

PENTATHLON GB⁺

PENTATHLON GB COMPLAINT AND DISCIPLINARY POLICY AND RULES

The Appointment, Constitution and General powers of the Complaint Panel and Appeal Panel

1. Pentathlon GB acting through the Board shall maintain and as necessary appoint a Complaint Panel and an Appeal Panel, the composition of which shall be appropriate to and independent of the matters in issue, each of which shall comprise of a minimum of 3 and up to 5 members, the number and identities of which are to be determined in the first place by the Chair of the respective Panel.

Complaints

2. A Complaint is an expression of dissatisfaction: it may include an allegation of a breach of the Pentathlon GB Rules (including Pentathlon GB's Code of Ethics, Disciplinary Rules and Competition Rules (including failure or refusal to comply or cooperate with any Code compliant investigation or proceedings or any act of misconduct)), Child Protection Policy or any breach of any UIPM rules.
3. A Complaint may be made by the Pentathlon GB, any member of Pentathlon GB or any member of the public.
4. The parties to the Complaint are called 'the Applicant' and 'the Respondent'. Objective and Jurisdiction
5. The overriding objective of these Rules is to provide members of Pentathlon GB and Pentathlon GB with procedures to determine Complaints and related issues in a fair, flexible, appropriate, and proportionate manner.
6. All Pentathlon GB members, Clubs and all members of Clubs affiliated to Pentathlon GB and all Pentathlon GB employees are bound by these Rules.
7. The procedures in these Rules may not be invoked where the subject matter of the Complaint:
 - i) Derives from an issue of judgment on the field of play.
 - ii) Is more appropriately covered by applicable competition rules.
 - iii) Is against a Pentathlon GB employee acting as such in circumstances where the procedures in the Pentathlon GB Staff Handbook or Staff contract are more appropriate.
 - iv) Is more appropriately subject to the jurisdiction and pending determination of the UIPM Disciplinary or Medical Rules.
 - v) Is subject to the jurisdiction of Pentathlon GB's Anti-Doping Rules.
 - vi) Is subject to some other agreement or policy which more appropriately provides for the resolution of the matter in issue.

Finality

8. Panel decisions are final and binding on the parties and may not be challenged other than by application to the Appeal Panel.

Procedure

9. Every Complaint shall be:
 - i) Made promptly and, unless there are circumstances which the Complaint Panel accepts justify delay, within 30 days of the underlying events, provided that in cases of allegations relating to Child Protection, the time limit shall run from the time when the allegation was first made known to a responsible officer of the MPAGB.
 - ii) Made in clear terms setting out in reasonable detail the matters and breaches alleged so that the Respondent may know the nature of the Complaint.
 - iii) Supported by a written statement, signed and verified by the Applicant, and if appropriate by supporting written statements, addressing the substance of the complaint at a length and in detail proportionate to the matters in issue, all of which shall be provided to the Chief Executive or an appropriate member of the Board of the MPAGB, who shall immediately pass it to the Chair of the Complaint Panel.
10. The Panels may waive the formal requirements of these Rules if and to the extent that it is just to do so, for instance in appropriate cases involving child protection, and shall at all times regulate their procedure so as to comply with their overriding objective. In particular, the Panels may dispense with any requirement in respect of notices, the formal evidence of witnesses, service of documents, or as to time, if and to the extent it is just to do so.
11. Unless otherwise directed all notices and communications to the Panels shall be sent by hard copy and e-mail to the Chief Executive, Pentathlon GB, Sports Training Village, University of Bath, Bath, BA2 7AY or admin@pentathlongb.org unless the Complaint is about the Chief Executive in which case it should be sent by hard copy and e-mail to the Chairman, Pentathlon GB, Sports Training Village, University of Bath, Bath, BA2 7AY

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Preliminary Consideration of a Complaint

12. On receipt of a Complaint a Complaint Panel shall be established by the Board. The Chair of the Complaint Panel shall promptly determine whether the Complaint falls within the jurisdiction established by these Rules, and whether a prima facie case is established, and where in the Chairman's opinion the Complaint is inadmissible or no prima facie case is established, the Chair may dismiss the Complaint in writing without hearing the Applicant or the Respondent.
13. If in the Chairman's opinion the Respondent should be given the opportunity of making representations as to whether a prima facie case is established, Chair of the Complaint Panel shall arrange for service of a copy of the Complaint upon the Respondent inviting representations in writing within 14 days, and after considering the same Chair of the Complaint Panel shall decide whether a prima facie case is established.

Service of the Complaint

14. In the event that the Complaint passes preliminary consideration, the Chair shall convene the Complaint Panel in person or by telephone conference as appropriate. If the Complaint has not already been served on the Respondent, the Complaint Panel shall arrange for service of a copy of the Complaint upon the Respondent and require the Respondent to provide a detailed written response and rebuttal, if any, within such time as the Complaint Panel considers appropriate.
15. If it appears to the Complaint Panel that the Complaint requires amendment, the Complaint Panel may at any time permit an amendment. If in the opinion of the Complaint Panel the amendment would cause undue prejudice, the Complaint Panel may refuse the amendment or allow the amendment granting an adjournment of the hearing or giving other directions on such terms as to costs or otherwise as the Complaint Panel thinks fit.
16. No Complaint may be withdrawn without the consent of the Complaint Panel.

Independent investigation

17. The Complaint Panel shall consider whether any and if so what independent investigation of or further information as to the subject matter of the Complaint is warranted and may appoint a person independent of the issues ('the Independent Investigator') to investigate or obtain information and report in writing to the Complaint Panel.
18. The Independent Investigator's written report shall be provided to the Complaint Panel, and by it to the parties.
19. It is the duty of all members of Pentathlon GB to give prompt and full assistance to the Independent Investigator and to the Complaint Panel.

Directions

20. The Complaint Panel may at any time give such directions as it thinks appropriate for the conduct of the hearing into the Complaint.
21. The Complaint Panel or the Appeal Panel may (having first given the Respondent the opportunity to show cause why such an order should not be made) at any stage impose:
 - i) Temporary suspension of membership of Pentathlon GB and any affiliated club or of any activity connected with Pentathlon GB.
 - ii) Temporary suspension from entering any Modern Pentathlon competition.
 - iii) Temporary removal from any Pentathlon GB programme and the benefits that attach thereto, including support for training and competition
22. On receipt of the Respondent's response the Complaint Panel shall consider whether an oral hearing of the Complaint is appropriate, and if so shall fix the time, day and place for the hearing, and give notice thereof to the parties. In considering the timing of the hearing the Complaint Panel may take into account whether other proceedings may arise from the subject matter of the Complaint and if so whether any postponement until the conclusion of such proceedings is appropriate.
23. The Complaint Panel may require the parties to attend at Pentathlon GB's offices or elsewhere for a directions

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hearing (which may be by video link, telephone conference or otherwise as convenient) to facilitate the giving of directions and the hearing of the Complaint, and may communicate with the parties in any appropriate manner, including e-mail.

24. The Complaint Panel may at any time require the parties to supply such further information, documents and copies thereof as it thinks fit.
25. If it appears to the Chair of a Panel that the hearing may involve specialist evidence, or has elements which are complex or difficult, the Chair may, with or without holding a directions hearing, issue on behalf of the Panel an order for directions setting out a timetable for the exchange or sequential provision of information and evidence, witness statements or summary written arguments so that the hearing may be expeditious, properly conducted and fair. If appropriate the Chair or Panel may make similar orders during a hearing.
26. Unless the Complaint Panel directs otherwise each party shall provide the Complaint Panel and every other party at least 7 days before the day fixed for the hearing of the Complaint with a paginated copy of the documents on which that party intends to rely.

Open hearings

27. The Complaint Panel shall hear the Complaint in public, provided that if it appears to the Complaint Panel that anyone would suffer undue prejudice from a public hearing, or that for any other reason the circumstances and nature of the case make a public hearing undesirable, the Complaint Panel may direct that the public be excluded from the whole or any part of the hearing.

Adjournment

28. The Complaint Panel may of its own motion or at the request of any party adjourn or postpone any hearing on such terms as it thinks fit.
29. Where anyone appearing before a Panel is or is likely to be subject to other proceedings arising from the circumstances the subject of the Complaint, the Panel shall decide whether it is right to proceed. If it does not proceed to hear the case and adjourns the matter until the conclusion of the other proceedings, it may impose a temporary suspension on the Respondent under subparagraphs 50d, 50e, or 50f below. Before so doing the Panel must first give the Respondent an opportunity to make representations about temporary suspension.

The hearing

30. The Complaint Panel may shorten or extend time limits and regulate its procedures according to the requirements of each case. It need not adhere to strict or any rules of evidence but has the power to receive all information and materials to enable it to reach a just decision.
31. In the discretion of the Complaint Panel:
 - i) A tape recording of the proceedings may be made on behalf of the Complaint Panel. A copy of such recording shall be supplied to any party to the proceedings who requests one within 3 months of the hearing and reimburses the cost of supply.
 - ii) The Complaint Panel may itself make or order that a note or transcript of the proceedings be taken. Any third party transcriber shall if required supply to any party Pentathlon GB Complaint and Disciplinary Rules to the proceedings a copy of the transcript of the proceedings on reimbursement of the cost.
 - iii) If no tape recording or note or transcript of the proceedings is taken the Chair of the Complaint Panel shall make a summary note of the proceedings, and a copy of such note shall be made available to any party to the proceedings who requests within one month of the hearing and reimburses the cost of supplying the same.
32. The parties may be accompanied by and conduct their respective cases through a friend or adviser, whether legally qualified or not. The Complaint Panel may have its legal adviser present at any hearing and may take advice as to or after the hearing.
33. The standard of proof is on a balance of probabilities bearing in mind the seriousness of the matters alleged.

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34. The Complaint Panel may refer to any previous proceedings. The fact, terms, and facts underlying any conviction, finding, sentence, determination, or judgment by any Court, Panel or Tribunal shall be admissible as prima facie proof of any fact.
35. If any party fails to attend in person or be represented at the hearing, the Complaint Panel may on being satisfied such party had notice of the hearing proceed to hear and determine the Complaint in his absence.

Procedure at the Hearing

36. The Chair will summarise the procedure at the outset of the hearing.
37. The Panel will determine whether and the extent to which the hearing is in public or private.
38. The Respondent will be asked whether the Respondent accepts the accuracy of the Complaint. In making any order, the Panel is entitled to take into account the Respondent's attitude to the Complaint and the timing of its disclosure to the Panel.
39. In the event that the Complaint is contested the Applicant or his representative will open the case and call any witness(es) or produce the evidence to establish the Complaint.
40. It is the duty of the parties to notify their witnesses of the hearing date and venue and to arrange their attendance.
41. If at the conclusion of the Applicant's case there is a case to answer the Respondent will be given the opportunity to open his case, to give evidence, and to call such relevant witnesses as the Respondent wishes.
42. Any witness may be examined, cross-examined or re-examined on relevant matters.
43. After the parties have adduced their evidence the Applicant may summarise his case.
44. Thereafter the Respondent may summarise the Respondent's case: the Respondent has the right to the last word.
45. The Panel will retire and consider its decision.

In the Event the Complaint is Established

46. If the Complaint Panel finds the Complaint admitted or established it shall:
 - i) Inform the Respondent (and subsequently provide short written reasons on request).
 - ii) Give the Respondent the opportunity to speak and adduce evidence in mitigation, and if appropriate, in respect of costs.
47. No one else may address the Complaint Panel as of right but the Panel may seek such further information as it requires from any person.
48. The Complaint Panel will retire and consider the appropriate decisions and orders.
49. The Complaint Panel may announce its decisions and orders at the conclusion of the hearing or in due course in writing or otherwise as convenient to the Complaint Panel.
50. The Complaint Panel may make, and publish in such manner as it thinks fit, including on a website, such decisions and orders as meet the justice of the case, including:
 - i) A public or private reprimand.
 - ii) A public or private written warning.
 - iii) Financial penalties.
 - iv) Temporary or permanent suspension of membership of Pentathlon GB and any affiliated club or of any activity connected with Pentathlon GB.
 - v) Temporary or permanent suspension from entering any Modern Pentathlon competition.
 - vi) Temporary or permanent removal from any Pentathlon GB programme and the benefits that attach thereto, including support for training and competition.
 - vii) A recommendation to Pentathlon GB Board of expulsion from membership of the Association (in which case the relevant provisions of the Articles of Association shall be engaged).

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viii) An order for payment of the costs of and incidental to the Panel hearing including costs incurred by the Applicant, the costs of any Independent Investigator and the cost of convening the Panel and associated with the hearing.

51. Pentathlon GB will retain a record of all decisions and orders.
52. If the Respondent does not attend in person and is not represented at the hearing and the Complaint Panel has determined the Complaint in his absence, the Respondent may within 14 days of its decision apply to the Complaint Panel for a re-hearing supported by a signed statement setting out the facts relied upon. If satisfied that it is just so to do, the Complaint Panel may set aside its decision on such terms as it thinks fit, including as to costs and provision for the re-hearing of the matter by the same or a re-constituted panel.

Re-hearing and Appeal

Powers and Jurisdiction of the Appeal Panel

53. The Appeal Panel has all the powers and jurisdiction of the Complaint Panel and may adopt and adapt all the procedures open to the Complaint Panel.
54. With the consent of both parties the Appeal Panel may be constituted by the Sports Dispute Resolution Panel the cost of which will be shared by the parties in the first place unless otherwise ordered.

Bringing an Appeal

55. Any party may seek to appeal from the decision of the Complaint Panel to the Appeal Panel but an Appeal may only be brought with permission from the Appeal Panel.
56. Within 21 days of notification to the parties of the Complaint Panel's decision the party wishing to appeal ('the Appellant') must notify the Complaint Panel and the Appeal Panel in writing of his wish to appeal and must set out in reasonable detail why the decision of the Complaint Panel was wrong.
57. The Appeal Panel shall consider whether to grant permission to appeal part or all of the Complaint Panel's decision taking into account the nature, importance and prospective viability of the issues sought to be raised on appeal, the availability of any fresh evidence not previously produced through no fault of the Appellant, and all other relevant factors.

Basis and Nature of the Appeal

58. The Appeal Panel shall regulate its procedures, adapting these Rules to determine whether the Complaint Panel's decisions and orders are wrong.
59. No decision or order of the Complaint Panel may be invalidated by reason of any defect, irregularity, omission or technicality unless and to the extent that it raises a material doubt as to the reliability of the decision or order.
60. Depending on the nature of the grounds of appeal the Appeal Panel shall decide and inform the parties whether the Appeal is to be a complete re-hearing of the matters before the Complaint Panel or a review of the evidence before the Complaint Panel and of the Complaint Panel's decision.

Deciding the Appeal

61. The Appeal Panel shall decide an appeal (with or without an oral hearing as appropriate) as soon as convenient after granting permission to appeal.
62. The decision of the Appeal Panel on the Appeal shall be notified to the parties in writing within 7 days of any Appeal hearing. The Appeal Panel shall provide short written reasons for its decision thereafter to the parties on request.