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SportCheer Wales
Disciplinary Policy
November 2020

SportCheer Wales Disciplinary Procedures for Staff, Coaches and Volunteers

SportCheer Wales encourages high standards of behaviour and action will be taken when members of staff/coaches/volunteers breach the code of conduct in line with these Disciplinary Procedures.

Sports organisations should encourage high standards of behaviour and action should be taken when members of staff/coaches/volunteers breach the code of conduct. A disciplinary procedure allows inappropriate behaviour to be addressed fairly and consistently. Child protection and the protection of vulnerable adults within an organisation is greatly enhanced by having a good disciplinary procedure.

1. PRINCIPLES

- a) This procedure is designed to establish the facts quickly and to deal with disciplinary issues consistently
- b) No disciplinary action will be taken until a matter has been fully investigated
- c) The member of staff/coach/volunteer involved may be suspended from their role while an investigation is carried out. Suspension is not a form of disciplinary action. A decision to suspend will be made by the Executive Secretary. Notification of the suspension and the reasons will be conveyed in writing to the member of staff/coach/volunteer
- d) At every stage of the formal disciplinary procedure the member of staff/coach/volunteer will have the opportunity to state his/her case at a disciplinary hearing. If so wished he/she will have the opportunity to be represented or accompanied at the hearings by a third party e.g. a friend or colleague or a trade union representative (where applicable)
- e) The member of staff/coach/volunteer has the right to appeal against any disciplinary action.
- f) The disciplinary procedure may be implemented at Stage 1, 2 or 3 if the member of staff/coach/volunteer's alleged misconduct warrants such action.

2. THE PROCEDURE

2.1 Initial Assessment/Stage

The purpose of the initial assessment is to clarify the nature and context of the concern. It should determine whether there is reasonable cause to suspect or believe that a child has been abused or harmed, or is at risk of abuse or harm. It will involve asking some basic questions of appropriate individuals with the sole purpose of clarifying the basic facts.

If the nature of the concern suggests a criminal offence has occurred, or that a child or vulnerable adult may have been abused, then advice must be sought from the police before speaking to child witnesses, vulnerable adult or to the member of staff/coach/volunteer at the centre of the allegation.

The possible outcomes of the initial assessment are:

1. No further action (facts do not substantiate complaint)
2. Situation is dealt with under formal disciplinary procedures (by SportCheer Wales)
3. Child protection or POVA investigation (jointly by the police or social work services)
4. Criminal investigation (by the police).

Where a member of staff/coach/volunteer fails to meet the required standard of behaviour and the shortfall is of a minor nature, SportCheer Wales may decide to speak to the member of staff/coach/volunteer on an informal basis to avoid the need for formal disciplinary action. The national board will also advise the member of staff/coach/volunteer of the need to achieve and maintain the standards required. SportCheer Wales may inform the member of staff/coach/volunteer that failure to achieve the required standards will result in a formal disciplinary hearing, which may result in disciplinary action.

Facts of the conversation should be noted and confirmed in writing to the member of staff/coach/volunteer so there is clarity about what has to be achieved.

Following the initial assessment a period of precautionary suspension may be helpful or necessary while a concern is being further investigated.

2.2 Precautionary Suspension

Precautionary suspension may be considered in the following circumstances:

- if the police or social work services advise suspension
- if the allegation made against the member of staff/coach/volunteer was ultimately to be proved, then there would be a significant concern about the conduct of that member of staff/coach/volunteer towards children or other adults
- if the member of staff/coach/volunteer's attendance or involvement in the club could compromise the investigation
- if the Disclosure and Barring Service notifies SportCheer Wales that an individual is being considered for the barred list.

Suspension is not a form of disciplinary action and does not involve pre-judgment. It should only be considered in the above circumstances. In all cases of suspension the welfare of children and vulnerable adults will be the paramount concern.

2.3 Formal Disciplinary Procedure

- Stage 1 – First warning

If conduct is unsatisfactory, the member of staff/coach/volunteer will be given a written warning. Such warnings will be recorded. The warning will expire after 6 months of satisfactory conduct. A final written warning may be considered if there is no sustained satisfactory improvement or change.

- Stage 2 – Final written warning

If the offence is serious, or there is no improvement in standards, or if a further offence of a similar kind occurs, a final written warning will be given. The written warning will expire after 12 months. Action at Stage 3 will be taken if there is no sustained satisfactory improvement or change.

- Stage 3 – Dismissal or Action Short of Dismissal

If the conduct has failed to improve, the member of staff/coach/volunteer may suffer demotion, disciplinary transfer, or dismissal.

Gross misconduct

If, after investigation, it is confirmed that a member of staff/coach/volunteer has committed an offence of the following nature (the list is not exhaustive), the normal consequence will be dismissal without notice or payment in lieu of notice: - theft, damage to property, fraud, incapacity for work due to being under the influence of alcohol or illegal drugs, physical violence, bullying, abuse of a child and gross insubordination.

Following advice from the police, cases that also involve a criminal investigation will not preclude disciplinary action being taken. This is provided sufficient information is available to enable SportCheer Wales to make a decision and that to do so does not jeopardise the criminal investigation. Any decision to dismiss will be taken by the body only after full investigation.

3. APPEALS

A member of staff/coach/volunteer who wishes to appeal against any disciplinary decision must do so to SportCheer Wales within seven working days of the disciplinary decision being made known to them.

The member of staff/coach/volunteer should provide a written statement of the appeal, indicating the grounds for the appeal together with such accompanying documents as they feel appropriate. The appeal will be heard by the National Body and a decision on the case made as impartially as possible.

SportCheer Wales will notify the member of staff/coach/volunteer of the decision in writing as expeditiously as possible. The decision is final and there is no right of appeal.

4. REFERRALS TO THE DBS

Where SportCheer Wales takes disciplinary action to remove a member of staff/coach/volunteer from regulated work as a result of harmful behaviour towards a child or vulnerable adult, then

they have a duty to refer the member of staff/coach/volunteer to the DBS so that consideration can be given to whether that individual should be barred from any kind of regulated work with children and vulnerable adults. Without this duty there would be no way of preventing individuals moving undetected to other organisations where they may continue to pose a risk.

The Social Services and Well being Act 2014 stipulates that organisations must refer to the DBS the case of any member of staff/coach/volunteer who (whether or not in the course of their role within the organisation) has:

- harmed a child or vulnerable adult
- placed a child or vulnerable adult at risk of harm
- engaged in inappropriate conduct involving pornography
- engaged in inappropriate conduct of a sexual nature involving a child or vulnerable adult, or
- given inappropriate medical treatment to a child or vulnerable adult.

AND as a result:

1. The organisation has dismissed the member of staff/coach/volunteer
2. The member of staff/coach/volunteer would have been dismissed as a result of the incident had they not resigned, retired or been made redundant
3. The club has transferred the member of staff/coach/volunteer to a position which is not regulated work with children and vulnerable adults
4. The member of staff/coach/volunteer would have been dismissed or considered for dismissal where employment or volunteer role was not due to end at the expiry of a fixed term contract; or,
5. The member of staff/coach/volunteer would have been dismissed or considered for dismissal had the contract not expired.

SportCheer Wales will also refer the case of a member of staff/coach/volunteer where information becomes available after the member of staff/coach/volunteer has:

- been dismissed
- resigned, retired or been made redundant
- been transferred to another position in which is not regulated work with children or vulnerable adults; and, where SportCheer Wales receives information that a member of staff/coach/volunteer who holds a position of regulated work has been listed on the barred list the member of staff/coach/volunteer will be removed from the regulated work with children or vulnerable adults post.

SPECIAL CONSIDERATIONS - SPEAKING TO CHILDREN DURING THE INVESTIGATIVE PROCESS OR AS PART OF A DISCIPLINARY HEARING

In establishing the facts of any concern or complaint, it may be necessary to speak to a child or vulnerable adult or groups of which who were involved in the alleged incident.

In some circumstances, it would not be appropriate for the person conducting the investigation to speak to a child or vulnerable adult involved in the incident. In particular, if the nature of the concerns suggests a criminal offence has occurred or that a child or vulnerable adult may have been abused, then it is the job of specially trained and competent police officers and social workers to interview the child or vulnerable adult.

If there is any doubt as to whether it is okay to speak to a child or vulnerable adult, advice will be sought from the police or social work services.

In cases where the nature of the complaint or concern is such that the police or social work services are not involved, careful consideration should still be given before approaching children or vulnerable adults to give information as part of the initial investigation process or as part of a disciplinary hearing.

To minimise distress or anxiety for the child or vulnerable adult, the following will be considered:

- The age, gender and background of the child or vulnerable adult i.e. will they require an interpreter?
- Whether the child or vulnerable adult has any learning or physical disability which might affect their ability to communicate with others
- The child or vulnerable adult's emotional state
- Timing and location of interview, bearing in mind the child or vulnerable adult's daily routines
- What you will do if the child or vulnerable adult becomes upset
- Obtaining consent from the parents/ carer
- Any other information which may be relevant.

Parties should decide whether it is absolutely necessary for the child or vulnerable adult to be involved in a disciplinary hearing. If the child or vulnerable adult is to be involved consideration should be given to the following:

- Allowing the child or vulnerable adult to be accompanied by a relative or other responsible adult (preferably someone who is not involved in the case)
- The environment or room layout - how intimidating it could appear to a child or vulnerable adult
- The number of people present - try to ensure only those who need to be there are present whilst the child or vulnerable adult gives evidence
- The age of the child or vulnerable adult
- The nature of the evidence the child or vulnerable adult may be giving
- The nature of the relationship between the child or vulnerable adult and the subject of the hearing
- The tone and style of questioning i.e. clear, non-threatening with sufficient opportunity for the child or vulnerable adult to consider the questions and answer them.

These considerations should be balanced against the need to ensure a fair hearing.