

# 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.

The Disciplinary Procedure 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 start from a complaint or report raised with the *BOM*.
- 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 *BOM* means the Board of Management of the *RMGC*;
  - 1.2.3 *Member* means a member of the *RMGC* irrespective of membership category and against whom the complaint has arisen;
  - 1.2.4 *Disciplinary Committee* is the Committee defined in paragraph 1.8.1 below;
  - 1.2.5 *Chairman* means the Chairman of the *Disciplinary Committee*;
  - 1.2.6 *Appeals Committee* is the Committee defined in paragraph 1.8.2 below;
  - 1.2.7 *General Meeting* means the Annual or Extraordinary General Meeting of the *RMGC*;
  - 1.2.8 *Caucus* means the Caucus of *RMGC* Past Captains.
- 1.3 The *BOM* may licence the *RMGC* Club Captain or Lady Captain to deal on its behalf with offences involving relatively minor matters of discipline arising from Club Competitions and the Rules of Golf. In such cases he/she may ban the *member* for a limited period from entering or playing in competitions with no right of appeal; and will advise the *BOM* in writing how he/she has dealt with all such offences.
  - 1.4.1 All other cases are considered by the *BOM*, unless the *BOM* is conflicted out or is otherwise unable to hear a particular case when the *BOM* shall refer the matter to the *Disciplinary Committee* to be handled in line with the procedure defined in this Policy.
  - 1.4.2 The *BOM* may ban the *member* for a limited period, with no right of appeal, from being a member of an *RMGC* committee and/or from representing the *RMGC* within Malta or overseas.
  - 1.4.3 The *BOM* may suspend the member from the *RMGC* for a limited period with right of appeal against the sentence to the *Caucus*. Such an appeal must be served in writing to the *BOM* within 14 days; if not served within this period, the right of appeal shall lapse.
  - 1.4.4 If the *BOM* considers that a *member*, either on the golf course, in the clubhouse or elsewhere, has committed a criminal offence or has behaved in a manner likely to bring the *RMGC* into serious dispute, or is considered by the *BOM* to have behaved in a manner that is seriously injurious to the character and/or interests of the *RMGC*, then the *BOM* shall refer the matter to the *Disciplinary Committee* to be handled in line with the procedure defined in this Policy.
- 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 as the case is determined by the competent authorities. The provisions under Section 7 of this Policy will apply.
- 1.8.1 Cases may be considered by the *Disciplinary Committee* comprising a *Chairman* plus two members who are independent of the *BOM* and who should ideally be past Club Captains of the *RMGC*.
- 1.8.2 Cases may be considered by the *Appeals Committee* comprising three impartial and suitable members nominated by the *BOM* who must be independent of the *BOM* and must not have been involved in the *Disciplinary Committee's* hearings.
- 1.9 The nominated members serving on the *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 *BOM* for a period of two years and *Members* will be advised at a *General Meeting*. The *Chairman* can be removed from that position during his two-year term of office only by the *Members* at a *General Meeting*. The *Chairman* must be a Full Member of the *RMGC*.
- 1.11 The *Chairman* will 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 *BOM* may appoint an ad hoc *Chairman* for that particular case. Such an 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 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.
- 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, or be 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 shall be deemed received when the delivery of the same has been recorded by the relevant postal official. The relevant notice period shall commence from 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 expected that whilst the case is sub-judice all parties will respect the confidentiality of the case in hand. However, a breach of this confidentiality will not jeopardise the procedure.
- 1.17 The *BOM* shall have the power, in exceptional circumstances and where it believes it is in the interest of the *RMGC* 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.

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### 2. Consideration by the BOM

- 2.1 The *BOM* shall write to and/or meet the *member* concerned and inform him of the information which has been passed to the *BOM* and, if necessary, ask him for further information or comment.
- 2.2 Should the *member* wish to make further representations he should do so within 21 days of the date of the *BOM's* communication or, within such other reasonable timescale as agreed between the *member* and the *BOM*.
- 2.3 Upon receiving further information, comments or representations from the member, the *BOM* shall determine either:
  - 2.3.1 That there is insufficient evidence and close the case; or
  - 2.3.2 That there has been clear evidence of a breach of conduct of a less severe nature and inform the *member* in writing of the sanction defined in paragraph 1.4.2 to be affected against him with no right of appeal; or
  - 2.3.3 That there has been unequivocal evidence of a severe breach of conduct that has warranted a period of suspension from the RMGC and advise the member that he has the right of appeal to the *Caucus*, and in so doing the *BOM* shall pass all papers, including any further information, comments or representations received from the *member*, to the *Caucus* as soon as practicable; or
  - 2.3.4 That there has been unequivocal evidence of a more serious breach of conduct and inform the *member* in writing that the *Disciplinary Committee* will review his case and the provisions of Section 3 of this Policy will apply, and in so doing the *BOM* shall pass all papers, including any further information, comments or representations received from the *member*, to the *Chairman* as soon as practicable. At the same time, the *BOM* nominates (but does not publish) an *Appeals Committee* that will be called upon and announced in the event of an appeal. Any decision taken by the *BOM* shall be suspended pending review of the case by the *Disciplinary Committee*.

### 3. Consideration by the *Disciplinary Committee*

- 3.1 The *Disciplinary Committee* shall review the case on receipt of papers from the *BOM* as specified in paragraph 2.3.4 above or on receipt of a written complaint from the Executive Council of the Malta Golf Association.
- 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 *Chairman* shall appoint a secretary to serve as the *Disciplinary Committee's* 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 7 days; and

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- 3.4.3 On the expiration of 7 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 paragraph 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.
- 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 if he remained 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 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

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- be given written notice of matters arising out of the further enquiries and given 7 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 7 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;
- 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*;
- 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 7 days to the *BOM*. That decision is binding upon the *BOM*. The *BOM* will then call the *member* before the *BOM* within 7 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 A member who has his membership terminated shall have the right of appeal to the *Caucus*.
- 4.2 A *member* shall have the right of appeal to the *BOM* against any other decision of the *Disciplinary Committee*.
- 4.3 Such appeal shall be served in writing to the *BOM* 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.
- 4.4 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.
- 4.5 An appeal may be made only on one or more of the following grounds:
- 4.5.1 Totally new and relevant evidence has come to light after the *Disciplinary Committee's* decision;
- 4.5.2 The *Disciplinary Committee's* decision was procedurally flawed in a material way;
- 4.5.3 The sanction imposed by the *Disciplinary Committee* was not appropriate to the misconduct.

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### 5. Consideration by the *Appeals Committee*

- 5.1 On receipt of a notice of appeal, the *BOM* 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 *BOM* 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.
- 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 of membership of the *RMGC*.

### 6. Consideration by the *Caucus*.

- 6.1 A *member* who has been suspended by the *BOM* or has had his membership terminated by the *Disciplinary Committee* 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 1.4.3 or 3.15. 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 *BOM* or *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 based on 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 *BOM* and/or the *Disciplinary Committee* and/or the Executive Council of the Malta Golf Association.

### 7. Criminal Offences

- 7.1 Should the *member* be convicted of the criminal offence under Maltese or other International Law, his membership of the *RMGC* will be terminated immediately at the end of the legal proceedings under 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.

### 8. Interpretation

- 8.1 Any words in 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: 16<sup>th</sup> June 2015

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