

EAST MIDLANDS PÉTANQUE ASSOCIATION

DISCIPLINARY AND COMPLAINTS PROCEDURE – Revised 5th September 2022

1. Purpose and Scope

- 1.1. This document has been prepared in conjunction with the document entitled “EMPA Code of Conduct – Revised 15th September 2022”, known henceforth as the EMPA Code of Conduct.
- 1.2. In the event of a perceived breach of the EMPA Code of Conduct, it outlines the stages required to initiate, investigate, adjudicate and if necessary determine any appropriate sanction.
- 1.3. It also sets out the process for any potential Appeal and the handling and adjudication thereof.
- 1.4. The scope of this procedure is not limited to competitions organised solely on behalf of the EMPA – it covers the behaviour of licensed members who attend or compete in any pétanque activity, including practice and training sessions, league matches and any competitions within or outside the Region, whether playing or supporting, and not just when specifically representing the East Midlands Region.

2. Initiating a Complaint

- 2.1. A Complaint constitutes an allegation of inappropriate conduct by a person (or persons) against a Pétanque England licensed individual (or individuals) affiliated to the East Midlands Region.
- 2.2. The Complaint itself can be submitted by non-licensed members (e.g. non-playing members of the public or hosts of venues used for competitions etc) but this procedure cannot govern the behaviour of, or consider sanctions for breaches of conduct by individuals or groups of individuals who are not licensed by Pétanque England; however the EMPA Regional Management Committee (RMC) reserve the right to consider refusing future licence applications from such persons where appropriate.
- 2.3. All perceived breaches of the EMPA Code of Conduct shall be reported in the first instance via email or in writing to the Regional Secretary, and/or the Regional President, and/or the Regional Vice President.
- 2.4. Only in the event of a Complaint being made involving all three of the above Officers should the Complaint be directed to any other members of the RMC.
- 2.5. The Complaint must include a detailed description of the alleged breach of the EMPA Code of Conduct, including the venue/location, the date, where possible the time, the name(s) and contact details of the Complainant(s), and the name(s) of those against whom the allegation is being made.
- 2.6. The Complaint must also include names and contact details of any witnesses who have agreed to provide evidence in support of the Complaint.
- 2.7. The Complaint must also include reference to any video evidence likely to be submitted at any future Hearing.
- 2.8. The Regional Secretary will acknowledge receipt of a lodged Complaint within a period of no longer than 10 working days, detailing a date at which the RMC will make an initial investigation into the Complaint in accordance with section 3.1.

3. Investigating and Adjudicating a Complaint

- 3.1. It is incumbent upon members of the EMPA RMC to determine in the first instance whether the circumstances of a potential breach of the EMPA Code of Conduct warrant further investigation.
- 3.2. If it is the case that members of the RMC are involved in the allegation, they may not take part in these initial discussions.

- 3.3. Should there clearly be insufficient grounds to continue, then the Complainant(s) will be contacted within 7 working days of the date of the initial investigation (per paragraph 2.8 above) advising that no further action will be taken and giving reasons for this decision having been made.
- 3.4. There is no right of Appeal by a Complainant under the conditions of paragraph 3.3.
- 3.5. In the unlikely event that the Complaint be deemed malicious or unduly frivolous, the EMPA RMC may instigate disciplinary proceedings of its own against the Complainant.
- 3.6. No member of the EMPA RMC may contact anyone listed as a witness for the Complainant prior to the Hearing, apart from as under section 3.12.
- 3.7. Should the members of the EMPA RMC determine that there are grounds to continue the investigation, a Disciplinary Panel comprising 3 licensed members of the East Midlands Region, at least one of which MUST be a member of the RMC, will be selected to oversee the process. An RMC member of the Disciplinary Panel will act as Chair of that Panel.
- 3.8. The Regional President, Vice President and Secretary will not form part of the Disciplinary Panel, as they may be involved in a subsequent Appeal. In the event that the Complaint involves a Minor or someone deemed to be Vulnerable, the Safeguarding Officer will not form part of the Disciplinary Panel, as they may be involved in a subsequent Appeal.
- 3.9. Once the Disciplinary Panel has been selected, the Chair of the Panel will communicate in writing or by email to both the Complainant(s) and Defendant(s) to the following ends:
 - 3.9.1. To inform them of the membership of the Disciplinary Panel.
 - 3.9.2. To provide to both parties full details of the allegation that must be answered, including evidence submitted to this point. This includes a copy of the Complaint as received by the EMPA RMC and a statement as to which article(s) of the Code of Conduct the Defendant(s) is/are alleged to have breached.
 - 3.9.3. To request that the Defendant(s) submit a written reply to either accept or refute the allegation within 7 working days of receipt of the notice.
 - 3.9.4. To state, in the event of the charge being refuted, a date, venue and time for a Hearing to take place, normally within 21-28 calendar days from receipt of the letter refuting the charge. The Hearing can be conducted in a physical meeting room or via Zoom.
 - 3.9.5. To state the deadline for both parties to request a statement from any witnesses in support of their argument, which will be 14 working days before the date of the Hearing.
 - 3.9.6. To request from both parties if any video evidence is to be submitted – this may require technical preparation by the Panel in order for it to be viewable at the Hearing.
 - 3.9.7. To state the deadline for the wording of the Disciplinary Panel's allegation to be amended or challenged by the Defendant(s), which will be 7 working days from receipt of the notice.
- 3.10. Should the date or venue specified for the Hearing be unsuitable or inconvenient for either party, a mutually acceptable date and venue should be determined.
- 3.11. Should the Defendant(s) refute the allegation and submit details of witnesses to be called, no member of the RMC may contact anyone listed as a witness prior to the Hearing, apart from as under sections 3.12 and 3.13.
- 3.12. Should either party confirm that witnesses shall be contacted, the Disciplinary Panel Chair shall contact those witnesses, informing them of the date of the Hearing and requesting that they submit their written statements to the Disciplinary Panel Chair by post or email at least 5 working days before the date of the Hearing. Witnesses will not be required to be present at the Hearing in person.
- 3.13. Should any witness statement received by the Disciplinary Panel require clarification ahead of the Hearing, the Chairman of the Panel has the right to contact the witness to seek such clarification.

- 3.14. Should any named witness fail to submit a statement within the timescale set out in paragraph 3.12, the Hearing may continue without that evidence being submitted.
- 3.15. Both Complainant(s) and Defendant(s) may choose to attend the Hearing or not to do so. The Hearing will proceed in any case, unless the allegation has been withdrawn or admitted in the meantime.
- 3.16. The Complainant(s) or the Defendant(s) may choose to be represented by one person of their choice to speak on their behalf at the Hearing. This individual, along with both parties, may stay for the duration of the Hearing, but not during the Disciplinary Panel's adjudication deliberations.
- 3.17. In the event that the Complainant(s) and/or the Defendant(s) be a Minor, or in the opinion of the Disciplinary Panel be considered Vulnerable, they may choose to have someone present at the Hearing to act in the role of Advocate.
- 3.18. The Complainant(s) and/or the Defendant(s) may choose to have someone present at the Hearing to act as a note-taker. That person may not take any part in the Hearing.

4. The Hearing

- 4.1. The Hearing will be conducted by the Chair of the Disciplinary Panel.
- 4.2. An audio recording of the Hearing will be made by the Disciplinary Panel. This recording will only be used in the event of an Appeal Hearing by the Appeal Hearing Panel to clarify any point of contention. It will not be made available to either the Complainant or the Defendant. In accordance with 3.18 the Complainant(s) and/or the Defendant(s) may choose to have someone present at the Hearing to act as a note-taker.
- 4.3. The Complainant(s) or their chosen speaker will be asked to present the allegation and any witness statements and/or video evidence.
- 4.4. The Disciplinary Panel may at any time ask questions of the Complainant(s) or their chosen speaker to seek clarification on any matter.
- 4.5. The Defendant does not have the right to cross-examine the Complainant(s).
- 4.6. The Defendant(s) or their chosen speaker may then present their defence of the allegation and any witness statements and/or video evidence.
- 4.7. The Disciplinary Panel may at any time ask questions of the Defendant(s) or their chosen speaker to seek clarification on any matter.
- 4.8. The Disciplinary Panel may choose to include evidence from third parties not present at the Hearing.
- 4.9. The Chair of the Disciplinary Panel may determine at any time that it becomes necessary to suspend the proceedings, such as new evidence arising requiring further investigation, or should the atmosphere of the proceedings become such that a significant adjournment would be beneficial.
- 4.10. The allegation may be withdrawn at any time, at which point the Defendant will be contacted and informed accordingly. The Disciplinary Panel will at that point be discharged, however the EMPA RMC reserves the right to question the Complainant's reasoning behind the withdrawal, the allegation, or both at this juncture.
- 4.11. The Defendant(s) may admit the charge at any time, even after initially refuting the allegation, at which point the Complainant(s) will be informed and the Disciplinary Panel discharged. The EMPA RMC will at that juncture consider appropriate sanctions for the confirmed breach of the EMPA Code of Conduct with reference to the EMPA's list of Disciplinary Sanctions (Appendix A to this document).
- 4.12. At the end of the Hearing both parties will be asked to leave the meeting, following which the Disciplinary Panel will immediately review the findings in private and reach a decision. Notes will be taken as to the reasons they have reached their verdict.
- 4.13. The decision of the Disciplinary Panel will be determined by a majority vote.
- 4.14. Should the decision of the Disciplinary Panel absolve the Defendant(s), then that decision shall be communicated within 2 working days of the Hearing to the Regional President or

Vice President, either of whom will contact both parties via email or in writing within 5 working days of the Hearing, including reasons for the decision.

- 4.15. Should the decision of the Disciplinary Panel be that the Complaint is upheld against the Defendant(s), then the Panel will immediately refer to the EMPA's list of Disciplinary Sanctions (Appendix A to this document) to determine the appropriate nature of any recourse to be imposed upon the Defendant(s). The decision and the reasons for that decision, along with the sanction to be imposed, will be communicated within 2 working days of the Hearing to the Regional President and Vice President, either of whom will contact both parties via email or in writing, within 5 working days of the Hearing, including reasons for the decision, and in the case of the Defendant(s), outlining the process for Appeal.
- 4.16. The EMPA RMC will not publicise the result of the process until either an Appeal has been heard or until the deadline for lodging an Appeal has passed.

5. The Appeal Process

- 5.1. The Defendant(s) may wish to challenge the consistency or severity of the sanction imposed by the Disciplinary Panel, or if further evidence arises which will either exonerate them or mitigate their punishment.
- 5.2. The Appeal must be lodged by email or in writing by the Appellant(s) within 5 working days of receipt of notification of the Disciplinary Panel's decision. Failure to do so within that time frame will render the decision of the original Disciplinary Panel as binding upon the Defendant(s).
- 5.3. The Appeal Hearing will be chaired by the Regional President (or should the President be one of the parties involved, the Vice President or Secretary) and the panel will also consist of two other EMPA licensed members not on the RMC.
- 5.4. The Appeal will be heard as soon as possible, at a mutually convenient time and place. The Appeal Hearing may be conducted via Zoom.
- 5.5. The Appellant(s) may be accompanied at the Hearing.
- 5.6. The Appeal Chair may choose to invite the Disciplinary Panel Chair to the Appeal Hearing to advise on how the initial Disciplinary Hearing was conducted.
- 5.7. The Appellant(s) will present the reason(s) for their Appeal and any additional evidence.
- 5.8. Following the Hearing, the Appeal Panel will determine if the original decision should be upheld, overturned, or amended (e.g. the sanction). The Appeal Chair will communicate the decision to the Appellant(s) within 5 working days. This decision is binding and no further Appeal on either side will be heard.
- 5.9. The EMPA RMC may choose to publicise the final Appeal decision once communicated to the Appellant.

Appendix A – Disciplinary Sanctions and Examples of Breach of the Code of Conduct

1. If the Complaint is without merit, no sanctions will apply.
2. If the Complaint was brought forward in a vexatious manner, this is considered a major infraction and the individual bringing the Complaint forward will be subject to the same sanctions had the Complaint been found to be valid.
3. If the Complaint is upheld, the Disciplinary Panel may apply the following sanctions singly, or in combination for serious breaches of the EMPA Code of Conduct.
 - 3.1. A Verbal Warning – any record kept by the RMC of the Verbal Warning will expire 1 year after the date of the Disciplinary Hearing.
 - 3.2. A Written Warning – with a view to further, more severe, sanction to follow if further breaches occur within the expiry period – to expire 2 years after the date the Warning was issued.

- 3.3. Exclusion from specific competition(s) – temporarily, permanently or time delimited for review as the Disciplinary Panel sees fit.
- 3.4. Withdrawal of Licence - temporarily, permanently or time delimited for review as the Disciplinary Panel sees fit.
- 3.5. Recommendation of expulsion to Pétanque England – the Disciplinary Panel may consider adding a recommendation to Pétanque England that the individual(s) or club(s) should also be banned from membership of Pétanque England for the same period as the ban to be imposed from EMPA membership.
- 3.6. Any individual(s) or club(s) suspended will not be entitled to any reimbursement of fees and subscriptions paid.
- 3.7. Any individual(s) or club(s) suspended may reapply for membership once the applied suspension has been served.
- 3.8. A Final Written Warning – with a view to further, more severe sanction to follow if further breaches occur within the expiry period – to expire after 5 years from the date the Final Warning was issued.
- 3.9. Ineligibility to hold an EMPA office - temporarily, permanently or time delimited for review as the Disciplinary Panel sees fit.
- 3.10. The EMPA Secretary shall send details of any individuals(s) or club(s) who have been suspended to Pétanque England including, as appropriate, any recommendations from the Disciplinary Panel under clause 3.4 that the individual(s) or club(s) should also be banned from Pétanque England for that same period.

In applying sanctions, the Disciplinary Panel may have regard to the following aggravating or mitigating circumstances.

1. The nature and severity of the offence.
2. Whether the incident is a first offence or has occurred repeatedly.
3. The individual's or club's acknowledgement of responsibility.
4. The individual's or club's extent of remorse.
5. The age, maturity or experience of the individual.
6. The individual's prospects for rehabilitation.

Examples of behaviour considered to be in breach of the Code of Conduct:

1. Foul and abusive language during play and/or when supporting or otherwise attending a competition, league match or other pétanque-related event.
2. Physical abuse, threatening behaviour and bullying of any kind.
3. Verbal intimidation of any players and/or supporters.
4. Knowingly failing to adhere to the Official Rules of Pétanque.
5. Poor time-keeping detrimental to the Region.
6. Playing whilst impaired by alcohol or other intoxicating substances – this includes performance being affected by a hangover.
7. Discrimination on any grounds per the Equality Act (2010)
8. Any other unsporting behaviour.
9. Inappropriate use of social media.
10. The above is not an exhaustive list – any actions deemed by the EMPA RMC to be unreasonable behaviour, or which adversely affect the game of Pétanque in general, or which may bring the Region into disrepute, will be considered a breach of the EMPA Code of Conduct.