

# GUERNSEY UNION D'ESCRIME ("GUE") DISCIPLINARY AND GRIEVANCE CODE

## 1. INTRODUCTION AND APPLICATION OF THIS CODE

- 1.1. This Code applies to all GUE Members and Affiliated Clubs. In addition.
- 1.2. GUE makes and enforces this Code to ensure compliance with the relevant GUE Codes which may be adopted British Fencing ("BF") Codes and are enforced fairly and in accordance with the principles of natural justice.

## 2. DISCIPLINARY MATTERS

- 2.1. A Guernsey Fencer or person subject to the disciplinary jurisdiction of GUE by virtue of paragraph 1.2 above shall be liable to disciplinary action in accordance with this Code if their conduct is inappropriate, incorrect, improper, unlawful or unsporting and/or has the potential to bring the sport of fencing or GUE into disrepute. The following non-exhaustive list are examples of conduct which may constitute a breach of this Code:
  - 2.1.1. Failing to comply with GUE Codes which may be adopted BF Codes;
  - 2.1.2. Doing anything which could harm GUE or bring the sport of fencing or GUE into disrepute;
  - 2.1.3. Failing to comply with a written agreement with or a written undertaking given to GUE;
  - 2.1.4. Making an untrue written statement to GUE or a person or organisation acting on behalf of GUE;
  - 2.1.5. Committing a breach of the Code of Conduct;
  - 2.1.6. Failing to treat others in the sport with dignity and respect;
  - 2.1.7. Taking any part in doping;
  - 2.1.8. Acting in a way that directly or indirectly adversely affects the welfare or safety of a person under 18 or places them at risk;
  - 2.1.9. Acting in a way that directly or indirectly adversely affects the welfare or safety of a Vulnerable Adult or places them at risk;
  - 2.1.10. Assisting or encouraging any person or Affiliated Club to breach this Code.

## 3. JURISDICTION AND POWER

- 3.1. The GUE Board delegates power and jurisdiction to act in relation to any Disciplinary Matter, including the power to impose appropriate sanctions, to individuals in accordance with the procedures in this Code except that:
  - 3.1.1. Allegations relating to doping as defined within the BF Anti-Doping Regulations as approved by the GUE Board shall be dealt with by the UK National Anti-Doping Panel, in accordance with the provisions of the UK Anti-Doping Rules;
  - 3.1.2. Allegations that a person has engaged in conduct which directly or indirectly adversely affects the welfare or safety of a person under 18 and/or places them at risk (including any Appeal) shall be dealt with in accordance with the policies adopted from time to time by BF in respect of Child Protection and Safeguarding; and

- 3.1.3. Allegations of a breach of the Code of Conduct, shall, where the Code of Conduct so allows, be dealt with by a Nominated Officer of the GUE Board who may in turn delegate, in his/her absolute discretion, dealing with such allegations to either the Disciplinary Committee Chair or may refer such allegations to be dealt with under this Code.
- 3.2. Disciplinary Action and any resulting sanction under this Code shall be separate from and may be additional to:
  - 3.2.1. Disciplinary action by BF;
  - 3.2.2. Disciplinary action by an Affiliated Club or Associated Body;
  - 3.2.3. Any sanction specifically authorised by regulations (other than this Code) established by the GUE Board;
  - 3.2.4. Action or investigation by the police or statutory authorities in accordance with criminal law or other statutory regulations, whether or not resulting in a conviction, but any action under this Code may be stayed until the outcome of any criminal or external investigation is concluded save to the extent that a Member may be precluded from participating in Fencing Activities pending determination of any criminal or external investigation.
  - 3.2.5. Furthermore the outcome any disciplinary action may be disclosed to any of the parties above.
- 3.3. The GUE Board delegates power to the President to modify, from time to time and on a non-binding case specific basis, the administrative and investigative procedures only in this Code in circumstances where the President in his/her absolute discretion determines that such modification is necessary to ensure the efficient operation of this Code.

#### **4. DISCIPLINARY COMMITTEE**

- 4.1. The GUE Board on a case-by-case basis shall appoint no fewer than two individuals to constitute the Disciplinary Committee, designating one of these as Disciplinary Committee Chair.
- 4.2. A Disciplinary Committee member having an interest in a matter to be discussed must declare that interest as soon as he is aware of it and must have no involvement in his capacity as a member during the transaction of that business.

#### **5. APPLICATION FOR INVESTIGATION**

- 5.1. A Member or another party (the 'Applicant') may make an application to a GUE Board member that an alleged Disciplinary Matter involving a GUE Member or Affiliated Club be investigated.
- 5.2. The application shall include the name of the Respondent, the nature and approximate date of the alleged Disciplinary Matter.
- 5.3. For the avoidance of doubt the GUE Board is as defined at the end of this document.

## **6. INTERIM SUSPENSION**

- 6.1. The President may suspend a Member or Affiliated Club from any or all of the privileges of affiliation ('interim suspension') on receipt of either of the following:
  - 6.1.1. An application for investigation of an alleged Disciplinary Matter involving an Affiliated Member or Affiliated Club. Such interim suspension may remain in force until not later than the final conclusion of the Disciplinary Action;
  - 6.1.2. Notification by the statutory authorities that a Member is under investigation in relation to an alleged offence under The Sexual Offences (Bailiwick of Guernsey) Law, 2020 and any subsequent related legislation. Such interim suspension may remain in force until not later than the legal outcome becomes known.
- 6.2. An interim suspension shall only be imposed if and for as long as the President is satisfied it is necessary in the best interests of GUE or the sport.
- 6.3. Interim suspension shall be a neutral action and shall not imply any prejudgement of the substantive issue.

## **7. INVESTIGATION**

- 7.1. On receipt of an application for an alleged Disciplinary Matter to be investigated the President may seek an informal resolution to the Disciplinary Matter or appoint an Investigator to investigate it.
- 7.2. The President may appoint as Investigator any person or organisation that does not have an interest in the case other than a Disciplinary Committee member. The Investigator may be internal or external to GUE.
- 7.3. When allocated to an Investigator, he/she will inform the Applicant that they are dealing with the matter and inform that the details of the application will be disclosed to the Respondent. They will also inform the Respondent that they are the subject of an application, provide an outline of the allegation, identify who made the complaint (but only when the identification of such person is not confidential for safeguarding reasons) and seek a brief response to the complaint. Such response should include a brief factual response to the allegation.
- 7.4. The Investigator will then conduct an investigation that is thorough, proportionate, relevant and fair to all parties. Contact with the Applicant, the Respondent and all witnesses will usually be via telephone or email but may be by face to face meetings. The Applicant, the Respondent and any witnesses shall give the Investigator all reasonable assistance, including promptly supplying signed statements if necessary, making themselves available for interview, answering any questions and supplying documentary or other information
- 7.5. The Investigator shall make a written report which shall include the documentary evidence and a recommendation as to whether the Respondent has a case to answer.
- 7.6. The Investigator's report shall be submitted to the President who shall either confirm the recommendation or arrange for further investigation by the same or a different Investigator.
- 7.7. If the President confirms a recommendation that there is no case to answer then the President will inform the Applicant and the Respondent accordingly.

There shall be no appeal against a decision that there is no case to answer but a case may be re-examined if further evidence is later forthcoming.

- 7.8. If the President confirms a recommendation that there is a case for the Respondent to answer the Investigator shall then be responsible for presenting the case to answer to the Disciplinary Committee as set out below.

## **8. DISCIPLINARY PROCEEDINGS**

- 8.1. If the President confirms a recommendation that there is a case to answer the Respondent will be given a written notice together with the Investigator's report. Not later than 21 days after the sending of the notice the Respondent shall send to the Disciplinary Committee Chair a written answer thereto, together if desired with signed statements from any witnesses. At the same time the Respondent may request a personal hearing. The Disciplinary Committee Chair will determine whether a personal hearing is necessary.
- 8.2. If the Respondent does not request a personal hearing within the prescribed time, the Disciplinary Committee shall adjudicate the matter, taking into consideration the report of the Investigator, the written statements of the Applicant, Respondent and witnesses and any other evidence it thinks appropriate. The Disciplinary Committee may decide to adjudicate a case by correspondence.
- 8.3. Proceedings, findings or decisions of the Disciplinary Committee shall not be invalidated by reason of any minor defect, irregularity, omission or technicality unless it raises a material doubt as to the reliability of the proceedings, findings or decisions.

## **9. PERSONAL HEARING**

- 9.1. If the Respondent requests a personal hearing and the Disciplinary Committee Chair agrees that a personal hearing is necessary the Disciplinary Committee Chair shall give the Respondent at least 14 days' notice of the date, place and time of the hearing, which shall be held as soon as practicable. The Disciplinary Committee Chair will decide on whether witnesses shall be necessary.
- 9.2. The Respondent may be represented or accompanied at a personal hearing by one other person of the Respondent's choice, who shall not be a witness. This right shall be in addition to the right of a Respondent who is under 18 or a Vulnerable Adult to be accompanied by a parent or carer.
- 9.3. The Investigator shall be responsible for presenting the case to answer and may:
- 9.3.1. Call evidence from witnesses (if present);
  - 9.3.2. Cross-examine the Respondent and witnesses who give evidence on the Respondent's behalf;
  - 9.3.3. Address the Committee for up to 10 minutes or such longer period as the chair decides is necessary to provide a fair opportunity to present the case.
- 9.4. The Respondent or the Respondent's representative shall have the right:
- 9.4.1. To call evidence from the Respondent and other witnesses (if present) to rebut the allegation;
  - 9.4.2. To cross-examine any witness (if present) who gives evidence in

- support of the allegation;
- 9.4.3. To address the Committee to sum up the answer to the allegation for up to 10 minutes or such longer period as the chair decides is necessary to provide a fair opportunity to sum up the answer.
- 9.5. Failure of any person to attend the hearing, or to answer any question, or to produce any necessary papers, shall not prevent the Disciplinary Committee from proceeding to a decision.
- 9.6. The Disciplinary Committee shall consider its decision in private. If the allegation is contested the Disciplinary Committee shall first decide whether or not it is proved on the balance of probabilities and inform the respondent accordingly.
- 9.7. If the allegation is admitted, or if the Disciplinary Committee finds the allegation proved, the Respondent or the Respondent's representative may speak for up to 10 minutes in mitigation before the Disciplinary Committee decides on any sanction to impose.
- 9.8. The Disciplinary Committee is entitled absolutely to determine the procedures that will be adopted at any personal hearing

## **10. SANCTIONS AND COSTS**

- 10.1. If the Respondent admits an allegation or if the Disciplinary Committee finds an allegation proved it may impose any one or more of the following sanctions:
  - 10.1.1. Suspension from some or all of the privileges of affiliation either indefinitely or for a stated period;
  - 10.1.2. A fine to be paid within 28 days;
  - 10.1.3. Censure;
  - 10.1.4. A requirement to give an undertaking in such terms as the Disciplinary Committee may decide; failure to give the undertaking within 14 days or a breach of it within two years shall be deemed a breach of this Code and upon such breach the offender shall be liable to a sanction in addition to the sanction for the original Disciplinary Matter;
  - 10.1.5. In the case of a former Member or former Affiliated Club which has subsequently resigned or otherwise ceased to be affiliated a stipulation that they may not re-affiliate without the express permission of the GUE Board.
- 10.2. The Disciplinary Committee shall have the power to require a Respondent to pay a contribution towards the costs of the hearing on terms as the Committee deems appropriate.

## **11. RECORDS AND CONFIDENTIALITY**

- 11.1. A decision made by the Disciplinary Committee on whether or not a case is found proved and the sanction imposed shall not be confidential save where the Respondent is under 18 or a Vulnerable Adult and the sanction imposed does not involve a suspension in which case the provisions of paragraph 11.3 below apply. A decision which is not confidential shall be publicised on the GUE website unless the Disciplinary Committee decides otherwise.

- 11.2. The President shall within 7 days of the decision notify it in writing to the Respondent, the Applicant and any other Affiliated Member or Associate Body involved and British Fencing.
- 11.3. In a case of suspension, the President shall publicise the suspension to those likely to be affected.
- 11.4. The chair of the Disciplinary Committee shall procure that minutes of each hearing which shall contain a record of the procedural business of the meeting and a record of each hearing (which shall be contained in a separate document) are taken. The chair of the Disciplinary Committee shall also provide written reasons for any findings made by the Disciplinary Committee including the sanction, if any, and the factors that were taken into consideration when imposing such sanction.
- 11.5. Records relating to a Disciplinary Matter shall be kept for two years after any investigation, proceedings and sanction imposed are all completed.

## **12. APPEALS**

- 12.1. If the Disciplinary Committee finds an allegation proved the Respondent may appeal against the finding or the sanction imposed or both.
- 12.2. Any Appeal must be made within ten working days in writing to the President and include a £100 non-refundable administration fee.
- 12.3. The notification of Appeal must contain the grounds for the Appeal. The only grounds for an Appeal are:
  - 12.3.1. That there was a material error, either factual or procedural in the original proceedings;
  - 12.3.2. That there is material new evidence that, had it been known at the time of the original proceedings would have affected the decision of the Disciplinary Committee.
- 12.4. Any Appeal that does not meet one of the criteria in 12.3 above may be refused by the President.
- 12.5. The Appeal shall be heard by an Appeal Panel that shall usually consist of at least one member of the GUE Board who was not involved in the original proceedings. If one such individual cannot be identified then the President shall appoint such individual(s) as he/she thinks appropriate taking into account the nature of the Appeal. In such circumstances, the member(s) of the Appeal Panel can be drawn from both inside and outside the sport.
- 12.6. The individual(s) appointed to the Appeal Panel shall appoint one of their number as the Appeal Chair. An Appeal is not a re-hearing of the original proceedings and whilst it will be necessary for the Appeal Panel to review the evidence by reading the statements and any reports, it will not involve the calling of new witnesses unless the Appeal is based upon the ground specified in 12.3.2 above only.
- 12.7. The Appeal Chair shall determine the manner in which the Appeal is dealt with, including inviting representations either in writing or in person from the Investigator and/or the Respondent. The Appeal would not typically be heard in person. Once the Appeal Chair is satisfied that the Appeal Panel has sufficient information on which to decide the appeal, they will consider whether the Appeal is upheld or dismissed.
- 12.8. The Appeal Panel shall have the following powers:
  - 12.8.1. To dismiss the Appeal;

- 12.8.2. To alter or vary the original decision;
- 12.8.3. To quash any sanction and/or substitute it for any other penalty; or
- 12.8.4. To make any such other order or determination as it may think right or just.
- 12.9. The decision of the Appeal Panel will be communicated to the Appellant, the original Applicant and the President by the Appeal Chair in writing within seven days of the Appeal Hearing.
- 12.10. The decision of the Appeal Panel will be final and binding and there lies no other form of Appeal.

### **13. PEOPLE UNDER 18**

- 13.1. If an Applicant or Respondent is under 18 at the date of the alleged Disciplinary Matter:
  - 13.1.1. The GUE Board shall make contact with the person nominated to act as Child Protection Officer to ensure their interests are protected;
  - 13.1.2. Any right or obligation under these regulations may be exercised on their behalf by their parent or carer;
  - 13.1.3. Any written communication with them under these regulations shall be made to their parent or carer or shall be copied to their parent or carer.
- 13.2. If an Applicant, Respondent or witness is under 18 at the date of the alleged Disciplinary Matter they may be accompanied by a parent or carer at any meeting or proceedings.
- 13.3. When considering any sanction the Disciplinary Committee shall take into account the age of a Respondent under 18 at the date the Disciplinary Matter is alleged to have occurred.

### **14. VULNERABLE ADULTS**

- 14.1. If an Applicant or Respondent is a Vulnerable Adult:
  - 14.1.1. The GUE Board shall make contact with the person nominated to act as Child Protection Officer to ensure their interests are protected;
  - 14.1.2. Any right or obligation under these regulations may be exercised on their behalf by their parent, carer or nominated appropriate adult;
  - 14.1.3. Any written communication with them under these regulations shall be copied to their parent, carer or nominated appropriate adult.
- 14.2. If an Applicant, Respondent or witness is a Vulnerable Adult they may be accompanied by a parent, carer or nominated appropriate adult at any meeting or proceedings.
- 14.3. When considering any sanction the Disciplinary Committee shall take into account the fact that a Respondent is a Vulnerable Adult.

## DEFINITIONS

<b>‘Affiliated Club’</b>	means a club affiliated to GUE
<b>‘Appeal’</b>	means an appeal in accordance with paragraph 115 of the Code
<b>‘Appeal Chair’</b>	means the person so appointed in accordance with paragraph 15.6 of the code
<b>‘Appeal Panel’</b>	means the panel so appointed in accordance with paragraph 15.5 of the code
<b>‘BF’</b>	means British Fencing
<b>‘BF Anti-Doping Regulations’</b>	means the anti-doping regulations of BF in force from time to time
<b>‘BF Member’</b>	means a member of BF
<b>‘the Code’</b>	means this Disciplinary Code
<b>‘the Code of Conduct’</b>	means the code of conduct from time to time in force
<b>‘Director’</b>	Means a company director of GUE
<b>‘Disciplinary Committee’</b>	means the committee appointed in accordance with paragraph 4 of the Code
<b>‘Disciplinary Matter’</b>	means a breach of the Articles of Association or Regulations or the Code or any act, omission, statement or circumstance which consists of anything which is, in any way, contrary to the general law or the rules governing the sport of fencing including the Regulations or detrimental to BF or to the interests of the sport of fencing
<b>‘Disciplinary Committee Chair’</b>	means the person so appointed in accordance with paragraph 4.1 of the Code
<b>‘Fencing Activity’</b>	means any activity over which GUE exercises jurisdiction, being the sport of fencing and any activity connected with fencing
<b>‘GUE’</b>	means Guernsey Union D’Escrime
<b>‘GUE Board’</b>	means the Board of directors of Guernsey Union D’Escrime
<b>‘Investigator’</b>	means the person so appointed in accordance with paragraph 6.1 of the Code
<b>‘Nominated Officer of the GUE Board’</b>	means any member of the Board of directors of Guernsey Union D’Escrime.
<b>‘President’</b>	Means the President of Guernsey Union D’Escrime
<b>‘Regulations’</b>	means any regulations from time to time in force as set out by GUE or BF
<b>‘Rules for Competitions’</b>	means the edition of BF’s Rules for Competitions current at the time of the Disciplinary Matter or alleged Disciplinary Matter, provided that where this Code refers to a specific rule of the Rules for Competitions, and the numbering of the Rules for Competitions has changed since this Code was published, the reference shall be deemed to be to the rule as renumbered in the Rules for Competitions, or the nearest equivalent rule, if applicable
<b>‘Vulnerable Adult’</b>	means an individual aged 18 or over who is or may be in need of community care services by reason of mental or other disability, age or illness; and who is or may be unable to take care of himself or herself or unable to protect himself or herself against significant harm or exploitation.