



## **Penmaenmawr Golf Club**

### **Complaints/Disciplinary Procedure**

#### **MEMBERS DISCIPLINARY POLICY**

#### **ALL COMPLAINTS TO BE MADE IN WRITING VIA THE CLUB SECRETARY**

##### **1. COMPETITIONS**

In any competition organised by the Club Rule 34.3 of the Rules of Golf 2012-2015 or any Rule in substitution therefore shall be applied.

##### **2. COMPLAINTS PROCEDURE**

2.1 In all matters other than those contained in section 1 above, the Club shall exercise its powers under this Code in the manner set out below and shall;

- a. delegate its powers to decide disciplinary matters to a disciplinary panel ('Panel') in accordance with paragraph 4; and
- b. delegate its power to decide upon any appeal against a decision of the panel to an appeals committee which shall comprise the Management Committee in accordance with paragraphs 5 and 8.

2.2 The Club shall have jurisdiction;

- a. to consider any formal complaint of Misconduct (as defined in paragraph 3) and any matter which the Management Committee may consider misconduct.
- b. to appoint a person or persons who will not further sit on any disciplinary panel to investigate any matter which it considers does or may amount to Misconduct. All persons need to be impartial.

##### **3. MISCONDUCT**

3.1 Misconduct is:

- a. A breach of the Club's Rules and/or regulations and/or Bye-laws;
- b. A breach of any of the Club's published policies relating to:
  - i. Equal Opportunities ii. Social Media iii. Behaviour toward employees
- c. Any conduct which is detrimental to the interests of the Club, its members or any section of the Club's membership.

##### **4. DISCIPLINARY PANEL**

4.1 The Management Committee shall appoint a Disciplinary Panel ('Panel') from amongst the Club membership which shall from time to time comprise not less than 3 persons one of whom shall be appointed by the Management Committee as its chairman ('Chairman').

4.2 The Chairman shall chair any Panel upon which he sits and shall appoint a chairman to chair any Panel upon which he does not.

4.3 The Panel shall hear and adjudicate upon disciplinary matters referred to it.

4.4 The Chairman may at his discretion appoint any legal or other expert to advise (but not sit on) the Panel in respect of any matter referred to it.

4.5 Save as the Chairman may determine no Panel member shall sit on the Panel in relation to a matter in respect of which he has, or may reasonably be thought to have had, any previous involvement or personal interest. It shall be the responsibility of each Panel member to advise the Chairman as soon as is reasonably practicable of any such previous involvement or personal interest and the Chairman shall determine whether the nature and circumstances thereof are such that the Panel member concerned should not sit on the Panel in relation to the matter in question.

## **5. APPEALS COMMITTEE**

5.1 The Appeals Committee ('AC') shall comprise the Management Committee which shall hear and adjudicate upon appeals made to it from the decisions of the Panel.

5.2 The chairman of the Management Committee or, failing him any other committee member shall chair the meeting. The chairman of the meeting constituted as the AC may at his discretion appoint any legal or other expert (not having been appointed to advise the Panel under paragraph 4.4 in respect of the matter the subject of the appeal) to advise (but not sit on) the AC.

5.3 The appellant shall be entitled to object to the appointment of a person to chair the AC by notice in writing given to the Management Committee within seven days of the appellant having been given written notice of the identity of the proposed chairman of the AC pursuant to paragraph 5.2 and setting out the reasons for his objection. The chairman of the AC and shall within seven days of having received it notify the appellant in writing if the composition of the AC has changed and providing details or, if it has not changed, giving reasons therefore.

## **6. FULL DISCIPLINARY PROCEDURE**

6.1 The Panel shall send to the subject of the complaint (the Member) a summary of the alleged misconduct together with a brief factual summary of the evidence in support of it.

6.2 The Member shall have 14 days within which to respond to the complaint. If the Member fails to respond within such period (or such longer period as may have agreed in writing) then the Member may be liable to suspension from involvement in golf until their reply has been received.

6.3 After receiving the Member's reply or, failing receipt of a reply after the expiry of the period for delivery of the same, the Panel shall set a date for hearing by the Panel.

6.4 Not less than 7 days before the hearing date the Committee shall:

a. deliver to the Member details of the evidence the intended to adduce at the hearing, and b. request the Member to provide details of witnesses and other evidence the Member intends to take before the Panel.

6.5 If the Member fails to deliver the details required of him in a timely manner the hearing may be adjourned or may proceed at the absolute discretion of the Committee.

6.6 Proceedings of and all hearings before the Panel shall be held in private.

6.7 The Member shall be entitled to be accompanied by any other member of the Club who may speak before the Panel on his/her behalf.

6.8 If the Member was under 14 years of age when the matter the subject of the Charge took place all correspondence and communication shall be addressed only to the Member's parent or guardian. If the Member is between 14 and 18 years of age copies of all correspondence will be addressed to his/her parent or guardian as well as to the Member. At any hearing before the Panel of a Charge against a Member under the age of 18 at the date of the hearing the parent or guardian of the Member shall be entitled to attend the hearing, to speak on behalf of the Member and make such representations to the Panel as they think appropriate on the Member's behalf.

6.9 At the hearing the Panel will consider the evidence which is placed before it. The Member shall be entitled to cross examine all witnesses.

6.10 The Member shall be entitled to present his/her case to the Panel and to call such supporting witnesses as he/she wishes. The Panel may be entitled to ask any questions of these witnesses.

6.11 At the conclusion of the proceedings, the Panel shall consider its decision in private. It shall first consider whether to uphold the allegation of misconduct. If it has, it shall inform the Member (in writing).

6.12 When reaching a decision the Panel shall not be required to be unanimous. A majority of the Panel in favour of any decision is sufficient.

6.13 After having reached its decision as to whether the allegation has been proved the Panel shall communicate that decision to the Member either at the time of the hearing or within 7 days thereafter.

6.14 The Panel shall not be obliged to follow the strict rules of evidence in the course of any proceedings and shall be entitled to admit such evidence and accord it such weight as it thinks fit.

6.15 The Panel shall have the power to regulate its own procedure including (without limitation) to extend or vary any time limit set out in this Code; adjourn any proceedings at any time; allow time for the submission of further evidence or for any other reason; ask questions of any party or witness to any proceedings before it; admit or exclude any evidence on grounds of relevance or for failure to comply with directions; give or make directions at any time with regard to proceedings before it or to be held before it; and to order that the costs of and incidental to any proceedings before it be paid (or that a contribution towards such costs) be paid by any party.

## **7. PENALTIES**

7.1 If the Panel or the Appeals Committee finds a Charge of Misconduct proved it may impose upon the Member one or more of the following penalties:

- a. a censure, caution or reprimand in respect of his/her conduct
- b. a suspension from competition or other involvement in any capacity in any event organised or sanctioned by the Club
- c. expulsion from membership of the Club
- d. a penalty pursuant to the World Handicap System
- e. suspension of all membership rights for a period not exceeding twelve months

## **8. APPEALS**

8.1 A Member wishing to appeal against a decision of, or any penalty imposed by, the Panel ('Appellant') shall lodge notice of his/her appeal in writing within 14 days of the date of delivery to the Appellant of the decision of the Panel pursuant to paragraph 6.13.

8.2 If the appeal is against a finding of the Panel the appeal shall be by way of re-hearing and the procedure set out in paragraphs 6.9 to 6.13 shall apply to the appeal proceedings.

8.3 The Management Committee shall consider all documents and evidence submitted or presented to the Panel at the first hearing and shall have the power to request the recall of witnesses heard at that hearing and to admit new evidence.

8.4 In reaching its decision the Management Committee shall take such account and give such weight to the evidence presented to it as it thinks appropriate and shall be entitled to make such decision on the facts as it thinks fit and may confirm, cancel, reduce or increase the penalty under appeal or substitute a different form of penalty.

8.5 The decision of the Management Committee is final and binding.

8.6 For the avoidance of doubt, there is no right of appeal to any relevant County or other association or to Wales Golf in respect of any proceedings of or any decision taken under or pursuant to the Club's disciplinary code and/or procedures.

## **9. GENERAL**

9.1 No breach of procedure or failure to follow any directions given in the course of any proceedings under this Code shall invalidate such proceedings unless such breach or failure shall have materially and substantially prejudiced the person against whom a Charge has been made.

9.2 This Code may be amended from time to time by the Management Committee as it sees fit and any such amendment shall come into force and have effect from such date as the Committee may determine.

9.3 The construction, validity, and enforceability of this Code shall be governed by English Law.

## **EMPLOYEES DISCIPLINARY POLICY**

The purpose of the disciplinary policy is to encourage and maintain standards of conduct and job performance and ensure consistent and fair treatment for all. It also informs employees of the potential consequences if those standards are not met.

This policy and procedure allows Penmaenmawr Golf Club to seek an informal resolution, where appropriate, but allows for more formal proceedings should circumstances justify formal disciplinary action.

### **10. THE INFORMAL PROCEDURE**

- a. Issues of a minor nature will be discussed in an informal investigation meeting between you and your line manager without recourse to the formal disciplinary procedure. You do not have the right to be accompanied, as this is an informal discussion
- b. It is preferable for this discussion to be confirmed to you in writing; however, as a minimum a file note will be retained as a record of the discussion
- c. There is no right of appeal against a letter issued through an informal investigation meeting
- d. Where the required improvement is not achieved the process will be escalated and the formal procedure set out below will be applied

### **11. THE FORMAL PROCEDURE**

- a. On the next occasion that you fail to reach the standards required or where the severity of the case warrants it, you will be invited by letter to a disciplinary hearing. You will be offered the right to be accompanied
- b. A full investigation of the facts of each case will be instituted before disciplinary action is taken
- c. If you are required to attend a disciplinary hearing you will be given a full opportunity to state your case. At any stage of the formal procedure you are entitled to be accompanied by a fellow employee of

your choice, or someone who is certified by a trade union to act as a worker's companion at such hearings. You are not entitled to be accompanied by any other person. Fellow employees may not be compelled to attend as a companion

The companion is there to act as a witness to what was said, to provide moral support and to assist and advise the employee in presenting his/her case. The companion may address the hearing (provided the employee wishes this), ask questions on behalf of the employee and confer with the employee but not answer questions on behalf of the employee, nor may the companion prevent Penmaenmawr Golf Club from explaining its case

d. For any isolated act of misconduct or initial failure to meet performance standards, poor timekeeping, work error etc. a Verbal Warning may be given. This warning will remain active for a period of 6 months. This verbal warning will be confirmed to you in writing and you will also be advised of your right of appeal

e. A more serious case of misconduct, failure to show and maintain improvement or a repetition of an act of minor misconduct may result in a Written Warning being given. This warning will remain active for a period of 6 months, will be confirmed to you in writing and you will also be advised of your right to appeal

f. Failure to comply with a Written Warning may result in a Final Written Warning being given. This is a final warning and any further requirement to take disciplinary action during its currency will normally result in dismissal with the appropriate length of notice.

Occasionally, a single act of misconduct may be deemed sufficiently serious for a Final Written Warning to be issued without prior warnings. This warning will remain active for a period of 12 months, will be confirmed to you in writing and you will also be advised of your right to appeal

g. Each warning will be confirmed to you in writing and will state as required:

I. The misconduct or inadequate performance complained of

II. The action necessary to remedy the situation

III. Any review period which may be determined

IV. The duration of time the warning will remain live on your record

V. The consequence of any failure to comply with the warning, and

VI. Your right of appeal

h. During your first two years of employment Penmaenmawr Golf Club may elect to bypass any of the stages outlined in this procedure prior to dismissal

## **12. SUSPENSION WITH PAY**

Suspension is not a disciplinary sanction but is intended to protect either or both you and the Club's interests. Allegations and suspicions need to be fully investigated and therefore suspension should never be seen as an assumption that an allegation or concern has been substantiated.

You may be suspended with pay whilst the circumstances of any complaint against you are investigated.

## **13. SUSPENSION WITHOUT PAY**

In rare circumstances suspension may be without pay. This is unlikely to be a frequently used sanction but may be appropriate in certain circumstances. Such circumstances may include employees being held in police custody suspected of a serious criminal offence where the Club is unable to follow procedures for carrying out investigations.

You may also be suspended without pay as a disciplinary sanction as an alternative to dismissal. Such a suspension will normally be for a maximum of 5 (five) working days.

Where suspension without pay is applied and this turns out to have been an improper decision, pay will be reinstated from the date of the decision being made.

#### **14. PROVISIONS DURING SUSPENSION**

While suspended, you are not allowed access to any of the Club's premises, employees, members, visitors, suppliers or information systems except with the prior consent of the investigating manager.

If you are a member of the Club your membership will be temporarily suspended during a period of suspension which means you will not be permitted access to the course/s during this period.

You are required to co-operate fully with the investigation. You must remain available to attend any meetings or return to work during your normal working hours. You must not undertake any other form of paid employment which you do not already undertake (with the consent of the Club) without prior agreement of the investigating manager.

Where you require access to evidence relevant to your case, arrangements for this must be made via the manager conducting the investigation.

If whilst on suspension you are not available during your normal working hours, the Club reserves the right to stop payment for that period.

While suspended, any annual leave booked prior to the suspension will be honoured. Subsequent requests for annual leave during suspension will be considered at the manager's discretion, subject to any detrimental effect on the investigation process. Paid suspension will resume following the period of annual leave.

If you become ill during suspension you must comply with the Club's absence reporting procedures. Any sickness or injury should be reported to the investigating manager and a medical certificate produced. Sickness will be recorded as sickness and managed and paid in line with the Club's absence procedures. Paid suspension will resume following the period of sickness.

#### **15. GRIEVANCE SUBMITTED DURING THE DISCIPLINARY PROCESS**

If you submit a grievance during the disciplinary process, relating to that case, the chair will determine whether it is appropriate to suspend the disciplinary process whilst the grievance is investigated or whether the two should run concurrently.

#### **16. FAILURE TO ATTEND A DISCIPLINARY AND/OR APPEAL HEARING**

In the event that you are unable to attend a disciplinary hearing and the reason for the unavailability is due to the companion you have chosen to attend at the time of the proposed meeting, then you may nominate a reasonable alternative time (within 5 working days following the date of the original hearing).

In the event that you fail to attend a disciplinary or appeal hearing without notification, the Club will re-arrange the meeting or ask for your confirmation that you will attend a future arranged meeting. If you fail to attend for a second time, then the disciplinary/appeal hearing may be heard in your absence and a decision made based on the available evidence.

#### **17. FAILURE TO ATTEND A DISCIPLINARY AND/OR APPEAL HEARING THROUGH SICKNESS**

Employees subject to disciplinary hearings may sometimes be unable to attend by reason of ill-health. In such circumstances you will be required to submit a medical certificate from your GP and your absence will be recorded and processed as sickness. With your consent, the Club will discuss the matter with either your GP or the Fit for Work service to assess the likely duration of your inability to attend hearings. In the light of such information, the Chair may determine whether to proceed with the hearing or defer for a period of time. If you refuse to consent to an approach to your GP and/or the Fit for Work service then the Chair will have no option but to base any decisions on the information available.

It is not the intention to penalise employees whose illness genuinely precludes them from attending disciplinary or appeal hearings. Delays to the hearing are not to the advantage of either the employee or

the Club. Each individual case will be evaluated on its own merits but the prime objective will be to eliminate or minimise any delay in holding hearings.

## **18. CRIMINAL CONVICTIONS OUTSIDE OF WORK**

Criminal charges or convictions will not be treated as automatic reasons for dismissal but will be considered to assess whether the offence makes you suitable for continued employment with the Club. Penmaenmawr Golf Club will consider whether there is an adverse connection between the offence and your employment. In these circumstances, any disciplinary action will be subject to investigation and process as detailed in this procedure

## **19. GROSS MISCONDUCT**

Employment may be terminated summarily, without notice, at any time for gross misconduct. Generally, this includes any fundamental breach of contract, conduct which brings the Club into disrepute or action that is inconsistent with the relationship of fidelity required between employer and employee. In particular this includes:

- a. Theft or misappropriation of monies or goods from the Club, its employees or members/visitors
- b. Unauthorised use or removal of the Club/member/visitor/supplier property/equipment and/or employees property, without prior permission, and/or without prior payment
- c. Fraud, dishonesty, or deception of any kind in the submission of information or completion or amendment of the Club records and/or legal documents
- d. Failure to adhere or reasonable suspicion of failing to adhere to the Club's policy in relation to the consumption of alcohol and drugs on the Club premises as defined in the Club's drug and alcohol policy
- e. Inappropriate, disorderly, indecent or offensive behaviour including using foul and abusive language, fighting or threatening or using physical violence on the Club's premises
- f. Behaviour on or off the Club sites which may threaten the health and safety of fellow employees, visitors or members
- g. Any act of unlawful discrimination including acts of bullying, harassment, intimidating behaviour of existing or prospective employees/members/visitors/suppliers which constitutes a breach of current legislation on or off the Club premises
- h. Discriminating or inciting others to discriminate on the grounds of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation on or off the Club premises
- i. Serious negligence or deliberate misuse of Milford Haven Golf Club's equipment or property, or that of employees, visitors or members
- j. Refusal to carry out reasonable instructions from your line manager or as directed by a senior member of management.
- k. Failure to follow/comply with health & safety and security rules/procedures
- l. Behaviour resulting in damage to member/visitor/the Club relationships
- m. Serious or persistent failure to follow the Club procedures and regulations
- n. Misuse of any of the Club's policies including the raising of false and/or malicious allegations
- o. Providing false information for incapacity at work
- p. Breach of the Club or member confidentiality
- q. Unauthorised disclosure or use of confidential information

- r. Smoking in prohibited areas
- s. Deliberate damage to the Club property or that of employees, visitors or member/visitors
- t. Involvement with competitors of the Club including undertaking paid work in competition with Penmaenmawr Golf Club
- u. Failure to follow the Club's absence reporting procedures resulting in continuous /persistent unauthorised absence from work
- v. Neglect of your duties including breach of the Club's procedures/rules leading to loss of the Club or member/visitor money
- w. Breach and/or disregard of hygiene regulations or procedures likely to endanger any person
- x. Breach of cash handling procedures leading to the loss of the Club money
- y. Sleeping whilst on duty
- z. Failure to follow the law regarding legal buying ages
- aa. Excessive use of the Club's property for personal use, i.e. I.T. facilities, telephone, mobile telephones, etc.
- bb. Misuse of the Club's I.T. facilities, including the sending, receiving or viewing of indecent or otherwise offensive material
- cc. Incitement or conspiracy to commit any act of Gross Misconduct or allowing other employees to commit any act of Gross Misconduct

THIS LIST IS NOT INTENDED TO BE EXHAUSTIVE, AND WHERE APPROPRIATE, OTHER MATTERS MAY BE REGARDED AS GROSS MISCONDUCT.

## **20. APPEAL**

You may appeal against any disciplinary decision within 5 (five) working days of the decision being communicated to you. Any such appeal must be notified to the Chairman of the management committee preferably in writing and stating the grounds on which you intend to appeal. The Chairman of the management committee may appoint an independent person to hear the appeal.

The Club will make arrangements wherever possible, for the appeal to be conducted by a person who has not been involved in the disciplinary decision or action.

Due to restricted management structure within the business, it may not be possible for the appeal to be conducted by a person previously uninvolved in the disciplinary process. Therefore, with any appeal that is submitted there will be a thorough review of all the facts/evidence of the case, the procedures which were employed, the fairness and reasonableness of the findings and that the penalty imposed properly reflected the gravity of the offence and any mitigating factors were fully considered.

You will have the right to attend the appeal hearing and to be accompanied by a fellow employee of your choice, or a trade union official, or someone who is certified by a trade union to act as a worker's companion at such hearings. You are not entitled to be accompanied by any other person. Fellow employees may not be compelled to attend as a companion.

The companion is there to act as a witness to what was said, to provide moral support and to assist and advise the employee in presenting his/her case. The companion may address the hearing (provided the employee wishes this), ask questions on behalf of the employee and confer with the employee but not answer questions on behalf of the employee, nor may the companion prevent Penmaenmawr Golf Club from explaining its case.

Should any new evidence come to light during the course of the appeal hearing then both parties, where appropriate will be allowed the option of adjournment to investigate or consider this new evidence.

The person chairing the hearing will have the right to withdraw, confirm or vary downward the decision and/or penalty imposed. The result of the appeal will be notified in writing to you by the Club and the decision will be final.