

RMGC Policies & Procedures

Policy #15: Disciplinary Procedure

Preamble

The Royal Malta Golf Club (RMGC) is a private members' club that aspires to operate to high ethical and behavioural standards in the interests of its members and in the interest of the game of golf in Malta. The RMGC, to the extent that it is possible or appropriate, codifies its procedures to offer better guidance for the proper running of the club in a manner that it deems fit and that meets its aspirations. This document defines the broad rules that apply to matters of a disciplinary nature. This Disciplinary Procedure of the RMGC set out in this document does not purport to replicate full legal process that would be followed in a Court of Law but nonetheless will be guided at all times by the principles of natural justice which include, inter alia, the right of a fair hearing, the presumption of innocence and the obligation to be fair, objective and transparent.

1. Introduction

- 1.1 Disciplinary cases usually start from a complaint or a report raised with the *RMGC* Board of Management and/or Captain's Committee.
- 1.2 Terms in italics shall bear the meanings given to them as follows:
 - 1.2.1 *RMGC* means the Royal Malta Golf Club;
 - 1.2.2 *Member* means a member of the *RMGC* irrespective of membership category and against whom the complaint has arisen;
 - 1.2.3 *Disciplinary Committee* is the Committee as defined in paragraph 1.8.2 below;
 - 1.2.4 *Chairman* means the Chairman of the *Disciplinary Committee*;
 - 1.2.5 *General Meeting* means the Annual or Extraordinary General Meeting of the *RMGC*;
 - 1.2.6 *Caucus* means the Caucus of RMGC Past Captains.
- 1.3 The *RMGC* Club Captain and/or Lady Captain have licence to deal with relatively minor matters of discipline (including those involving breaches in the Rules of Golf) pertaining to the *members* in their section without bringing them to the attention of the *RMGC* Board of Management. However, when deemed appropriate, it is suggested that such matters should be recorded with the *RMGC* Board of Management.
- 1.4 The underlying procedure is intended to deal with matters resulting from a graver misconduct by a *member* whether on the golf course or in the clubhouse or elsewhere or behaves in a manner likely to bring the *RMGC* into disrepute or in a manner that is injurious to the character and/or interests of the *RMGC*.
- 1.5 If a *member* is charged with an offence pursuant to Anti-Doping or Child Protection Policies then the provisions of the relevant legislation will apply.
- 1.6 Any breach of the Amateur Rules shall be referred to the Malta Golf Association and the provisions of the relevant policy will apply.

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- 1.7 If a case requires the involvement of the police, then the procedure will be suspended until such time that the case is determined by the competent authorities. The provisions under paragraphs 7 will apply.
- 1.8 Cases shall be considered by one or all of the following Committees according to the necessities of the particular case:
 - 1.8.1 A Sub-Committee (the *Sub-Committee*) normally comprising the *RMGC* Club Captain and another member of the *RMGC* Board of Management so appointed to the task.
 - 1.8.2 The Disciplinary Committee (the *Disciplinary Committee*) comprising a *Chairman* plus two members who are independent of the *RMGC* Board of Management and who should ideally but not necessarily be two past Captains of the *RMGC*.
 - 1.8.3 The Appeals Committee (the *Appeals Committee*) comprising three impartial and suitable members nominated to the task by the *RMGC* Board of Management. The appointed members must be independent of the *RMGC* Board of Management and must not have been involved in the procedure of the *Sub-Committee's* or *Disciplinary Committee's* hearings.
- 1.9 The nominated members serving on the *Sub-Committee*, *Disciplinary Committee* and *Appeals Committee* shall be impartial and have no personal interest in or involvement with the subject matter of the inquiry or with the *member* being charged with an offence.
- 1.10 The *Chairman* will be appointed by the *RMGC* Board of Management for a period of two years and during that period can only be removed from that position by the members in a *General Meeting*. The *Chairman* must be a Full Member of the *RMGC*.
- 1.11 The *Chairman* will, in turn, appoint the two other members to sit on the *Disciplinary Committee* appointed for each separate case.
- 1.12 If the *Chairman* is conflicted out of or otherwise unable to hear a particular case, the *RMGC* Board of Management may appoint an ad hoc *Chairman* for that particular case. Such an ad hoc appointment would not require the approval of the *General Meeting*.
- 1.13 The complaint must not be anonymous and must be made within three weeks from the alleged incident. It should readily identify the person making the complaint (the *complainant*), the *member* against whom the complaint is being made and give details of the conduct in respect of which the complaint is being made. Any complaints not complying with these requirements will not be accepted.
- 1.14 Where a case involves a Junior Member or a Member of the Junior Academy, whether as *member*, *complainant* or witness, the parent or guardian of this Member must be the contact for all communication and must be present at all times throughout every stage of the procedure whilst the member is aged under 18.

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- 1.15 All notices to be given or served by any person or body under the provisions of this procedure shall be served by hand on, or sent by recorded delivery to the addressee at his last address known to the sender. Notices delivered by hand shall be deemed to be served at the time of delivery. Recorded delivery notices are deemed received when the delivery of the same has been recorded by the relevant postal official. The relevant notice period shall commence with the deemed date of receipt. Electronic mail will be considered as an acceptable media to communicate if so agreed by all parties.
- 1.16 It is strongly recommended that whilst the case is sub-judice all parties should respect the confidentiality of the case in hand. However, a breach of this confidentiality will not jeopardise the procedure.
- 1.17 The *RMGC* Board of Management shall have the power, in exceptional circumstances and where it believes it is in the interest of the Club to do so, to exclude the *member* from the clubhouse and/or golf course pending the hearing of the case against him. The *Disciplinary Committee* may take into account the period for any such exclusion when delivering its decision.

2. Receipt of Information and Initial Consideration by *Sub-Committee*

- 2.1 On receipt of information relating to a possible misconduct, the *RMGC* Board of Management will in the first instant meet to decide the seriousness of the misconduct. If the *RMGC* Board of Management deems that there is sufficient evidence and considers the matter of a less severe nature, for example due to a minor misunderstanding or unintended offensive behaviour, it will guide and entrust the *Sub Committee* to deal with it within a reasonable timescale. Otherwise the provisions under paragraphs 3 will apply.
- 2.2 The *Sub-Committee* shall write to and/or meet the *member* concerned and inform him of the information which has been passed to the *Sub-Committee* and, if necessary, ask him for further information or comments.
- 2.3 Should the *member* wish to make further representations he should do so within 21 days of the date of the *Sub-Committee's* communication or, within such other reasonable timescale as agreed between the *member* and the *Sub-Committee*.
- 2.4 Upon receiving further information, comments or representations from the *member*, the *Sub-Committee* shall, either:
- 2.4.1 Determine that there is insufficient evidence and close the case; or
 - 2.4.2 Determine that there has been a breach of conduct of a less severe nature and inform the *member* of any possible sanction to be affected against him; or
 - 2.4.3 Determine that the matter is of a more serious nature such that it must be handled by the *Disciplinary Committee* and in so doing the *Sub-Committee* shall pass all papers, including any further information, comments or representations received from the *member*, to the *RMGC* Board of Management as soon as practicable.

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- 2.5 Upon the application of paragraph 2.4.2 above, the *RMGC* Board of Management shall inform the *member* in writing of the *Sub-Committee's* decision within 21 days of receiving information from the *Sub-Committee*. The *member* shall also be informed at this time that he has the right to request in writing, and within 14 days of the date of this letter, that his case be reviewed by the *Disciplinary Committee*.
- 2.6 Upon the application of paragraph 2.4.3 above or when any member of the *Sub-Committee* requests that the matter should be referred to the *Disciplinary Committee*, the *member* shall be informed in writing that the *Disciplinary Committee* will review his case and the provisions of paragraphs 3 will apply.
- 2.7 Pending review of the case by the *Disciplinary Committee*, any decision taken by the *Sub-Committee* shall be suspended.

3. Consideration by the *Disciplinary Committee*

- 3.1 The *RMGC* Board of Management will initiate the hearing of a complaint of the *Disciplinary Committee* either:
- 3.1.1 On receipt of written information from a member relating to a possible gross misconduct of another *member*; or
 - 3.1.2 On receipt of a written complaint received from an officer of the *RMGC* Board of Management or from the Executive Council of the Malta Golf Association; or
 - 3.1.3 Due to the provisions according to paragraphs 2.4.3, 2.5 or 2.6 above.
- 3.2 The *Disciplinary Committee* shall:
- 3.2.1 Be unbiased;
 - 3.2.2 Be familiar with the procedure outlined in this document;
 - 3.2.3 Act within its powers and not be hesitant to seek advice on any matter about which it is unsure;
 - 3.2.4 Have consideration and respect for all parties to an inquiry including witnesses.
- 3.3 The *Disciplinary Committee* shall appoint a secretary to serve the *Disciplinary Committee* as its clerk. If the appointed secretary is not a member of the *Disciplinary Committee*, he shall not act in a judicial capacity nor have a vote.
- 3.4 Once convened, the *Disciplinary Committee* shall as soon as practicable:
- 3.4.1 Assemble such facts as are reasonably available;
 - 3.4.2 Notify the *member* in writing of the complaint made against him and inform the *member* that if he wishes he may submit in writing any observations on the complaint. It must be made clear that the *member* is under no obligation to make any statement but that any statement, which the *member* wishes to make, should be submitted within seven days; and

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- 3.4.3 On the expiration of seven days from the date of notification to the *member*, convene a meeting of the *Disciplinary Committee* by serving not less than 14 days notice of the date, time and place of the hearing on the members of the *Disciplinary Committee*, the *member* and such other bodies or persons as the *Disciplinary Committee* decides are appropriate.
- 3.5 There shall be annexed to the notice given to the *member* under paragraph 3.4.2, a copy of this Disciplinary Procedure, a copy of the complaint referred to in paragraphs 3.1, a copy of any statement submitted by the *member* and a statement of any other facts of which the *Chairman* is aware and which are likely to assist the *Disciplinary Committee* and the parties concerned.
- 3.6 At every stage of the procedure, the *member* shall have the right:
- 3.6.1 To be present in person;
 - 3.6.2 To state his case, call witnesses and furnish evidence; and
 - 3.6.3 To be assisted at the hearing by a fellow member, colleague of his choosing or legal adviser.
- 3.7 Evidence of the conduct being considered may be in writing or be given orally. Anonymous or unattributed opinions are inadmissible as evidence. Hearsay evidence is admissible but the *Disciplinary Committee* must treat it with caution.
- 3.8 The *member* has the right to:
- 3.8.1 Be given access to the evidence;
 - 3.8.2 Respond to the evidence;
 - 3.8.3 Know the name of the person(s) giving evidence;
 - 3.8.4 Challenge the evidence; and
 - 3.8.5 Expect that the evidence will be presented systematically and thoroughly.
- 3.9 The *Chairman* shall have discretion to proceed with the hearing in the absence of the *member* if notification has been given to the *member* in accordance with this Disciplinary Procedure but the *member* has failed to attend the meeting of the *Disciplinary Committee* or has failed to give any reasonable explanation for such failure.
- 3.10 The standard of proof in all cases shall be the balance of probabilities.
- 3.11 The *Chairman* may in appropriate cases give directions for the hearing.
- 3.12 The *Disciplinary Committee* may appoint a legal adviser to attend a hearing and advise the *Disciplinary Committee*. Such adviser shall not have a vote.

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- 3.13 The hearing shall be conducted as follows:
- 3.13.1 The *Chairman* shall confirm that the *member* has copies of all the relevant documents.
 - 3.13.2 The *Chairman* shall advise the *member* that he may either submit a written statement or make a verbal statement to the *Disciplinary Committee* or remain silent. The *member* shall be further advised that if he makes a verbal statement to the *Disciplinary Committee* it will carry more weight than remaining silent.
 - 3.13.3 The *member* will be liable to be asked questions by the *Disciplinary Committee*.
 - 3.13.4 Witnesses may be called, make statements and be questioned by the *Disciplinary Committee* or by the *member*.
 - 3.13.5 The *Disciplinary Committee* shall consider its decision. Only members of the *Disciplinary Committee* and its secretary shall be present when it is considering its decision, but the *Disciplinary Committee* may invite its legal adviser to attend and advise the *Disciplinary Committee*. The legal adviser should retire before the *Disciplinary Committee* reaches its decision.
 - 3.13.6 The *Chairman* may announce the decision and reasons in open session immediately or adjourn the hearing to allow the *Disciplinary Committee* further time to make enquiries or deliberate.
 - 3.13.7 The *member* shall have the right to respond to any matters arising out of any further enquiries carried out. If a response is required then the *member* shall be given written notice of matters arising out of the further enquiries and given seven days to respond in writing.
 - 3.13.8 The *Chairman* may if he considers it necessary reconvene the hearing to allow the *member* to respond. The *Disciplinary Committee* will make a decision within seven days of the conclusion of the final hearing.
 - 3.13.9 The secretary shall take minutes of the proceedings of the *Disciplinary Committee*. The *member* appealing against the decision of the *Disciplinary Committee* is entitled to a copy of the minutes.
 - 3.13.10 The *Chairman* may admit such other matters as are relevant to the subject matter of a hearing. The *Chairman* may decide the procedure and order of the hearing (including any adjournment thereof) as he may deem appropriate, bearing in mind the requirement at all times to give the *member* a fair hearing.
- 3.14 The *Disciplinary Committee* may, on finding the *member* guilty of an offence, impose one or more of the following penalties:
- 3.14.1 Termination of membership of the *RMGC*;
 - 3.14.2 Suspension of membership of the *RMGC* for a defined period;
 - 3.14.3 Suspension or removal from *RMGC* competitions for a defined period and suspension of the *member's golf handicap*;
 - 3.14.4 An admonishment that could include a suspended sentence;
 - 3.14.5 An order that the player attends appropriate counselling sessions as specified by the *Disciplinary Committee*;

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- 3.14.6 Such other sanction as determined from time to time including withdrawal of certain membership privileges.
- 3.15 The *Chairman* of the *Disciplinary Committee* shall serve written notice of that decision and the reasons for it within seven days to the *RMGC* Board of Management. That decision is binding upon the Board of Management. The Board of Management will then call the member before the Board within seven days and will deliver the decision of the *Disciplinary Committee*, confirming it in writing to the *member* and the *complainant*.
- 3.16 A record of all hearings and decisions of the *Committees* and the minutes of their meetings must be maintained by the *RMGC* for a minimum period of three years.

4. Appeal

- 4.1 When the *Disciplinary Committee's* decision is not to terminate the membership of the *member*, the *member* may, by written notice, appeal against the decision of the *Disciplinary Committee*.
- 4.2 Such notice shall be served to the *RMGC* Board of Management within 14 days of the date of the service of the decision on the *member* under paragraph 3.15. If such notice of appeal is not served within the said 14-day period the right of appeal shall lapse.
- 4.3 In giving notice of appeal, the *member*, shall provide a written statement indicating the grounds for the appeal, together with such accompanying documents as appropriate.
- 4.4 An appeal may be made only on one or more of the following grounds:
- 4.4.1 Totally new and relevant evidence has come to light after the *Disciplinary Committee's* decision;
 - 4.4.2 The *Disciplinary Committee's* decision was procedurally flawed in a material way;
 - 4.4.3 The sanction imposed by the *Disciplinary Committee* was not appropriate to the misconduct.
- 4.5 A *member* who has his membership terminated shall have the right to appeal to the *Caucus*.

5. Consideration by the Appeals Committee

- 5.1 On receipt of a notice of appeal, the *RMGC* Board of Management shall as soon as possible appoint an *Appeals Committee* for the purpose of dealing with the appeal.
- 5.2 From the date of receipt by the *RMGC* Board of Management of a notice of appeal until the determination of the appeal, the decision of the *Disciplinary Committee* shall remain in force until the appeal is concluded.

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- 5.3 The duly appointed *Appeals Committee* shall hear the appeal. The *Disciplinary Committee's* secretary shall preferably continue to act as secretary to the *Appeals Committee*.
- 5.4 Paragraph 3.2 and paragraphs 3.4 to 3.16 (inclusive) shall apply to the conduct of an appeal subject only to the substitution of "*Appeal Committee*" for "*Disciplinary Committee*" and "appeal" for "hearing" throughout.
- 5.5 The decision of the *Appeals Committee* shall be final and there shall be no right of appeal by the *member* or any other person or body against it, save where the sentence is that of termination.
- 6. Consideration by the *Caucus*.**
- 6.1 A *member* who has his membership terminated shall have the right to appeal to the *Caucus* if he so requests in writing within 14 days of the date of the service of the decision on the *member* under paragraph 3.16. If such a notice is not served within the said 14 day period the right to appeal shall lapse. A meeting to hear the appeal must be held within 28 days of the receipt of the notice of appeal.
- 6.2 At the meeting, the *Caucus* will consider the appeal by reviewing the decision of the *Disciplinary Committee* and inviting the *member* to make his case.
- 6.3 Each member of the *Caucus* present for the appeal meeting will have one vote and the final decision will be taken through a simple majority vote. In the event of a tie, the *Caucus* will re-consider the facts and re-vote until a simple majority is reached.
- 6.4 The decision of the *Caucus* is final and binding on the *RMGC* and the *member*.
- 6.5 All members of the *Caucus* (unless they have a personal interest in or involvement with the subject matter of the inquiry or with the *member*) will retain the right to attend this meeting and vote on this appeal even though they could be involved in the procedure through their responsibilities on the *RMGC* Board of Management and/or the *Sub-Committee* and/or the *Disciplinary Committee* and/or the Executive Council of the Malta Golf Association.
- 7. Criminal Offences**
- 7.1 Upon the termination of legal proceedings against a *member*, should the *member* be convicted of the criminal offence, under Maltese or other International Law, then his membership will be terminated immediately according to the provisions of the *RMGC's* Constitution.
- 7.2 Should the *member* not be convicted of the offence, the *Disciplinary Committee* will meet to consider whether the case merits other considerations outside the aspects of the legal proceedings or whether the legal proceedings gave sufficient indication for the case to be concluded without further action.

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8. Interpretation

- 8.1 Any words, of this Disciplinary Procedure, importing the singular number only and the masculine gender only shall respectively include the plural number and the feminine gender and vice versa unless inconsistent with the context.

Prepared by BOM: 16th June 2015

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