



## **WFRA Complaints, Disciplinary and Appeals Policy**

Adopted by the WFRA committee on an interim basis on: 12th February 2022

Due for review by: AGM 2022, and every three years thereafter

Committee lead: WFRA Secretary

### **Important Note: Safeguarding**

If your complaint relates to concerns, allegations or reports of malpractice or abuse relating to the welfare of children or vulnerable adults, please consult the WFRA Safeguarding Policy and WFRA Safeguarding/Welfare Officer (see: <https://www.wfra.org.uk/policies/safeguarding>). If appropriate, it may also be treated as a complaint requiring the following disciplinary processes by the WFRA but safeguarding should always take priority.

## Who can make a complaint?

Anybody can make a complaint to the WFRA, whether they are a WFRA member or not.

## What to do before making a complaint

1. The WFRA encourages direct discussion with the individual(s) concerned and informal resolution, where possible and appropriate.
2. If this is not successful, or is not appropriate, we advise prospective complainants to consult the relevant WFRA policies, especially the WFRA Code of Conduct, when deciding whether to submit a formal complaint.
3. Table 1 should be used to help complainants decide to which body their complaint should be addressed. In case of doubt, the WFRA Secretary or Welfare officer can advise.

**Table 1: Who to address complaints to**

<b>Respondent (who the complaint is about)</b>	<b>Who to address the complaint to</b>
Complaints against the WFRA itself (e.g. complaints about WFRA policies or actions taken, publications produced by the WFRA)	WFRA.
Complaints about WFRA officers acting in their capacity as WFRA officers	WFRA.
Complaints about WFRA officers involved in fell running related activities (e.g. fell races, fell running, related social media etc)	The WFRA or their club (if they are a member of one), depending on the nature of the complaint (WFRA secretary to advise).
Complaints about WFRA officers acting in a purely personal capacity, unrelated to fell running.	If the behaviour is felt to be sufficiently serious as to compromise the individual's fitness for office, complaints should be addressed to the WFRA.
Race organisers of WFRA-insured races	Usually the WFRA. If the race is organised by a club, the complainant may consider complaining to the club concerned, in which case the WFRA should be informed that a complaint has been made and informed of the outcome.
Complaints about individual runners, coaches, marshals etc involved in WFRA licensed races or other WFRA-related activities	If they are a member of a club: their club, which should consider whether the WFRA should be informed. Otherwise: the WFRA.
Complaints about runners, coaches, marshals etc involved in non-WFRA races	The club or other body responsible for organising the race.

## **Procedure for complaints against the WFRA as an organisation**

*as opposed to complaints against one or more specific individuals*

1. The Secretary shall acknowledge the complaint to the complainant and circulate the complaint to the full committee of the WFRA within 14 days.
2. The committee shall confer by email or in a meeting and reach a decision which will be communicated to the complainant within 4 weeks of the complaint having been received by the full committee.
3. Complaints will be treated as confidential. However, the WFRA may choose to publish a response, e.g. highlighting actions taken, including on its website, social media channels and/or through emails to its members, with the complainant's identity anonymised.
4. Where relevant, the rest of this policy may be referred to by the committee to guide its handling of complaints against the organisation.

## **Complaints against an individual**

### **How to make a complaint**

1. Having determined that the WFRA is the appropriate body for a complaint (see Table 1), and where direct discussion with the respondent was unsuccessful in resolving the issue, or considered by the complainant to be inappropriate, the complaint should be submitted in writing to the WFRA Secretary.
2. Where the matter relates to the Secretary, or where the Secretary is unavailable, the complaint should be submitted to the Welfare Officer or other appropriate WFRA committee member (who will then act as for the secretary in all processes detailed below).
3. The content of a complaint should include specific details (including dates and names of any witnesses as appropriate) and evidence in relation to the infringement of WFRA policies (including the Code of Conduct <https://www.sites.google.com/site/welshfra/policies>), or any other offence or misconduct carried out during or in association with fell running activities. The complainant is advised to consult and refer to relevant WFRA policies to aid them in formulating their complaint.
4. Because any disciplinary panel will usually be drawn in part from the committee, and because the complaint may be discussed with the committee, the complaint should detail whether (in the opinion of the complainant) any WFRA officers are directly implicated, and how, such that the Secretary may judge whether they should be excluded from the process.

### **Complaints & Disciplinary Procedure**

*How the complaint will be handled and communicated*

1. Upon receipt of a formal complaint, the WFRA Secretary shall, in consultation with the rest of the committee (excluding any officers directly involved in the complaint) determine:
  - a. whether the complaint would be best addressed to a different body (e.g. the respondent's club, the FRA or Welsh Athletics - see Table 1) and if not,

- b. whether the complaint is sufficiently evidenced, or whether further information is required from the complainant.
2. Having taken, and subject to, such advice as he or she considers it prudent to take in the circumstances, the Secretary shall write to the individual(s) concerned (the respondent(s)) to inform them of the complaint against them and to invite them to respond to the relevant allegations in writing within fourteen days.
3. The Secretary, in consultation with the committee, will determine if the complaint has sufficient grounds and is capable of being pursued based on the evidence/statements provided and will dismiss any frivolous complaints at this stage. If the matter is sufficiently evidenced, a process will be pursued as follows.
4. The Secretary will nominate three WFRA members to sit on the Disciplinary Panel, none of whom have had any direct interest or involvement in the matter, and these will be confirmed by the committee. In doing so, the Secretary will have regard to any conflicts of interest, and the need to include appropriate expertise and representation of e.g. male and female members. The Panel will usually include members of the committee, but may include other WFRA members as appropriate. The secretary will not sit on the panel, but will act as Secretary to it.
5. The Secretary shall inform all parties concerned of the composition of the Disciplinary Panel. Either party may object to the composition of the Panel by notifying the Secretary of the Objection and setting out the reasons for such an Objection no later than seven calendar days from the date of being informed of the composition of the Panel.
6. For cases involving juniors (under 18), the Secretary should where possible communicate with the juniors via their parents, guardians or clubs in the first instance, and shall have due regard to the WFRA's safeguarding policy (<https://www.wfra.org.uk/policies/safeguarding>), and good safeguarding practice. The Secretary should also consider whether a case exists against the parents or guardians, or coaches.
7. The Secretary, within fourteen calendar days from the date of receipt of an Objection, and after consultation with the committee, will notify in writing the parties that either:
  - a. the composition of the Panel has changed, in which case the Secretary shall provide details of the new Panel; or
  - b. the composition of the Panel has not changed, in which case the Secretary shall give reasons why the objections has been accepted.
8. Within fourteen calendar days from the date the Secretary responds to the Objection above (if applicable), or within fourteen days of notifying the parties of the panel, (in the case of no objection being received), the Secretary shall give such directions to all parties that include;
  - a. the date(s) and place (which could be online) at which the Disciplinary Panel will meet to determine the case
  - b. whether the Panel will proceed by way of written submissions alone, or will also include an oral hearing;
  - c. whether the parties should be required to submit any further statements of their evidence and/or written submissions prior to the Panel Meeting/Hearing and, if so, a timetable for doing so, and the procedure for exchanging such statements and written submissions.
9. The Disciplinary Panel will consider the matter on receipt of the initial complaint and formal responses from the respondent(s). The Disciplinary Panel will have the power

to suspend temporarily from membership or any role (e.g. on the committee) any Member accused of an offence or misconduct, pending further investigations or enquiries. This suspension shall be to facilitate the investigation and be without prejudice to the outcome of the investigation

10. The Disciplinary Panel shall individually have sufficient time to consider all evidence provided by the Complainant and Respondent (bearing in mind the volunteer nature of their role), prior to convening any hearing.
11. The Disciplinary Panel will make such further enquiries as it thinks fit and will offer a reasonable opportunity to any individual concerned, who may be accompanied by a supporter, if so desired, to meet with it and answer the allegations and the Disciplinary Panel will hear such witnesses as are reasonably produced. The Disciplinary Panel will make such procedural provisions as necessary for the just and efficient disposal of the case.
12. Prior to any Meeting, the Secretary should send all attending parties a copy of this Policy.
13. The Panel shall appoint one of their number to act as Chair of the Panel and of any Hearing.
14. The Panel shall decide any matter based on a simple majority.

### **Procedures For Disciplinary Panel Meetings/Hearings (including Appeals)**

*Hearings or Panel Meetings are referred to below collectively as Meetings unless required otherwise.*

1. Chair of Panel introduces fellow Panel members and confirms the identity and status of all other persons present.
2. Chair reminds all parties of the confidentiality of the Disciplinary Process, and that the Meeting will be held in private.
3. Chair informs all parties that a Hearing conducted under these procedures is not a judicial Hearing and so evidence given will not be delivered under oath. The Panel will, however, apply the rules of Natural Justice. For example, the duty to give a fair hearing to everyone with a concern in the case, the duty to explain the reasoning behind any decision and the obligation for any decision makers to be impartial.
4. Chair confirms that all parties and Panel members have previously received copies of all relevant documentation. In the event that documents have not been exchanged as required, the Chair may consider an adjournment.
5. The Panel must consider any written and or oral submission made by the respondent and any written and or oral evidence provided by witnesses called on his or her behalf.
6. The Panel will then consider their decision in private and shall take such time as is necessary to reach a decision.
7. The Panel shall decide any matter based on a simple majority and may reject the complaint or may partially or fully uphold the complaint.
8. If the Panel upholds the complaint, they must then consider the most appropriate manner to resolve the case and in so doing may take account of all relevant information disclosed during the Hearing, and any submission made by or on behalf of the Complainant or Respondent.
9. In consideration of what sanction to impose the Panel should consider the following criteria:
  - a. the WFRA Code of Conduct and other relevant policies

- b. the nature and seriousness of the misconduct including whether the misconduct involved dishonesty, culpable or reckless neglect, and the capacity in which the respondent was acting at the time (e.g. as a WFRA officer or Race Organiser), and the context (e.g. fell running or otherwise) in which the misconduct occurred;
  - c. the Respondent's conduct record and, in particular, whether any misconduct of a similar kind has occurred before and the period of time which has elapsed since any previous misconduct.
  - d. where relevant, the length of time over which the misconduct occurred;
  - e. the number of breaches;
  - f. any steps taken by the Respondent to avoid a recurrence of the misconduct;
  - g. whether any admission or regret is expressed by the respondent;
  - h. the extent to which the Respondent has derived benefit, or stood to derive benefit, from the misconduct;
  - i. any steps taken by the respondent to compensate or provide restitution to the Complainant;
  - j. the degree of cooperation with the Investigation;
  - k. any penalties previously imposed by the WFRA in similar cases;
  - l. the need to deter the Respondent and other individuals from future misconduct;
  - m. the need to educate, train and inform those subject to disciplinary proceedings (and the wider community), with the intention of preventing recurrence, as opposed to simply considering the use of punishments as deterrents;
  - n. the need to demonstrate to the fell running community and society in general, that the WFRA takes firm action intended to promote the standards of conduct and behaviour required of all athletes and volunteers, and others engaged in fell running.
10. In judging the seriousness of misconduct and appropriate penalties, the panel shall also have regard to Appendix 1.
11. The powers of the Panel are to issue:
- a. advice and/or a requirement to complete education or training;
  - b. a verbal or written warning in respect of the misconduct committed: except in minor cases, a written warning should be preferred and the wording of this warning should be agreed by the panel;
  - c. suspension from WFRA races, series or championships for a defined period;
  - d. termination of membership and/or removal from any official position within the WFRA for a specified period;
  - e. in the case of Race Organisers, withdrawal of WFRA licence and support or a requirement to change race organiser, for a specified period
  - f. recommendation that other bodies suspend the individual from their races, championships etc (e.g. the FRA and similar bodies);
  - g. In the case of a Respondent who is a coach or technical official licensed by another body, the panel should consider whether that body should be informed of the disciplinary process and outcome;
  - h. any combination of the above.

12. The Panel may also make recommendations to the Committee, if they feel that any changes to policy or practice, or other actions, should be considered by the committee.
13. The Panel may vary this procedure at their absolute discretion if, after discussion with the other parties they are of the opinion that such change would assist the process in a fair and impartial way.
14. The Panel will make its decisions on whether the respondent is guilty of unsatisfactory conduct, or misconduct, based on a balance of probabilities. This means that it must be demonstrated that it is "more probable than not" that the respondent is guilty of misconduct. The panel will consider whether or not on the balance of probabilities the allegations are substantiated by the facts of the case.
15. Complainant(s) and Respondent(s) will be provided with the Disciplinary Panel's formal written outcome notification by email, hand or by recorded delivery within seven days of the decision. The outcome will also be sent to the Committee, together with any observations on the process and policies concerned and recommendations for any actions required by the committee.

**Appeal Process:**

1. The letter notifying the decision of the Disciplinary Panel shall also set out the right to Appeal (by including a copy of this policy).
2. The Respondent and/or the Complainant, may appeal against the decision of the Disciplinary Panel, by serving a Notice of Appeal on the Secretary within seven calendar days of receiving the written decision.
3. The Notice of Appeal must state as precisely as possible the grounds on which the verdict of the Disciplinary Panel is challenged, referencing WFRA Policies and Procedures as applicable. The Secretary shall acknowledge a Notice of Appeal within seven calendar days of its receipt. The Committee (excluding any members directly involved in the case) will cast a decision in regards to 'the grounds on which the verdict is challenged', if there are sufficient grounds/evidence provided to support the challenge, the Appeal Panel process will commence, if there are insufficient grounds, the appeal will be dismissed, and the Complainant and/or Respondent informed.
4. The Secretary, in consultation with the Committee, shall appoint an Appeal Panel of three members who have not been involved directly, either in the events giving rise to the Hearing, or in the initial Disciplinary Hearing itself. The Secretary shall inform all parties concerned of the composition of the Appeal Panel. Either party may object to the composition of the Appeal Panel by notifying the Secretary of the Objection and setting out the reasons for such an Objection no later than seven calendar days from the date of being informed of the composition of the Panel. The Secretary, within fourteen calendar days from the date of receipt of an Objection, will notify in writing the parties that either:
  - a. the composition of the Panel has changed, in which case the Secretary shall provide details of the new Appeal Panel; or
  - b. the composition of the Panel has not changed, in which case the Secretary shall give reasons why the Objection has not been accepted.
5. Within fourteen calendar days from the date the Secretary responds to the Objection above (as appropriate), or within fourteen days of notifying the parties of the panel,

(in the case of no objection being received), the Secretary shall give such directions to all parties that include;

- a. the date and place (which may be online) at which the Appeal Panel will meet to determine the Appeal
- b. whether the appeal will proceed by way of written submissions or an oral hearing;
- c. whether the parties should be required to submit statements of their evidence and/ or written submissions prior to the hearing and, if so, a timetable for doing so and the procedure for exchanging such statements and written submissions.

### **Conduct and Powers of the Appeal Panel**

1. The Appeal Panel shall proceed as per the Procedures for Disciplinary Panels above. In addition:
2. The Appeal Panel shall meet on the date fixed by the Secretary. The Appeal Panel may, at its sole discretion, disregard any failure by a party to adhere to this appeal procedure and may give such further directions as may be appropriate. Any such hearings shall be in private unless all parties agree otherwise, or unless the Appeal Panel directs.
3. The Appeal Panel shall have power to make a decision on the facts as it thinks fit and may:
  - a. Quash the original decision;
  - b. Confirm the original findings;
  - c. Request that the case be reheard in a new hearing;
  - d. Increase the original sanction;
  - e. Reduce the original sanction;
4. The Appeal Panel shall inform all parties of its decision within seven calendar days of reaching a decision, together with written reasons for its decision.
5. The decision of the Appeal Panel shall be final.
6. The Appeal Panel shall decide on any issue by majority.
7. A supporter can be a legal representative, who must be named, and may accompany the Complainant/Respondent throughout the appeal process.

### **Cooperation of All Parties**

1. The procedures described in these Disciplinary Procedures assume that all parties will co-operate in the interest of resolving the issue in question.
2. In the absence of such co-operation, or if it is withdrawn at any stage, the WFRA reserves the right to proceed with a Disciplinary or Appeal Panel based on such evidence and information as it is able to obtain.
3. When dealing with a complaint, the Secretary shall be entitled to take, or omit to take, such action as is recommended pursuant to legal advice received from a legal practitioner whom the Secretary reasonably believes is competent to provide such advice.

### **Communications about disciplinary proceedings**

As is normal practice, complaints and disciplinary proceedings will normally be held confidentially, and all parties are asked to respect this. This confidentiality will normally be



maintained after conclusion of the process (notifications below notwithstanding): again, all parties are asked to respect this.

In exceptional circumstances, on conclusion of proceedings (including any Appeal, or expiration of the Appeals period), the committee may choose to communicate to the membership such details of the case as they deem necessary. Such communication should normally maintain the confidentiality of the individuals concerned, but may communicate actions the WFRA has taken or intends to take as a result of the case.

### **Records of Hearings and Appeals**

The decision of a Disciplinary Panel, including Appeal Panel, shall be recorded and retained in confidential records for a period of six years by the WFRA. Supporting documentation shall also be retained in the same fashion. After six years have elapsed they should be permanently deleted/shredded.

### **Notification to other bodies**

Where appropriate the Secretary, once the Appeal notice has expired, or at the conclusion of any Appeal, may inform some or all of the following bodies of the details of a decision, including sanctions imposed, if it is considered necessary to ensure compliance with a sanction, or for the safety and well-being of those engaged in fell running and related activities:

- Club(s) of which the respondent is a member.
- The Fell Runners Association, Scottish Hill Runners, Northern Ireland Mountain Running Association and/or other similar bodies.
- Welsh or UK Athletics or other relevant governing bodies.

## **Annex 1: Guidance on Judging the Severity of Offences**

*[Adapted from Welsh Orienteering's policies]*

The aim of this Annex is to provide disciplinary panels with some guidance to help them identify appropriate penalties, in addition to the criteria listed above. It is not intended to be binding or exhaustive and it is not practicable to specify all offences which may result in disciplinary action. Panels should exercise their judgement and take into consideration all the relevant evidence and circumstances. In particular, Panels should place appropriate emphasis on the need to educate, train and inform those subject to disciplinary proceedings, with the intention of preventing recurrence, as opposed to simply considering punishments.

2.1 The disciplinary policy contains four categories of (mis)conduct. The level at which disciplinary action may be considered will be governed by the circumstances and seriousness of each case:

- Unsatisfactory conduct
- Misconduct
- Serious misconduct
- Gross misconduct

The level of (mis)conduct will depend on:

- the nature of the conduct
- the severity of foreseeable consequences for the WFRA or other individuals
- whether it was deliberate, reckless or accidental
- the capacity in which the individual acted, e.g. committee member, race organiser, competitor

### **2.2 Unsatisfactory Conduct and Misconduct**

These are examples and not an exhaustive list.

You may be liable to disciplinary action if you are found to have acted in any of the following ways during WFRA-related activities:

- (a) Failure to abide by WFRA Safety and Competition rules (see e.g. <https://www.sites.google.com/site/welshfra/information-for-runners>), Code of Conduct (<https://www.sites.google.com/site/welshfra/policies>), Safeguarding (<https://www.sites.google.com/site/welshfra/policies/safeguarding>) or other policies, or Race Organiser's requirements
- (b) Failure to abide by good practice when dealing with children or vulnerable adults
- (c) If your role involves driving as part of the role, failure to report immediately any type of driving conviction or summons which may lead to your conviction. This does not include driving yourself to and from a place of work or volunteering.
- (d) Failure to carry out reasonable instructions from e.g. Race Organisers

Unsatisfactory conduct is conduct which is unintentional, and without the potential for significant (and reasonably foreseeable) consequences for the WFRA or other individuals.

Misconduct involves more significant consequences for others/the WFRA, which could reasonably have been foreseen, but where malice or extreme carelessness is absent.

### 2.3 Definition of Serious Misconduct

Serious misconduct is defined as where one of the above criteria for unsatisfactory conduct or misconduct (or similar) has been met and, upon investigation, it is shown to be intentional or due to an individual's extreme carelessness and/or it could reasonably have been foreseen to have serious effects upon the WFRA's operations or reputation or upon another individual.

### 2.4 Definition of Gross Misconduct

Gross misconduct is the most serious category and includes (these are examples and not an exhaustive list):

- (a) Grossly indecent or immoral behaviour, deliberate acts of discrimination with regard to race, sex, disability or sexuality, or serious acts of harassment
- (b) Dangerous behaviour, fighting or physical assault, serious and deliberate abuse in any form of another person
- (c) Placing a member of the public or another member of the WFRA in significant danger through deliberate breaches of safety rules or extreme reckless behaviour
- (d) Serious breaches of safeguarding policies and procedures, or behaviour that constitutes a serious safeguarding threat to children or vulnerable adults
- (d) Deliberate falsification of any records (including expenses claims)
- (e) Theft, unauthorised possession, fraud, deliberate destruction or sabotage of property of significant value, whether belonging to the WFRA, another member, volunteer or a third party

**Table A1 Guidelines on potentially appropriate penalties**

<b>Offence</b>	<b>First Occasion</b>	<b>Second Occasion</b>	<b>Third Occasion</b>	<b>Fourth Occasion</b>
<b>Unsatisfactory Conduct</b>	Advice, training and/or formal verbal/written warning	Advice, training and/or a written warning. Short suspension from races/roles (weeks-months)	Final written warning, further advice, training. Longer suspensions (months-years)	Dismissal from role/ Revocation of membership/ suspension from racing for a period of one or more years
<b>Misconduct</b>	Advice, training and/or a written warning	Final written warning, further advice, training.	Dismissal from role/ Revocation of	

	Short suspension from races/roles (weeks-months)	Longer suspensions (months-years)	membership/suspension from racing for a period of one or more years	
<b>Serious Misconduct</b>	Final written warning, further advice, training. Longer suspensions (months-years)	Dismissal from role/ Revocation of membership/suspension from racing for a period of one or more years		
<b>Gross Misconduct</b>	Dismissal from role/ Revocation of membership/suspension from racing for a period of one or more years			

## Sources

This document was prepared using the UK Athletics template policies as a starting point:

- <https://england-athletics-prod-assets-bucket.s3.amazonaws.com/2020/03/ea-club-grievance-disciplinary-policy-for-clubs-2020-v2.pdf>
- <https://england-athletics-prod-assets-bucket.s3.amazonaws.com/2020/02/ea-club-discipline-process-2020-v1.pdf>
- <https://england-athletics-prod-assets-bucket.s3.amazonaws.com/2020/02/ea-guidance-for-hearings-2020-v1.pdf>

These were combined into a single document and adjusted for WFRA terms/circumstances. Additional elements were drawn from the Welsh Orienteering Association policies, as well as existing WFRA policies. We acknowledge these resources.