

	Gasóga na hÉireann/Scouting Ireland			
	Document No.	Issued	Last Amended	Next Review
	SID-CCD04	18 th November 2018	11 th January 2020	January 2023
	Category: Complaints, Conflict and Disciplinary			
Disciplinary Process				

Related Documents
SID-CCD01 - Scouting Ireland's Grievance and Disputes Process
SID-CCD02 - Scouting Ireland's Conflict Resolution Policy and Guidelines
SID-CCD03 - Scouting Ireland's Disputes Policy (Youth Members Under 18)
SID-39/05 - Scouting Ireland's Code of Good Practice
TOR-SUB04 - DRAP – Terms of Reference
TOR-SUB13 – Disciplinary Panel – Terms of Reference
TOR-SUB14 – Investigation Officer – Terms of Reference

Revision Schedule		
Revision	Date	Description
	11/01/20	Amended to incorporate matters relating to audio recordings and transcripts of proceedings

Introduction

The purpose of this document is to provide the adult membership of Scouting Ireland with a Disciplinary Process.

Should any connected external proceedings be brought to the attention of Scouting Ireland during the course of the handling of a disciplinary matter then the person or persons managing or processing the matter reserves the right to suspend all activity on the matter, should it be deemed appropriate to do so, until such time as it is considered appropriate to proceed.

Notwithstanding that any external proceedings or litigation may not be resolved or succeed as prosecuted, Scouting Ireland reserves the right to, and will consider, the subject matter of all disciplinary matters and take appropriate steps irrespective of the outcome of the external proceedings.

Scope of the Disciplinary Process

The Disciplinary Process is designed to cover any matter relating to a disciplinary issue concerning an individual adult member of Scouting Ireland.

Guiding Principles For All Matters Within This Document

It is vitally important that those involved in all disciplinary matters are informed and reminded at the outset by the person(s) investigating the matter that they are Scouts, and as Scouts, they should be acting in a “scout like manner” at all times in adherence with the Scout Law, Promise and Principles and in keeping with Scouting Ireland’s Code of Good Practice (SID 39-05 refers).

NB: Any matter that is raised by any member of Scouting Ireland or any other person that concerns safeguarding issues should be referred immediately to the Safeguarding Manager or Designated Liaison Person [DLP] in National Office by the recipient of the initial complaint or the DRAP.

General Definitions

Throughout this document the following definitions shall apply:

The Board – is the Board of Directors of Scouting Ireland;

The DRAP – is the Disputes Resolution and Appeals Panel;

The Member – is an individual adult member of Scouting Ireland as opposed to a Scout Group, which is considered a “member” of the Company for governance purposes in the Constitution of the Company.

The DRAP

The DRAP Sub-committee are appointed annually by the Board of Directors of Scouting Ireland, subject to the Constitution of Scouting Ireland. The purpose of this Sub-committee is to oversee and manage Scouting Ireland's Policies as contained within this policy document and the policy documents SID-CCD01 – Grievance and Disputes Process and SID-CCD03 - Disputes Policy (Youth Members Under 18). The membership of the Sub-committee and their key areas of responsibility are as prescribed in TOR-SUB04.

The Disciplinary Panel

The Disciplinary Panel (DP) shall consist of three individuals appointed to that role by the Board on the recommendation of the DRAP. The DP shall comprise of a Chair and two individual Panel Members. The Chair shall be a current member of Scouting Ireland. At least one of the two individual Panel Members must be external to Scouting Ireland.

After having sat on the DP for a period of two years initially each member of the DP should then be replaced by one member stepping down each year for the next three years and this replacement process should then continue on a rolling basis thereafter. The order of retirement shall be decided by the Board.

In the case of the members of Scouting Ireland that may be appointed by the Board to the DP, the Board shall decide the appropriate manner by which to seek nominations from the membership. The nomination process and the recommendation of the individuals to the Board will be overseen by the DRAP.

The recruitment of the external Panel Member(s) will be in accordance with Scouting Ireland's current policy, at the time of recruitment, on engaging said individuals.

The key areas of responsibility for the DP are as prescribed in TOR-SUB13.

Investigation Officers

The Investigation Officer (IO) shall be responsible for conducting all fact finding and evidence gathering on disciplinary cases. An IO shall be appointed to that role by the Board on the recommendation of the DRAP. An IO need not be a member of Scouting Ireland.

The key areas of responsibility for the IO are as prescribed in TOR-SUB14.

The Board shall decide the appropriate manner by which to seek nominations from the membership fill the role of IO. The nomination process and the recommendation of the individuals to the Board will be overseen by the DRAP.

Specified Officers

A Specified Officer is a person holding any of the following Appointments within Scouting Ireland for the time being/at the time of making of the complaint:

- (a) Group Leader
- (b) County Commissioner
- (c) Provincial Commissioner
- (d) Department Manager

- (e) A member of the DRAP
- (f) The Chief Executive Officer

Referral for an Alleged Breach of Discipline

A Specified Officer within Scouting Ireland may make a complaint concerning a member of Scouting Ireland to the DP on one or more of the following grounds;

- (a) The member is alleged to have committed an act of misconduct;
- (b) The member is alleged to have not acted in accordance with the Scout Promise;
- (c) The member is allegedly in breach of any terms or conditions attaching to membership of Scouting Ireland;
- (d) The member, being the holder of an Appointment or Position, has allegedly failed to render satisfactory service to Scouting Ireland;
- (e) The member is alleged to have become unfit to have charge of Youth Members;
- (f) The member has been found, by way of an investigation, inquiry or review, whether carried out internally by Scouting Ireland or by an independent body appointed by Scouting Ireland, to have behaved or conducted him/herself in contravention of the Scout Law and/or the policies and procedures of Scouting Ireland;
- (g) The member is convicted of an offence in accordance with the laws of the Republic of Ireland or those in force in the jurisdiction of Northern Ireland, whereby such an offence could be reasonably deemed relevant in terms of his/her ongoing involvement as a member of Scouting Ireland;
- (h) The member is found to have been negligent or failed to manage serious matters of concern to Scouting Ireland, such as Safeguarding Complaints or serious Health and Safety risks, in the appropriate manner, in accordance with Scouting Ireland's policies and procedures;
- (i) The member is found to be lobbying on his/her behalf, either directly, or through others, while the member is suspended without prejudice, and/or suspended from an Appointment/Position, and/or suspended from membership;
- (j) The member was the subject of an investigation by an external State Agency (either in the Republic of Ireland or Northern Ireland) where no action was taken against the member but the nature of the terms of the investigation raises a doubt as to the suitability of that person remaining a member of Scouting Ireland;
- (k) The member is alleged to have misused the property of Scouting Ireland;
- (l) The member is alleged to have abused communications, that is to say, in one's capacity as a member of Scouting Ireland using electronic media or other internet procedures contrary to Scouting Ireland policy;
- (m) The member is alleged to have failed to obey/observe the terms of a suspension without prejudice order;
- (n) The member is alleged to have shown discourtesy, that is to say, failing to behave with due courtesy towards a fellow Scouter, Scout, parent or Guardian of a Scout, a member of staff of Scouting Ireland or a member of the general public;
- (o) The member is alleged to have committed an act of misconduct towards a fellow Scouter, Scout, parent or Guardian of a Scout, a member of staff of Scouting Ireland or a member of the general public, that is to say;
 - a. Using abusive or insulting language to a fellow Scouter, Scout, parent or Guardian of a Scout, a member of staff of Scouting Ireland or a member of the general public, or

- b. Engaging in oppressive conduct towards a fellow Scouter, Scout, parent or Guardian of a Scout, a member of staff of Scouting Ireland or a member of the general public, or
 - c. Physically assaulting a fellow Scouter, Scout, parent or Guardian of a Scout, a member of staff of Scouting Ireland or a member of the general public.
- (p) Any other matter of a disciplinary nature which would not be fit and proper conduct for an adult member of Scouting Ireland.

The above list is not exhaustive.

Definitions

For the purposes of the previous sub-section the following definition shall apply:

Misconduct - means conduct of any member, whether within or outside of his or her capacity as a member (or holder of an Appointment or Position) of Scouting Ireland, which is such as to be injurious to the character, reputation or interests of Scouting Ireland or to bring Scouting or Scouting Ireland into disrepute.

Fair Procedures

It is important that all disciplinary investigations follow fair procedures. The object of the disciplinary investigation is to arrive at a fair decision having given the subject of the investigation an adequate opportunity to state his/her case and to provide witnesses.

It should be noted at the outset of all disciplinary investigations that there will be provision for the subject of the investigation to appeal any findings and/or recommendations that fall out of the investigation.

Initial Procedures

All such complaints must be submitted in writing on the prescribed form (SIF-DPF9) and the original signed document should be directed to the DP Chair, and upon receipt of same, the DP shall, as soon as is practicable, make a decision on whether the matter requires investigation. Should the DP decide that the matter does not warrant a full investigation then they will dispense with the matter in a manner as they see fit which shall include agreeing an appropriate sanction with the member the subject of the complaint where a minor breach of discipline is accepted to have occurred.

Where the DP deem it appropriate to move to a full investigation of a complaint, they shall without prejudice to the generality of the same:

- (a) notify the member subject to the investigation informing him/her of the complaint that has been made against him or her, providing him/her with a copy of the written complaint and giving him/her an opportunity to respond to the complaint and admit or deny the complaint (SIF-DPF10); and then
- (b) allocate the case to an IO in order for a full and comprehensive fact finding investigation to take place. The DP will set the specific Terms of Reference for each IO to work to and will fully brief the IO in advance of an investigation commencing.

NB: No other form of “complaint” will be accepted by Scouting Ireland (including letters of complaint, e-mails of complaint, etc.) as an “Official Complaint”. All such other “complaints” received by whatever manner by Scouting Ireland will be returned to the sender and will not be progressed as an “Official Complaint” unless and until Scouting Ireland receive the matter on a SIF-DPF9, in the manner as outlined in the preceding paragraphs.

The DP has all the powers necessary for, and incidental to, the exercise of its functions and will determine the procedures for investigating any complaint referred to them with the procedures being outlined explicitly in the Terms of Reference for each case, a copy of which will be provided to all those members the subject of the investigation in said case.

Where appropriate, the DP may request the member subject to investigation to voluntarily step aside from all or specified Scouting activities pending investigation of the complaint. However, should the member refuse to do this, then the DP will reserve the right to invoke Scouting Ireland’s policy on suspension of membership, as outlined in policy document BOD-MA-002. Any such act of suspension should be considered a neutral act and should not be seen as sign of guilt.

Following any investigation, the IO will present the DP with a full and comprehensive report to include all written documents generated by them as well as all documents handed over to them during the course of the investigation. Where appropriate, the DP will meet with the subject(s) of the disciplinary investigation to discuss with them the findings of the investigation. Following this meeting the DP will prepare a report (SIF-DPF11) of the investigation which shall include the DP’s opinion as to whether any allegations were proven, their findings and any recommendations arising from the investigation of the matter (including recommendation as to sanction pursuant to the sub-section on “sanctions” below).

The report shall then be furnished to the member(s) the subject of the investigation.

Appeal Procedures

Where a member of Scouting Ireland is the subject of an adverse report by the DP pursuant to the previous paragraph, the member (hereinafter referred to as the appellant) may not later than twenty-one days after receipt of the report lodge an appeal against any findings and/or recommendation by the DP.

Where no appeal is lodged the sanction(s) recommended by the DP is/are imposed on the member against whom adverse findings have been made. The report and the sanctions imposed are then filed with the Board for consideration and action.

The DRAP may, in its absolute discretion, extend the time within which an appeal may be lodged.

Appeals shall be made in writing on the approved form (SIF-DPF12) and directed to the DRAP and shall set out the grounds of appeal relied upon.

Where an appeal is made in accordance with this part of the Disciplinary Process, the DRAP shall, refer the matter to an Appeals Committee comprising of a member of DRAP (the Chair of the Committee), a member of the Hearing Pool (as referred to in the policy document SID-CCD01) and an external member (recruited in accordance with Scouting Ireland's current policy, at the time of recruitment, on engaging said individual).

The Appeals Committee has the power to hear and determine all issues arising from any appeal which is referred to it pursuant to this part of the Disciplinary Process and in particular, shall determine whether or not the appeal ought to be upheld.

The Appeals Committee has all the powers necessary for, and incidental to, the exercise of its functions and may determine the procedures for determining any appeal referred to it.

Without prejudice to the generality of the foregoing, the Appeals Committee may decide the manner and form in which the appeal shall be conducted and, as to what may be received as evidence in the appeal and the manner in which it is to be presented.

The Appeals Committee shall report (by way of completing a SIF-DPF13) its determination as to whether the appeal ought to be upheld or dismissed and present its findings to the appellant and the DP. If the appeal is upheld, then no further action is required. If the appeal should be dismissed, the Appeals Committee shall invite the appellant to make submissions on the content of the report before it rules on any sanctions to be imposed or on any recommendations to be made pursuant to its findings. The final report shall be furnished to the appellant, the DP and the DRAP for information and to the Board for action.

Board Procedures

If, following the conclusion of Scouting Ireland's Disciplinary Process, either the DP or the Appeal Committee recommends to the Board that any member of Scouting Ireland should have his/her membership, appointment or position terminated, cancelled, withdrawn or suspended, said member shall be informed of this recommendation, in writing by the Board. The member will then be afforded the opportunity to submit mitigating circumstances, within 21 days of the date of notification, as to why the recommendation should not be acted upon by the Board.

The Board will then consider any mitigating circumstances put forward by the member before making their final decision on whether to accept, modify or reject the recommendation as proffered.

For the avoidance of doubt the Board will not re-open, or entertain any re-opening, of the findings.

It should also be noted that, as the final arbiter in Scouting Ireland's Disciplinary Process, no member of the Board will be permitted to play any part in deciding any disciplinary matter if they have already been engaged in any way in any other part of the Disciplinary Process and they will thereby be automatically excluded from playing any role during the Board decision-making process in the disciplinary matter in question.

Sanctions

The sanctions in respect of the member subject to the complaint may only be imposed by the Board (except in (d) below which the DP may also invoke) and may take any of the following forms:

- (a) Recommend the cancellation, withdrawal or suspension of any Appointment and/or Position of the member within Scouting Ireland to the relevant Commissioner and to the Board;
- (b) Suspend the member from membership of Scouting Ireland for a specified period of time;
- (c) Expel the member from membership of Scouting Ireland; or
- (d) Any other sanction which the DP or the Appeals Committee deems appropriate in any particular case.

Conclusion of the Disciplinary Process

At the conclusion of the Disciplinary Process (all stages of which have been specified in this policy document) the Specified Officer (being the original Complainant) will be advised of the outcome by either the DP, the DRAP or the Board (depending on the stage at which the particular disciplinary matter has been concluded).

It will be for the Specified Officer to decide if it is appropriate to share the outcome of the disciplinary matter with any interested party to the matter (e.g. the person(s) who raised the initial matter with them).

Matters Relating to Audio Recordings and Transcripts of Proceedings

For the purposes of the Disciplinary Process audio recordings will be made in most cases where any investigation or Appeal Hearing is conducted. In addition any written notes made during the course of any investigation or Appeal Hearing and transcriptions of the audio recording will also form part of the records. All such audio and written recordings shall hereinafter be referred to as recordings.

The reasons for this are to protect the interests of all parties involved. The recordings, as well as any associated paper or electronic files, will be kept securely on file in National Office for as long as the Disciplinary Process takes, including right to appeal, and for a further 6 months thereafter. Six months after the process has concluded all data will be securely deleted and/or shredded.

The data that is collected is accessible to all those engaged by way of Scouting Ireland's Disciplinary Process and to authorised administrative staff in Scouting Ireland's National Office.

Post any investigation and/or Appeal Hearing access to the audio recording will be facilitated, on request, and in the presence of a member of the administrative staff, as no audio copies will be produced of the original recordings. However a written transcript of the original audio recording may be produced if this is specifically requested by the members of the Appeals Committee.

In general, we will only retain information for the duration of the Disciplinary Process and a further six months thereafter. For historical/archival purposes, we retain the names of parties mentioned (and the period of their membership).

However, Scouting Ireland reserves the right to retain essential data beyond the usual six months in certain circumstances. This will depend entirely on the circumstances of each case. This does not affect an individual's rights under personal data legislation and will only be necessary in order for Scouting Ireland to comply with associated legislation.

The recordings will be held in electronic format on a memory device (e.g. USB stick) and this will be kept securely in a locked box or safe for the limits specified above. The area the data is held in is subject to Scouting Ireland's Access Control Policy and any electronic files will be password protected and only accessed by authorised persons.