

IMMAF DISCIPLINARY COMMITTEE

EVIDENTIAL AND TRIAGE PROCESS

Prepared by the IMMAF Disciplinary Committee

The IMMAF Disciplinary Committee is responsible for the content, delivery and application of disciplinary policy for IMMAF. Breaches of IMMAF disciplinary policy can be dealt with by a Tribunal hearing, if the Disciplinary Committee are satisfied that the evidential standards are met and that a proceeding is proportionate, necessary and in the public interest. This document sets out the triage process the Committee will adhere to when making this decision. It is based on the UK Crown Prosecution Service general principles for evidence, proportionality, and public interest. For the purposes of this document, the term ‘public interest’ is taken to have its usual meaning, but the ‘public’ in this case, are the IMMAF signatories and their members. Matters of IMMAF Disciplinary are considered on balance of probability.

The Evidential Test

The committee must be satisfied that there is sufficient evidence to provide a realistic prospect of finding. They must consider what the defense case may be, and how it is likely to affect the prospects of finding. A case which does not pass the evidential stage must not proceed, no matter how serious or sensitive it may be.

The decision that there is a realistic prospect of finding is based on the Committee’s objective assessment of the evidence, including the impact of any defense and any other information that the subject has put forward or on which they might rely. It means that an objective, impartial and reasonable Tribunal, properly directed and acting in accordance with the policy, is more likely than not to come to an adverse decision relating to the subjected against whom a charge alleged.

When deciding whether there is sufficient evidence to commence disciplinary proceedings the Committee should ask themselves the following:

Is the evidence reliable?

The Committee should consider whether there are any reasons to question the reliability of the evidence, including its accuracy or integrity.

Is the evidence credible?

The Committee should consider whether there are any reasons to doubt the credibility of the evidence.

Is there any other material that might affect the sufficiency of evidence?

The Committee must consider whether there is any material that may affect the assessment of the sufficiency of evidence, including examined and unexamined material that may be obtained through further reasonable lines of inquiry.

The Public Interest Test

1. In every case where there is sufficient evidence indicate a breach of the IMMAF Disciplinary Policy, the IMMAF Disciplinary Committee will consider whether a full tribunal is both proportionate and necessary.
2. A disciplinary policy tribunal will not automatically take place once the evidential stage is met; the Committee may be satisfied that there are public interest factors tending against a disciplinary policy tribunal, which outweigh those tending in favour. In some cases the Committee may be satisfied that the public interest can be properly served by offering the complainant and accused, the opportunity to have the matter dealt with informally disposal rather than bringing a disciplinary policy tribunal .
3. When deciding the public interest, the Committee should consider each of the questions set out below so as to identify and determine the relevant public interest factors tending for and against disciplinary policy tribunal.
4. The explanatory text below provides guidance when addressing each particular question and determining whether it identifies public interest factors for or against a disciplinary policy tribunal. The questions identified are not exhaustive, and not all the questions may be relevant in every case. The weight to be attached to each of the questions, and the factors identified, will also vary according to the facts and merits of each case.

The IMMAF Disciplinary Committee should consider each of the following questions:

a. How serious is the breach committed?

- The more serious the breach, the more likely it is that a disciplinary policy tribunal is required.
 - When assessing the seriousness of a breach, the Committee should include in their consideration the subject culpability and the harm caused, by asking themselves the questions at b) and c).
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b) What is the level of culpability of the subject?

- The greater the subject level of culpability, the more likely it is that a disciplinary policy tribunal is required.
- Culpability is likely to be determined by:
 - i. the subject level of involvement;
 - ii. the extent to which the offending was premeditated and/or planned;
 - iii. the extent to which the subject has benefitted from the conduct;
 - iv. whether the subject has a previous history of offending in IMMAF or related sports;
 - v. whether the offending was or is likely to be continued, repeated or escalated;
 - vi. the subject age and maturity (see paragraph d below).
- The Committee should also have regard to whether the subject is, or was at the time of the breach, affected by any significant mental or physical ill health or disability, as in some circumstances this may mean that it is less likely that a disciplinary policy tribunal is required. However, the Committee will also need to consider how serious the breach was, whether the subject is likely to re-offend and the need to safeguard the public.

c) What are the circumstances of and the harm caused to the injured party?

- The circumstances of the injured party are highly relevant. The more vulnerable the injured party's situation, or the greater the perceived vulnerability of the injured party, the more likely it is that a disciplinary policy tribunal is required.
- This includes where a position of trust or authority exists between the subject and injured party.
- A disciplinary policy tribunal is also more likely if the breach has been committed against an injured party who was at the time an IMMAF member of staff.
- It is more likely that disciplinary policy tribunal is required if the breach was motivated by any form of prejudice against the injured party's actual or presumed ethnic or national origin, gender, disability, age, religion or belief, sexual orientation or gender identity; or if the subject targeted or exploited the injured party, or demonstrated hostility towards the injured party, based on any of those characteristics.
- The Committee also need to consider if a disciplinary policy tribunal is likely to have an adverse effect on the injured party's physical or mental health, always bearing in mind the seriousness of the breach, the availability of measures to assist the injured party

giving evidence and the possibility of a tribunal without the participation of the injured party.

- The Committee should take into account, but are not bound by, the views expressed by the injured party about the impact that the breach has had.

d) What was the subject age and maturity at the time of the breach?

- IMMAF Policy, mirroring wider society, treats children and young people differently from adults and significant weight must be attached to the age of the subject if they are a child or young person under 18.
- The best interests and welfare of the child or young person must be considered, including whether a disciplinary policy tribunal is likely to have an adverse impact on their future prospects that is disproportionate to the seriousness of the offending.
- The Committee must also have regard to the obligations arising under the United Nations 1989 Convention on the Rights of the Child.
- As a starting point, the younger the subject, the less likely it is that a disciplinary policy tribunal is required.
- However, there may be circumstances which mean that, notwithstanding the fact that the subject is under 18 or lacks maturity, a disciplinary policy tribunal is in the public interest. These include where:
 - i. The breach committed is serious.
 - ii. The subject past record suggests that there are no suitable alternatives to disciplinary policy tribunal ; and
 - iii. The absence of an admission means that informal disposals that might have addressed the offending behaviour are not available.

f) Is disciplinary policy tribunal a proportionate response?

In considering whether disciplinary policy tribunal is proportionate to the likely outcome, the following may be relevant

- i. The cost to IMMAF and interested parties, especially where it could be regarded as excessive when weighed against any likely penalty. The Committee should not decide the public interest on the basis of this factor alone. It is essential that regard is also given to the public interest factors identified when considering the other questions, but cost can be a relevant factor when making an overall assessment of the public interest.

- II. Cases should be prosecuted in accordance with principles of effective case management. For example, in a case involving multiple subjects, disciplinary policy tribunal might be reserved for the main participants to avoid excessively long and complex proceedings.