



Athlete Disciplinary Policy Template

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1. Introduction

This policy and procedure is designed to help Athletes and Performance Directors (PDs)/team managers/coaches deal with disciplinary situations that occur through misconduct.

Surfing England recommends that wherever possible, minor discipline issues should be resolved informally. PDs/team managers/coaches, where appropriate, should talk about the improvement in conduct or performance that is required. In some cases, additional training, coaching and advice may be what is needed.

There will be situations where matters are more serious or where an informal approach has been taken and not achieved the required results. In these cases, if informal action does not bring about an improvement, or the misconduct is considered too serious to be classed as minor, then PDs/team managers/coaches should consider taking formal action.

If the issue relates to:

- **An Athlete who is under 18 or an adult at risk¹, the designated safeguarding lead must be informed at the start.**
- **Bullying, harassment or discrimination, refer to the Surfing England's athlete Code of Conducts.**
- **Matters that might be criminal, the matter referred to the statutory authorities before proceeding further.**
- **Safeguarding/welfare, please see our website section on Safeguarding for more information (<https://www.surfingengland.org/safeguarding/>). This does not stop your right to contact local authorities immediately.**

Athletes under the age of 18, or classified as an adult at risk should be supported by their parents or legal guardians, who shall act on their behalf.

The wellbeing of the athlete during this process is paramount and they must be supported by the by a member of the coaching staff and/or their nominated companion (see 7.4) who is not involved in the process, especially during any period of suspension.

2. Purpose and Scope

The purpose of this policy is to ensure consistent and fair treatment of disciplinary situations and to encourage Athletes to maintain appropriate standards of conduct. PDs/team managers/coaches and Athletes should ensure that Athletes have a good understanding of these procedures.

This policy does not confer contractual rights on individuals and will be reviewed in line with any legislative changes. The policy may be changed or amended without redress at Surfing England's discretion.

¹ An adult who: has needs for care and support; and is experiencing, or is at risk of, abuse or neglect; and as a result of those care and support needs is unable to protect themselves from either the risk of, or the experience of, abuse or neglect.

Surfing England may at its discretion appoint external parties to conduct investigations and disciplinary hearings. This may be but is not limited to: conflicts of interest; availability of resources; complexity; or specialist knowledge of the issues.

3. Standards

Surfing England has clear standards of conduct, which are reflected in Surfing England's Values, and Code of Conduct documents. They are explained to Athletes when they join Surfing England and are reinforced through regular updates. These cover such areas as:

- The requirement for being responsible and accountable for your conduct.
- Behaviour towards staff and fellow athletes, including respecting professional boundaries and the use of social media.
- Appropriate use of social media
- Health and Safety regulations.
- The inappropriate use of facilities (vehicles, property, email and communication equipment).
- Claiming expenses.
- Personal appearance.

Athletes are responsible for representing Surfing England – this includes maintaining high standards of behaviour and presentation of appropriate branded clothing where applicable.

4. Principles

The principles governing the policy and its application are:

- Consistency and fairness, with all Athletes treated with respect and dignity.
- Individuals' rights and responsibilities being respected.
- Openness and transparency.
- Minor instances of misconduct initially addressed by means of informal counselling, guidance and instruction. However, if problems continue or Surfing England regards matters to be sufficiently serious, this disciplinary procedure shall apply.
- No Athlete will be de-selected from the performance programme for a first breach of discipline except in the case of gross misconduct.

In order to ensure that matters are dealt with fairly the following shall apply:

- Both PDs/team managers/coaches and Athletes should raise and deal with issues promptly and should not unreasonably delay meetings, decisions or confirmation of those decisions.
- PDs/team managers/coaches should ensure that any necessary investigations are conducted, to establish the facts of the case.
- PDs/team managers/coaches should inform Athletes of the basis of the problem and give them an opportunity to put their case in response before any decisions are made.
- PDs/team managers/coaches should allow Athletes to be accompanied at any disciplinary meeting.
- Athletes have the right to appeal any action taken against them under this procedure.

Surfing England can decide at its own discretion as to whether or not the investigation is conducted by an independent investigator, to prevent any potential conflict of interest.

All warning letters issued under this policy are to be approved by the Governance Lead to ensure consistency and to ensure that appropriate records are maintained.

5. Gross Misconduct

The following are examples of Gross Misconduct which may result in immediate de-selection from the World Class Performance programme:

- Actual or attempted theft, fraud or dishonesty.
- Sports betting, corrupt conduct, disclosure of confidential information pertaining to Surfing England and contest fixing.
- Fighting, physical or sexual assault, violence, threatening behaviour (physical or verbal) or deliberate and serious damage to people or property.
- UKAD/WADA Anti-Doping Regulation Violations.
- Gross insubordination, including failure to comply with reasonable requests/instructions.
- Incapacity for training owing to the use of alcohol or illegal drugs.
- Serious breaches of Surfing England Values and Codes of Conduct.
- Deliberate actions or omissions that bring Surfing England's name into serious disrepute.
- Gross negligence or incompetence which causes serious loss, damage or injury.
- Serious breaches of Surfing England's rules relating to Health & Safety (and hygiene).
- Bullying or harassment on the grounds of sex, race, disability, age, sexual orientation, religion or belief or any other protected characteristic of another Athlete, employee of Surfing England, visitor or any other third party to whom Surfing England has a duty to prevent such discrimination.
- Indecent or offensive behaviour
- Offensive use of social media, including unauthorised use or hacking of another person's account.
- Disclosure of confidential information pertaining to Surfing England.
- Deliberate telephone, computer and e-mail misuse, including hacking and/or the access, downloading or transmission of any pornographic or otherwise offensive material.
- Violation of the rules outlined in the Code of Conduct.
- Encouraging or supporting a Paralympic Athlete to intentionally misrepresent themselves to a classification panel.

6. Informal Resolution

Where conduct and behaviour fall short of the standards expected by Surfing England, PDs/team managers/coaches should conduct an interview with the Athlete, find out if there are any problems, reiterate the required standards/improvements with timescales (usually immediate and sustained) and provide any help and support that may be needed. This will take the form of informal counselling, guidance and instruction and is NOT part of the formal procedure.

PDs/team managers/coaches should take notes of any such discussions. These will be retained for 12 months, in accordance with Surfing England's GDPR procedures

In some cases, the problem may be more serious at the outset, or the counselling, guidance and instruction has not worked. If this is the case, the formal disciplinary procedure may apply.

7. Disciplinary Process

7.1 Establishing the facts of each case

It is important to carry out an investigation without unreasonable delay to establish a fair and balanced view of the allegations against the Athlete, before deciding whether to proceed with a disciplinary hearing. Different people **MUST** carry out the investigation and disciplinary hearing, and it should not be carried out by an individual who is line-managed by the person conducting the disciplinary hearing.

Where the investigation reveals allegations of criminal conduct, the investigation will be handed over to the police and will be stayed until the conclusion of any resulting criminal proceedings.

7.2 Informing the Athlete of the problem

If, at the end of the investigation, it is decided there is a disciplinary case to answer², the Athlete should be notified of this in writing. This can with agreement of all parties be by email, hard copies should however be retained. All the information about the alleged misconduct and its possible consequences should be provided to the Athlete, to allow them to answer the case at a disciplinary hearing: this includes providing them with copies of any written evidence, such as witness statements. The Athlete must be informed of the possible outcomes of the hearing.

The Athlete must be given the details of the time and venue for the hearing and be advised of the right to be accompanied. Surfing England will seek to ensure that the time, place and location of any disciplinary hearing are reasonable: it will take place as soon as is reasonably practicable.

7.3 Holding a Disciplinary Hearing

The senior member of Surfing England or Team England staff should hold the hearing without unreasonable delay whilst allowing the Athlete reasonable time to prepare their case. (What is judged to be reasonable will depend on the complexity of the case but will not be less than 7 days from the date the letter is sent). The Athlete and their companion must take all reasonable steps to attend. Where the Athlete fails twice or more to attend a disciplinary hearing without good cause, the Surfing England may make a decision in the Athlete's absence on the basis of the evidence available.

At the hearing, the PD/coach will explain the role of all those attending and the allegation(s) against the Athlete, and will then go through the evidence that has been gathered. The Athlete will be allowed to set out their case and answer any allegations that have been made. The Athlete will also be given a reasonable opportunity to:

- ask questions;
- present evidence;
- call relevant witnesses; and
- raise points about any information provided by witnesses.

Where the PD/coach conducting the hearing or the Athlete intend to call relevant witnesses they should give advance written notice that they intend to do this. Any written statements of case, witness statements or other documentary evidence should be exchanged at least 10 days in advance of

² There is more evidence to support an allegation than there is to rebut it.

the hearing.

The main points of the discussion will be summarised and the Athlete will be asked if they have anything further to say.

7.4 Athlete's companion

Athletes may be accompanied by a companion at any formal disciplinary, investigative or appeal hearing or meeting, such as: another athlete; a member of the coaching/support staff of their choice; a parent or guardian; or a member of the British Elite Athletes Association BEAA. Athletes may not choose a companion whose presence would prejudice the outcome of any hearing. If the chosen companion cannot attend the original date, an alternative date will be offered within the following 5 working days.

The companion may address the hearing to present and/or sum up the Athlete's case, respond on their behalf to any views expressed at the hearing and confer privately with them at any stage during the hearing. The companion does not have the right to answer questions on the Athlete's behalf, address the hearing if the Athlete does not want them to or prevent anyone, including the Athlete, from explaining their case.

Any companion who attends a hearing with an Athlete in connection with this disciplinary policy shall not be penalised in any way. No one shall be obliged to act as a companion if they do not wish to so.

The PD/coach conducting the disciplinary hearing (see below) will normally be accompanied by a nominated member of senior management at Surfing England.

7.5 Decide on the appropriate action

The PD/coach conducting the disciplinary hearing must decide whether or not disciplinary action (or any other action) is justified and proportionate, and inform the Athlete accordingly in writing giving the reasons for the imposition of any sanction, including any mitigating and/or aggravating factors. Save for cases in which the athlete persistently fails to attend a disciplinary hearing without good cause, no disciplinary action should be imposed without a hearing.

Where misconduct is confirmed, the possible outcomes include:

- **Written Warning.** For a first instance which is not Gross Misconduct, then a Written Warning is appropriate.
- **Final Written Warning.** Where the Athlete is already subject to a Written Warning, and the misconduct is not gross misconduct, then a Final Written Warning is appropriate.
- **De-selection from the performance programme.** Where the misconduct is considered to be Gross Misconduct, or the athlete is already on their Final Written Warning, then it may be appropriate to de-select the Athlete from the programme. This sanction must not be taken without consultation with the CEO.

A Written Warning or Final Written Warning should set out:

- the nature of the misconduct and the change in behaviour required (with timescale);
- how long the warning will remain current; and

- the consequences of further misconduct within the set period (that it may result in dismissal or some other penalty such as demotion or loss of seniority).

A record of the warning will be kept on the Athlete's personal file for:

- 6 months (Written Warning).
- 12 months (Final Written Warning).

7.6 De-selection from the performance programme

Some acts amounting to Gross Misconduct are so serious in themselves or have such serious consequences that they may require de-selection from the performance programme without notice for a first offence. However, the disciplinary process should still be followed in such circumstances.

The Athlete should be informed as soon as possible of the reasons for the de-selection, the date it takes effect and their right of appeal.

7.7 Provide the opportunity to appeal

Where the Athlete believes that the disciplinary action taken against them is wrong or unjust they may appeal the decision. Appeals should be heard without unreasonable delay. The Athlete should let the CEO know the grounds (reason) for the appeal in writing (by email to appeals@surfingengland.org within 10 working days of receiving written confirmation of the disciplinary warning or de-selection: if the appeal relates to a matter of gross misconduct resulting in de-selection.

The grounds for an appeal could reasonably be one or more of the following:

- the correct process was not followed;
- the decision maker was biased;
- the decision was made without considering all the relevant facts; or
- the decision was not one a reasonable person could have made.

Where the appeal is against:

- a written warning, it should be heard by a member of the Surfing England senior management who has not previously been involved in the case; or
- de-selection (Gross Misconduct), Surfing England will refer the matter to an independent panel of appropriately qualified persons
- A fee of £500 shall be charged to the appellant in advance of the appeal being referred the independent panel.

The Athlete has the right to be accompanied at appeal hearings and will be informed in writing of the results of the appeal hearing as soon as possible.

An independent appeal is final and concludes Surfing England's procedure.

8. Additional Information

8.1 Suspension

Surfing England reserves the right to suspend any Athlete who is suspected of serious misconduct, if it is considered in the interests of the individual and/or Surfing England to do so. Suspension in these circumstances is to:

- ensure an unhindered investigation to take place; or
- safeguard other Athletes on the programme.

Suspension is not disciplinary action or sanction and will be for as short a time as possible.

Any decision to suspend an athlete who is in receipt of UK sport funding must be agreed the Sport Integrity Manager (UK Sport) before it is confirmed.

Any decision to suspend will be confirmed in writing within five working days and such written confirmation will state that the nature of the suspension is precautionary, not disciplinary, pending the outcome of the investigation and any subsequent disciplinary proceedings. Suspension will not normally affect an APA, except for Anti-Doping Regulation Violations.

8.2 Criminal Offences

Where allegations are made that may be of a criminal nature Surfing England will co-operate fully with any police investigations. Where these issues are related to the potential conduct of an Athlete whilst overseas, Athletes should note that the legal jurisdiction of England and Wales does not cover overseas training events and competitions and will, therefore, be subject to the legislation and legal proceedings of the country in which the alleged offence occurred.

If an Athlete in a UK sport funded programme is charged with, or convicted of a criminal offence, UK Sport³ will give consideration to what effect this has on the Athlete's eligibility to receive public funding or publicly funded benefits, in accordance with the UK Sport Eligibility Policy.

8.3 Confidentiality

Athletes should only discuss disciplinary matters with PDs/team managers/coaches involved in the process and their companion. Breaching confidentiality may result in further disciplinary action being taken.

The outcome of a disciplinary hearing will remain confidential to the parties involved. Disclosure may be made in accordance with Surfing England's legal, contractual or regulatory obligations. Where the Athlete is part of a UK Sport funded programme, Surfing England is required⁴ to inform the Hd of Sport Integrity at UK Sport of the outcome of the hearing. The Eligibility Sub-Committee may then determine whether that Athlete is eligible to remain part of a funded programme.

8.4 Time limits

In cases where it is not practical to implement the procedure fully and expeditiously, for example in the absence of the PD/coach, Athletes will be dealt with as closely as possible in accordance with this procedure.

³ Eligibility Sub-Committee

⁴ s19.3 of the Grant Funding Agreement.

Under normal circumstances the disciplinary process should be concluded in no more than 2 months. However, it is recognised that more complex cases could take up to 6 months. When any discipline process takes more than 20 working days, the PD/coach conducting the process shall provide a written update to all parties at the 20 working day point, and every 20 working days thereafter until the process is concluded. A copy of the update shall be sent to the HR Department. Where the Athlete is part of a UK Sport funded programme, Hd of Sport Integrity at UK Sport shall also be included on the distribution.

8.5 Note taking and records

Should an investigation lead to a criminal investigation (or be drawn upon as part of any HR appeal procedures), all material obtained in the course of an investigation should be considered relevant and be made available to the police and, where applicable, to the Athlete.

Surfing England will not make an audio recording of any investigations or meetings. Athletes are not permitted to record disciplinary interviews, meetings or hearings without prior consent.

Surfing England requires 'meeting notes' to be taken at all meetings to record decisions and outcomes. All interviews must have a written record, signed by the interviewer and the subject of the interview. The interview record must only contain first party evidence and not hearsay or speculation⁵.

The Athlete will be sent a copy of the interview or meeting notes produced, which will constitute the Surfing England's record of proceedings.

All records detailing the nature of any sort of misconduct, the Athlete's defence or mitigation, the action taken and the reasons for it, whether an appeal was lodged, its outcome and any subsequent developments, will be kept confidentially in the HR Department. Likewise, the PD/coach may also keep records relating to an Athlete's conduct, the implementation of corrective actions and progression of learning.

9. British Elite Athletes Association (BEAA)

The BEAA exists to provide confidential and independent advice and support to all athletes on performance programmes. Any athlete who is subject to Surfing England's disciplinary process should consider contacting the BEAA as follows:

Email: admin@britishathletes.org
Phone: 0203 126 4270
Web: www.britisheliteathletes.org

⁵ First party evidence is evidence that the individual saw or heard. Hearsay is evidence that the individual was told by another party or overheard.

10. Process Flow Chart

