

## Cheshire Union of Golf Clubs



### DISCIPLINARY REGULATIONS

#### 1. DEFINITIONS

**1.1.** In these Regulations the following words and phrases shall have the following meanings and interpretations:

"Adult at Risk of Harm"	<p>an individual aged 18 or over who:</p> <ul style="list-style-type: none"><li>• is unable to look after their own wellbeing, property, rights or other interest; and</li><li>• is at risk of harm (either from another person's behaviour or their own behaviour); and</li><li>• because they have a disability, mental disorder, illness or physical or mental infirmity, they are more vulnerable to being harmed than other adults;</li></ul>
"Appeal Panel"	<p>the individual or group of individuals appointed in accordance with these Regulations to deal with appeals</p> <p>under these Regulations;</p>
"Appellant"	<p>the person or body who appeals a Decision of the Disciplinary Panel;</p>
"Chair"	<p>The individual appointed to chair the Disciplinary or Appeal Panel;</p>
"Charge"	<p>The charge which is brought against the Respondent in respect of the disciplinary matter;</p>
"County"	<p>Cheshire Union of Golf Clubs</p>
"County Rules"	<p>The rules of the County which may include its bye-laws, constitution or articles of association, code of conduct and any other rules by which the Members are bound in accordance with their membership of the County;</p>
"County Event"	<p>Any event, competition, golfing event or tournament administered, organised or supported by the County from time to time;</p>
"Complaint"	<p>a complaint of misconduct or notification of a concern as referred to in <b>Regulation 4 - Raising of Complaints</b></p>
"Complainant"	<p>the person or body from whom a Complaint has been received;</p>

“Committee”	The governing committee or board that is responsible for the running of the County Unions/Association;
“Club”	A golf club being a member of or otherwise affiliated to the County
“Disciplinary Panel”	the group of individuals appointed by the County to deal with disciplinary matters under these Regulations;
“Disciplinary Secretary”	the person who is nominated as the Disciplinary Secretary by the Committee from time to time;
“England Golf”	The English Golf Union Limited, The National Golf Centre, The Broadway, Woodhall Spa, Lincolnshire, LN10 6PU, Company Number: 5564018;
“Member”	Any individual who is a member of the County, or a member of a Club in any membership category, including social or honorary members;
“Notice of Charge”	A written notice sent to the Respondent in any matter notifying them of the Complaint(s) and Charge(s) made and brought against them;
“Participant”	Any person, whether a Member, a visitor, or a subscriber to the England Golf iGolf scheme, who takes part in or spectates at any County Event or who attends as a social/honorary member;
“Panel”	A Disciplinary or Appeal Panel formed under these Regulations;
Player	Any person who plays golf at a County Event, whether or not they are a Member
“Respondent”	the person who is the subject of the Complaint or disciplinary action brought by the Disciplinary Secretary under the Regulations;
“Rules of Golf”	the rules governing the playing of golf as jointly issued by the R&A and the USGA from time to time;
“Young Person”	A person under 18 years of age.

## **2. WHO IS BOUND BY THESE REGULATIONS**

- 2.1.** These Regulations apply to all Members, Honorary Members, Players Participants, staff members, volunteers and contractors of the County.

## **3. JURISDICTION OVER DISCIPLINARY MATTERS**

- 3.1.** These Regulations will apply to:

- 3.1.1.** Alleged breaches of the County Rules, Regulations, Codes and Practices, and its statement of values or standards of behaviour.
- 3.1.2.** alleged breaches of the Rules of Golf, handicap infringements, disqualifications and any breach of the rules of a County Event;

**3.1.3.** any matter in which an individual engages in any conduct which is inappropriate, unlawful, unsporting or behaves in a manner which is unacceptable or opposed to the general interests of the County or which brings the County into disrepute;

**3.1.4.** appeals, from disciplinary decisions at golf clubs affiliated to the Cheshire Golf Union as permitted by Regulation [14] – **Appeals to the County.**

**3.2.** Incidents of a safeguarding nature must be referred to the England Golf Governance team before any disciplinary action is taken under these Regulations.

#### **4. RAISING OF COMPLAINTS**

**4.1.** Any person or body may raise a complaint to be considered under these Regulations. Complaints should be made in writing, but the County will make reasonable adjustments to deal with Complaints made in other ways where appropriate.

**4.2.** When the County receives a Complaint, the County shall appoint a Disciplinary Secretary, who shall be independent of the matter, to consider the matter and decide how to proceed.

#### **5. NEXT STEPS**

**5.1.** Following appointment, the Disciplinary Secretary may, without limitation:

**5.1.1.** Commence an initial investigation to obtain more information or evidence

**5.1.2.** Contact the Respondent for a response

**5.1.3.** seek advice from or refer the matter to any other appropriate body

**5.1.4.** resolve to deal with the matter informally

**5.1.5.** conclude that no further action is required

**5.1.6.** refer the matter to a Disciplinary Panel for further action.

**5.2.** In any event the Disciplinary Secretary will record the reasons for deciding on the appropriate next steps.

## **6. DEALING WITH THE MATTER FORMALLY: CONSTITUTING A DISCIPLINARY PANEL**

- 6.1.** If the Disciplinary Secretary decides that the matter should be dealt with formally, a Disciplinary Panel will be set up to deal with the matter.
- 6.2.** The Disciplinary Panel will be made up of 3 individuals, who will all be independent of the complaint of incident giving rise to the matter. One member of the Disciplinary Panel will be appointed as Chair.
- 6.3.** If at any time a member of the Disciplinary Panel either declares an interest or is deemed to have an actual or potential interest by the Chair (or if it is the Chair, another member of the Disciplinary Panel) they will be replaced by another individual.

## **7. ISSUING A NOTICE OF CHARGE**

- 7.1.** Once a Disciplinary Panel has been formed the Disciplinary Secretary will notify the Complainant of the decision to deal with the matter under these Regulations, and send a Notice of Charge to the Respondent clearly setting out:
  - 7.1.1.** The Regulation, rule or provision that the Respondent is alleged to have breached; and
  - 7.1.2.** A summary of the facts or circumstances that led to the Complaint and the Charge; and
  - 7.1.3.** A description and copies of the evidence that is being relied upon to support the Charge; and
  - 7.1.4.** Confirmation that these Regulations apply to the determination of the matter; and
  - 7.1.5.** The time, date and location of any meetings that have been organised to discuss or otherwise deal with the matter; and
  - 7.1.6.** The rights of the Respondent under these Regulations to have a fair opportunity to make representations in their defence; and
  - 7.1.7.** Instructions on what the Respondent must do to either admit or deny the Charge and the deadline for indicating their response.

## **8. ADMITTING OR DENYING THE CHARGE**

- 8.1.** The Respondent shall have at least 14 days from the date of the Notice of Charge to respond and either:
- 8.1.1.** Admit the Charge; or
  - 8.1.2.** Deny the Charge, in which case the matter will be dealt with by a full disciplinary hearing.
- 8.2.** If the Respondent admits the Charge, the Disciplinary Panel may deal with Decisions and Sanctions under Regulation [11] – **Decisions and Sanctions.** The Respondent may make written representations in mitigation within 7 days from accepting the Charge or having been deemed to accept the Charge.
- 8.3.** If the Respondent does not accept the Charge, the Disciplinary Panel will call a Disciplinary Hearing in accordance with Regulations [9-10] – **Notice for Disciplinary Hearings and Oral Disciplinary Hearings.**
- 8.4.** If the Respondent does not respond to the Notice of Charge within the time period outlined at Regulation [8.1] above, the Disciplinary Panel may call a Disciplinary Hearing and may treat the Respondent as admitting the Charge.
- 8.5.** If there are multiple Charges, the Respondent may admit or deny all or some of the Charges. The Disciplinary Panel may deal with Charges that are admitted and denied separately.
- 8.6.** The Disciplinary Panel may deal with a disciplinary matter by way of an oral hearing either conducted in person or by audio or video conference call, or deal with the matter by way of written submissions, whichever method is most appropriate and proportionate to the issues at hand and considering the needs and wishes of the Respondent and any other witnesses in deciding how to deal with the hearing.

## **9. NOTICE FOR DISCIPLINARY HEARINGS**

- 9.1.** The Disciplinary Panel will give reasonable notice of any hearing or deadline for written submissions and should consider at least one re-scheduling to take into account prior commitments.

## **10. ORAL DISCIPLINARY HEARINGS**

- 10.1.** The Respondent may be represented by a third party at any oral hearing, whether or not that person is a member of the County (the "**Representative**"), and the Representative may make submissions but not give evidence on behalf of the Respondent.
- 10.2.** The Respondent may be accompanied by another Member for support (the "**Friend**"), but the Friend may not make representations on behalf of the Respondent.
- 10.3.** The procedure for an oral hearing will be at the discretion of the Chair. A standard hearing procedure which may be followed is set out in the **Appendix** to this document.
- 10.4.** Regardless of the procedures followed, the Respondent must be given a fair opportunity to make representations and present evidence in their defence. The Respondent must also be given the opportunity to review and challenge evidence in support of the Complaint and Charge.
- 10.5.** If the Respondent does not attend the hearing as arranged above, provided that the Disciplinary Panel is satisfied that notice of the hearing was received it may proceed and decide the case in the absence of the Respondent.

## **11. DECISIONS AND SANCTIONS**

- 11.1.** The Disciplinary Panel may reach such decision and/or impose such sanctions as it sees fit, including without limitation, to:
- 11.1.1.** Dismiss the Charge as unproven;
  - 11.1.2.** Issue a warning or reprimand in respect of the misconduct or rule breach committed;
  - 11.1.3.** Suspend or exclude the Respondent from the County and/or County Competitions, Tournaments, Teams, meetings or other activities;

- 11.1.4.** Suspend or exclude the Respondent from holding office within the County (including Clubs within the County) for a specified or indefinite period of time;
  - 11.1.5.** Suspend the Respondent's Membership of the County, and/or their ability or authority to attend the Clubs within the County and exercise playing rights at Clubs within the County for a defined period;
  - 11.1.6.** Permanently expel the Respondent from the County;
  - 11.1.7.** Suspend or place restrictions on the Respondent's handicap for a defined period of time; and/or
  - 11.1.8.** A combination of any of the above or any other disciplinary action as considered appropriate by the Disciplinary Panel as appropriate.
- 11.2.** The decision taken by the Disciplinary Panel in relation to sanctions must be reasonable and proportionate in all the circumstances. The Disciplinary Panel will give reasons for its decision.
- 11.3.** The decision of the Disciplinary Panel may be communicated to the Respondent orally at any oral Hearing, but must, in any event, be communicated in writing within a reasonable time of the decision being made.
- 11.4.** If a right of appeal exists from the decision, the written decision must set out how that right can be exercised.

## **12. MATTERS INVOLVING YOUNG PERSONS OR ADULTS AT RISK**

- 12.1.** Where a disciplinary matter involves a Young Person and/or Adult at Risk of Harm, the Disciplinary Panel must be mindful of the needs of the person in question and take these into account when deciding:
- 12.1.1.** The format of proceedings;
  - 12.1.2.** Whether any action is taken against such a Young Person or an Adult at Risk of Harm;
  - 12.1.3.** Whether any provisions in these Regulations should be varied.
- 12.2.** The Disciplinary Panel should inform the County Welfare Officer or, in their absence, the England Golf Safeguarding team of the circumstances

surrounding the Young Person and/or the Adult at Risk of Harm before taking any action under these Regulations.

**12.3.** Written permission should be obtained from any parent / carer of a Young Person or Adult at Risk of Harm where such person is asked to provide evidence and / or attend a hearing. Where a Young Person or Adult at Risk of Harm is asked to attend a hearing, they shall be afforded the opportunity to do so accompanied by any parent / carer and the Disciplinary Panel shall make sure that the Young Person or Adult at Risk of Harm fully understands the process taking place.

**12.4.** For the avoidance of doubt, the refusal of the parent, Young Person or Adult at Risk of Harm to co-operate shall not preclude County from taking disciplinary action against the Young Person or Adult at Risk of Harm.

### **13. APPEALS– ENGLAND GOLF FRAMEWORK**

**13.1.** Decisions which relate to the Rules of Golf or to handicapping infringements fall within the England Golf Disciplinary Framework and are subject to a right of appeal as set out below.

<b>Matter arising at</b>	<b>Disciplinary body at first instance</b>	<b>Appeal level</b>
Club	Club	County
County	County	England Golf
National	England Golf	England Golf Appeals Panel

There will be no further right of appeal.

**13.2.** If the Respondent wishes to appeal a decision of the Disciplinary Panel in respect of a matter within the England Golf Disciplinary Framework, the provisions of Part 3 of the England Golf Disciplinary Regulations will apply.

**13.3.** The party seeking leave to appeal (“the Appellant”) shall serve a Notice of Appeal in writing on the governance department of England Golf via [disciplinary@englandgolf.org](mailto:disciplinary@englandgolf.org) within 10 working days following receipt of the written grounds of the decision against which the appeal is being made.

**13.4.** The Notice of Appeal must:



- 13.4.1.** State the date and decision of the Disciplinary Panel against which the appeal is lodged;
- 13.4.2.** set out one or more of the grounds of appeal below and any further evidence on which the Appellant wishes to rely, together with reasons why the ground of appeal(s) applies. The grounds of appeal are as follows:
- 13.4.2.1.** The decision was based on error of fact or could not have been reasonably reached by a Disciplinary Panel when faced with the evidence before it;
  - 13.4.2.2.** Serious procedural or other irregularity in the proceedings before the Disciplinary Panel;
  - 13.4.2.3.** Significant and relevant new evidence has become available which was not available before the conclusion of the hearing but, had it been available, may have caused the Disciplinary Panel to reach a materially different decision; and/or
  - 13.4.2.4.** The sanction imposed was manifestly unreasonable in the light of the facts before the Disciplinary Panel.
- 13.4.3.** Set out the statement of facts upon which the appeal is based, specifying whether the appeal is against finding and sanction or just sanction alone, and include any supporting documentation upon which the appellant will rely;
- 13.4.4.** Be accompanied by payment of £500 made payable to England Golf ("**the Deposit**"). The Deposit will be held by England Golf and repaid to the appellant if the appeal panel so decides. Payment details are available on request via [disciplinary@englandgolf.org](mailto:disciplinary@englandgolf.org).
- 13.5.** The England Golf Disciplinary Regulations will apply thereafter to any appeal.
- 13.6.** For appeals from a County Disciplinary Panel for matters outside of the England Golf Disciplinary Framework, that is where no right of appeal to England Golf applies, the provisions of Regulation 14.2 – 14.12 will apply.

## **14. APPEALS TO THE COUNTY**

- 14.1. EITHER [1]** The County acts as the appeal body for all disciplinary matters arising within its Clubs. **OR [2]** The County acts as an appeal body only for those matters arising at its member Clubs where those matters fall within the England Golf Disciplinary Framework. For any matters falling outside the England Golf Disciplinary Framework, individuals will need to have regard to their club's own disciplinary regulations.
- 14.2.** The party seeking leave to appeal ("the Appellant") shall serve a Notice of Appeal in writing on the County within 10 working days following receipt of the written grounds of the decision against which the appeal is being made.
- 14.3.** The Notice of Appeal must:
- 14.3.1.** State the date and decision against which the appeal is lodged;
  - 14.3.2.** set out one or more of the grounds of appeal below and any further evidence on which the Appellant wishes to rely, together with reasons why the ground of appeal(s) applies. The grounds of appeal are as follows:
    - 14.3.2.1.** The decision was based on error of fact or could not have been reasonably reached by a disciplinary panel when faced with the evidence before it;
    - 14.3.2.2.** Serious procedural or other irregularity in the proceedings under appeal;
    - 14.3.2.3.** Significant and relevant new evidence has become available which was not available before the conclusion of the hearing but, had it been available, may have caused a disciplinary panel to reach a materially different decision; and/or
    - 14.3.2.4.** The sanction imposed was manifestly unreasonable in the light of the facts before the disciplinary panel.
- 14.4.** Set out the statement of facts upon which the appeal is based, specifying whether the appeal is against finding and sanction or just sanction alone, and include any supporting documentation upon which the appellant will rely.

- 14.5.** The County will appoint a Disciplinary Secretary with respect to the appeal. The Disciplinary Secretary will consider whether the matter is within the England Golf Disciplinary Framework. *[if **OR** option [2] selected above* If the Disciplinary Secretary considers that the matter falls outside the England Golf Disciplinary Framework, he will reject the appeal and inform the Appellant and the Club of his decision, with reasons.] If the matter falls within the England Golf Disciplinary Framework, the Disciplinary Secretary will inform England Golf via [disciplinary@englandgolf.org](mailto:disciplinary@englandgolf.org). England Golf may, at its discretion, determine that it should hear the appeal in which case the England Golf Disciplinary Regulations will apply thereafter.
- 14.6.** The Disciplinary Secretary will then consider whether one or more of the grounds of appeal have been established in the Notice of Appeal and that it otherwise complies with the requirements of Regulation [14.3] – **Notice of Appeal**. If, in the reasonable opinion of the Disciplinary Secretary at least one ground of appeal has been established, the Disciplinary Secretary will appoint an Appeal Panel. The Appeal Panel will comprise 3 individuals who have had no prior involvement and have no actual or potential interest in the matter.
- 14.7.** The Appeal Panel shall determine whether an appeal of a Disciplinary Panel decision shall be by way of review only or a full re-hearing of all the evidence presented to the Disciplinary Panel, with due consideration being given to any requests made by any relevant party.
- 14.8.** An Appeal Hearing may deal with an appeal on the basis of written submissions from the Appellant and the Respondent or by way of an oral hearing. If any party requests an oral hearing, then this will be facilitated unless exceptional circumstances mean that an oral hearing is impracticable.
- 14.9.** The procedure for an Appeal Hearing shall be flexible and shall be at the discretion of the Appeal Panel, who may make such decisions as necessary to ensure the orderly and effective conduct of the hearing, subject to the overriding requirement of fairness. The Appeal Panel will then outline the basic procedure of the Hearing.
- 14.10.** The standard hearing procedure for disciplinary hearings set out in the **Appendix** may also be followed by the Appeal Panel at their discretion.

**14.11.** The Appeal Panel shall have the power to:

**14.11.1.** Dismiss the appeal;

**14.11.2.** Remit the matter for a re-hearing by the Disciplinary Panel;

**14.11.3.** Remit the matter for a re-hearing by a new Disciplinary Panel made up of different individuals than those originally appointed;

**14.11.4.** Substitute an alternative finding;

**14.11.5.** Reduce or increase the original sanction; and/or

**14.11.6.** Make such further order as they consider appropriate.

**14.12.** The decision of the Appeal Panel may be communicated at the Hearing, but must, in any event, be communicated in writing within 7 days of the hearing or deliberation of written submissions taking place.

## **15. MISCELLANEOUS PROVISIONS**

**15.1.** The Panel will make decisions by a simple majority of over 50%. The Panel may give a single decision and is not obliged to disclose to the Respondent how individual members of the Panel voted or whether the decision was a majority decision or a unanimous decision.

**15.2.** The standard of proof in all cases before the Panel is the balance of probabilities.

**15.3.** Any timescales or deadlines set in respect of matters dealt with under these Regulations may be extended in the light of all material circumstances of the case and the individuals involved in the case.

**15.4.** The Panel may, where it deems appropriate bearing in mind all the circumstances of the matter, request an independent person to act as adviser to the Panel.

**15.5.** The Panel is not obliged to follow strict rules of evidence. It may admit such evidence, and attribute such weight to any piece of evidence, as it deems fit in the circumstances.

**15.6.** The County will not be liable to any person, Member or Participant for any loss, however, caused, whether direct, indirect, financial or consequential

arising out of or in connection with any matters taken under these Regulations.

- 15.7.** Any relevant contact details for the Disciplinary Secretary and any other relevant parties shall be available from the County and communicated to Members from time to time and upon request.
- 15.8.** The laws of England & Wales shall apply to these Regulations.

## **APPENDIX**

### **STANDARD DISCIPLINARY HEARING PROCEDURE**

- 1** If deemed to be required, prior to any hearing, the Panel will set appropriate deadlines for the submission of any written evidence / representations requested from the Disciplinary Secretary or the Respondent.
- 2** The hearing will be convened by the Panel at a time suitable to the parties and communicated to the parties by the Disciplinary Secretary.
- 3** The case against the Respondent will be presented by the Disciplinary Secretary, together with relevant evidence, including witness evidence, if appropriate.
- 4** The Respondent will be granted the opportunity to present its case, challenge the evidence presented against them, submit their own evidence, call witnesses and make representations to the Panel. The evidence of further witnesses not notified in accordance with the Regulations will be admitted only at the discretion of the Chair of the Panel.
- 5** A Representative representing a Respondent at a hearing may present and sum up their case, but they may not answer questions put to the Respondent.
- 6** Before being called, witnesses will not be allowed in the room while evidence is being given. This does not apply in relation to the Complainant or Respondent.
- 7** Questions may be put by the Panel to the Respondent and each witness on conclusion of their evidence.
- 8** The Respondent will have the opportunity to raise questions in cross-examination.
- 9** The Panel may limit cross-examination as it deems appropriate.
- 10** The Respondent and the Disciplinary Secretary will be allowed to make a closing statement to the Panel.
- 11** The room will be cleared and the Panel will deliberate and determine whether, on the balance of probabilities, the disciplinary charge has been proven.
- 12** The hearing will reconvene and the Chair of the Panel will either communicate its decision to the parties at the end of a hearing or notify the decision in writing at a later date as set by the Panel.
- 13** Where a charge is proven the Respondent will have the opportunity to present arguments in mitigation.
- 14** The Panel will review the Respondent's previous disciplinary record, where relevant, to consider sanctions.
- 15** The room will again be cleared and the Panel will determine the appropriate sanction.
- 16** A record kept of all disciplinary proceedings and hearings and decisions.

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