case presented to them.
3. The individual will be provided with a copy of the investigator's written report and any other information which is to be put before the CMG unless to do so, in the view of the ARA, would be prejudicial to the welfare and safety of the child or children involved or other children who come or may come into contact with the individual in question. The individual will be given the opportunity to comment in writing on matters of fact and accuracy. Written submissions should be received no later than seven days prior to the CMG meeting.
4. In respect of those cases which fall within either the safeguarding or the child protection category or where the CMG believe that there is sufficient concern or comment in the investigator's report to suggest that the individual poses a potential or actual risk if he was to work or come in contact with children in rowing, then the CMG may reach any one or more or combination of the following decisions:
 - 4.1 A more detailed investigation is required to be carried out.
 - 4.2 The individual is to be referred to the ARA Disciplinary Procedure or ARA Employees' Disciplinary Procedure.
 - 4.3 A written conditional warning is provided, outlining the areas of concern or improvements required.
 - 4.4 The individual is required to undergo further training (eg a refresher coaching course: sports coach UK Safeguarding and Protecting Children course, sports coach UK Equity in Your Coaching course or a Local Authority or ARA equivalent).
 - 4.5 The period of any temporary suspension is extended until such time as the individual concerned has complied with any training, supervision or mentoring that he is required to undergo.
 - 4.6 The individual concerned is required to undergo or complete a probationary period.
 - 4.7 The individual is required to be supervised and/or work with a mentor permanently or for a period agreed by the CMG.
 - 4.8 A risk assessment is to be carried out on the individual concerned, at their own expense, by a suitably qualified person. In this instance, the CMG will consider if a temporary suspension is appropriate pending the outcome of any such investigation or may extend any existing suspension until the risk assessment is carried out. A time limit for compliance with any risk assessment should be agreed by the CMG.
 - 4.9 The individual is recommended to the senior officers of the ARA for disqualification from participation in rowing activities in part or in whole either indefinitely or for a specific period of time. If the disqualification is for a specific period of time, the individual will be subject to a review by the CMG at the end of the period of disqualification.

- 4.10 The individual is recommended to the senior officers of the ARA for disqualification from all or any rowing activities where the individual's name is placed on the Sex Offenders Register for offences against a minor by any statutory agency and/or court.
- 4.11 The individual is to be referred to the appropriate statutory agency including, and not limited to, the *Protection of Children Act 1999* list.
- 4.12 A referral is to be made to police and/or Children Services.
- 4.13 Any other decision which the CMG feel is appropriate having regard to the circumstances of the case.

Alternatively, the CMG may conclude that no further action is to be taken.

- 5. Upon the conclusion of the CMG meeting, the agreed decision of the CMG (with supporting reasons) will be communicated in writing within seven days to the individual and the decision of the CMG will be communicated to the club welfare officer. The individual will be advised of his right of appeal against any decision made and the time limits for doing so, namely within 14 days from the date of notification of the CMG decision.
- 6. If the individual fails to comply with decisions of the CMG, further action may be instigated.
- 7. All affiliated rowing clubs, events and/or relevant region(s) shall comply with the terms of any decisions reached by the CMG and/or ARA. This may include a temporary suspension or permanent disqualification. If any club and/or event fails to adhere to the terms of such disciplinary action then the ARA reserves the right to take appropriate action. This may include without limitation, suspension or removal of that club and/or event affiliated to the ARA and/or its Clubmark status and any other financial benefits and/or incentives provided therein.
- 8. The decision of the CMG shall be communicated to a senior official eg chairman, regional/club welfare officer, who is responsible for the region/club organisation within which the complaint was received for the purpose of enforcement.
- 9. Where the matter disclosed/referred to relates to any club or regional council, that body shall be responsible for implementing the decision of the CMG and any other applicable sanctions.

Section five – Appeals and appeal hearings

- 1. A decision made by the CMG regarding referrals relating to the *SPC Policy*, including decisions to suspend or disqualify an individual based on information contained on a CRB Disclosure Certificate or otherwise disclosed, may be appealed by the individual against whom the allegation(s) was (were) made or about whom the disclosure was made. Individuals have a right to appeal the decision of the CMG by giving written notification with reasons to the ARA chairman within 14 days of receiving notification of the CMG decision.
- 2. All appeal hearings will follow the procedures set out in Appendix Two to these rules.

Appendix one – Case Management Group

- 1. The Executive Board of the ARA shall appoint the members of the CMG. The Executive shall only appoint an individual if it considers that the appointee is suitably qualified and experienced.
- 2. The CMG will operate independently of the ARA Executive. However individual members of the CMG may be members of the ARA Executive, Council or staff.
- 3. The purpose of the CMG is to make decisions on the initial reported cases related to the safeguarding and protection of children. It may also include making decisions relating to concerns arising from information gathered through the recruitment process.
- 4. Meetings regarding disciplinary action may be held by telephone or decisions taken by a written resolution, signed by at least two members. A quorum of persons for decision-making purposes with regard to any disciplinary action initiated is three. Where necessary, the chairman of the CMG shall have a casting vote in decision-making.
- 5. The ARA chairman may appoint an alternate member of the CMG who may be a member of the ARA Executive, including himself, who will act as a temporary member for the purposes of a meeting, if insufficient members are unable to attend a meeting for quorum purposes but a case needs to be considered for the purposes of child protection.
- 6. A member of the CMG may resign by giving written notice to the ARA chairman. This will have immediate effect.
- 7. The ARA chairman may give written notice to a member of the CMG, removing him with immediate effect. A member may be removed from the CMG if he has been found to have committed a breach of the *SPC Policy*.

Appendix two – Protocol for the ARA Appeals Panel under the ARA child protection complaints and disciplinary procedure

The following protocol shall govern the procedure for the hearing of any appeal under the ARA's Child Protection Complaints and Disciplinary Procedure.

- 1. **The tribunal and jurisdiction**
 - 1.1 Any dispute submitted to the ARA Appeals Panel shall be decided by a Panel ("the Panel") which shall be impartial and shall at a minimum comprise:

- (a) a chairman, who is an experienced practising or retired solicitor, lawyer, judge or magistrate and who may be nominated by the Sports Dispute Resolution Panel (SDRP) at the expense of the ARA.
- (b) two other members each of whom has legal, disciplinary, child protection and/or sports administration experience or experience as a coach in the sport of rowing or another sport or who is otherwise competent to resolve the issues to be determined by the Panel.
- (c) one of the Panel Members appointed for a particular case shall be from or connected with the Club or affiliated organisation of the Appellant).

1.2 The Panel may decide by majority on its own jurisdiction and in the event of an appeal being decided by majority in favour of the Appellant, the Panel shall restore eligibility at such time and subject to such conditions and/or impose such penalty as it considers appropriate.

1.3 The Appeal shall be conducted in accordance with natural justice and be subject to this protocol and governed by English Law.

2. Request for Appeal

2.1 If an individual wishes to instigate an appeal pursuant to the ARA Child Protection Disciplinary Procedure, that party (the Appellant) must submit to the chairman of the ARA a written request for an appeal (the Appeal) containing the following details:

- (a) the name and address of the Appellant (and of any representative); and
- (b) a brief statement describing the grounds that the Appellant wishes to use to appeal against the sanction imposed by the CMG.

2.2 This request for appeal must be submitted within 14 days of the notification of the original decision that is being appealed.

2.3 Within no later than five days (previously three) or as soon as possible thereafter from receipt of the request for Appeal the ARA will notify the Appellant of the identity of the Panel members appointed to this case from the ARA's Appeals Panel.

2.4 If the Appellant intends to challenge the appointment of a Panel Member that he shall, within seven days of notification by the ARA of the appointment of the Panel Members, submit in writing to the ARA the reasons why he is challenging the appointment of any particular Panel Member. Unless the challenged Panel Member withdraws or the CMG agrees to the challenge, the chairman of the Panel (unless it is the appointment of the chairman that is challenged in which case the ARA, acting through its chairman, shall decide) shall decide on the challenge and shall if necessary request the ARA appoint a replacement Panel Member.

2.5 If any Panel Member, after appointment to the Panel dies, refuses, or in the opinion of the chairman becomes unable or unfit to act, the chairman shall request the ARA to appoint another Panel Member to the Panel in his place.

3. Communications

3.1 The parties shall communicate through the ARA offices at Hammersmith, correspondence should be addressed to the Chairman's PA.

3.2 Multiple copies of all correspondence and documents should be sent at the same time for the Panel Members and the Appellant. All communications shall be delivered or sent by first class post, fax or email to the parties at the addresses notified to the ARA.

4. Conduct of the proceedings

4.1 The Panel shall conduct the proceedings of the appeal in such manner as it considers fit in accordance with the ARA's Procedure and may follow any procedure agreed by those attending (the parties) if it is in the Panel's opinion fair and practicable so to do.

4.2 Unless otherwise agreed or decided by the Panel under its discretion as set out in Rule 4.1, the parties shall make written submissions to the Panel as follows:

- (a) The Appellant shall, within 14 days of receipt of notification from the Child Protection Officer of the appointment of the Panel, file a statement of claim ("the Statement of Claim") with the ARA setting out in as full detail as possible, any facts, law or rules on which the Appellant is relying, and the relief it claims.
- (b) The ARA (the Respondent) through the CMG may, within 14 days of receipt of the Statement of Claim file a response ("the Response") stating in as full detail as possible any facts, law or rules in the Statement of Claim which the Respondent admits or denies, on what grounds, and on what other facts, law or rules it relies. The Response will be served on the Appellant by the ARA CPO; and
- (c) Within seven days of receipt of any Response, the Appellant may file with the ARA a reply to the Response ("the Reply").

4.3 The time limits set out in Rule 4.2 may be extended or reduced by agreement between the parties and the Panel. In the absence of agreement, the Panel may on the application of one party in an emergency situation, direct that the time limits set out herein may be reduced and a hearing held forthwith or may be extended.

4.4 The Appellant and the Respondent must submit at the same time as submission of the Statement of Claim, Response or Reply copies of all documents on which the party concerned relies unless the document has been previously submitted by any party.

4.5 The Panel may proceed with the appeal and make the decision and/or award even if the Respondent has failed to serve a Response or if the Appellant fails to serve a Reply.

4.6 The Panel shall first consider written submissions by or on behalf of the Appellant and shall, where possible, render its decision based on those submissions. If the Panel is not minded to allow an appeal based on written submission or if requested by either party the Panel may request the parties to appear in person and/or be represented before it.

5. Hearings

5.1 The Panel shall fix the date, time and place of any hearings in the appeal and shall give the parties as much notice as practicable of the date, time and place of any hearings and all such hearings shall be in private unless the parties agree otherwise. The minimum notice of such a hearing will be 21 days unless there is express agreement between the parties

to reduce this notification time period.

5.2 All written submissions must be with the Panel Members at least seven days before the hearing.

5.3 The individual concerned is entitled to be supported at the Hearing by a colleague. There is no right to legal representation but the Panel would ordinarily permit the individual concerned to be legally represented. The ARA must be notified of the intention to have legal representation present no later than seven days prior to the hearing. The attendance or otherwise of the legal representative will not generally be accepted as a reason to fix a date by reference to the availability of legal representatives and/or postpone a hearing.

5.4 The appeal will be heard *de novo*.

6. Witnesses

6.1 The parties must notify the Panel and other party as soon as practicable and within any time limits set by the Panel of the identity of any witnesses they wish to call, and, if the Panel requires it, each party shall disclose the subject matter and content of the evidence on which each such witness will be relying and how that evidence relates to the points at issue.

6.2 The Panel may question a witness at any stage and shall control the questioning of a witness by the other party at all times in accordance with applicable rules on fairness and natural justice.

7. Experts

7.1 The Panel may, provided it shall have notified the parties, appoint one or more experts to report to the Panel on specific issues and may require a party to give such an expert any relevant information or to produce, or to provide access to, any relevant documents, goods or property for inspection by the expert.

7.2 The Panel may (unless the parties shall otherwise agree) direct an expert witness to give evidence either before a hearing in the form of a written report and/or at the hearing in the form of an oral report, and may also require an expert witness to attend a hearing so that the Panel or the parties may question him, and the parties may present other expert witnesses in order to testify on the points at issue.

8. Decisions and awards

8.1 The Panel shall decide on any issue by a majority and if the Panel fails to reach a majority decision on any issue, the chairman of the Panel shall have a casting vote. The decision and/or award shall be in writing and shall be dated and signed by the Panel, and shall unless otherwise agreed by the parties be accompanied by brief, summarised reasons on which it is based. The decision of the Panel shall be final and binding on the parties.

8.2 The Panel may confirm any decision made by the CMG or vary it, or reverse it or increase it or reach any such other decision as it feels is appropriate in all the circumstances.

8.3 The Panel will notify the parties of the decision and/or award of the Panel within seven days of any hearing (or in the event of there being no hearing, within 14 days of receipt of all pleadings) and the Panel will at the same time provide the parties with a copy of the written decision.

9. Costs

Each party will bear its own costs for the Appeal preparation, including attendance for any hearing so required.

10. General rules

If a party proceeds with an appeal notwithstanding the fact that a provision of, or requirement under, this protocol has not been complied with without promptly stating its objection, that party shall have waived its right to object.

Adapted from the 'England and Wales Cricket Board Child Protection Complaints and Disciplinary Procedure' document, for which many thanks to the ECB.

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