



**ADMINISTRATION**  
**DISCIPLINARY and APPEALS PROCEDURES**

**Version 4**

As agreed at the AGM on April 29<sup>th</sup> 2016

(changes shown in RED)

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This document defines the procedures to be followed for the reporting, investigation, adjudication and any subsequent appeal relating to disputes/complaints referred to the NYSMBA Secretary under Section 14 of the NYSMBA Constitution.

It incorporates recommendations made by a sub-committee set up specifically to recommend improvements to the previous version adopted at the AGM in May 2014 (See Appendix)

The policy is to be reviewed by the Management Committee (ManCom) in advance of the AGM each year to ensure it is kept up to date and relevant in the light of experience. Any changes must be submitted to the AGM for ratification.

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**A – GENERAL**

Members of any Disciplinary or Appeals Panel must not be associated with the complainant or alleged offender or their clubs or any other organisation that is or has been directly or indirectly involved with the alleged offence. Panels will be appointed from a list of nominees supplied by member clubs. They will not contain any of the Associations Officers.

Any references to the NYSMBA Secretary in this document may be substituted by another ManCom member if the Secretary is himself either the complainant or alleged offender **or closely associated with him/her, his/her club or organisation.**

Judgments arrived at by a Disciplinary Panel can only be modified by an Appeals Panel. Judgments arrived at by an Appeals Panel can only be modified by the ESMBA whose decision is final.

**B – OFFENCES**

.A definitive list of legitimate subjects for a complaint is not included here as this can never cover all eventualities and although nothing is ruled out, the complainant must be satisfied that the subject of their complaint is not trivial in nature. It is expected that complainants must have made every effort to resolve the complaint prior to submission to the NYSMBA for investigation.

**B – REPORTING COMPLAINTS**

The Association will not investigate complaints made verbally. Details must be submitted in writing to the Secretary within 14 days of the event which is the subject of the complaint using the appropriate pro-forma. These must include

- the nature of the complaint
- the name(s) of the alleged offender(s)
- the date it took place
- any action already taken to try and resolve the matter amicably.
- the names of any witnesses prepared to support the complainant (if possible)

**C – STEP 1 (INITIATION)**

Upon receipt of the complaint, the Secretary **or the person who has been designated as responsible in A above** will

1. pass a copy of the complaint to the alleged offender(s) requesting a written response.

2. establish a Disciplinary Panel of 3 members to hear the case and agree a Chairman.
3. pass all documentation regarding the complaint to the Panel Chairman.

#### **D – STEP 2 (INVESTIGATION)**

1. Within 14 days of being appointed, the Panel Chairman should convene a meeting of the Panel to meet with the complainant, the alleged offender and any witnesses.
2. Optionally, the Chairman may also seek independent advice from appropriate persons.
3. Any evidence presented must be recorded.

#### **E – STEP 3 (CONCLUSION)**

1. The Panel will, based on the evidence presented, arrive at a judgement either to uphold or dismiss the complaint. (The alleged offender must be considered innocent until proved otherwise and always be given the benefit of any doubt.)
2. If the complaint is to be upheld the panel will impose a suitable penalty in accordance with the tariff in G below. The Panel may take into account any previous offence(s). ***Details of any previous findings must not be available to the Disciplinary Panel until it has made its decision.***
3. Within 7 days of the hearing the Chairman will notify the complainant, the alleged offender and their clubs in writing of the results of their deliberations using the appropriate proforma with details of the right to appeal.
4. The Panel Chairman will also inform the NYSMBA Secretary of the outcome and pass him all relevant paperwork for retention.

#### **F - APPEALS**

Any party involved in a complaint has the right of appeal against decisions made by the Disciplinary Panel but such an appeal must be received by the NYSMBA Secretary within 7 days of the notification of the contested decision. Upon receipt of an appeal

1. the Secretary ***or the person who has been designated as responsible in A above*** will establish an Appeals Panel of 3 to hear the appeal and agree a Chairman. This Panel must not contain any members of the original Disciplinary panel and ideally should contain a person who is not an NYSMBA member.
2. the Secretary will pass all documentation regarding the original complaint and the appeal to the Panel Chairman.
3. the Panel Chairman should then convene a meeting of the Appeals Panel within 14 days of being appointed,. The complainant and the offender should be invited to attend in order to provide any additional evidence and/or clarify existing evidence if required.
4. the Panel Chairman will notify the complainant, the alleged offender and their clubs in writing of the results of their deliberations using the appropriate proforma with within 7 days of the Appeal hearing including of the right of appeal to the ESMBA. ***The Appeals Panel may take into account any previous offence(s). Details of any previous findings must not be available to the Appeals Panel until after it has made its decision.*** (Note that the Appeals panel has the authority to increase/decrease the original punishment passed down by the Disciplinary Panel).
5. The Panel Chairman will also inform the NYSMBA Secretary of the outcome and pass him all relevant paperwork for retention.

#### **G – TARIFFS**

It is recognised that some offences are more serious than others and the Disciplinary/Appeals Panels should decide on the severity of any punishment using the following as guidance.

- Level 1 Reprimand Warned as to future conduct
- Level 2 Mild Suspension for up to 6 matches
- Level 3 Serious Suspension for 6 to 12 matches
- Level 4 Final Complete suspension from all NYSMBA activities & reported to ESMBA .

Suspension would be for all matches and competitions organised by the ESMBA, the NYSMBA and its member Clubs. Any Club playing a suspended player will forfeit ALL points gained in any League game and forfeit any Cup match. It will be up to the Secretary to inform all relevant bodies in cases which result in suspension. In the case of the suspension of a non-playing member, the suspension would be for a period of “week” rather than “matches”.

Normally, any punishment will take effect from the date of the notification by the Disciplinary or Appeals Panel. However, punishment will be delayed until after the ruling by the Appeals Panel of ESMBA where this is relevant.

## **APPENDIX**

### **DISCIPLINARY SUB-COMMITTEE (2014)**

**BACKGROUND** - As a result of discussions at the 23<sup>rd</sup> AGM (May 2014), the Management Committee, at their next meeting (July 2014), agreed to appoint a sub-committee to review the current policy with a view to making recommendations for improvement. Terms of reference were drawn up and a committee consisting of Ian Battersby (St. Cuthberts), Keith Tingay (Scarborough) and Gill Fletcher (Hambleton) was appointed in late August 2014. After several meetings, this committee finally presented its report in November 2014.

**THE REPORT** - This was a comprehensive 7 page document presented in several sections. The Management Committee considered its contents and Ian Battersby attended their next meeting in February 2015 to answer questions. Finally key elements from the report were used by the Management Committee to update this policy and propose changes to the NYSMBA Constitution.

In the first section in the report, entitled **FRAMEWORK**, the sub-committee defined the principles they used when considering the whole disciplinary process. The key elements of this framework were as follows.

1. **FAIRNESS** - The process must take place fairly and without prejudice to gender, race, ethnicity, sexual orientation, disability etc. under the overall principle that a person/organisation is innocent until proved guilty.
2. **EXPEDIENCY** - Every effort should be made to resolve the dispute before the Disciplinary Procedure is invoked, but once a complaint has been received in writing then the NYSMBA Secretary must convene a Disciplinary Panel immediately and refer the matter to them for resolution. Any disciplinary matter must be dealt with promptly - “justice delayed is justice denied”.
3. **SIMPLICITY** - The Disciplinary Procedure must be as simple to understand and use as is possible, but also needs to be binding. While the NYSMBA Constitution should record that it exists the Disciplinary Procedure should be a separate document.
4. **SIZE** - Any panel formed to consider a disciplinary matter should be as small as is practically possible.
5. **INDEPENDENCE** - Membership of any panel called to consider a disciplinary matter should be completely independent of any association with the complainant(s), the alleged offender(s) and from any association with his/her club and/or organisation. Similarly in the unlikely event of the NYSMBA Management Committee deeming it appropriate to discuss the matter at any time members who have any association with the complainant(s) and alleged offenders and their clubs organisations etc. should withdraw from the room and take no part in any discussions/decisions that may be made.
6. **REPRESENTATION** - Both parties to the dispute should be entitled to representation by friends/colleagues/spectators etc. who are in a position to give eye witness evidence to support their individual case.
7. **RESULTS** - The outcome of any disciplinary finding including an appeal must be given to both parties in writing.
8. **RIGHT OF APPEAL** - A person or organisation subject to the Disciplinary Process must have a right of appeal against any decision reached during the process. The appeal process must be entirely independent of the original disciplinary panel formed to consider the disciplinary matter.

9. OPENESS - There must be an open policy in that any material used in the disciplinary process is publicly available.

10. HISTORY - Records of the findings of any disciplinary process must retained by the Secretary of the NYSMBA for a minimum of 5 years after the completion of the sentence passed by Disciplinary or the Appeal Panel. This would enable any future Disciplinary/Appeal Panel to take any previous breaches of discipline into account in the sentencing process if they thought that to be applicable. Similarly it should be available to any Disciplinary/Appeal Panel to assist in sentencing consistency. ***Details of any previous findings must not be made available to Disciplinary/Appeals panels until after they have made a decision as to the guilt or innocence of the alleged offender.***