

JudoScotland

Key Policy Document: Disciplinary Policy



Policy Adopted: 25th October 2022

Introduction

1. JudoScotland has created this Disciplinary Policy (herein referred to as 'this Policy') to provide a framework and process for any disciplinary action, should it be required.

Purpose of the Disciplinary Policy

2. The purpose of this Policy is to ensure justice in disciplinary proceedings relating to JudoScotland can be made in a fair, consistent, independent manner and in accordance with the requirements of natural justice.
3. This Policy of JudoScotland is to ensure that any disciplinary matters are dealt with fairly, that steps are taken to establish the facts and that there is an entitlement to a fair and reasonable hearing within a reasonable time by an impartial Disciplinary Panel.

Our Promise

4. JudoScotland is committed to conducting itself with honesty and integrity and will treat people fairly. Any suspected wrongdoing should be reported as soon as possible.

Scope

5. This Policy applies to any person who is a member, or who is operating in the capacity of a member of JudoScotland, including: judoka, coaches, referees, technical officials, volunteers, supporters, helpers, club members and board members, entrants to events authorised or organised by JudoScotland, and individuals or organisations contracted to, or whose services are engaged to deliver programmes and courses on behalf of JudoScotland (herein referred to as 'Persons'). In addition, all Persons shall accept relevant organisational Codes of Conduct, conditions of entry of events entered into and shall comply at all times with all rules of the International Olympic Committee (IOC) and the World Anti-Doping Agency (WADA).
6. In relation to conduct that takes place during an event authorised or organised by JudoScotland, this Policy will take precedence over any other disciplinary policy that Persons may be subject to with an affiliated organisation.
7. For the avoidance of doubt, Persons are ambassadors of JudoScotland for the entire duration of membership, including during and after non-JudoScotland events.
8. This Policy does not apply to staff as they are covered separately under the organisation's Staff disciplinary policies and procedures.

Disciplinary Matters

9. Persons subject to the disciplinary jurisdiction by JudoScotland in accordance with this Policy shall be liable for action under this Policy where Persons behaviour, conduct and actions may breach the Rules, Regulations, Polices or Articles of JudoScotland or bring the sport into disrepute.
10. The following non- exhaustive list is examples of actions that may constitute a breach of this Policy:
 - (a) Failure to comply with JudoScotland Articles of Association (except where such breach, failure, refusal or neglect is for Anti-Doping or Safeguarding and Wellbeing, in which case it shall be dealt with as set out in those specific policies).

- (b) Participating in corruption;
- (c) Anything that may bring the sport into disrepute, or has the potential to harm JudoScotland;
- (d) Inappropriate behaviour;
- (e) Improper conduct;
- (f) Failure to comply with a written agreement;
- (g) Making an untrue written statement;
- (h) Failure to treat others with dignity and respect;
- (i) Foul or offensive language;
- (j) Equipment abuse, or wilful damage;
- (k) Assisting or encouraging others to breach this Policy

11. Any violation may result in disciplinary action being taken against the offending person(s) by JudoScotland within its jurisdiction.

Jurisdiction and Power

12. The Board delegates power and jurisdiction to act in relation to any disciplinary matter, including the power to impose appropriate sanctions, to the Disciplinary Panel in accordance with the procedures in this Policy.

Notice of Complaint

13. Any Persons ('the Complainant') may make a written application (herein referred to as the 'Complaint') to JudoScotland in accordance with the Complaints Procedure for an alleged Complaint involving any Persons who is subject to this Policy by virtue of paragraph 5 above ('the Respondent').

14. The Chief Executive Officer will ensure procedures are established and may facilitate the process and provide documents but is excluded from decision-making responsibilities and must not pass judgement to the Panel or in any way prejudice the process. If the Chief Executive Officer would be conflicted in handling a Complaint, then it should be submitted to the Chair, failing whom the Senior Independent Director as determined by the Board.

15. Any Complaint that is reported to JudoScotland will be treated as confidential. The Complaint should include:

- (a) The names and relevant contact details of all parties relating to the Complaint and notification if any person involved is under the age of 18;
- (b) A signed statement by the complainant and witnesses describing the nature and circumstances of the dispute or Complaint;
- (c) Copies of all documents upon which the person is relying or relevant to the Complaint; and
- (d) Confirmation of the Rules (if any) that have allegedly been breached.

Interim Suspension

16. The Board may suspend any Persons from any or all of their involvement with JudoScotland due to the nature of the Complaint, pending conclusion of the matter.

17. An interim suspension shall only be imposed if and for as long as the Board is satisfied it is necessary in the best interests of the Persons, JudoScotland or the sport.

18. The Board shall review any temporary suspension at Board Meetings and report any concern that it might be continuing unnecessarily to the Disciplinary Panel.

19. Interim suspension is a neutral act and will not be used punitively or imply any prejudgement of the Complaint.

Disciplinary Panel

20. The Chief Executive Officer if asked to, or if they decide to investigate the conduct of any Persons, shall appoint a Disciplinary Panel within 14 days of receiving the Complaint.
21. The Disciplinary Panel shall consist of at least three members, who may or may not be members of the Board, but who should be independent and impartial to carry out an investigation and act as the Disciplinary Panel in respect of the matter. If the Complaint relates to a coaching/umpiring/performance/or other defined area, at least one panel member should have experience in this area.
22. Any panel member having an interest in the matter to be discussed must declare an interest as soon as they are aware, and must have no further involvement in their capacity as panel member.
23. Once the Disciplinary Panel has been established, one member shall be appointed as Chair of the Disciplinary Panel.
24. If any member of the Disciplinary Panel after appointment resigns or is removed, the Chief Executive Officer shall appoint another member to the Disciplinary Panel in their place (to act as Chair if the circumstances require) and shall so inform the parties and any remaining members of the Disciplinary Panel within three days of such appointment.

Disciplinary Secretary

25. The Chief Executive Officer shall appoint a person to be Disciplinary Secretary.
26. The Disciplinary Secretary may with the approval of the Chief Executive Officer delegate any function in a particular case to another suitable person.
27. The Disciplinary Secretary shall provide clerking services to the Disciplinary Panel during any Disciplinary Hearing.
28. The appointed Disciplinary Secretary having an interest in a Complaint to be discussed must declare that interest as soon as they are aware of it and must have no involvement their capacity as a secretary during the transaction of that business.

Investigation

29. The Chief Executive Officer may seek an informal resolution to Complaint or appoint an Investigator to investigate the Complaint.
30. The Chief Executive Officer may appoint as an Investigator any person that does not have an interest in the case or is a Disciplinary Panel Member. Alternatively, the Chief Executive Officer may appoint a person external to JudoScotland to undertake the Investigator role.
31. The Investigator will be responsible for gathering evidence and supporting the panel in their consideration of the case and will be the main point of contact for both the Complainant and Respondent.
32. Where any possibility of a perceived conflict of interest arises, a different Investigator will be appointed.
33. When a Complaint is allocated to an Investigator, they will inform the Complainant that they are dealing with the matter and that the details of the application will be disclosed to the Respondent, save for the protection of the Complainant or safeguarding reasons, The Investigator will also inform the Respondent that they are the subject of a Complaint, provide a copy of the Complaint and invite their written response within 21 days of receiving the Complaint. The Investigator will provide details of

the appropriate version of the Disciplinary Policy, to both the Complainant and the Respondent at this time.

34. The Investigator will then conduct an investigation that is thorough, proportionate, relevant and fair to all parties. Contact with the Complainant, the Respondent and all witnesses will usually be via telephone or email but may also be conducted by face-to-face meetings. The Complainant, 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.
35. 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.
36. The Investigator's report shall be submitted to the Chief Executive Officer, who shall either confirm the recommendation or arrange for further investigation by the same or a different Investigator.
37. If the Chief Executive Officer confirms a recommendation that there is no case to answer the Disciplinary Secretary shall inform the Complainant and the Respondent accordingly. There shall be no appeal against a decision that there is no case to answer. The decision is final.
38. If the Chief Executive Officer 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 Panel.

Notice of Hearing

39. The Respondent should be given at least 14 days' notice of the date and time of the hearing.
40. The Notice of Hearing shall name the individuals, specifically identifying the Chair who will constitute the Disciplinary Panel. The Respondent has seven days from the receipt of the Notice of Hearing in which to lodge with the Disciplinary Secretary in writing, any objection to any member of the Disciplinary Panel stating the grounds for the objection.
41. Within the Notice of Hearing the Respondent must be asked whether the allegations are admitted. If the allegations are being disputed the Respondent is informed in the Notice of the need to identify any witnesses, provide brief details regarding their evidence and arrange for their attendance at the Hearing.

Pre-Hearing timetable and Procedures

42. It shall be the duty of the Complainant and the Respondent to notify and arrange for the attendance of any witness they may wish to call.
43. The Chair of the Disciplinary Panel may issue instructions relating to the procedural aspects in the period leading up to the hearing in order that the hearing of the case itself may be properly and fairly conducted.
44. At least seven days in advance of the hearing date, each party to the proceedings must provide to the Disciplinary Secretary, details of any witnesses they wish to call together with copies of their written statements and copies of any other documentary evidence they propose to rely upon at the hearing. In the case of the Respondent, details of evidence need only be brief. No further written evidence shall be accepted within seven days of the hearing without prior written agreement of the Chair of the Disciplinary Panel.

Disciplinary Hearing

45. The procedure for the hearing shall be flexible and shall be at the discretion of the Chair of the Disciplinary Panel, who may make such decisions as necessary to ensure the orderly and effective conduct of the hearing. The Respondent will be asked whether the allegations are admitted or denied. The Chair of the Disciplinary Panel will then outline the basic procedure of the hearing going forward.
46. If the Respondent does not attend the hearing, then provided that the Disciplinary Panel is satisfied that notice of that hearing was served properly, the Disciplinary Panel may proceed to hear the complaint in the absence of the Respondent.

Individuals under the age of 18

47. If a Complainant or Respondent is under 18 at the date of the alleged Complaint:
- (a) The Disciplinary Secretary shall consult the person nominated by the Chief Executive Officer to act as Child Protection Officer to ensure their interests are protected;
 - (b) Any right or obligation under these regulations may be exercised on their behalf by their parent or carer;
 - (c) Any written communication with them under these regulations shall be copied to their parent or carer;
 - (d) If a Complainant, Respondent or witness is under 18 at the date of the alleged Complaint, they may be accompanied by a parent or carer at any meeting or proceedings;
 - (e) When considering any sanction the Disciplinary Panel shall take into account the age of a Respondent under 18 at the date the Complaint is alleged to have occurred.

Vulnerable Adults

48. If a Complainant or Respondent is a Vulnerable Adult:
- (a) The Disciplinary Secretary shall consult the person nominated by the Chief Executive Officer to act as Protection Officer to ensure their interests are protected;
 - (b) Any right or obligation under these regulations may be exercised on their behalf by their parent, carer or nominated appropriate adult;
 - (c) Any written communication with them under these regulations shall be copied to their parent, carer or nominated appropriate adult;
 - (d) If a Complainant, Respondent or witness is a Vulnerable Adult they may be accompanied by a parent, carer or nominated appropriate adult at any meeting or proceedings;
 - (e) When considering any sanction the Disciplinary Panel shall take into account the fact that a Respondent is a Vulnerable Adult.

Disciplinary Panel Decision

49. Within seven days of the hearing or determination of the matter, the Disciplinary Panel shall notify the Disciplinary Secretary of its decision in writing. The Disciplinary Secretary will inform the Complainant and the Respondent.

Sanctions

50. Sanctions may include but are not limited to:
- (a) A written warning as to future conduct;
 - (b) A requirement to change current practices;
 - (c) A financial penalty;
 - (d) Order supervision during Coaching / Umpiring / Competition;
 - (e) Order to undertake relevant training / CPD such as: (relevant coaching course or update Safeguarding workshop);
 - (f) Temporary suspension – of person(s)/club/group/organisation;
 - (g) Permanent suspension / life time ban – of person(s)/club/group/organisation;

(h) Any other appropriate sanction which may be levied from time to time

Right to Appeal

51. If the Disciplinary Panel finds an allegation proved, the Respondent may appeal against the finding or the sanction imposed or both. Once the Respondent exercises their right of appeal under this paragraph, they shall be referred to as an "Appellant".
52. Any Appeal must be made within seven days of receipt of the notice of the decision to the Disciplinary Secretary.
53. The Notification of Appeal must contain the grounds for the Appeal. The only grounds for an Appeal are:
 - (a) That there was a material error, either factual or procedural in the original proceedings;
 - (b) 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 Panel; and
 - (c) The Disciplinary Panel acted out with the scope of their powers.
54. On such intimation of an appeal being received, the Board shall appoint an Appeal Panel (made up of persons not on the Disciplinary Panel). The Disciplinary Secretary shall arrange for an Appeal Hearing to be held not earlier than 14 and not later than 28 days after the intimation of the Appeal.
55. The Disciplinary Secretary shall arrange for the date fixed for the Appeal Hearing to be intimated to the Appellant to arrive at least seven days prior to the date fixed for the Appeal Hearing.
56. The Appeal Panel shall within seven days of the Appeal Hearing notify the Appellant in question of its decision in writing.
57. The Appeal Panel may dismiss the Appeal or sustain the decision of the Disciplinary Panel or may impose such other penalty, financial or otherwise, expulsion or disqualification as it sees fit.
58. The Appellant may appeal against the decision of the Appeal Panel in writing within 14 days of the intimation of the determination of the Appeal Panel to Sport Resolutions for the determination of the matter through the arbitration procedure of Sport Resolutions.
59. The Board or the Disciplinary Panel may, at any time, refer a disciplinary matter to Sport Resolutions for determination through the arbitration procedure. The decision of that panel shall be final and binding on all concerned. All Persons shall be bound by and shall adhere to the rules of Sport Resolutions from time to time. Any arbitration or appeal carried out under the rules of Sport Resolutions or otherwise shall be carried out in Scotland under the law of Scotland.
60. The costs of the parties and of Sport Resolutions in relation to any such referral shall be met in accordance with the rules of Sport Resolutions from time to time.

Reference to Disclosure Scotland

61. Disclosure Scotland maintains the lists of people barred from working with children or with vulnerable adults in Scotland.
62. JudoScotland will inform Disclosure Scotland if the following action has been taken because an individual within the sport or JudoScotland affiliated clubs has harmed a child (or vulnerable adult) or placed them at risk of harm:
 - (a) Permanently dismissed or removed an individual from regulated activity/work;
 - (b) Would have dismissed an individual if they had not resigned/retired;
 - (c) Moved an individual to another role within the club/organisation which is not regulated activity/work.

63. JudoScotland (and Member Clubs) have a legal responsibility to make a referral in the above circumstances and it is a criminal offence not to make such a referral. For guidance on the grounds and process for making a referral, contact JudoScotland's Safeguarding and Wellbeing Executive for guidance and support.

Public Record

64. A decision made by the Disciplinary Panel on whether or not a case is found proven 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 below apply.

65. A decision which is not confidential may be publicised by JudoScotland via website or other platforms unless the Disciplinary Panel decides otherwise.

66. The Chief Executive Officer shall within seven days of the decision notify it in writing to the Respondent, the Applicant and any other person involved.

67. In a case of suspension, the Chief Executive Officer shall publicise the suspension to those likely to be affected.

68. The Chair of the Disciplinary Panel shall ensure 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 Panel shall also provide written reasons for any findings made by the Disciplinary Panel including the sanction, if any, and the factors that were taken into consideration when imposing such sanction.

69. Records relating to a Complaint shall be kept for two years after any investigation, proceedings and sanction imposed are all completed.

Contacts

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Board of Directors	Board JudoScotland - Scotlands Governing body for Judo
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Leadership Team Adopted	?? November 2018
Corporate Governance Working Group Adopted	
Board Adopted	
Updated	

JudoScotland

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Timeline

Action	Day
Notice of Complaint to JudoScotland	Day 0
Appoint a Disciplinary Panel	Within 14 days of receiving Notice of Complaint
If Investigator is allocated a Complaint	Within 21 days of receiving Notice of Complaint, the Investigator will inform Respondent they are subject of a Complaint, provide an outline of the allegation and invite their written response.
Notice of Hearing	Respondent should be given at least 14 days' notice of date and time of hearing
Hearing	At least 7 days before the Hearing, the Complainant and Respondent must provide details of witnesses/witness statements/documentary evidence they wish to rely on at the hearing. Any further evidence submitted after this date will require written agreement from the Chair of the Disciplinary Panel.
After date of Hearing	Within 7 days, the Disciplinary Panel shall notify the Disciplinary Secretary of decision.
Appeal of Decision	Within 7 days of receiving the Decision
Appeal Hearing	Appeal Hearing to be held not earlier than 14 and not later than 28 days after the intimation of the Appeal. Date of hearing to be intimated to the Appellant to arrive at least seven days prior to the date fixed for the Appeal Hearing.
Notice of Appeal Decision	Within 7 days of the Appeal Hearing notify the Appellant in question of its decision in writing.
Appeal Decision of Appeal Panel	In writing within 14 days of the intimation of the determination of the Appeal Panel to Sport Resolutions