MILNATHORT GOLF CLUB LIMITED

COMPLAINTS AND DISCIPLINARY PROCEDURE

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This disciplinary procedure for use by golf clubs has been prepared for Scottish Golf by DLA Piper Solicitors. This procedure has been adapted for Milnathort Golf Club.

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1. INTERPRETATION AND DEFINITIONS

1.1 In the interpretation of these procedures, unless the contrary intention appears:

1.1.1 headings are inserted for convenience only and are not to be used to assist interpretation

1.1.2 any gender includes all genders, any reference to the singular includes the plural (and vice versa), and references to persons includes bodies corporate, unincorporated associations and partnerships (whether or not any of them have a separate legal personality).

1.2 For the purpose of these procedures the following definitions apply-: **"Appeals Committee"** means an Appeals committee appointed by the Club

"Appellant" means any member subject to a disciplinary decision who chooses to appeal it

"Captain" means the Captain of the Club

"Chair Person" means the Chair Person of the Club

"Club" means Milnathort Golf Club

"Competition" means any competition organised by the Club

"Complainer" means any person making a complaint about any member

"CONGU" means the Council of National Golf Unions

“WHS” means The World Handicap System

"Day" means any day other than a Public Holiday

"Disciplinary Committee" means the Disciplinary Committee of Milnathort Golf Club

"Management Team" means committee appointed by the members at the AGM to represent Milnathort Golf Club

"Member" means any member of the club who is subject of any disciplinary investigation in accordance with these procedures

"Player" means a person who plays the game of golf

"Procedures" means these Procedures;

"Rules of Golf" means the rules of golf as defined by the Royal & Ancient Golf Club of St Andrews.

2. OVERVIEW

2.1 These Procedures deal with hearings in respect of:

2.1.1 breaches of *Club Rules, Bye Laws, Code of Conduct*

2.1.2 any complaint about any member

2.1.3 any behaviour witnessed not considered appropriate

2.1.4 complaints regarding any person competing officially in any Club competition

2.2 The Procedures apply to all members of the Club

2.3 Disciplinary action may be informal or formal. Informal disciplinary action will involve discussing the problem with the member and/or the complainer through a member of the Management Team with a view to resolving the issue. Formal disciplinary action will be taken in accordance with these Procedures

3. MEMBERSHIP AND POWERS OF COMMITTEES

3.1 The Club shall establish a Disciplinary Committee, as required, which shall have the power to act in the name of the Club and determine disciplinary proceedings coming before it

3.2 The membership of any Disciplinary Committee will be determined by the Management Team and will have no fewer than 3 members

3.3 The Club will establish an Appeals Committee, as required of no fewer than 3 members to consider any competent appeal. None of these members shall be members of the Disciplinary Committee

3.4 Any person who sits on either the Disciplinary Committee or the Appeal Committee shall:

3.4.1 be unbiased and have no personal interest in or involvement with the case

3.4.2 be familiar with these procedures

3.4.3 act within their powers under these procedures and fairly, reasonably and proportionately at all times

3.4.4 take advice where appropriate including, if necessary, appointing a solicitor or legal representative to attend and advise at hearing

3.4.5 have consideration and respect for all parties

3.4.6 apply the standard of proof as the balance of probabilities

3.5 The Appeals Committee will have the full powers and authorities of the Disciplinary Committee including the power to increase, decrease or accept any such penalties already imposed and/or impose any such new penalties as outlined in these Procedures

~~3.6~~ Both the Disciplinary and Appeal Committees shall appoint a chair who will preside over each Committee

3.7 Both Committees shall take decisions, including decisions as to guilt and appropriate sanctions, on the basis of a simple majority of Committee members with the Chair holding a casting vote if no majority is reached

3.8 The Club may require that an appeal shall be accompanied by a deposit of £100. The Appeals Committee will decide, on whether or not a deposit paid on the lodgement of an appeal, or any part of it, is refundable. However, the standard practice shall be to return the deposit in the event of a successful appeal

3.9 The Disciplinary Committee and the Appeals Committee shall have the power to abridge or extend any time limits set out in these Procedures, if in their reasonable discretion, it is considered appropriate in the circumstances

3.10 The Disciplinary Committee and the Appeals Committee shall not be entitled to introduce or consider opinion evidence other than expert opinion evidence

3.11 The Disciplinary Committee and Appeals Committee shall exercise their functions independently of the Club

4. INITIAL COMPLAINT HANDLING

4.1 Any complaints about a member should be made in writing by the complainer and sent to the Club Administrator and be signed and dated. The complainer will have the right to withhold their identity from the members

4.2 Any complaint must be lodged within 7 days of the alleged incident or grounds for the complaint arising or becoming known or such further time as is reasonably allowed by the Club Administrator (or his/her nominee)

4.3 The complaint must specify the details of the alleged incident or grounds for complaint including, if appropriate, which provision of *e.g. Club Rules, Bye Laws, Code of Conduct* has been breached.

4.4 The Club Administrator shall:

4.4.1 notify the Management Team of the complaint, who, if required will appoint a Disciplinary Committee

4.4.2 forward a copy of the complaint to the member in question and request a written response within 7 days

4.4.3 undertake any further investigation he/she sees fit and/or,

4.4.4 forward the complaint, written response and any other relevant material, if applicable, to the Disciplinary Committee for consideration as set out below

4.5 the Chair of the Disciplinary Committee shall convene a hearing of the Disciplinary Committee.

5. DISCIPLINARY HEARING

5.1 Any person that is subject to a disciplinary hearing shall be supplied with a copy of the original complaint and any additional material provided to the Disciplinary Committee, including notice of any witnesses to be called or their evidence

5.2 Each Member shall have the right to the following

to be advised of the nature of the charge or complaint and the potential penalties that may apply

5.2.1 to be present in person at any hearing and to be advised 14 days in advance of the date, time and place of such hearing

5.2.2 to representation (legal or otherwise) at this hearing

5.2.3 to state his/her case, call relevant witnesses and provide evidence at this hearing

5.3 A shorter notice period can be given if agreed with the respective parties to the hearing

5.4 Names of any witnesses being proposed by the Member should be intimated 5 days before any hearing to the Club Administrator

5.5 If the Member is unable to attend the meeting, he should notify the Club Administrator in writing

5.6 If the Member elects not to attend the meeting without good reason, the disciplinary hearing may proceed in his/her absence

5.7 Unless the Disciplinary Committee otherwise directs the procedure will be as follows:

5.7.1 the Disciplinary Committee will explain the process and advise of the rights of appeal

5.7.2 the terms of the Complaint will be considered followed by the written or oral response, if any, provided by the Member, including representation on penalty

5.7.3 any further evidence will be heard

5.7.4 any other witnesses to be called will then be heard (or in the situation where the witness is unable to attend, then their signed written statement will be read out)

5.7.5 any witnesses are to be excluded from the hearing until required to give their evidence and must retire immediately after giving their evidence and answering any questions from the Disciplinary Committee

5.7.6 questioning of the parties or any witnesses may only be directed by the Disciplinary Committee or as otherwise permitted by the Disciplinary Committee at its discretion, acting fairly and reasonably

5.7.7 the Member will then be given the opportunity to make final submissions - including submissions on sanctions in the event that, the complaint is upheld; and

5.7.8 notification of the decision, including as to any sanctions, with appropriate reasons shall be issued by the Club Administrator in writing, to the parties within 14 days of the hearing.

5.7.9 notification of the decision, including as to any sanctions, with appropriate reasons shall be issued by the Club Administrator in writing, to the parties within 14 days of the hearing.

6. APPEAL HEARING

6.1 An appeal must be lodged within 14 days of the decision being notified in writing to the member

6.2 An appeal shall be lodged when a Notice of Appeal is received, accompanied by the Appeal Fee (if appropriate), by the Club Administrator (or his/her nominee). The Notice of Appeal shall be in writing, signed by the Appellant Member and shall specify: -

6.2.1 the name of the Appellant Member

6.2.2 the decision appealed against

6.2.3 the date of the decision appealed against; and

6.2.4 the specific grounds of the appeal (including in relation to sanctions)

6.3 On receipt of an appeal, Club Administrator will notify the Management Team who will appoint an Appeals Committee, The Club Administrator will automatically forward all documentation to the members of the Appeals Committee.

6.4 The Chair of the Appeals Committee or Club Administrator shall communicate with the Appellant Member and:

6.4.1 set a time, date, and place for the hearing of the appeal

6.4.2 of the composition of the Appeals Committee

6.4.3 of the rules within this Procedure which govern the hearing and process.

6.5 The Appellant Member is entitled to, within 48 hours of notification, lodge a written objection against any member of the Appeals Committee who can be shown to have a direct personal involvement or interest in the matter. Supporting evidence should be provided in support of any such claim. Any objection will be considered by the Club Administrator, and the Management Team whose decision shall be final.

6.6 All documentation to be used by any party at the appeal must be with all of the parties entitled to attend the appeal hearing at least 7 days prior to the appeal hearing.

6.7 The Appeals Committee may, in its discretion, rehear the whole or any part of the evidence given before the Disciplinary Committee as it considers appropriate.

6.8 The Appellant Member is entitled to, within 48 hours of notification, lodge a written objection against any member of the Appeals Committee who can be shown to have a direct personal involvement or interest in the matter. Supporting evidence should be provided in support of any such claim. Any objection will be considered by the Club Administrator, and the Management Team whose decision shall be final

6.9 The Appellant Member is entitled to, within 48 hours of notification, lodge a written objection against any member of the Appeals Committee who can be shown to have a direct personal involvement or interest in the matter. Supporting evidence should be provided in support of any such claim. Any objection will be considered by the Club Administrator, and the Management Team whose decision shall be final.

6.10 All documentation to be used by any party at the appeal must be with all of the parties entitled to attend the appeal hearing at least 7 days prior to the appeal hearing.

6.11 The Appeals Committee may, in its discretion, rehear the whole or any part of the evidence given before the Disciplinary Committee as it considers appropriate.

6.12 The Appeals Committee shall be entitled to hear and receive such further evidence on appeal as it deems competent and fair.

6.13 Any further evidence to be heard, shall be made available to the Appellant member 7 days prior to the appeal hearing. Parties shall have the right to respond in writing to any further evidence to be presented.

6.14 Where evidence is given before the Appeals Committee, there shall only be cross examination or questioning of witnesses by the Appeals Committee.

6.15 Written notification of the decision of the Appeals Committee will be issued to the Appellant member within 7 days stating full reasons for the decision.

6.16 The decision of the Appeals Committee is final and binding.

7. PENALTIES

7.1 No penalty shall be imposed on any person or body in disciplinary proceedings unless the alleged misconduct against the person or body is proved on the balance of probabilities and that penalty is fair, reasonable, and proportionate in the opinion of the Disciplinary or Appeals Committees.

7.2 If a complaint is proved against a member, the Disciplinary Committee and Appeals Committee shall have the power to impose the following penalties:

7.2.1 reprimand/warning

7.2.2 suspension from Club membership for a specified period of time (including competition)

7.2.3 suspension from specified Club activities for a period of time or permanently

7.2.4 expulsion from Club membership on a permanent basis

7.2.5 forfeiture of any competition and/or other points as specified

7.2.6 a penalty pursuant to section 7.1 of the WHS (World Handicap System) Rules of Handicapping

7.2.7 a combination of any of the above

7.3 When a penalty is imposed consideration will be given to the following: -

7.3.1 consistency and uniformity in the level of penalty imposed

7.3.2 whether the penalty is reasonable and proportionate in all the circumstances and

7.3.3 that where possible periods of suspension be imposed by reference to specific dates rather than playing days e.g. 1 April to 1 June

7.4 Any penalties imposed by the Disciplinary Committee shall be suspended, on any Notice of Appeal being received in accordance with this Policy until the outcome of the Appeal Hearing except in the following cases where they shall be upheld pending any Appeal Hearing:

7.4.1 any penalty imposed under the Scottish Golf's Anti-Doping Policy

7.4.2 any penalty imposed under the Scottish Golf's Child Protection Policy.

7.4.3 any penalty imposed relating to the Member's handicap or right to play golf;

8. GENERAL PROVISIONS

8.1 The hearing of proceedings by the Disciplinary Committee or the Appeals Committee shall be recorded by the taking of minutes by a nominated and appropriate person.

8.2 The record of the proceedings and all papers associated with the proceedings shall be held by the Club Administrator in a secure and appropriate manner. *Note this is particularly important for data protection reasons and general confidentiality*.

8.3 Copies of the record shall be made available to any person affected by the decision of the Disciplinary Committee or Appeals Committee.

8.4 Any notices or correspondence to be sent to any member or person under these procedures shall be sent by recorded delivery, first-class post or, if appropriate, secure electronic mail, to the last known address of that member or person and notice and correspondence should be deemed to be delivered in relation to electronic mail and recorded delivery as the next day after sending and in relation to first class post, the second after posting. The relevant time period shall begin on the deemed date of receipt.