

*The following is all of Rule 13 of the SYC Constitution, marked-up to help Members review the changes proposed by Motion 2 of the 2022 Annual General Meeting. The motion is to improve the existing complaints handling and member disciplinary processes to bring them up to date with current best practices to uphold SYC's Code of Conduct, protect all stakeholders from inappropriate behaviour, and ensure fairness and transparency of the process. (If there is any discrepancy, then the changes stated in the Motion attached to the Notice of Annual General Meeting will prevail.)*

## **13 Discipline of Members**

### **13.1 General**

The Club may take disciplinary action against a Member in accordance with this **Rule 13** if it is determined that the Member:

- (a) has failed to comply with these Rules or By-Laws;
- (b) refuses to support the purposes of the Club;
- (c) has engaged in conduct prejudicial to the Club; or
- (d) has engaged in conduct unbecoming a Member.

### **13.2 Disciplinary subcommittee**

- (a) If the General Committee is satisfied that there are sufficient grounds for taking disciplinary action against a Member, the General Committee must appoint a disciplinary sub-committee to hear the matter and determine what action, if any, to take against the Member.
- (b) The Members of the disciplinary sub-committee:
  - (i) may be General Committee Members, Members or anyone else; but
  - (ii) must not be biased against, or in favour of, the Member concerned.

### **13.3 Interim Order**

Where a Flag Officer or delegate deems it reasonably necessary to protect a person, the Flag Officer or delegate may immediately impose interim arrangements (including suspension or other limitations of a Member's rights) that will apply to a Member:

- (i) where the Member is the subject of a disciplinary procedure, until the conclusion of that procedure; and
- (ii) in all other cases, for a maximum duration of one calendar month or until General Committee resolves not to take disciplinary action under Rule 13.2(a), whichever occurs sooner.

#### **13.313.4 Notice to Member**

- (a) Before the disciplinary action is taken against a Member, the Chief Executive Officer must give written notice to the Member:
  - (i) stating that the Club proposes to take disciplinary action against the Member;
  - (ii) stating the grounds for the proposed disciplinary action;
  - (iii) specifying the date, place and time of the meeting at which the disciplinary sub-committee intends to consider the disciplinary action ("**Disciplinary Meeting**");
  - (iv) advising the Member that he or she may do one or both of the following:
    - (A) attend the Disciplinary Meeting and address the disciplinary sub-committee at that meeting;
    - (B) give a written statement to the disciplinary sub-committee at any time before the Disciplinary Meeting; and
  - (v) setting out the Member's appeal rights under **Rule 13.513.6**; and
  - (vi) setting out any Interim Order made under Rule 13.3.
- (b) The notice must be given no earlier than 28 days, and no later than 14 days, before the Disciplinary Meeting is held.

#### **13.413.5 Decision of sub-committee**

- (a) At the Disciplinary Meeting, the disciplinary subcommittee must:
  - (i) give the Member an opportunity to be heard; and
  - (ii) consider any written statement submitted by the Member.
- (b) After complying with **subrule (a)**, the disciplinary sub-committee may vote by simple majority to:
  - (i) take no further action against the Member; or
  - (ii) impose one or more of the following disciplinary measures it considers appropriate ("the Disciplinary Measures"):
    - ~~(i)(A)~~ reprimand the Member;
    - ~~(ii)(B)~~ suspend the Membership rights of the Member for a specified period;
    - ~~(iv)~~ fine the Member; or
    - (C) expel the Member from the Club; and

~~(v)~~(D) any other disciplinary measures the disciplinary sub-committee considers appropriate.

- (c) Unless otherwise specified in the Disciplinary Measures, the Disciplinary Measures (including any The-suspension of Membership rights or the expulsion of a Member by the disciplinary sub-committee) under this Rule takes effect immediately after the vote is passed.
- (d) The disciplinary sub-committee must use reasonable endeavours to notify the Member promptly of its decision.

### **13.513.6 Appeal rights**

- (a) A person against whom Disciplinary Measures have been taken may lodge an appeal in relation to the decision of a disciplinary sub-committee on one or more of the following grounds:
- (i) that a denial of procedural fairness has occurred;
  - (ii) that the sanction imposed is unjust and/or unreasonable;
  - (iii) that the decision was not supported by the information/evidence provided at the mediation or to the Disciplinary Meeting;
- (b) A person wanting to appeal must lodge a letter setting out the basis for their appeal with the CEO within fourteen (14) days of the decision being made.
- (c) If the letter of appeal is not received by the CEO within this time, the right of appeal will lapse.
- (d) The letter of appeal and the notice of the disciplinary sub-committee's decision will be forwarded to the CEO and Flag Officers to review and to decide whether there are sufficient grounds for the appeal to proceed.
- (e) If the appellant has not shown sufficient grounds for an appeal in accordance with (a) above, then the appeal will be rejected. The appellant will be notified in writing, including the reasons for the decision.
- (f) If the appeal is accepted, an Appeal Meeting with new panel members will be convened to rehear the complaint.
- (g) The Disciplinary Meeting procedure shall be followed for the Appeal Meeting.
- (h) The decision of the Appeal Meeting will be final and binding.
- ~~(a) A person whose Membership rights have been suspended, has been fined or who has been expelled from the Club under **Rule 13.4** may give notice to the effect that he or she wishes to appeal against the suspension, fine or expulsion.~~
- ~~(b) A notice must be in writing and given:~~

- ~~(i) — to the disciplinary sub-committee immediately after the vote to suspend, fine or expel the person is taken; or~~
- ~~(ii) — to the Chief Executive Officer not later than 48 hours after the vote.~~
- ~~(c) — If a person has given notice under **subrule (b)**, a disciplinary appeal meeting must be convened by the General Committee as soon as practicable, but in any event not later than 21 days, after the notice is received.~~
- ~~(d) — Notice of the disciplinary appeal meeting must be given as soon as practicable to each Member who is entitled to vote under **Rule 23** and must:~~
  - ~~(i) — specify the date, time and place of the meeting; and~~
  - ~~(ii) — state:~~
    - ~~(A) — the name of the person against whom the disciplinary action has been taken;~~
    - ~~(B) — the grounds for taking that action; and~~
    - ~~(C) — that at the disciplinary appeal meeting, the Members present must vote on whether the decision to suspend, fine or expel the person should be upheld or revoked.~~

### **13.6 Conduct of disciplinary appeal meeting**

- ~~(a) — At a disciplinary appeal meeting:~~
  - ~~(i) — no business other than the question of the appeal may be conducted;~~
  - ~~(ii) — the General Committee must state the grounds for suspending, fining or expelling the Member and the reasons for taking that action; and~~
  - ~~(iii) — the person whose Membership has been suspended or who has been fined or who has been expelled must be given an opportunity to be heard.~~
- ~~(b) — After complying with **subrule (a)**, the Members present and entitled to vote at the meeting must vote by secret ballot on the question of whether to suspend, fine or expel the person should be upheld or revoked.~~
- ~~(c) — A Member may vote by proxy at the meeting pursuant to **Rule 20.2**.~~
- ~~(d) — The decision is upheld if a majority of the Members voting at the meeting vote in favour of the decision.~~

### **13.7 Disciplinary suspension of Membership**

A Member who has been suspended as a result of disciplinary action is not entitled to any of the benefits of Membership, including but not limited to:

- (a) access to the carpark, clubhouse, marina, hardstand, boat yard, off-the-beach, storage lockers and other Club facilities;
- (b) participation in racing and any other Club events; and
- (c) voting and any other privileges,

for a period of up to two (2) years, after which he or she can apply to General Committee to have their Membership rights reinstated.

During the period of suspension, the Member will not be liable for Membership fees (but will not be entitled to a refund of fees paid in advance) but will be liable to meet obligations as a rental tenant or licence holder.

### **13.8 Termination of Membership**

A Member who has been terminated or expelled as a result of disciplinary action is not entitled to any of the benefits of Membership and cannot apply for Membership (as if a new Member in accordance with Rule 7 of the Constitution) for a minimum period of five (5) years.

### **13.9 Three Strikes**

The Club will not tolerate ongoing or repeated breaches of the Club's Constitution, By-Laws or Policies. A Member who has on two occasions, at any time after 20 September 2022, had formal written disciplinary action of any form imposed by a disciplinary sub-committee, will be expelled from the Club if a disciplinary sub-committee determines that the Member has for a third occasion within 10 years of the previous two occasions breached any of the Club's Constitution, By-Laws or Policies.