

CS Complaints Process 2024

Introduction

There may be times when an individual or organisation wishes to raise a complaint in relation to a Participant, Club, Cricket Scotland member or with Cricket Scotland itself.

This policy describes the procedure for raising a complaint to Cricket Scotland and sets out how complaints will be investigated and responded to.

1. Purpose of this Policy

- 1.1 This policy is designed to provide all Participants with the opportunity and guidance to raise a complaint. It is designed to settle disputes and potential disciplinary issues quickly and fairly.
- 1.2 The Complaints Procedure shall apply to hear and determine:
 - 1.2.1 Complaints; and
 - 1.2.2 Any dispute or matter referred to Cricket Scotland for which there is no express procedure provided for, and which the Board are content to have determined.

2 Policy Objectives

- 2.1 The object of the complaints procedure is to ensure overall justice through fair, consistent, impartial and independent decisions in the determination of complaints and potential disciplinary proceedings, if appropriate.
- 2.2 The complaints procedure also seeks to ensure that decisions are reached in a timely manner for all involved.
- 2.3 The complaints procedure should be read in conjunction with the Cricket Scotland Code of Conduct and the definitions therein, as well as the Cricket Scotland Disciplinary Procedure.

3 Policy Statement

- 3.1 The Cricket Scotland Complaints Procedure (hereinafter referred to as “this procedure”) provides a framework and process to raise a complaint, should it be so required. It is a tool to address unacceptable conduct or performance promptly, fairly and consistently. On occasion, it may be necessary to impose a sanction if the conduct or performance complained of is considered to be a disciplinary offence in line with Cricket Scotland’s Disciplinary Procedure for participants.

4 Scope of the Policy

- 4.1 This policy applies to any person or body who is a member, or who is operating in the capacity of a member of Cricket Scotland through one of its membership categories, including volunteers, players, coaches in domestic league cricket, regional competitions, national competitions, and individuals or organisations contracted to or whose services are engaged to deliver programmes and courses on behalf of Cricket Scotland, who will collectively be called participants throughout this policy.
- 4.2 This policy continues to apply to all those who have resigned from being a Participant, provided that they were a Participant as at the date of the alleged incident.
- 4.3 The decisions reached using the Complaints Procedure shall be observed and applied by all.
- 4.4 Rules for competitions are covered separately by Regional League Associations and Cricket Scotland Competitions Management Group as amended from time to time.

5 CISM

- 5.1 The CEO shall appoint a person to be the Code in Conduct Manager (CISM).
- 5.2 The CISM shall implement and administer this Policy in accordance with the directions of the CEO and relevant investigative panels including the Conduct in Sport Committee.
- 5.3 The CISM may with the approval of the CEO delegate any function in a particular complaints case to another suitable person.
- 5.4 The appointed CISM having an interest in a matter to be discussed must declare that interest as soon as they are aware of it and must have no involvement in capacity as a secretary during the transaction of that business.

7. Complaints Proceedings

- 7.1 Proceedings shall be brought by means of a "Complaint".
- 7.2 A Complaint shall concern:
 - 7.2.1 Any breach of Cricket Scotland governance or any other behaviour alleged to be contrary to the interests of Cricket Scotland as a whole;
 - 7.2.2 Breach of the Cricket Scotland code of conduct, equality policy, welfare policy, or any other code, rule or policy published from time to time by Cricket Scotland or that is otherwise adopted by Cricket Scotland;
 - 7.2.3 Any alleged breach of any other policy of Cricket Scotland or any other body to which Cricket Scotland may be affiliated with or a

- member of and to which the party is expected to comply;
- 7.2.4 Any applicable in-competition offending or out-of-competition offending that amounts to misconduct of a more general nature;
- 7.2.5 Any conduct which may be considered by the CEO likely to bring cricket in Scotland into disrepute or is considered to be detrimental to the best interests of cricket in Scotland and/or the development of the interests of cricket in Scotland;
- 7.2.6 Conduct by any person or body who is subject to the Complaints Procedure that amounts to a breach of the same.
- 7.3 Certain types of Complaints made to or by Cricket Scotland may be subject to specific measures in how they are dealt with. These include:
- 7.3.1 Any Complaint that amounts to or is connected to a breach of any relevant anti-doping rules shall ordinarily be referred to UKAD however a Complaint can still be taken further to this policy should it be considered appropriate (whether in substitution or in addition to action by UKAD)
- 7.3.2 Any Complaint may be pursued notwithstanding that a separate criminal investigation and/or criminal proceedings may be ongoing.
- 7.4 Complaints may be initially presented to Cricket Scotland by:
- 7.4.1 Any Participant;
- 7.4.2 A parent or guardian on behalf of a Participant under the age of 16;
- 7.4.3 The Chief Executive Officer.
- 7.4.4 It should be noted by Participants that general members of the public may also make a complaint to Cricket Scotland with regards to the conduct of Participants either in or out of competition.
- 7.5 If a person has a complaint to make regarding the interpretation or application of a Club's constitution or Club's rules, that complaint must be made to the Club. A Club's decision may possibly be capable of being appealed to Cricket Scotland under the scope of this policy and the Dispute Resolution Procedures between Participants.

8. Complaints Involving Child Abuse or other Criminal Offences

- 8.1 If the Complaint involves child protection, vulnerable group protection or other criminal offences the complaint shall be referred to Cricket Scotland within 48 hours. Failure to do so may result in disciplinary action. The Cricket Scotland Child Wellbeing & Protection Officer should be notified in the first instance. Thereafter, the Chief Executive Officer, Cricket Scotland Legal Advisor and Head of Development shall deal with such cases as appropriate. For such cases no fee is required and the

initial contact need not be in writing.

8.2 Upon receipt by Cricket Scotland of:

8.2.1 Notification that an individual has been charged with an offence; or

8.2.2 Notification that an individual is the subject of an investigation by the police, social services or any other authority relating to an offence; or

8.2.3 Other evidence which causes the Cricket Scotland Child Wellbeing & Protection Officer to reasonably conclude that an individual may have committed an offence, then in any such case the CEO may impose upon the individual an interim suspension from any event or activity promoted or authorised by Cricket Scotland or any body directly or indirectly affiliated to Cricket Scotland wherever held.

8.3 In reaching their determination as to whether an interim suspension should be imposed the CEO shall give consideration to, inter alia, the following factors:

8.3.1 Whether a child or children or young persons(s) is/are or may be at risk;

8.3.2 Whether a member of a vulnerable group may be at risk;

8.3.3 Whether the allegation(s) is/are of a serious nature; and

8.3.4 Whether a suspension is necessary or proportionate to allow conduct of any investigation (by Cricket Scotland or any other authority or body) to proceed unimpeded.

8.4 Where an individual shall have been convicted or have been the subject of a caution in respect of an offence the CEO shall have power to impose summarily either or both of the following penalties

8.4.1 The withdrawal with immediate effect of any membership granted on behalf of Cricket Scotland which the individual may hold;

8.4.2 The suspension sine die of the individual from any event or activity promoted or authorised by Cricket Scotland or any other body directly or indirectly affiliated to Cricket Scotland wherever held.

There shall be a right of appeal under this Section 8.4 through the procedures contained in the Disciplinary Policy for Participants.

8.5 Without prejudice to the generality of Section 8.4, Cricket Scotland may from time to time issue guidance or directions with regard to compliance with Section 8.4.

9. Making a Complaint and Complaints Procedure

9.1 With the exception of 8.1, to present a Complaint to Cricket Scotland the complaint must be set out in writing and sent to the CISM at the Cricket Scotland registered address, either by hand, post or email to complaints@cricketscotland.com

- 9.2 The written notice of Complaint must include:
- 9.2.1 The grounds of Complaint;
 - 9.2.2 The basis for the Complaint;
 - 9.2.3 The person or party complained of;
 - 9.2.4 What, if anything, has been done to attempt to resolve the Complaint informally if appropriate;
 - 9.2.5 A list of the witnesses to the matters complained of;
 - 9.2.6 A list of all documents produced in support of the Complaint;
 - 9.2.7 The documents produced in support of the Complaint; and
 - 9.2.8 The Appropriate Fee of £50, which is refundable if the complaint is upheld.
- 9.3 The written Complaint must reach the CISM not later than 28 days after the incident which gave rise to it. Notwithstanding that a Complaint must ordinarily be referred to the CISM within 28 days of the incident which gave rise to it, the CEO can decide to extend the time for presenting a Complaint to the CISM and receive a complaint late provided that they are satisfied that a reasonable explanation has been provided for the late presentation of the Complaint. The decision in this regard of the CEO is final and there shall be no right of appeal.
- 9.4 On receipt of a Complaint it shall be at the sole and unfettered discretion of the CISM to decide whether a Complaint is:
- 9.4.1 Investigated further;
 - 9.4.2 A decision be made for alternative dispute resolution to be pursued by the parties;
 - 9.4.3 Dealt with under the Cricket Scotland Disciplinary Policy for Participants in the event that the conduct complained of is potentially a disciplinary matter; or
 - 9.4.4 Rejected and no further action be taken
- 9.5 In deciding what to do with a Complaint, the CEO shall be entitled to take into account any issue that they consider relevant and may make any assessment or determination that they consider appropriate including (without limitation) assessing the possible validity of the Complaint and whether the Complaint is unjust, malicious, vexatious or being unreasonably brought, is unfounded or wholly unfounded.
- 9.6 No person shall complain to the CEO, make any other protest or otherwise seek to put pressure on the CEO in relation to the decision to bring, or not bring, a Complaint or any other decision made further to 10.4. Acting contrary to this rule may amount to misconduct further to this policy and may result in a Complaint.
- 9.7 If the Complaint is rejected, the CEO shall be under no obligation to notify the party against whom a Complaint was initially made either that

a Complaint had been made to Cricket Scotland or that it was rejected. Equally the CEO shall be under no obligation to keep a Complaint made to the CEO confidential at any stage.

10. Investigation

- 10.1 The CEO may appoint as Investigator any person or organisation that does not have an interest in the case other than a Director and the CISM. The Investigator may be internal (e.g. staff member) or external to Cricket Scotland, including a panel selected from the CS Conduct in Sport Committee.
- 10.2 The Investigator shall be entitled to conduct such investigation into a Complaint as the Investigator sees fit and all persons and parties subject to the procedures shall cooperate fully with the same. Failure to co-operate may amount to misconduct.
- 10.3 The Investigator will inform the Complainer that they are dealing with the matter and inform that the details of the application will be disclosed to the Respondent. They will also inform the Respondent that they are the subject of an application, provide an outline of the allegation, identify who made the complaint (but only when the identification of such person is not confidential for safeguarding reasons) and seek a brief response to the complaint. Such response should include a brief factual response to the allegation.
- 10.4 The Investigator will then conduct an investigation that is thorough, proportionate, relevant and fair to all parties. Contact with the Complainer, the Respondent and all witnesses will usually be via telephone or email but may be by face to face meetings. The Complainer, the Respondent and any witnesses shall give the Investigator all reasonable assistance, including promptly supplying signed statements if necessary, making themselves available for interview, answering any questions and supplying documentary or other information.
- 10.5 The Investigator shall make a written report which shall include the documentary evidence and a recommendation as to whether the Respondent has a case to answer in relation to a potential disciplinary offence.
- 10.6 The Investigator's report shall be submitted to the CEO who shall either confirm the recommendation or arrange for further investigation by the same or a different Investigator.
- 10.7 If the CEO confirms a recommendation that there is no case to answer, the CEO shall inform the Complainer and the Respondent accordingly. There shall be no appeal against a decision that there is no case to answer but a case may be re-examined if further evidence is later forthcoming. If the CEO confirms a recommendation that there is a case for the Respondent to answer, the Investigator shall then be responsible for presenting the case to the Disciplinary Committee in line with the Cricket Scotland Disciplinary Policy for Participants.

10.8 The CEO shall thereafter be entitled, at any time, to decide to refer a Complaint to the Disciplinary Committee, take no further action or recommend that alternative dispute resolution be pursued.

11. If Alternative Dispute Resolution Pursued

11.1 It may be that the Investigator considers that the Complaint made may be appropriate for alternative dispute resolution which may include (without limitation):

11.1.1 Mediation; or

11.1.2 Arbitration

11.2 If the CEO deems that alternative dispute resolution is an appropriate method of resolving the matter, the Investigator shall stop any formal proceedings and provide information regarding Scottish Athletics' alternative dispute resolution process to the Parties. This will be achieved by following the guidance contained in the Cricket Scotland Resolution of Disputes Between Participants Policy.

11.3 If it is considered that the complaint is not suitable for alternative dispute resolution, the CEO will make another determination for the resolution of the complaint.

12 If Put Before the Disciplinary Panel

12.1 If the Complaint, following investigation, is to be put before the Disciplinary Panel, the Investigator shall present the case and provide all supporting documentation to the Disciplinary Panel Chair in line with the Cricket Scotland Disciplinary Policy. This may or may not include materials provided by the Complainer. The Complaint then becomes a Disciplinary Matter.

12.2 The Disciplinary Panel shall operate under the Cricket Scotland Disciplinary Policy for Participants.

12.3 In the event that it becomes clear that a Complaint is a potential Disciplinary Matter, the Cricket Scotland Disciplinary Policy applies at all times.

13. If Rejected

13.1 If the Complaint is to be rejected the CISM shall:

13.1.1 Notify the Complainer that no further action shall be taken and provide brief reasons for this decision; and

13.1.2 Take no further action.

13.2 The Chief Executive Officer's decision shall not be capable of appeal but the decision can be reviewed by the Investigator if new evidence comes to light and is presented to the CISM.

13.3 A decision to not proceed with a Complaint shall not preclude the CEO from taking that Complaint further at a later date.

14. Definitions

“Appropriate Fee” means any reasonable fee set by the Board of Cricket Scotland

“Articles of Association” mean the written rules regarding the running of Cricket Scotland which can be found on the Cricket Scotland website or at Companies House;

“the Board” means the board of Directors of Cricket Scotland which shall comprise all of the Directors from time to time, as constituted in accordance with these Articles;

“CEO” means Chief Executive Officer of Cricket Scotland at the relevant time, or the person performing an equivalent function if there is no chief officer at the time, or their duly appointed deputy;

“Club” means a club which is a member of Cricket Scotland having paid any and all subscriptions, and as further defined in the Articles of Association;

“CISM” is Conduct in Sport Manager, the person so appointed as per paragraph 6 of this policy;

“Complaint” and “Complaints” shall be a complaint as set out as per paragraph 9 of this policy;

“Complainer” means the body or individual who makes the Complaint;

“Complaints Procedure” means the process followed in dealing with complaints to Cricket Scotland as outlined in this policy;

“Disciplinary Committee” means the committee appointed in accordance with paragraph 12 of the Disciplinary Policy for Participants;

“Disciplinary Matter” means a breach of the Articles of Association or Regulations or the Policies of Cricket Scotland or any act, omission, statement or circumstance which consists of anything which is, in any way, contrary to the general law or the rules governing the sport of cricket including the Regulations or detrimental to Cricket Scotland or to any conduct that brings Cricket Scotland or the sport of cricket into disrepute. The Articles of Association can be found on the Cricket Scotland website or at Companies House;

“Conduct in Sport Panel” means the panel appointed in accordance with paragraph 7 of the Cricket Scotland Disciplinary Policy for Participants;

“Conduct in Sport Panel Chair” means the person so appointed in accordance with paragraph 7.1 of the Cricket Scotland Disciplinary Policy for Participants;

“Head of Operations” means the individual holding office, or equivalent;

“Investigator” shall mean the person appointed under paragraph 10.1 of the Complaints Procedure;

“Legal Advisor” is the firm and/or person who provides legal advice to Cricket Scotland

Participant” means any person or body who is a member, or who is operating in the capacity of a member of Cricket Scotland through one of its membership categories, including volunteers, entrants to events operating under a Cricket Scotland licensed event, and individuals or organisations contracted to or whose services are engaged to deliver programmes and courses on behalf of Cricket Scotland

“Respondent” means the individual or body against whom a Complaint has been raised;

“Cricket Scotland” is the National Governing Body for Cricket in Scotland;

“Welfare Officer” is the current postholder, or equivalent, responsible for ensuring safeguarding, welfare and child protection policies and processes are robust and fit for purpose for Cricket Scotland.

15. Further Reading

- Cricket Scotland Code of Conduct
- Cricket Scotland EDI Policy
- Cricket Scotland Social Media Policy for Participants
- Cricket Scotland Child Protection Policy

This Policy is approved by the Cricket Scotland Board of Directors who will consider proposals for additions and/or amendments on an ongoing basis.