



# Disciplinary Regulations

## Of The

# Great Britain Kurling Association

Effective 1<sup>st</sup> June 2008

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# 1. Disciplinary Procedures

- 1.1 The Great Britain Kurling Association (hereafter referred to as The GBKA) has adopted the ensuing disciplinary procedure and recommends Member Clubs, Counties and Countries to adopt a similar procedure to administer matters of a disciplinary nature. If a Member is charged with an offence pursuant to the GBKA's Anti-Doping Regulations or the Child Protection Policy then the disciplinary provisions of the relevant regulations or policy will, if appropriate, apply.
- 1.2 In this introduction to the instructions, which follow, capitalised terms shall bear the meanings given to them in paragraph 1.6 below.
- 1.3 A Member has the right of appeal to the relevant Appeal Committee of The GBKA, Member Club, County or Country arising from a decision of the Disciplinary Committee of The GBKA, Member Club, County or Country respectively.
- 1.4 There is no right of appeal against the decision of a Tournament Committee regarding a breach of the Rules in any competition or match.
- 1.5 The Instructions are incorporated herein.
- 1.6 "Constitution of the Great Britain Kurling Association" means the Constitution of the Great Britain Kurling Association and the Rules of New Age Kurling.

"The GBKA" means The Great Britain Kurling Association.

"Instructions" means the Instructions for the Procedure and Conduct of Disciplinary Committees.

"Member" means a Member Country, Member County, Member Club or Member of a Member Country, Member County or Member Club irrespective of membership category.

"Member Club" means a Club affiliated to a Member County, Member Country or the GBKA.

"Member County" means a County Kurling Associations in the United Kingdom affiliated to a Member Country or The GBKA.

"Member Country" means a National Kurling Association affiliated to The GBKA in England, Channel Islands, Isle of Man, Northern Ireland, Scotland or Wales.

"Rules" means collectively the Rules of Kurling and any local Rules made by a Tournament Committee.

"Tournament Committee" means the tournament or organising committee, by whatever name called, in charge of a Kurling match or competition within the United Kingdom.

## **2. Instructions for the Procedure and Conduct of Disciplinary Committees**

### **2.1 Definitions**

In these Instructions the following expressions shall bear the following meanings:

“Appeals Committee”: Three or more Impartial Members of the Inquirer's Governing Committee.

“D.C. Chairperson”: The Chairperson of the Inquirer's Disciplinary Committee.

“D.C. Secretary”: The Secretary to the Inquirer's Disciplinary Committee.

“Disciplinary Committee”: A committee of not less than three Impartial Members (appointed to conduct a particular Inquiry) of which one member shall act as D.C. Chairperson.

“Governing Committee”: The main Executive Committee in which is constitutionally vested the care and control of the affairs of the body concerned.

“Impartial Member”: In relation to an Inquiry, a person who has no personal interest in or involvement with the subject matter of the Inquiry or with the Inquiree and who is appointed in accordance with these Instructions to be a member of a Disciplinary Committee or Appeal Committee.

“Inquiree”: Any Member who is the subject of an Inquiry.

“Inquirer”: The GBKA, a Member Country, a Member County or a Member Club charged with the responsibility of holding an Inquiry.

“Inquiry”: An Inquiry held by The GBKA, a Member Country, a Member County or a Member Club concerning the conduct of an Inquiree.

### **2.2 Instructions**

- 2.2.1 The Great Britain Kurling Association, each Member Country, County and Club should have a grievance procedure, which may be invoked at the sole discretion of the GBKA, the Member Country, County or Club. The purpose of the grievance procedure is to sort out, in an informal manner, minor misunderstandings or unintended offensive behaviour. If an Inquiry is to be conducted, The GBKA or the relevant Member Country, County or Club (as the case may be) shall appoint a Panel for Discipline (the “Panel”).
- 2.2.2 The GBKA's Panel shall consist of all members of the National Executive Committee. The Chairperson of the National Executive Committee shall nominate three Impartial Members to act as the Disciplinary Committee for any Inquiry to be conducted by The GBKA and shall appoint one of the three members to be the D.C. Chairperson.
- 2.2.3 A Member Country's, County's or Club's Panel shall consist of at least three members of its Governing Committee. The Chairperson of the Governing Committee shall nominate three Impartial Members to act as the Disciplinary Committee for any Inquiry to be conducted by the Member County and shall appoint one of the three members to be the D.C. Chairperson.
- 2.2.4 If, in respect of any Inquiry, it is not possible for an Inquirer to find amongst the Panel enough Impartial Members to form a Disciplinary Committee, the Panel shall appoint other impartial or suitable persons to constitute the Disciplinary Committee. A person shall not be appointed to serve on the Disciplinary Committee if he/she has any personal interest in or involvement with the subject matter of the Inquiry or the Inquiree.
- 2.2.5 At any Inquiry the members of the Disciplinary Committee must be Impartial Members. The Disciplinary Committee must discharge its responsibilities in accordance with the principles of natural justice.

- 2.2.6 The Secretary of the Inquirer (or a deputy nominated by the Chairperson of the Club, County, Country or The GBKA for the purpose) shall act as D.C. Secretary. He/she shall attend and serve the Disciplinary Committee as it's clerk, but shall not be a member thereof, nor shall he/she act in a judicial capacity or have a vote.
- 2.2.7 The Disciplinary Committee shall:
- (a) be unbiased;
  - (b) be familiar with the procedures outlined in these instructions;
  - (c) act within their Constitutional powers and not be afraid to seek advice on any matter about which they are unsure; and
  - (d) have consideration and respect for all parties to an Inquiry including witnesses.

### **2.3 Requesting an Inquiry**

An Inquiry may be instigated by either:

- 2.3.1 the complainant sending to the Inquirer a written report identifying the Inquiree and giving details of the conduct in respect of which the complaint is made; or
- 2.3.2 the Inquirer's Governing Committee referring any complaint to its Secretary in writing, identifying the Inquiree and giving details of the conduct in respect of which the complaint is made.

### **2.4 Initiating an Inquiry**

- 2.4.1 On receipt of a report under paragraph 2.3, the Secretary of the Inquirer shall as soon as practicable:
- (a) inform the Chairperson of the Inquirer's Governing Committee who may exercise the power set out in paragraph 2.2.1 and thereafter, when appropriate, paragraphs 2.2.2 and 2.2.3;
  - (b) assemble such facts as are reasonably available;
  - (c) notify the Inquiree in writing of the complaint made against him and inform the Inquiree that if he/she wishes he/she may submit in writing any observations on the complaint. It must be made clear that the Inquiree is under no obligation to make any statement but that any statement which the Inquiree wishes to make should be submitted within seven days.
  - (d) on the expiration of seven days from the date of notification to the Inquiree, convene a meeting of the Disciplinary Committee by serving not less than 14 days notice of the date, time and place of the hearing on the members of the Disciplinary Committee, the Inquiree and such other bodies or persons as the D.C. Chairperson decides are appropriate.
- 2.4.2 There shall be annexed to the notice given to the Inquiree under paragraph 2.4.1 (c), a copy of these Instructions, a copy of the report referred to in paragraph 2.3, a copy of any statement submitted by the Inquiree and a statement of any other facts of which the Secretary of the Inquirer is aware and which are likely to assist the Disciplinary Committee and the parties to the Inquiry.

### **2.5 Proceedings of a Disciplinary Committee**

- 2.5.1 At every Inquiry, the Inquiree shall have the right:
- (a) to be present in person;
  - (b) to state his/her case, call witnesses and furnish evidence; and
  - (c) to be assisted at the hearing by a fellow Club member or colleague of his/her choosing.
- 2.5.2 Evidence of the conduct being considered may be in writing or given orally. Anonymous or unattributed opinions are inadmissible as evidence. Hearsay evidence is admissible but the Disciplinary Committee must treat it with caution. The Inquiree has the right to:
- (a) be given access to the evidence;
  - (b) respond to the evidence;
  - (c) know the name of the person(s) giving evidence;
  - (d) challenge the evidence; and
  - (e) expect that the evidence will be presented systematically and thoroughly.
- The D.C. Chairperson shall have discretion to proceed with the Inquiry in the absence of the Inquiree if notification has been given to the Inquiree in accordance with these Instructions but the Inquiree has failed to attend the meeting of the Disciplinary Committee or give any reasonable explanation for such failure.

- 2.5.3 The standard of proof in all cases shall be the balance of probabilities
- 2.5.4 The Chairperson may in appropriate cases give directions for the hearing.
- 2.5.4 The Disciplinary Committee may appoint a solicitor to attend an Inquiry and advise the Disciplinary Committee. Such solicitor shall not have a vote.

## **2.6 Conduct of an Inquiry by a Disciplinary Committee**

An Inquiry shall be conducted as follows:

- 2.6.1 The D.C. Secretary shall confirm that the Inquiree has copies of all the relevant documents.
- 2.6.2 The Inquiree shall be advised by the D.C. Chairperson that he/she may either submit a written statement or make a verbal statement to the Disciplinary Committee or remain silent. The Inquiree shall be further advised that if he/she makes a verbal statement to the Disciplinary Committee it will carry more weight than remaining silent. An Inquiree will be liable to be asked questions by the Disciplinary Committee about any written or verbal statement.
- 2.6.3 Witnesses may be called, make statements and be questioned by the Disciplinary Committee or Inquiree.
- 2.6.4 The Disciplinary Committee shall consider its decision. Only members of the Disciplinary Committee shall be present when it is considering its decision, but the Disciplinary Committee may invite it's legal adviser to attend and advise the Disciplinary Committee but who should then retire to allow the Disciplinary Committee to reach its decision.
- 2.6.5 The Chairperson may announce the decision and reasons in open session immediately or adjourn the Inquiry to allow the Disciplinary Committee further time to make enquiries or deliberate. The Inquiree shall have the right to respond to any matters arising out of any further enquiries carried out. If a response is required then the Inquiree shall be given written notice of matters arising out of the further enquiries and given seven days to respond in writing. The Chairperson may if he/she considers it necessary reconvene the hearing to allow the Inquiree to respond. The Disciplinary Committee will make a decision within seven days of the conclusion of the final hearing.
- 2.6.6 The D.C. Secretary shall take minutes of the proceedings of the Disciplinary Committee. The Inquiree appealing against the decision of the Disciplinary Committee is entitled to a copy of the minutes.
- 2.6.7 The D.C. Chairperson may admit such other matters as are relevant to the subject matter of an Inquiry. The D.C. Chairperson may decide the procedure and order of the Inquiry (including any adjournment thereof) as he/she may deem appropriate, bearing in mind the requirement at all times to give the Inquiree a fair hearing.

## **2.7 Penalties**

A Disciplinary Committee may, on finding the Inquiree guilty of an offence, impose one or more of the following penalties:

- 2.7.1 A reprimand
  - 2.7.2 Suspension from the Club Premises and/or course
  - 2.7.3 Suspension or loss of the Inquiree's membership
- The Disciplinary Committee shall on a finding of guilt invite the Inquiree to make submissions on penalty and take into account any such submissions, the gravity of the offence and any previous examples of misconduct by the Inquiree.

## **2.8 Communicating Decisions of a Disciplinary Committee**

- 2.8.1 Within seven days of the announcement of the Disciplinary Committee's decision, the D.C. Secretary shall serve written notice of that decision and the reasons for it on the Inquiree and all other persons and authorities concerned.

## **2.9 Data Retention**

- 2.9.1 A record of all Inquiries and decisions of Disciplinary Committees and the minutes of their meetings must be maintained by the Inquirer for a minimum period of three years.

## **2.10 Appeals**

- 2.10.1 An Inquiree may by written notice appeal against the decision of the Disciplinary Committee to the Inquirer's Governing Committee. Such notice shall be served on the Inquirer within 14 days of the date of the service of the decision on the Inquiree under paragraph 2.7. If such notice of appeal, together with the deposit under paragraph 2.11, is not served within the said 14-day period the Inquiree's right of appeal shall lapse. In giving notice of appeal, the Inquiree shall provide a written statement indicating the grounds for the appeal, together with such accompanying documents as he/she feels are appropriate.
- 2.10.2 On receipt of a notice of appeal the Secretary of the Inquirer shall inform the Inquirer's Governing Committee which shall as soon as possible appoint an Appeal Committee for the purpose of dealing with the appeal.
- 2.10.3 From the date of receipt by the Inquirer of a notice of appeal until the determination of the appeal the decision of the relevant Disciplinary Committee shall be suspended except in the following circumstances
- a) If the Inquiree has been penalised pursuant to Article 10 of The GBKA's Anti-Doping Regulations then the decision of the Anti-Doping Disciplinary Committee will remain in force pending the appeal.
  - b) If the Inquiree has been suspended pursuant to any relevant clause contained in the Child Protection Policy then that suspension will remain in place pending the appeal.
- If the said decision involves any suspension of the Inquiree's right to play Kurling, the Inquiree may not play in any competition.
- 2.10.4 An Inquiree shall, when sending a notice of appeal under paragraph 2.10, contemporaneously lodge with the Inquirer a cash deposit. Such cash deposit shall be as follows:
- Appeal against a decision by a Member Club - £25
  - Appeal against a decision by a Member County - £30
  - Appeal against a decision by a Member Country - £50
  - Appeal against a decision of a Disciplinary Committee of the GBKA 50
- If the appeal is unsuccessful, the relevant Appeal Committee may (at its discretion) apply the cash deposit to defray the expenses of the appeal. If the cash deposit is not sufficient to defray the expenses of the appeal, the Inquirer shall absorb the deficit.
- 2.10.5 The appeal shall be heard by the duly appointed Appeal Committee. The D.C. Secretary shall act as Secretary to the Appeal Committee. Clause 2.2 and clauses 2.4 to 2.9 (inclusive) shall apply to the conduct of an appeal subject only to the substitution of "Appeal Committee" for "Disciplinary Committee" and "Appeal" for "Inquiry" throughout.
- 2.10.6 The decision of an Appeal Committee shall be final and there shall be no right of appeal by the Inquiree or any other person or body against it.

## **2.11 Notices**

- 2.11.1 All notices to be given or served by any person or body under the provisions of these Rules shall be served by hand on, or sent by recorded delivery or first-class post to, the addressee at his/her or its last address known to the sender. In the case of The GBKA, a Member Country, County or Club, the notice shall be addressed to the last known Secretary thereof at his/her last known address. Notices delivered by hand shall be deemed to be served at the time of delivery. Notices sent by first-class post shall be deemed to be delivered on the second day following posting. Recorded delivery notices are deemed received when the delivery of the same has been recorded by the relevant postal official. The relevant notice period shall commence with the deemed date of receipt.

### **3. Grievance Procedures**

- 3.1 If The GBKA, Member Country, County or Club has a complaint or grievance concerning a player/member, it must be set out in writing and sent, or a copy of it, to the Secretary of the appropriate Governing Committee.
- 3.2 The Chairperson of the appropriate Governing Committee will appoint an impartial member ("IM") from its Governing Committee to hear the complaint/grievance.
- 3.2 The ("IM") will invite the player/member to attend a meeting to discuss the grievance. The player/member may be assisted at such meeting either by a colleague or fellow member.
- 3.4 The meeting must not take place unless the player/member has had a reasonable opportunity to consider his/her response to the complaint/grievance.
- 3.5 The player/member must take all reasonable steps to attend the meeting. If the player/member does not attend the meeting then the IM may consider the grievance in his/her absence, adjourn the hearing or take such other action as he/she deems necessary.
- 3.6 After the meeting, the IM will inform the player/member of his/her decision concerning the complaint/grievance and his/her decision is final.