

# **Scottish Petanque Association**

## **COVID-19 Restrictions Non-compliance Policy for Clubs**

### **Effective from 12 October 2020**

The Scottish Petanque Association's (SPA's) aim is to ensure the safety and wellbeing of members.

It is important that all members and clubs understand the collective responsibility we all have for suppressing the spread of COVID-19 and for maintaining the reputation of our sport. We have therefore produced this document so that all parties have a clear understanding about how the SPA will respond to complaints about non-compliance with our COVID-19 guidance.

It is recognised that it can be challenging for members and clubs to adapt to new guidance, especially as changes can happen quickly and at short notice. We wish to reassure members and clubs that disciplinary action is our last resort and we will approach every complaint we receive with the aim of providing encouragement, support, advice and education.

This document focuses on the procedures the SPA will follow, should a complaint be received against an affiliated club concerning non-compliance of the SPA's COVID-19 guidance.

It is the SPA's view that complaints against any individual arising from activities at a club should be dealt with in accordance with the member's club's own disciplinary procedure. Clubs should ensure that their own policies are updated to explain to their members what action may be taken should there be a complaint concerning non-compliance of COVID-19 guidance at the club. We would encourage all clubs to develop a culture of support, advice and education when considering their own policies and only consider disciplinary action as a last resort.

Similarly, any complaint made against an individual member concerning non-compliance of the SPA's COVID-19 guidance at any event organised by the SPA will be dealt with in accordance with the SPA's existing disciplinary procedure.

#### **Stage 1 – First incident – Advice and support**

- If we receive a complaint that a club has failed to follow the current SPA COVID-19 guidance, we will make a record of the complaint and send a report to the club's committee by email, detailing the nature of the complaint.
- The SPA will offer the club the opportunity to reply to the complaint and will offer advice and assistance, for example by telephone, video conference or email to the club's officials and/or COVID Officer.

- The SPA will remind the club that failure to comply with SPA COVID-19 guidance threatens the safety of others, is potentially damaging to the reputation of our sport and could lead to disciplinary action.
- If the complaint is deemed to be a serious breach, the SPA reserves the right to move straight to Stage 3 of this policy.

#### Stage 2 – Second incident – Mandatory advice and support

- If we receive a second complaint, or receive information to suggest that the SPA's advice and support has been ignored, we will make a record of the complaint and send a report to club's committee by email, detailing the nature second complaint.
- The club's COVID Officer and President/Chairperson will be required to attend a mandatory support meeting with SPA Officials (either over the telephone or by video conference) to discuss the complaints and receive advice and support on complying with the guidance.
- If the complaint is deemed to be a serious breach, the SPA reserves the right to move straight to Stage 3 of this policy.

#### Stage 3 – Third incident and serious breaches – Disciplinary action

- If we receive a third complaint against a club, or receive information to suggest that the SPA's advice and support continues to be ignored, or where the complaint is deemed to be a serious breach, the SPA NEC will appoint a Disciplinary Panel, which will commence a full investigation into the complaint received.
- The Disciplinary Panel shall consist of at least 3 members of the Association, but shall not include the complainant(s). The Disciplinary Panel shall appoint one of its members to be the Chair and one member to take minutes.
- Notice of the investigation will be confirmed by email or letter to the President/Chair of the club in question no later than 7 days from receipt of the complaint.
- The Disciplinary Panel has the authority to order the club in question to cease all club activities while it is under investigation, at its discretion.
- The club will be offered the opportunity to respond to the complaint and will be invited to provide any evidence deemed necessary by the Disciplinary Panel to further its investigation. The club will be offered a maximum of 14 days to respond to any information requested by the Disciplinary Panel.

- On completion of the investigation the Disciplinary Panel shall determine whether the complaint has foundation. The decision about whether the complaint has foundation or not is at the absolute discretion of the Disciplinary Panel applying the rules of natural justice.
- If the Disciplinary Panel determines that the complaint has no foundation, no further action will be taken, the club will be informed and any temporary suspension of activities will be made void.
- If the Disciplinary Panel concludes that the club has a case to answer, a Disciplinary Hearing will be scheduled by video conference, to which the club's President/Chair must attend. The club may have one other representative attend the Disciplinary Hearing and the Disciplinary Panel reserves the right to have its own adviser present. If the club requests a postponement of a Disciplinary Hearing it must provide good reason with evidence. The decision to postpone a Disciplinary Hearing shall be at the absolute discretion of the Disciplinary Panel.
- During the Disciplinary Hearing, the club will be given the opportunity to state its case.
- Within 7 days of the Disciplinary Hearing, the Chair of the Disciplinary Panel will write to the club's President/Chair by email, detailing the decision taken by the Disciplinary Panel, including any penalty to be imposed, the duration of any penalty and any conditions attached. Notice of the Disciplinary Panel's decision will also remind the club of their right to appeal within 7 days.

Penalties may include:

- A written warning
- Temporary or permanent withdrawal of an SPA Competition Licence
- A fine not exceeding £200
- Temporary or permanent suspension of SPA affiliation

### **Right of appeal**

- Stages 1 and 2 of this policy do not include any investigation or penalties. Therefore there is no right of appeal under Stages 1 or 2.
- If a complaint arising under Stage 3 is upheld by the Disciplinary Panel, the club has the right to appeal the Disciplinary Panel's decision.

- The appeal must be made in writing by the appellant club's President/Chair within 7 days of receipt of the notification of the Disciplinary Panel's decision, by email or letter, to the SPA President confirming the club exercising their right of appeal and the basis for the appeal.
- The appellant club's request for an appeal must be accompanied by a deposit of £100 in addition to any fine levied by the Disciplinary Panel. These funds will be refunded in the event of the appeal being successful, but will be retained by the Association in the event that the appeal is unsuccessful.
- The SPA NEC shall appoint an Appeals Panel, which shall be at least 3 members of the Association, and shall not include any member of the original Disciplinary Panel or the original complainant(s).
- The Appeals Panel shall investigate all of the evidence relating to the original investigation, the minutes of the Disciplinary Hearing, the decision taken by the Disciplinary Panel and any additional evidence provided in the club's appeal.
- The decision as to whether to allow the appeal to proceed is at the absolute discretion of the Appeal Panel applying the rules of natural justice. The Appeal Panel shall only grant leave to appeal in circumstances where the appellant club can produce evidence which has not been produced before, through no fault of the appellant club, or on the grounds that the penalty imposed was too severe in all the circumstances of the matter.
- If the Appeals Panel grants the club leave to appeal, it shall convene an Appeal Hearing by video conference as soon as possible, to which the club President/Chair and one other representative may attend. The Appeal Panel has the right to have its own adviser present. If the club requests a postponement of an Appeal Hearing it must provide good reason with evidence. The decision to postpone an Appeal Hearing shall be at the absolute discretion of the Appeals Panel.
- At the Appeal Hearing, the appellant club will be given an opportunity to present any evidence not already produced to the Disciplinary Panel and/or challenge the severity of the penalty imposed.
- The Appeals Panel reserves the right to change the original penalty imposed, including increasing its severity if it deems it appropriate.
- The Appeal Panel's decision shall be notified to the appellant club in writing by email or letter within 7 days of the Appeal Hearing and will be final and binding.

## **Examples of serious breaches**

This list is not exhaustive, but the following are likely to be considered serious breaches:

- Where there is evidence of wilful negligence or gross misconduct by the club
- Failure by a club to appoint a COVID Officer that has passed Sportscotland's COVID Offer e-learning module
- Hosting a competition without possessing a SPA Competition Licence
- Failure to attend a mandatory support meeting under Stage 2
- Failure to attend a Disciplinary Hearing without good reason