



**DISCIPLINARY COMMISSIONER
(TERMS OF REFERENCE AND PROCEDURE)**

8TH FEBRUARY 2021

DC01 PANEL OF MEMBERS

The Aquatic Sports Association of Malta (hereinafter referred to as “ASA”), through the Council, shall from time to time approve a panel of persons to serve as Disciplinary Commissioner (hereinafter referred to as “the Commissioner”).

DC02 COMPETENCE

- i. The Commissioner shall be empowered to hear and decide upon reports made by
 - a. ASA Officials as defined in the Disciplinary Code;
 - b. Clubs or other individuals.
- ii. The Commissioner shall be empowered to hear and decide on any of the above reports concerning
 - a. Athletes registered with affiliated clubs;
 - b. Team officials;
 - c. ASA Officials as defined in the Disciplinary Code;
 - d. Committee members, supporters and/or members of affiliated clubs.

DC03 COMMUNICATIONS

Communication by the ASA General Secretary of reports, contestations, decisions and other notifications shall be effected as detailed below except where other methods are explicitly stated in the relative article.

- i. In the case of reports involving clubs, athletes, team officials, club committee members, club members or unidentified supporters, the notification shall be made to the president or secretary of the club concerned.
- ii. In the case of reports involving identified supporters, the notification shall be made to the club concerned as well as to each of the identified supporters. If the General Secretary does not have the contact details of any of the identified supporters, the notification is to be sent to the supporter care of the president or secretary of the club concerned.
- iii. In the case of reports involving ASA Officials, the notification is to be made directly to the individual, provided that if the report involves a Council Member or a Substitute Council Member nominated by a club, the notification is to be sent to the nominating club as well.

DC04 REPORTS

- i. Reports on Match Cards
Reports on match cards (including reports written or printed on separate sheets and attached to a match card) shall be made only by the officiating referee/s and/or by the match secretariat, provided that reports made by the match secretariat shall be limited to matters of a technical nature only. Reports on match cards shall be made within 30 minutes from the end of a match.

It shall be the duty of team officials to collect a copy of a match card report, and, in default, the club shall nonetheless be deemed to have received it at the expiration of these 30 minutes (exception to DC03). Any identified supporters are to be notified by the club. Such match reports may be sent via email to the clubs involved (*as amended at Council 22.01.2018*).

ii. Other Reports by Referees

Referees may also make reports (not on the match card) on incidents that would have taken place immediately before, during, or immediately after a match in which they have officiated, provided that such reports are submitted in writing to the General Secretary within 18 hours from the end of the match in question.

The General Secretary shall notify the reported party/parties with such a report within 18 hours of having received it. Notification shall be made as per DC03.

iii. Other Reports

Written reports may be submitted by any of the entities listed in DC02(i), provided that such reports shall not deal with incidents that are strictly within the competence of the officiating referees (except as provided in DC04(ii) above). These reports shall concern incidents regardless of whether these occurred during a match or other ASA event, and regardless of the location of the alleged incident. Such other reports are to be submitted to the General Secretary within the ASA Calendar Season, provided that the President and the General Secretary shall not be bound by this time limit.

The General Secretary shall notify the reported party/parties with such a report within 18 hours of having received it. Notification shall be made as per DC03.

iv. Duty of the General Secretary and/or the Executive Committee

It shall be the duty of the General Secretary or the Executive Committee to ensure that the basic requirements for filing a report are fulfilled, and, if in default, not to accept the report.

DC05 SECRETARY TO THE COMMISSIONER

The Commissioner shall be assisted by the General Secretary, and/or by an assistant secretary or other person appointed for this purpose. Such person shall act as secretary and shall inform the Commissioner of any records concerning the party/parties involved, as well as any past decisions that may be relevant to the case. The secretary may be asked to explain the facts of the case, yet shall otherwise refrain from interfering in the deliberation and decision of the report.

DC06 UNCONTESTED REPORTS

Where a report remains uncontested, the Commissioner shall assume the unconditional admission of guilt as per the report by the reported party, and shall proceed to apply the sanctions as per the Disciplinary Code. The Commissioner may ask the person who made the report for clarifications.

DC07 CONTESTED REPORTS

- i. a. Within 30 minutes of having received a Match Card report of the Senior categories, a club shall notify the General Secretary whether it intends to contest the report. A fee of €25 shall be charged for such notifications. Should such notification be made and the club submits a contestation as per the rules, the €25 fee shall be deducted from the €100 deposit fee. If such notification is not made, the club shall not be entitled to contest the report. When such notification is made, the club shall submit a contestation in the prescribed manner within 18 hours from receipt of the match card, provided that a club that has given notice of contestation may decide not to contest the report after all (*approved 13th February 2017*).
- b. Within 2 hours of having received a Match Card report of the age group categories, a club shall notify the General Secretary whether it intends to contest the report. A fee of €25 shall be charged for such notifications. Should such notification be made and the club submits a contestation as per the rules, the €25 fee shall be deducted from the €100 deposit fee. If such notification is not made, the club shall not be entitled to contest the report. When such notification is made, the club shall submit a contestation in the prescribed manner within 18 hours from receipt of the match card, provided that a club that has given notice of contestation may decide not to contest the report after all (*approved 13th February 2017*).
- ii. All other reports may be contested within 18 hours from notification of such a report.
- iii. The 18-hour period referred to in DC07(i) and DC07(ii) may be shortened by the General Secretary such that there will be sufficient time for the hearing of the Disciplinary Commissioner and any eventual appeal to be submitted and heard before the team, athlete or team official involved is reasonably expected to participate. The revised time period shall preferably be communicated with the decision.
- iv. All contestations shall
 - a. be in writing and include the points in the report being contested;
 - b. a deposit of €100 is to be submitted to the General Secretary or a member of the Executive Committee, or to the Adjudicating person/board, at the start of the hearing of the case in questions. A club may choose to deposit an amount in the ASA Bank Account and any fines, deposits or other amounts relevant to disciplinary matters will be deducted from such amount (*approved 13th February 2017*);
 - c. include a list of witnesses, if any.
- v. It shall be the sole responsibility of the General Secretary and/or the Executive Committee to ensure that the basic requirements set out in DC07(iv) for filing a contestation are fulfilled, and, if in default, not to accept the contestation.
- vi. The General Secretary shall
 - a. appoint a Disciplinary Commissioner to hear the case, and, in consultation with him determine a date, time and place for the hearing. If the report involves teams, athletes and/or team officials, such date and time shall be selected such that there will be sufficient time for any eventual appeal to be submitted and heard before such team, athlete or team official is reasonably expected to participate;

- b. send a copy of the contestation to the person/club who had filed the report and ask him to be present for the hearing;
 - c. communicate with the person who filed the report to see whether he would like to call any witnesses or present any evidence during the hearing;
 - d. if the report was filed by an ASA Official, appoint a person to assist the said ASA Official during the hearing;
 - e. inform the parties that submitted the contestation and the report with the date, time and place of the hearing as per DC03.
- vii. Only the persons listed below have the right to attend a hearing of the Disciplinary Commissioner, provided that the Commissioner may at his sole discretion exclude or dismiss any person from the hearing.
- a. The commissioner and the appointed secretary;
 - b. The accused individual/s accompanied by an advisor and, where applicable the club's delegate who shall be entitled to call witnesses and produce all the evidence necessary in support of the contestation;
 - c. The person who filed the report, who shall be entitled to call witnesses and produce all the evidence necessary in support of his report;
 - d. If the report was filed by an ASA Official, the person appointed by the General Secretary to assist the said ASA Official. This person shall be entitled to call witnesses and produce evidence during the hearing;
 - e. Members of the Executive Committee.
- viii. During the hearing the Commissioner shall
- a. regulate the procedure;
 - b. proceed with the hearing even in the absence of the accused or of the person/club filing the report. The absence of the latter shall not serve to invalidate the report.
 - c. interrogate witnesses and any other persons;
 - d. hear witnesses and consider evidence at his sole discretion, provided that in considering such evidence, he shall ensure that equity and fairness shall prevail;
 - e. admit video and audio evidence by all parties so authorized to produce evidence.

DC08 DECISIONS

- i. The Commissioner is to give a decision on the report as soon as possible, whether it be contested or not. Where the report concerns teams, athletes or team officials, a decision must be given prior to the next match/event in which such athlete or team is reasonably expected to participate, also allowing time for any eventual appeal to be submitted and heard.
- ii. The Commissioner shall be entitled to impose any fine, suspension or other penalty contemplated in the Disciplinary Code or elsewhere in the statute books of the ASA and, in default, to exercise his discretion to the best of his ability, including by suspending in part or in full any such sentence, provided that only suspensions from all ASA activities may be suspended.
- iii. The Commissioner may in his decision make any recommendations he may deem fit for the consideration of the Executive Committee.
- iv. If, in the course of the hearing, it transpires that the offence was instigated by provocation or incitement then the Commissioner may reduce and/or suspend the sentence that would otherwise be inflicted, provided that only suspensions from all ASA activities may be suspended.

In addition, the Commissioner may recommend to the ASA President and General Secretary that charges be issued against the perpetrator/s of such incitement or provocation as per DC04(iii).

- v. In the case that the Commissioner upholds the contestation in full, he shall order the ASA to refund the deposit paid by the contesting party.
- vi. The decision must be in writing and signed by the Commissioner.
- vii. It shall be the duty of all parties concerned to enquire with the General Secretary as to the outcome of the case, and in default they shall be deemed to have been notified with a copy of the decision.
- viii. All decisions taken by any Disciplinary or Adjudicating Bodies will be published on the ASA website.

DC09 APPEALS

An appeal from a decision of the Commissioner shall lie with the Board of Appeal in terms of the Board of Appeal (Terms of Reference & Procedure), irrespective of whether the report was contested or not. Only the entities listed in DC02(i) and directly involved in the report may file such an appeal.

DC10 DEFINITIONS

Unless explicitly negated, the definitions given in DC-A2 also apply to these Terms of Reference and Procedure.

DC11 AMENDMENTS

These Terms of Reference and Procedure may be amended at any time by the Council of the ASA.