

# General Disciplinary Policy and Process

## Introduction

It is the intention of this policy and process to ensure transparency and fairness in matters involving complaints and any subsequent disciplinary processes involving members of the BMW Club (full or associate).

The process remains intentionally flexible to allow for a proportionate response to the matters in hand, thus recognising that the range of such issues may be from the relatively minor to extremely serious.

It is acknowledged that some circumstances may occur that prevent a particular part of the policy or process being followed to the letter and an acceptance that should such circumstance arise, the spirit of the policy and process should be followed as closely as it is reasonably practicable to expect.

It is part of this policy and process that should such exceptional circumstances arise that prevent an exact adherence to the policy or process, all subsequent conduct or actions by those dealing with the matters shall be deemed as within the scope of the policy providing they follow it as closely as it is reasonably practicable to expect in the circumstances.

A decision on whether such an exceptional process was so reasonable will be made by the President, or where this is impracticable (such as when the President is the subject of the process) by any two Vice-Presidents.

In all cases where this policy and process is initiated all parties subject of or initiating the complaint shall be issued with a copy of this procedure either by hard copy or email. The sending of copy by email or post to an address so provided for this purpose shall be considered as sufficient proof of satisfactory provision.

This policy cannot be used retrospectively, becoming active only on the date approved by the National Committee or from whatever forward date set by the said Committee at the time of approval.

## Informal Resolution

1. Where a Club member(s) (full or associate) wish to lodge a complaint against another member of the Club within their own section, and where the complaint is of a relatively minor nature, elected members of that section should attempt to resolve the issue where negotiation and compromise would be appropriate. This would not be a formal disciplinary or misconduct finding and should allow for minor grievances and disputes to be resolved between members. It would be good practice to record the basic facts in minuted meetings and notify the General Secretary in all cases.

## Stage 1

2. Where a Club member(s) (full or associate) wish to lodge a formal complaint of misconduct (including bringing the Club into disrepute) against another member of the Club (beyond that of being dealt with within a particular section) or against a member from another section, the complaint can be raised with any member of the National Committee, the General Secretary or a Vice-President.

3. Whosoever receives the complaint will collate basic information and, as soon as is reasonably practicable, notify any of the Vice-Presidents of the existence of the complaint and the particulars of it. The Vice-President will make a written record of the date and time they were notified, who notified them and what details were given, including any action taken so far.

## Stage 2

4. The nominated Vice-President chosen to deal with the complaint will decide -
  - a) If the matter is suitable to be referred back to a section to take appropriate action under Informal Resolution.
  - b) In deciding whether the matter is suitable for an Informal resolution the Vice-President must consider:
    - i. The seriousness of the allegation(s)
    - ii. The possibility of the Club being brought into disrepute
    - iii. Whether the circumstances are likely to affect individuals outside of the Section concerned
    - iv. Any other matters the Vice-President considers material or relevant
  - c) If as at a) above the Vice-President will communicate this to the Section committee for appropriate action
  - d) If not as at a) above, whether they are sufficiently independent of events to be able to undertake dealing with the complaint and where this independence is called into question, pass the complaint to another Vice-President.
5. During this process the Vice-President may confer with other Vice-Presidents and confer or meet with those making the complaint and the individual(s) complained of.
6. Having considered the issues above the Vice-President dealing with the matter will notify the complainant(s) and the individual(s) the subject of the complaint of the chosen path to resolution and, where it is not an Informal Resolution, will notify the President that the complaint is being investigated. The President, however, may not give direction on how the investigation should be managed nor receive details beyond those necessary to ensure the good name of the Club is managed and preserved. At this stage, in consultation with the other Vice-Presidents, the nominated Vice-President may suspend the membership from the Club of any member where it is reasonably believed necessary to do so in the best interest of the Club, or the individual.

## Stage 3

7. Where the Vice-President considers that the matter must be dealt with formally he or she shall contact at least one other Vice-President (who is not subject to, or materially involved with the matter) and between them they shall manage the process.
8. The Vice-Presidents shall investigate all relevant matters and should communicate with any person whom they believe will be able to provide information, interpretations or observations that have a bearing on the issues being examined.
9. The Vice-Presidents shall expedite their investigations in a timely manner and shall be expected to take note of all information gathered. Having done so the Vice-Presidents shall decide upon the outcome. They may choose to deal with the matter by -
  - i) Dismissing the allegation(s) as unfounded
  - ii) Issuing verbal advice or guidance to one or more individuals involved in the case
  - iii) Issuing written advice or guidance to one or more individuals involved in the case
  - iv) Issuing a written warning to one or more individuals involved in the case
  - v) Revoke the membership of one or more individuals involved in the case

- vi) Without revoking membership, require a member to resign from any position of office within the Club, including as a National Officer, a Vice Presidency, or at Section level including Chairman/Secretary, Treasurer, Social Secretary, Membership Processor, National Committee Representative or any other non specified position as decided by the Vice President.
  - vii) Any combination of the above
10. The Vice-Presidents shall then inform the complainant(s) and those subject of the complaint, or any other person whom it is decided to be subject to a sanction as at ii) to vii) above of their decision. This notification can be made verbally, but must be confirmed in writing or by email within two weeks.

#### **Stage 4 (Appeal)**

11. It is the right of:

- a) the individual(s) making the complaint
- b) the individual(s) subject of the complaint
- c) any person subject to a sanction as a result of the investigation to appeal against the outcome. This right is limited to only those listed in 11. a) to c) above.

12. The appeal must be made to the President and can be made verbally, but the reasons for the appeal must be provided to the President either in writing or by email within two weeks of the original adjudication by the Vice-Presidents. Appeals made outside of this time frame or not confirmed in writing or by email will not be considered.

13. The appeal must be made on one of the following grounds -

- i) there has been an abuse of process or procedure during the investigation
- ii) there is evidence that important or key information or facts were overlooked, ignored or given too much weight
- iii) where the penalty imposed could be considered excessive, too lenient or not reflecting all of the relevant matters
- iv) where it can be shown that one or more of the Vice-Presidents had an inappropriate vested interest in any party involved in the complaint, or in the outcome or penalty imposed

14. Any appeal must state precisely which of the above grounds are being relied upon for the appeal and the information or evidence to support the claim.

15. The President shall look at all of the evidence and information available in the issue and may request the assistance of any member(s) of the National Committee not connected with the complaint or its outcome, to assist with this process. The President (or his assistant(s)) may speak to anyone who can provide relevant information including those involved in the original investigation and may make, or cause to be made, further enquiries should they so wish.

16. The President may immediately dismiss any appeal that does not fall within i) to iv) above or where the claim is frivolous, malicious or mischievous.

17. The President shall then determine (within one month of the appeal) whether there are sufficient grounds to reverse, amend, decrease or increase any sanction(s) imposed by the Vice-Presidents. This decision should be ratified by at least one National Committee member having no connection with the case.

18. All relevant parties must be informed of the outcome of the appeal. This may be verbal but must be confirmed in writing or by email within 48 hours.

19. The President shall then, as soon as is practicable (but in any case at the next National Committee meeting following his determination) inform the National Committee of the outcome of the investigation and the appeal.
20. There is no appeal against the Presidents decision.

### **Other Matters**

21. Where the President is the subject of the complaint a Vice-President (or other National Officer if all the Vice-Presidents have been involved) not connected with the case and having no material interest in it shall be appointed by the Vice-Presidents in consultation with the General Secretary.
22. The enquiry shall follow the above guidelines wherever possible.
23. The adjudication shall be by the National Committee (excluding any member having a direct connection with the case) and they shall have open to them any sanction as listed above in Section 3.
24. The decision of the National Committee must be carried by a simple majority vote. There is no appeal against a sanction imposed by the National Committee.

### **Glossary of Terms**

#### **Misconduct**

Misconduct means any words or behaviour which are grossly insulting, defamatory, vulgar or words or behaviour which will or is likely to bring the Club into disrepute. This would include criminal convictions that fall within such categories.

#### **Suspended Membership**

This means the individual(s) remain members of the Club but during a period of suspension cannot attend any Club functions (including committee meetings and the like) whether Section or National, and may not vote on any Club issues whether at Section or National level. They will continue to receive The Journal and any other benefits of membership such as use of the Forum, social media or Toolhire scheme at the discretion of the investigating officer, but these privileges may be withdrawn subsequent to any initial decision.

Adopted by National Committee 08/02/2020