

Appendix A - Disciplinary Code for the Irish Chess Union (ICU)

1. Constitutional Provisions

Article 13 of the Constitution outlines the disciplinary powers of the Executive Committee and this Code sets out the procedures to be followed when Article 13 needs to be invoked.

2. Scope of Disciplinary Code

Disciplinary action will only be taken in cases of alleged serious misconduct or unsatisfactory behaviour which, if proven, would, in the view of the ICU Executive Committee:

- bring the game of chess into disrepute; and/or
- have the effect of disrupting the work of the organisation.

3. Informal Procedure

Wherever possible, complaints that might fall for consideration under Article 13 should be addressed informally by the Honorary Secretary of the ICU. The Honorary Secretary should contact the person or persons against whom a complaint has been made to advise him/her/them of the allegations involved and to provide an opportunity for an explanation/comments to be offered before any decision to proceed to the next stages of this Code is taken.

General Principles

4. Where it has not proved possible to deal with allegations under Section 3, the matter will be dealt with under the formal disciplinary procedures set out in this Code.

5. All matters of discipline will be dealt with in a manner that protects the dignity and privacy of the person against whom allegations are made.

6. Parties against whom allegations have been made, that may warrant disciplinary action, if proven, will be dealt with in a fair and equitable manner. This means that a person, subject to an investigation under this Code, has the right:

- To a fair and impartial determination of the issues involved; and
- To make representations in person or to have them made on his/her behalf – such representations must be taken into account along with

any other evidence, factors, or circumstances that are relevant to the case.

7. The following general principles apply to the operation of the investigative procedure under this Code:

- *details of any allegations must be put to the person concerned, in writing; and*
- *the person concerned is given the opportunity to:*
 - *respond fully to any allegations made; and*
 - *be represented during the procedure, if they so wish.*

8. It is important that all parties involved co-operate fully with the operation of the Code. Where a person, against whom allegations are made, does not fully cooperate with an investigation into his/her conduct, the person carrying out the disciplinary investigation shall:-

- not be precluded from reaching a conclusion to his/her investigation; and
- be entitled to reach a conclusion on the basis of the evidence available to him/her.

Scope of Disciplinary Process

9. The procedures set out below are designed to ensure that where allegations are made against a person or persons that they may have:-

- i. Contravened any of the rules or byelaws made by the Executive Committee; or
- ii. been engaged in unacceptable behaviour:
 1. at a chess event that falls significantly short of the standard of behaviour expected of players at such events; or
 2. that brings the game of chess into disrepute; or
- iii. deliberately engaged in conduct that has an adverse impact on the operation of the Irish Chess Union (ICU);

an investigation will be carried out to establish the facts of the case. The investigation will be:

- carried out fully in accordance with the principles of natural justice; and

- if allegations are proven, on the balance of probabilities, any disciplinary action that may follow the outcome of an investigation will be proportionate to the offence involved.

10. **Investigative Process.**

Where allegations, that warrant an investigation under this Code, come to the attention of the Executive Committee and are not capable of informal resolution under Section 3, the following procedures apply :-

- (a) the Honorary Secretary of the ICU, or another member of the Executive Committee nominated by the Chairperson¹, shall write to the person or persons against whom allegations have been made as follows :-

1. The allegations made should be outlined in full, including details of any witnesses to alleged behaviour and any evidence they have supplied in support of the allegations;
2. A request for the views of the person or persons involved on the allegations;
3. A suggested time, date and venue for a meeting between the person or persons against whom allegations have been made and the Honorary Secretary and another member of the Executive Committee², nominated by the ICU Chairperson, who, with the assistance of the Honorary Secretary, will carry out an investigation into the allegations.

- (b) The letter issued by the Honorary Secretary should identify the Investigator and also enclose a copy of this Code and draw the person's attention to the following provisions in it:

- (i) The date of the meeting suggested at Section (a) (3) above should ideally be held within 14 days of the date of issue of the letter. The Honorary Secretary, may at his/her discretion, extend this limit by a further 7 days if so requested by any person against whom allegations are made;
- (ii) The right to be accompanied to any meeting with the Honorary Secretary and the Investigator by a party of their choice; and

¹ References to the "Honorary Secretary" in the remainder of this Code shall be construed as a reference to the Chairperson's nominee under Section 10 (a) where the Honorary Secretary is not involved in the investigation;

² This person shall be referred to as the "Investigator" in the remainder of this Code;

(iii) Meetings may be held via skype or other means (e.g., by telephone) at the discretion of the Honorary Secretary.

There is no obligation on a person or persons to attend a meeting if they do not wish to.

11. Role of the Investigator.

The Investigator must ensure that the procedures set out above are followed. He/she must also:-

- Examine the allegations received;
- Interview any witnesses to alleged incidents relevant to the investigation (this can be done in person, over the phone or through correspondence, including electronic means such as exchange of emails, skype etc);
- Provide details of all evidence received to the person or persons against whom allegations are made that has not already been notified to the parties involved by the Honorary Secretary in his /her initial letter setting out the allegations;
- Offer to meet with the parties involved to hear any evidence that they may wish to provide; and
- Decide, on the balance of probabilities, whether the alleged breaches of ICU rules and byelaws and/or the alleged misbehaviour took place.

12. Outcome of Investigations

Where the Investigator is satisfied, on the balance of probabilities, that some or all of the allegations made are true, he or she must:-

- Write³ to the person(s) concerned outlining his or her conclusions and the reasons for same;
- Invite the person(s) concerned to comment within 14 days of the date of the Investigator's letter;
- Outline the range of potential disciplinary penalties that might be imposed, having regard to the outcome of the investigation.

13. After the 14 days referred to above have elapsed, the Investigator must write to the person(s) concerned advising him/her/them of the disciplinary

³ This may be done through electronic formats such as email and/or facsimile

penalty he or she proposes to recommend to the Executive Committee of the ICU.

14. The Investigator should then pass a copy of his/her report, and any representations received from, or on behalf of, the person or persons against whom the allegations have been made, to the Honorary Secretary of the ICU. The Honorary Secretary shall circulate the documents to the Executive Committee of the ICU for their consideration.

15. At the next meeting of the ICU Executive, the Executive will decide by simple majority of those present, on the basis of the information supplied by the Investigator, what action, if any, should be taken. In the event of a tied vote, the Chairperson or, in his/her absence, the person chairing the meeting shall have a casting vote. While the Investigator can attend the Executive Committee meeting and offer his/her opinion on matters being dealt with under this Code, he or she and the Honorary Secretary shall not have a right to vote on a disciplinary case in which they have been involved.

16. Any member of the Executive Committee against whom allegations are made under this Code or who were the alleged victim of, or a witness to, alleged behaviour giving rise to an investigation must withdraw from an Executive Committee meeting at which an Investigator's report is being considered. The member shall have no voting rights in the matter.

17. The Executive Committee may, at its discretion, decide to take no action on foot of the information submitted by the Investigator. In that event, the party or parties against whom allegations are made must be informed that no action is to be taken. In the event of a decision by the Executive Committee to impose a disciplinary penalty, the range of such penalties can include:-

- A formal written warning as to the person or persons future behaviour;
- Withdrawal of membership of the ICU for a specified period;
- Exclusion from consideration for selection for international teams for a specified period;
- Exclusion from consideration for selection for a position of responsibility for international teams (e.g., Head of Delegation, Team Coach), for a specified period;
- A ban on holding a position on the Executive Committee of the ICU for a specified period;

- Exclusion from acting as an Arbiter at tournaments under the control of the ICU for a specified period;
- A ban on entry to tournaments under the control of the ICU for a specified period.

The choice of what action to take, if any, on foot of the information supplied by the Investigator, is solely at the discretion of the ICU Executive Committee.

18. Appeals Procedure

The Honorary Secretary shall advise the person(s) concerned of the penalty to be imposed and that there is a right of appeal against the disciplinary penalty. The person(s) concerned must notify the Honorary Secretary of an intention to appeal within 14 days of the notification being sent to him/her/them.

19. The Appeal Committee shall be comprised of three independent members, none of whom will be serving members of the ICU Executive. The Appeal Committee will be furnished with all documents produced during the course of the investigation. The role of the Appeal Committee will be to examine the documents involved and report back to the ICU Executive with a recommendation/finding as follows:

- That the decision made by the ICU Executive is upheld; or
- That the decision made by the ICU Executive should be varied, subject to the penalty not being greater than the one decided on by the Executive; or
- To overturn the decision of the ICU Executive; or
- To recommend a re-examination of the case where it is found that the information relied on in reaching a conclusion was incomplete or not interpreted correctly by the Investigator.

20. On receipt of the Appeal Committee's report, the Executive Committee will consider any recommendation made and will normally implement it unless, exceptionally, the Executive Committee considers that the Appeal Committee has erred in its approach. In such circumstances, the Executive Committee may implement the original penalty that was the subject of the appeal.

21. Commencement Date.

This procedure comes into force with effect from 4th October 2015 and only new cases arising for consideration on or after that date can be dealt with under this Code.

This Code does not apply to cases where the Executive Committee exercised its powers under Article 13 of the Constitution prior to the Code's introduction.