

TSC GRIEVANCE POLICY AND PROCEDURE

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A GRIEVANCE POLICY

1. REFERENCES

Club	Theewater Sports Club
User	Member/ Public/ Visitor/ Employee
Management	Exco/Board/ GM/ Management nominee
Management Representative	Any Member appointed by Exco
Perpetrator	Accused
Initiator	Prosecutor
Representative	Any Club Member
Sanction	Penalty
Official	Any employee or office bearer

2. INTRODUCTION

Unresolved grievances may be damaging to the morale of members, public, visitors and employees and the effective operation of the Theewater Sports Club. A Grievance policy and procedure is necessary to eliminate the possibility of any detrimental effects arising out of unresolved grievances.

Disciplinary action should not be seen purely as a form of punishment but rather as a form of correcting irresponsible and unacceptable behavior

This policy is to ensure a code of good practice with reference to section 9 (Equality) and section 10 (Human Dignity) of the Bill of Rights as contained in the Constitution of the RSA. Procedural Fairness is a prerequisite i.e.

The Club has clearly defined rules and regulations laid down

- Club Users are aware of these rules and regulations
- A fair procedure aiming at correcting performance or misconduct is followed
- An investigation is undertaken to establish whether misconduct did indeed take place
- The Club User was notified of the allegations and of the rights of when attending a hearing (as reflected in the Notice of Hearing)

As each case is unique departures from the norms established by this policy may be justified in proper circumstances. The key principle in this policy is that Officials of the Club and Club Users should treat one another with mutual respect. A premium is placed on healthy relationships. While Users should be protected from arbitrary action, Club Officials are entitled to satisfactory conduct from the Users.

This policy does not include the process of mediation which will deal with serious disagreements should the need arise.

3. PURPOSE OF THE POLICY

- 3.1 To ensure that all Users (i.e. members/visitors/contractors/employees) of the Club facilities conduct themselves properly in the interests of harmony, safety and effectiveness.
- 3.2 To guide Users and Management as to the conduct expected and the appropriate corrective measures. (See list of General Guidelines of the types of misconduct/behaviour warranting corrective action)

4. PURPOSE OF DISCIPLINE

- 4.1 Certain rules and regulations have to be established to enable the Club to carry out its activities in an orderly and meaningful way.
- 4.2 It is essential the Users are aware of the behavioural norms and standards expected of them.
- 4.3 The disciplinary policy and procedure must be applied fairly and consistently.
- 4.4 It is expected that disciplinary action must be substantively and procedurally fair.
 - 4.4.1 Substantive Fairness is achieved by adherence to the disciplinary policy guidelines, common practice, the laws of South Africa, fairness and consistency
 - 4.4.2 Procedural Fairness is achieved by the correct application of disciplinary steps consistently, fairly and promptly.
- 4.5 It is a requirement that Users must know the rules.

5 DISCIPLINARY APPROACH

- 5.1 Management must endeavour to ensure that no infringements are ignored.
- 5.2 Where an alleged infringement results in criminal charges being laid this must not allow the implementation of internal disciplinary steps to be delayed. The outcome of a court action will not affect the outcome of the disciplinary process and is dealt with as an entirely separate procedure.
- 5.3 The Club is obliged to follow this procedure where Users are involved in any form of unprotected action as such in which case the Club reserves its common law right to dismiss or discipline the Users involved, collectively.

6 RESPONSIBILITY AND OBJECTIVE

- 6.1 The maintenance of discipline is regarded as part of Management's responsibility which will be exercised where or behaviour of an User fails to meet his/her terms of conditions of employment / membership and/or the standards and norms set by the Club. By managing relations effectively the Club will obtain the conduct and work performance it is entitled to.
- 6.2 Management should exercise this responsibility in a fair and consistent manner considering the needs of the Club and the desire for harmony. At the same time Users must feel they are being treated fairly because the disciplinary code protects them from arbitrary disciplinary action.
In taking disciplinary action, Management should attempt to follow the procedure set out in this document.

However this procedure is merely a set of guidelines, and cannot be considered binding on the Club, which reserves the right to amend the disciplinary procedure should circumstances so require

7 APPLICATION

- 7.1 Upon acceptance into the Club every User will be informed of the general guidelines of the types of misconduct, irresponsible behaviour and/or poor performance warranting corrective action.

To ensure fair and consistent treatment it is desirable that every level of the Disciplinary Procedure be followed unless it is unreasonable to expect the Club to do so in the circumstances.

It is the intention of the Club to ensure fair and consistent disciplinary action and, to this end, different levels of disciplinary action may be taken by Management Representatives. Where the specific person of appropriate seniority is unavailable disciplinary action may be taken by any other person authorized by Management to do so. Accordingly, any reference to a Management Representative will also include that person's authorized nominee who shall have the same authority to act in accordance with this procedure as the person for whom he/she is standing in.

8. PROGRESSIVE DISCIPLINE

8.1 The Club endorses the concept of corrective or progressive discipline except in cases of serious matters. Corrective discipline will most likely be used in cases of poor behaviour/performance and incompatibility. This approach helps to identify the standards required of Users and the understanding to achieve these standards is the responsibility of both the Club and Users.

8.2 In this way warnings for infringements of a similar type accumulated on a progressive basis could culminate in a disciplinary hearing and possible termination of membership/service.

9. SANCTIONS

The disciplinary code of the Club allows for maximum sanctions or penalties for specific offences. The application of these sanctions will depend on the circumstances and in dismissible cases the club may consider other ways, short of termination, such as suspension of membership, withdrawal of certain privileges, payment for damage, community service etc, where appropriate.

10. SUMMARY OF PROCEDURE

The disciplinary procedure consists of an informal procedure, consisting of reprimands and behavioural counseling, and formal action consisting of issuing of written warnings and /or terminations.

10.1 Informal procedure – Level 1 (Counseling Form)

Verbal reprimand (oral warning) and counseling. All such warnings/counseling's must be recorded and placed on file.

10.2 Formal Procedure (Corrective Action Form)

10.2.1 **Level 2 – Minor matters** - written warning is issued when a previous level 1 action had not had the desired effect or where the seriousness of the offence renders an oral warning inadequate. Any warning should be signed by the Perpetrator. However if he/ she refuses it must be so noted and the warning must be served in the presence of a witness.

10.2.2 **Level 3 – More serious matters** - final written warning is issued when a serious or most serious infringement has occurred, or when the Perpetrator has a valid written warning on file.

10.2.3 **Level 4- Very serious matters** - After a disciplinary hearing has delivered a guilty finding, the User's membership may be terminated for a most serious infraction or where he/she already has a relevant final written warning on record

11. ADMINISTRATION OF THE PROCEDURE

11.1 Investigations (see attached notes regarding Investigations)

To ensure fairness it must be made certain that an infringement had actually occurred and there is a reasonable chance it was committed by the User in question

11.2 Right of Representation

An User accused of committing an alleged offence which warrants written warnings or dismissal may be entitled to be represented by a fellow user

11.3 Notice of Hearing

The investigation will determine if a hearing will be necessary. To ensure that the Accused User is made aware of matters, such as the nature of the charges against him/her and the time and place of the disciplinary hearing, a notice must be issued to the Accused User by the Initiator not less than 48 hours before the hearing so that the User has adequate opportunity to prepare for the hearing.

The Initiator cannot preside the hearing, which must be chaired by a Board Director or by an Independent Agent agreed to by both parties

11.4 Time Periods

Disciplinary enquiry will be initiated and action taken within 5 working days, circumstances permitting, of it becoming known to Management that an offence has been committed. These time periods serve as guidelines, which should if practical be adhered to as being the norm and should only be changed for good reasons e.g. unavailability of persons involved, incomplete/ further investigation, accumulation of evidence, consultations, etc.

11.5 Proceedings for Disciplinary Hearings

Would generally be conducted as follows:

- 11.5.1 An impartial Board Director or Independent Agent appointed by the Board will act as Presiding Officer and chair the proceedings
- 11.5.2 The disciplinary committee should ideally consist of Presiding Officer, Two Additional Members (to assist the Presiding Officer) and a Prosecuting Officer (i.e. the Initiator who presents the case and evidence on behalf of the Club).
This is applicable to serious offences.
- 11.5.3 Record of the hearing will be taken and copies will be made available to the User or his/her Representative. The record of the hearing will not be in verbatim format. The proceedings may be recorded
- 11.5.4 The Perpetrator (Accused) will be given the opportunity to be present at the hearing
- 11.5.5 A Representative (a Fellow User) may be present at the hearing, should the Perpetrator so wish. **No legal representation will be allowed.**
- 11.5.6 The Perpetrator may be assisted in the hearing by a Representative.
- 11.5.7 Allegations and information against the Perpetrator will be disclosed.
- 11.5.8 The Committee, the Prosecuting Officer, the Perpetrator and the Representative may question witnesses produced by either side
- 11.5.9 The Perpetrator will be given the opportunity to state his/her case and may call witnesses or produce evidence in support thereof
- 11.5.10 After hearing all the available evidence the Presiding Officer will make a finding on the matter after due consultation with the Two Additional Members – this should be done within five working days on conclusion of the hearing
- 11.5.11 If found guilty as alleged the Presiding Officer reports it's findings to the Perpetrator. The Perpetrator or the Representative shall have an opportunity to

present any evidence in mitigation and to address the Presiding Officer on the nature of the disciplinary action to be taken

- 11.5.12 The Committee after due deliberation will submit its report, together with recommendations to the Executive for appropriate action. The reason for the recommendations must be clearly substantiated
- 11.5.13 The decision of the Executive will be made known to the Perpetrator concerned (in writing) no later than five working days after the decision has been made.
- 11.5.14 Should the User wish to appeal against the action it should be done in terms of the appeal principals and procedures applicable.

12 APPEALS

12.1 General Principles

12.1.1 An User may appeal against a written warning or termination.

12.1.2 Reasons for appeal could include the following:

- a) The procedure adopted at the hearing was not fair or did not follow the internal procedure
- b) Not all the evidence emerged from the hearing or alternatively issues were raised at the hearing which needed further investigation and such investigation did not take place
- c) The decision to find the Perpetrator guilty on the facts was incorrect
- d) The penalty which was imposed was not fair in the circumstances

- 12.1.3 The appeal will be limited to the listed ground/s of appeal and will not necessarily include a full hearing of the facts
- 12.1.4 If an User fails to make an appeal within the prescribed time periods stipulated in the constitution, the warning or dismissal will be effected
- 12.1.5 Where no new evidence can be presented a 'paper' appeal can be conducted by interviewing the comprehensive record or, if the record is inadequate, a completely new hearing and fresh right of appeal may be necessary

12.2 Appeal Procedure

12.2.1 An User who wishes to appeal against the disciplinary action taken, shall do so in accordance with the Club's constitution

12.2.2 The Official (Trustee) concerned will notify all parties in writing of the outcome of the appeal within 10 working days after the decision . The decision of the Official shall be final as far as the club is concerned.

B TSC GRIEVANCE PROCEDURE

This Grievance Procedure is in line with the Code of Good Conduct

1. INDIVIDUAL GRIEVANCE

1.1 General Principles

Any user who has a grievance is entitled to make use of the grievance procedure. A grievance is any feeling of dissatisfaction or injustice which an individual User or Group of Users may experience in relation to his/her work situation and relationship with the Club, but excludes:

any matter which is capable of being handled in terms of routine practice
any matter which relates to the Constitution and By-laws
appeals against disciplinary measures or dismissals (see appeal procedure)
any matter where there is a special forum (committee/s) established to deal with such matters
e.g. caravan & camping, water sports etc.

1.2 Time periods

The grievance should be resolved as soon as possible and as close to its source of origin as possible. If not resolved within a period of 10 working days of the grievance being reported, the User may proceed to the next step.

Periods may be extended after mutual consultation.

1.3 Stages

The following stages will be followed:

Stage 1 – Informal – Staff / Management

Stage 2 – Formal – Chairman of the Board (in writing)

Stage 3 – Formal – Trustees (in writing)

Grievances must contain a detailed description of the grievance and an indication of the proposed solution

2 GROUP GRIEVANCE PROCEDURE

2.1 Group grievances are grievances other than specified in 1.1.1 to 1.1.3. involving more than one user.

2.2 Two Users can on behalf of a group, invoke a group grievance in writing and hand it to management.

2.3 All Users supporting the grievance must sign the document.

2.4 Management will schedule a meeting within 10 working days however serious matters will be handled more swiftly.

2.5 The Grievance Group will be represented by two nominees.

2.6 Management will record the findings and the decision of the meeting.

2.7 Disputes

Where there is dissatisfaction with the outcome and there is a dispute the matter may be referred to the Chairman of the Board or Trustees

3 RULES OF AN INVESTIGATION

- 3.1 Must be conducted by a person authorized, i.e. Exco/Management, to do so
- 3.2 Investigator must not have prior knowledge of the fact
- 3.3 Investigation must be unbiased (no unfair advantage allowed)
- 3.4 Complete record of the investigation must be kept

4 PURPOSE OF THE INVESTIGATION

- 4.1 It weeds out false or malicious allegations
- 4.2 It affords the Initiator the opportunity to ascertain the type of procedure that would be appropriate to deal with the matter
- 4.3 It allows the Initiator to determine whether to follow a formal or informal process
- 4.4 It affords the Investigator the opportunity to establish the relevant facts with a view to deciding whether disciplinary action is in fact appropriate
- 4.5 The investigation and the facts that emanate there from will assist in determining what the appropriate charges should be

5 REQUIREMENTS FOR THE APPOINTMENT OF MEMBERS OF A DISCIPLINARY COMMITTEE (TRIBUNAL)

- 5.1 Be unbiased and impartial and was not in any way involved in the incident giving rise to the hearing
- 5.2 Have no prior knowledge of the case
- 5.3 Were not involved in the investigation and preparation of the matter
- 5.4 Were not been briefed on the matter
- 5.5 Have not had conflict with the Accused
- 5.6 Must remain neutral at all times and not represent either party to the dispute
- 5.7 Have no reason to be biased towards the Accused
- 5.8 Have knowledge of the correct procedure
- 5.9 Be capable of taking down own notes during the proceedings
- 5.10 Be experienced in weighing up evidence, and experienced in separating the facts from opinions and hearsay, in order to arrive at a verdict of guilt or innocence.
- 5.11 Be able to justify and give reasons upon which the verdict is based.
- 5.12 Be experienced in considering all the factors that need to be considered in arriving at a finding on a suitable and fair sanction.
- 5.13 Be able to justify and give reasons upon which the decided sanction is based.

6 POWERS OF THE COMMITTEE

To recommend corrective action based on the findings of the hearing.

The Exco may decide upon alternatives to the recommended action.

7 GENERAL GUIDELINES TO THE TYPES OF MISCONDUCT WHICH WILL WARRANT CORRECTIVE ACTION

- 7.1 Under the influence of an illegal substance
- 7.2 Unauthorised consumption of alcohol or the administration of drugs for non-medical purposes on club premises
- 7.3 Assault
- 7.4 Threat of assault
- 7.5 Possession of dangerous weapons
- 7.6 Intimidation or incitement to violence
- 7.7 Committing unsanitary acts
- 7.8 Any form of harassment, intimidation, discrimination or abuse
- 7.9 Failure to carry out a reasonable and lawful instruction

- 7.10 Failure to observe security and safety regulations
- 7.11 Disregard of any safety notice
- 7.12 Any unsafe practice
- 7.13 Use of abusive, derogatory, slanderous or offensive language, signs or gestures
- 7.14 Gross negligence resulting in damage, loss or injury
- 7.15 Willful damage to material, equipment, possession or property
- 7.16 Unauthorised use of equipment or machinery
- 7.17 Tampering with or removal of any safety equipment
- 7.18 Lodging of a vexatious and/or frivolous complaint
- 7.19 Fraud
- 7.20 Deliberately supplying incorrect or falsified information
- 7.21 Theft of another person's property
- 7.22 Unruly or lewd behaviour
- 7.23 Misrepresentation of the Club or any of its Officials
- 7.24 Any other reason, which is not in the Club's best interest, that would arise which will warrant corrective action

NOTICE TO ATTEND GRIEVANCE HEARING

TO: **DATE:**

You are hereby informed that a Grievance Hearing will be held on:

Day:

Date:

Time:

Place:

The grievance will be investigated at this Hearing.

We wish to remind you that you have the following rights at the Grievance Hearing:

1. To be represented by a representative of your choice
2. To the assistance of an interpreter if you require one
3. To call and cross-question witnesses
4. To be heard and to put your version to the Chairperson

Kindly inform the Club of the identity of your chosen representative, interpreter and any witnesses you may wish to call.

Yours faithfully.

.....
(CHAIRMAN)

I hereby confirm notification of the above-mentioned Grievance Hearing and will attend the same:

.....
(SIGNATURE OF AGGRIEVED) **DATE**

I confirm that the above-mentioned Aggrieved received notification, but refused to sign acknowledgment of same and to confirm that he/she would attend the said Grievance Hearing

.....
(SIGNATURE OF WITNESS) **DATE**

GRIEVANCE APPLICATION FORM

NAME OF AGGRIEVED:
(If this is a collective grievance attach list of the names of all aggrieved persons)

USER:
(Indicate whether Member / Public / Visitor / Employee)

**NAMES OF OFFICER WITH WHOM
GRIEVANCE HAS BEEN LODGED:**

REPRESENTATIVE NAME:

DATE GRIEVANCE LODGED:

NATURE OF GRIEVANCE:
.....
.....
.....

SOLUTION PROPOSED BY AGGREIVED USER:
.....
.....
.....

.....
DATE **SIGNATURE OF AGGRIEVED**

.....
DATE **SIGNATURE OF OFFICIAL**

** COMPLETE REMAINDER OF THIS FORM IF INFORMAL INVESTGIATION WILL SUFFICE*

BRIEF ACCOUNT OF INFORMAL GRIEVANCE HEARING
(Date, User, motivation, evidence lead, other party response, suggestions made, etc.)
.....
.....
.....

DATE USER INFORMED OF DECISION

CORRECTIVE ACTION :
.....
.....
.....

.....
DATE **SIGNATURE OF AGGRIEVED USER**

.....
DATE **SIGNATURE OF AGGRIEVED OFFICIAL**

OUTCOME OF GRIEVANCE HEARING

TO: **DATE:**

As you are aware a grievance Hearing was conducted on, to investigate a grievance lodged by yourself on the I hereby confirm that you were advised of your rights to a representative as well as an interpreter. You were further advised of your right to call witnesses and cross-question witnesses.

After carefully considering the evidence presented I find the grievance lodged by yourself to be:

VALID / INVALID.

My reasons are as follows:

.....
.....
.....

If valid: After discussing the feasibility of recommended corrective action I have decided that the following corrective action is reasonable, sufficient and fair under the circumstances.

.....
.....
.....
.....
.....
.....
.....
.....

(Details Action, Responsibility and Deadline)

I hereby advise of your right to appeal and such an appeal must be lodged within 7 (seven) working days of receipt of this notice of outcome.

Yours faithfully,

.....
(CHAIRMAN)