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## **Stirling County Rugby Football Club (SCRFC) - Disciplinary Procedures for Staff and Volunteers**

Stirling County RFC encourages high standards of behaviour and action will be taken when members of staff/volunteers breach the code of conduct in line with club disciplinary procedures.

### ***Why is this important?***

Sports organisations should encourage high standards of behaviour and action should be taken when members of staff/volunteers breach the code of conduct. A disciplinary procedure allows inappropriate behaviour to be addressed fairly and consistently. Child protection within an organisation is greatly enhanced by having a good disciplinary procedure.

## **DISCIPLINARY PROCEDURE**

### **1. PRINCIPLES**

- a) This procedure is designed to establish the facts quickly and to deal with disciplinary issues consistently.
- b) No disciplinary action will be taken until a matter has been fully investigated.
- a) The member of staff/volunteer involved may be suspended from their role while an investigation is carried out. Suspension is not a form of disciplinary action. A decision to suspend will be made by the **Nominated Director of Rugby**. Notification of the suspension and the reasons will be conveyed in writing to the member of staff/volunteer.
- b) At every stage of the formal disciplinary procedure the member of staff/volunteer will have the opportunity to state his/her case at a disciplinary hearing. If so wished he/she will have the opportunity to be represented or accompanied at the hearings by a third party e.g. a friend or colleague or a trade union representative, (where applicable).
- c) The member of staff/volunteer has the right to appeal against any disciplinary action.
- d) The disciplinary procedure may be implemented at Stage 1, 2 or 3 if the member of staff/volunteer's alleged misconduct warrants such action.

### **2. THE PROCEDURE**

#### **2.1 Initial Assessment/Stage**

The purpose of the initial assessment is to clarify the nature and context of the concern. It should determine whether there is reasonable cause to suspect or believe that a child has been abused or harmed, or is at risk of abuse or harm. It will involve asking some basic questions of appropriate individuals with the sole purpose of clarifying the basic facts.

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If the nature of the concern suggests a criminal offence has occurred, or that a child may have been abused, then advice must be sought from the police before speaking to child witnesses or to the member of staff/volunteer at the centre of the allegation.

The possible outcomes of the initial assessment are:

1. No further action (facts do not substantiate complaint)
2. Situation is dealt with under formal disciplinary procedures (by sports organisation)
3. Child protection investigation (jointly by the police or social work services)
4. Criminal investigation (by the police)

Where a member of staff/volunteer fails to meet the required standard of behaviour and the short-fall is of a minor nature, the **Nominated Director of Rugby** may decide to speak to the member of staff/volunteer on an informal basis to avoid the need for formal disciplinary action. The **Nominated Director of Rugby** will also advise the member of staff/volunteer of the need to achieve and maintain the standards required. The **Nominated Director of Rugby** may inform the member of staff/volunteer that failure to achieve the required standards will result in a formal disciplinary hearing, which may result in disciplinary action.

Facts of the conversation should be noted and confirmed in writing to the member of staff/volunteer so there is clarity about what has to be achieved.

Following the initial assessment a period of precautionary suspension may be helpful or necessary while a concern is being further investigated.

## 2.2 Precautionary Suspension

Precautionary suspension may be considered in the following circumstances:

- if the police or social work services advise suspension
- if the allegation made against the member of staff/volunteer was ultimately to be proved, then there would be a significant concern about the conduct of that member of staff/volunteer towards children or other adults
- if the member of staff/volunteer's attendance or involvement in the club could compromise the investigation
- if Disclosure Scotland notify **Scottish Rugby** that an individual is being considered for the Children's List

Suspension is not a form of disciplinary action and does not involve pre-judgment. It should only be considered in the above circumstances. Depending on the circumstances of the case, the member of staff/volunteer may be invited to attend an investigatory interview. The member of staff/volunteer will be informed at the outset that the interview is an investigatory interview. There is no right for a member of staff/volunteer to be accompanied at an investigatory interview. SCRFC reserves the right to dispense with an investigatory interview and to proceed directly to a disciplinary hearing.

In all cases of suspension, the welfare of children will be the paramount concern.

### **2.3 Formal Disciplinary Procedure**

- Stage 1 – First warning

If conduct is unsatisfactory, the member of staff/volunteer will be given a written warning. Such warnings will be recorded. The warning will expire after 6 months of satisfactory conduct. A final written warning may be considered if there is no sustained satisfactory improvement or change.

- Stage 2 – Final written warning

If the offence is serious, or there is no improvement in standards, or if a further offence of a similar kind occurs, a final written warning will be given. The written warning will expire after 12 months. Action at Stage 3 will be taken if there is no sustained satisfactory improvement or change.

- Stage 3 – Dismissal or Action Short of Dismissal

If the conduct has failed to improve, the member of staff/volunteer may suffer demotion, disciplinary transfer, or dismissal.

Expired warnings will be retained on a staff member's personnel record as it may be necessary to take account of the warning when considering future conduct, for example establishing a pattern of behaviour or an awareness of the relevant roles. Documentation relating to the expired warning will not normally be retained unless there is a justification for this.

#### **Gross misconduct**

If, after investigation, it is confirmed that a member of staff/volunteer has committed an offence of the following nature (the list is not exhaustive), the normal consequence will be dismissal without notice or pay in lieu of notice: theft, damage to property, fraud, incapacity for work due to being under the influence of alcohol or illegal drugs, physical violence, bullying, abuse of a child and gross insubordination.

Following advice from the police, cases that also involve a criminal investigation will not preclude disciplinary action being taken. This is provided sufficient information is available to enable the **club** to make a decision and that to do so does not jeopardise the criminal investigation. Any decision to dismiss will be taken by the club only after full investigation.

### **3. APPEALS**

A member of staff/volunteer may appeal against any disciplinary action imposed against them, with the exception of an informal oral warning. Wherever possible the appeal will be held by an appeal manager who has not been involved in the decision to impose the disciplinary sanction on the member of staff/volunteer. The appeal manager is obliged to consider any representations made by the member of staff/volunteer, their companion and those of the manager who conducted the investigation and the **Nominated Director of Rugby** who conducted the disciplinary hearing and imposed the disciplinary sanction.

Should any new evidence be introduced on appeal, the member of staff/volunteer will be given the opportunity to consider it and raise comments. Once the relevant issues have been thoroughly explored the appeal manager will decide whether or not to uphold the disciplinary sanction. In the event that the appeal manager finds for the member of staff/volunteer, the appeal manager shall al-

low the appeal and shall remove all records of the disciplinary sanction from the member of staff/volunteer's record. In the event that the appeal manager does not find for the member of staff/volunteer, the appeal manager must uphold the disciplinary sanction. In the event that the appeal manager partially finds for the member of staff/volunteer, the appeal manager shall partially allow the appeal and impose a lesser disciplinary sanction.

When lodging an appeal the member of staff/volunteer should state the grounds of appeal and whether they are appealing against the finding that they committed the alleged act or acts of misconduct, or against the level of disciplinary sanction imposed. The member of staff/volunteer must provide written notice of the appeal to the Club President within seven (7) working days of being informed of the disciplinary sanction being imposed against them.

Appeal hearings will normally take place within fourteen (14) days of receipt of the member of staff/volunteer's written notice of appeal. Upon completion of the appeal, the appeal manager will convey the decision to the member of staff/volunteer. The decision will be confirmed in writing within one week. SCRFC's decision at the appeal is final.

#### **4. RECORDING OF MEETINGS**

The member of staff/volunteer or any person acting on their behalf, is not normally permitted to record electronically any meeting held by the organisation as part of the disciplinary process. This is to encourage openness and full participation by all parties during meetings. Any breach of this provision may lead to disciplinary action against the members of staff, up to and including dismissal.

In certain limited circumstances, the organisation may permit the meeting to be recorded electronically. For example, where the member of staff/volunteer is disabled it may be appropriate as a reasonable adjustment under the Equality Act 2010. Where the organisation permits the meeting to be recorded electronically, it will take responsibility for making the recording.

#### **5. DATA PROTECTION**

The organisation processes personal data collected during the investigation stage and any subsequent stages of disciplinary action in accordance with our data protection policy. In particular, data collected as part of the investigation stage and any subsequent stages of disciplinary action is held securely and accessed by, and disclosed to, individuals only for the purposes of completing the disciplinary procedure. Inappropriate access or disclosure of a member of staff/volunteer data constitutes a data breach and should be reported in accordance with the organisation's data protection policy immediately. It may also constitute a disciplinary offence, which will be dealt with under this disciplinary procedure.

#### **6. REFERRALS TO THE CHILDREN'S LIST**

Stirling County Rugby Football Club (known as Stirling County R.F.C.) is a Scottish Charity, SC049362, regulated by the Scottish Charity Regulatory (OSCR)

Where a club takes disciplinary action to remove a member of staff/volunteer from regulated work as a result of harmful behaviour towards a child, then they have a duty to refer the member of staff/volunteer to Disclosure Scotland so that consideration can be given to whether that individual should be barred from any kind of regulated work with children. Without this duty, there would be no way of preventing individuals moving undetected to other organisations where they may continue to pose a risk.

The Protection of Vulnerable Groups (Scotland) Act 2007 stipulates that organisations must refer to Disclosure Scotland the case of any member of staff/volunteer who (whether or not in the course of their role within the organisation) has:

- harmed a child
- placed a child at risk of harm
- engaged in inappropriate conduct involving pornography
- engaged in inappropriate conduct of a sexual nature involving a child, or
- given inappropriate medical treatment to a child

**AND** as a result:

1. The club has dismissed the member of staff/volunteer
2. The member of staff/volunteer would have been dismissed as a result of the incident had they not resigned, retired or been made redundant
3. **The club** has transferred the member of staff/volunteer to a position which is not regulated work with children
4. The member of staff/volunteer would have been dismissed or considered for dismissal where employment or volunteer role was not due to end at the expiry of a fixed term contract; or,
5. The member of staff/volunteer would have been dismissed or considered for dismissal had the contract not expired

**The club** will also refer the case of a member of staff/volunteer where information becomes available after the member of staff/volunteer has:

- been dismissed
- resigned, retired or been made redundant
- been transferred to another position in which is not regulated work with children; and,

where **the club** receives information that a member of staff/volunteer who holds a position of regulated work has been listed on the Children's List, the member of staff/volunteer will be removed from the regulated work with children post.

### **SPECIAL CONSIDERATIONS - SPEAKING TO CHILDREN DURING THE INVESTIGATIVE PROCESS OR AS PART OF A DISCIPLINARY HEARING**

In establishing the facts of any concern or complaint, it may be necessary to speak to a child or children who were involved in the alleged incident.

In some circumstances, it would not be appropriate for the person conducting the investigation to speak to a child involved in the incident. In particular, if the nature of the concerns suggests a criminal offence has occurred or that a child may have been abused, then it is the job of specially trained and competent police officers and social workers to interview the child.

If there is any doubt as to whether it is okay to speak to a child, advice will be sought from the police or social work services.

In cases where the nature of the complaint or concern is such that the police or social work services are not involved, careful consideration should still be given before approaching children to give information as part of the initial investigation process or as part of a disciplinary hearing.

To minimise distress or anxiety for the child, the following will be considered:

- The age, gender and background of the child i.e. will they require an interpreter?
- Whether the child has any learning or physical disability which might affect their ability to communicate with others
- The child's emotional state
- Timing and location of interview, bearing in mind the child's daily routines
- What you will do if the child becomes upset
- Obtaining consent from the parents/ carer
- Any other information which may be relevant

Parties should decide whether it is absolutely necessary for the child to be involved in a disciplinary hearing. If the child is to be involved consideration should be given to the following:

- Allowing the child to be accompanied by a relative or other responsible adult (preferably someone who is not involved in the case)
- The environment or room layout - how intimidating it could appear to a child
- The number of people present - try to ensure only those who need to be there are present whilst the child gives evidence
- The age of the child
- The nature of the evidence the child may be giving
- The nature of the relationship between the child and the subject of the hearing
- The tone and style of questioning i.e. clear, non-threatening with sufficient opportunity for the child to consider the questions and answer them.

These considerations should be balanced against the need to ensure a fair hearing.

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**NOTICE OF PRECAUTIONARY SUSPENSION - TEMPLATE**

Date \_\_\_\_

Dear \_\_\_\_

I am writing to tell you that you that following the suspension interview/notification of your consideration for listing to the Children's List<sup>\*</sup>, you will now be suspended for \_\_\_\_ duration of time/until the outcome is determined if you are barred from regulated work with children\*.

This is in response to \_\_\_\_.

You will next be informed of any disciplinary action that will follow the investigation period.

Yours

Signed \_\_\_\_

*The Club President or Vice President*

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**NOTICE OF DISCIPLINARY HEARING - TEMPLATE**

Date \_\_\_\_\_

Dear \_\_\_\_\_

I am writing to tell you that you are required to attend a disciplinary hearing on \_\_\_\_\_ at \_\_\_\_\_ am/pm which is to be held in \_\_\_\_\_. The hearing will be chaired by [name] [and [names] will also be present.

The purpose of the hearing will be to discuss your alleged misconduct. We enclose a copy of the disciplinary procedure [including any other relevant policy documents]. At this meeting the question of disciplinary action against you, in accordance with the [organisation's name] Disciplinary Procedure, will be considered with regard to:

*Description of incident e.g. "An incident which took place on [date] between yourself on the one hand and x on the other when it was alleged that you..."*

Please find enclosed the following available evidence: *e.g. written witness statements where available.*

You will have the opportunity at the hearing to respond to the incidents as described and to the enclosed evidence.

You are entitled, if you wish to be accompanied by a colleague or trade union representative. Your companion will, if you wish be able to put your case; sum up your case; and respond on your behalf to any view expressed at the hearing. They will also be allowed to confer with you during the hearing. However, they will not be able to answer questions on your behalf.

Depending on the facts established at the hearing, the outcome could be [state potential action], but a decision on this will not be made until you have had a full opportunity to put forward everything that you wish to raise and the hearing has been concluded.

If you are unable to attend this meeting, please contact [insert name] on [insert number], as a matter of urgency to arrange an alternative date. If your chosen companion is not available, you may specify another date for the meeting up to five working days later. You are required to take all reasonable steps to attend the meeting. Failure to attend without good reason could result in the meeting being held, and a decision being taken, in your absence.

Yours

Signed \_\_\_\_\_

*The Club President or Vice President*

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### **NOTICE OF WRITTEN WARNING - TEMPLATE**

Date \_\_\_\_\_

Dear \_\_\_\_\_

Following the disciplinary hearing held on [ ] at [ ], this letter is to confirm that the outcome of the disciplinary proceedings is that you have been given a first written warning.

The circumstances giving rise to the issue of this warning were [summary of the misconduct]. We discussed the matter fully at the hearing and, having taken your explanations into account, have concluded that your conduct justifies a first written warning. This is in accordance with the organisation's [disciplinary/capability] procedure following your earlier oral warning dated [ ].

It was agreed at the hearing that you would ensure that there is no further misconduct on your part. You were also informed that a failure to improve/repeat of similar misconduct or any other instance of misconduct within [ ] months is likely to lead to the next stage in the procedure, i.e., a final written warning.

This warning will remain live on your file for a period of [6 months] from the date of this letter, after which it will [automatically lapse/be reviewed].

You have the right, if you wish, to appeal against this decision. If you wish to appeal, you should do so in writing within 7 working days of the date of this letter to [ ]. Your written notice should state the grounds for your appeal.

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Yours

Signed \_\_\_\_\_  
*The Club President or Vice President*

## **NOTICE OF FINAL WRITTEN WARNING - TEMPLATE**

Date \_\_\_\_\_

Dear \_\_\_\_\_

Following the disciplinary hearing held on [ ] at [ ], this letter is to confirm that the outcome of the disciplinary proceedings is that you have been given a final written warning.

The circumstances giving rise to the issue of this warning were [summary of the misconduct]. We discussed the matter fully at the hearing and, having taken your explanations into account, have concluded that your conduct justifies a final written warning. This is in accordance with the organisation's [disciplinary/capability] procedure following your earlier oral and written warnings dated [ ].

It was agreed at the hearing that you would ensure that there is no further misconduct on your part. You were also informed that a [failure to improve/repeat of similar misconduct or any other instance of misconduct within [ ] months is likely to lead to your dismissal.

This warning will remain live on your file for a period of [12 months] from the date of this letter, after which it will [automatically lapse/be reviewed].

You have the right, if you wish, to appeal against this decision. If you wish to appeal, you should do so in writing within 7 working days of the date of this letter to [ ]. Your written notice should state the grounds for your appeal.

Yours

Signed \_\_\_\_\_

*The Club President or Vice President*

## **NOTICE OF DISMISSAL OR ACTION SHORT OF DISMISSAL - TEMPLATE**

Date \_\_\_\_\_

Dear \_\_\_\_\_

This letter is to confirm the outcome of the disciplinary hearing held on [date] at [time].

The circumstances giving rise to the disciplinary hearing were [summary of the misconduct]. We discussed the matter fully at the hearing and, having taken your explanations into account, have concluded that your conduct justifies disciplinary action.

[At the beginning of the hearing, we explained that your actions may constitute gross misconduct, which could result in your dismissal. We consider that the usual penalty for your actions would be [dismissal]. However, having taken into account the mitigating circumstances [insert details], we have decided to issue you with a less severe penalty.]

It has been decided that the appropriate penalty should be as follows [list the appropriate points and expand on them as necessary]:

- [You are to be [demoted/moved] to the position of [new position] with effect from [date]. [Your new job description is attached.] [Your [new] manager, [name], will arrange to meet with you as soon as possible to discuss your new role and responsibilities.] You will be expected to return to work on [date].
- You are to be suspended without pay for the period of [amount of time] beginning from [date]. During this period, you are obliged to stay away from the workplace.
- You will not be allocated any overtime for the period from [date] and until [date].
- You will not receive [details of bonus] that would otherwise be payable to you on [date].
- You will not be eligible for the pay increase otherwise due to take effect on [date]. The effect of this is that your salary will remain at £[ ]. Any future pay increases will be agreed with you in the normal way.
- You will not be eligible for any promotion for the period of [amount of time] beginning from [date].
- You will remain on your current point on the grading structure for the period of [amount of time] beginning from [date].]

[Please note that this disciplinary action involves a change to your terms and conditions of employment and a new written statement of terms and conditions is attached. These changes will take effect on [date] and will be reflected in the salary payment made on [date].]

[Because this sanction has been agreed with you in place of a more severe sanction, please sign the enclosed copy of this letter indicating your agreement and return it to me by [date]. Failure to sign and return the copy of this letter may result in us reconsidering the sanction being imposed up to and including your dismissal.]

It was agreed at the hearing that you would ensure that there is no further misconduct on your part. Failure to do so on your part may result in further action being taken and may ultimately result in your dismissal.

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You have the right, if you wish, to appeal against this decision. If you wish to appeal, you should do so in writing within [five] working days of the date of this letter to [name]. Your written notice should state the grounds for your appeal.

Yours

Signed \_\_\_\_\_  
*The Club President or Vice President*

Enc.

**NOTICE OF APPEAL HEARING AGAINST DISCIPLINARY ACTION - TEMPLATE**

Date \_\_\_\_\_

Dear \_\_\_\_\_

You have lodged an appeal against the [recorded oral warning/first *written warning*/final *written warning/notice of dismissal*] confirmed in our letter to you of [ ].

Your appeal will be heard on [date] at [time] by [person], and will take place in [room number etc].

You have the right to be accompanied at the appeal hearing by a fellow worker or trade union representative if you so wish.

[I would add that there is no further appeal against this decision. /If you wish you may refer the matter to the final appeal stage. If you wish to appeal, you should do so in writing within [ ] working days of this letter to [ ]. Your written notice should state the grounds for your appeal.]

Yours

Signed \_\_\_\_\_

*The Club President or Vice President*

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**NOTICE OF RESULT OF APPEAL HEARING AGAINST DISCIPLINARY ACTION - TEMPLATE**

Date \_\_\_\_\_

Dear \_\_\_\_\_

I refer to the disciplinary appeal hearing held on [ ] in connection with your appeal against the decision of [name of manager taking decision] dated [ ] to [issue you with a disciplinary warning/dismiss you].

Having considered your appeal very carefully and taken into account your representations, it has been decided to allow your appeal and remove all records of the disciplinary hearing [and warning] from your record. This decision has been taken because [give reasons why appeal has been allowed].

[OR

Having considered your appeal very carefully and taken into account your representations, it has been decided to allow the appeal as to [state grounds of successful appeal] but reject the appeal as to [state unsuccessful grounds of appeal]. This decision has been taken because [give reasons why appeal has been allowed in part]. With regard to the matter on which the appeal has not been allowed, the organisation will retain a [nature of warning] warning on your record. Any records relating to the matter on which the appeal has been successful will be removed from your record.

OR

Having considered your appeal very carefully and taken into account your representations, it has been decided to uphold the decision of [name of manager] and [retain the [nature of warning] warning on your record/dismiss you]. This decision has been taken because [give reasons why appeal has been rejected].]

[As you were [summarily dismissed/dismissed with notice], you are reinstated with immediate effect [and will be compensated for any period during which you were not paid]. Your period of continuous service, which began on [date] will not be affected.]

[I would add that there is no further appeal against this decision. / If you wish you may refer the matter to the final appeal stage. If you wish to appeal, you should do so in writing within [ ] working days of the date of this letter to [ ]. Your written notice should state the grounds for your appeal.]

Yours sincerely,

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Signed \_\_\_\_\_  
*The Club President or Vice President*