Complaints and Disciplinary – Policy and Procedure

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Policy

Members of the Australian Deer Association (ADA) are required to behave lawfully, in the interests of the ADA and in a manner that is not detrimental to the ADA. If a member acts in a way that is detrimental to the interests of the ADA, they may be subject to disciplinary action under section 8 of the ADA Constitution September 2018 (the Constitution).

Guiding principles

The principles of procedural fairness guide the actions of the ADA in dealing with complaints and disciplinary matters.

In the context of hearing complaints, there is an obligation on the ADA to act without bias and to afford affected members a fair hearing. Under the Constitution, the essential elements of a fair hearing are:

- Giving the accused member the opportunity to be heard or to make a written submission
- Providing the accused member with the details of the allegation against them at least one month before the board meeting at which the matter will be determined
- If there is an adverse finding, affording the accused member a right of appeal for 14 days after the determination has been communicated to them

It is desirable to handle complaints against an accused member(s) via a structured informal resolution process where it is feasible to do so.

Definitions

'Allegations' includes complaints

'Accused member' means the member against who an allegation is made.

'Child' is a person under the age of 17 years unless subject to a statutory order that continues in force until they are 18.

'In-camera meeting' refers to the deliberations of the disciplinary committee after they have heard all the evidence concerning the allegations against the accused member.

Procedures

Upon receipt of a written complaint, or upon a determination by the Board that an accused member's actions should be subject to a disciplinary procedure, the following steps shall be followed:

1. Preliminary assessment

1A) Referral of complaint/Matter to the disciplinary sub-committee of the ADA board. This committee shall consist of no less than two members of the ADA board.

1B) Disciplinary sub-committee to meet, assess preliminary evidence and determine whether there are reasonable grounds for the accused member to answer the complaint.

1C) If it is determined that there are reasonable grounds, the disciplinary sub-committee will rank the seriousness of the allegations and assess whether it is appropriate to consider the complaint by way of an Informal Resolution Process as outlined in clause 2. If it is determined that there are no reasonable grounds for the complaint against the accused member, the disciplinary sub-committee will advise the Board and any complainants of their decision and file the matter as closed. If the disciplinary sub-committee determines that the matter is suitable to attempt the Informal Resolution Process, they will formally communicate to the accused member and advise the Board and any complainants. If the disciplinary sub-committee determines that the matter is not suitable for the Informal Resolution Process, they will initiate the Formal Disciplinary Process outlined in Clause 3 and communicate that formally with the accused member and advise the Board and any complainants.

2. Informal Resolution Process

2A) If the disciplinary sub-committee (or their delegate(s)) determines that there are reasonable grounds for the member to answer a complaint, pursuant to clause 1B, they can, pursuant to clause 1C, undertake a meeting with the accused member to discuss the complaints and the accused member's responses.

2B) Following that meeting, the disciplinary sub-committee will prepare and provide to the accused member, an informal statement noting:

- The relevant facts of the matter
- The proposed resolution
- The proposed penalty (if any) for the accused member

2C) The accused member will have 14 days to advise the disciplinary sub-committee whether or not they accept the proposed resolution and penalty (if any). If the accused member agrees with the proposed resolution and penalty (if any), the disciplinary sub-committee will advise the Board and any complainants of the resolution and file the matter as closed. If the accused member does not accept the proposed resolution (or does not

respond to reasonable attempts to seek their decision), the matter will proceed to the Formal Disciplinary Process.

3. Formal Disciplinary Process

3A) The disciplinary committee will conduct the Formal Disciplinary Process. The disciplinary committee will:

- Consist of not less than three persons who are financial members of the ADA
- Act with a complete delegation of authority from the Board of the ADA; and
- Make decisions that are binding on the Board of the ADA

3B) A member subject to a Formal Disciplinary Process will be given 14 days notice, in writing, outlining:

- The particulars of the allegations against them (Conduct detrimental to the interests of the Australian Deer Association)
- A copy of this policy and procedure document
- A copy of the Constitution
- Any evidence which will be used in the Board's (including its delegates) consideration of the allegation(s), including complaints and any submissions from the disciplinary sub-committee
- Details of the date, time and venue where the disciplinary hearing will take place (including online meetings)
- Names of the members comprising the disciplinary committee.
- An invitation to make submissions, including a reasonable deadline for written submission and an opportunity to make an oral submission if desired

3C) A disciplinary hearing shall take the following format

- Introductions and welcome (if the Chair of the ADA is not present, a hearing member will act as the Chair and identify themselves as such)
- If present, the accused member will be introduced and allowed to make an oral submission (within the scope as detailed in paragraph 4 below). Members hearing the complaint will have the opportunity to ask clarifying questions of the member subject to the complaint. They should limit their questioning to the allegations made against the accused. The honesty and innocence of the accused member are presumed and the onus is on complainants to prove any complaints.
- The members hearing the complaint to conduct an 'in-camera meeting' to reach a consensus on the following:
    - The facts of the allegation (is it proven?)
    - The severity of the conduct or omission (see matrix at paragraph 9, below)
    - The penalty (see paragraph 9, below)
- Advise the accused member (if present in person with confirmation in writing) in writing of the decision and the options for appeal.

4. Scope of written and oral submissions

4A) Any written and oral submissions should be directly relevant to the complaints and conduct in question. After consideration, parts of submissions deemed irrelevant by the disciplinary committee may be discarded at their absolute discretion.

5. Support person

5A) It is expected that members will speak for themselves in this process. Owing to disability or impairment, a member may apply to the disciplinary committee to have another person act on their behalf in exceptional circumstances.

5B) Any member subject to these processes is entitled to be accompanied by a support person. The support person is not generally permitted to speak or be heard in a disciplinary hearing but can assist a member by passing notes and providing information.

6. Disciplinary committee

6A) Any member of the disciplinary sub-committee or disciplinary committee who believes that they may be biased about the matter before them is to excuse themselves from the committee.

6B) If a committee member, or the member(s) subject of the complaint, has a reasonable basis to believe that a committee member hearing the complaint may be biased, they may apply to the ADA board to have the member excused from the committee.

6C) Where a committee member is removed from the committee, the ADA board shall nominate another appropriate person to take the vacant position on the committee.

7. Not a legal or judicial process

7A) The ADA disciplinary processes are not judicial or legal.

7B) Any criminal allegations made to the Board will be referred back to the complainant with advice to refer them to the appropriate authorities.

7C) If any complaints or internal processes cause any office-bearer of the ADA to form a reasonable belief that a child has suffered or is likely to suffer significant harm as a result of physical injury or sexual abuse, and, the child's parents or guardians have not protected or are unlikely to protect the child from harm of that type the same will be reported to the appropriate authorities as soon as is practicable.

7D) If any internal processes uncover direct evidence of behaviour of a criminal nature, the Board reserves all rights to refer them to the appropriate authorities without notice.

8. Matrix of severity and penalties

This matrix is indicative. Any eventual penalties that may be applied will depend on the circumstances surrounding the conduct or complaint.

Type of misconduct	First incident	Repeated incidents
Mild misconduct. The accused member accepts fault and apologises.	No penalty	Written warning
Mild misconduct. The accused member does not accept fault.	Written warning	Written warning
Moderate misconduct. The accused member accepts fault and apologises.	Written warning (except in the case of further instances of behaviour for which a warning has been given – in that case short suspension)	Short term suspension (of no more than 26 weeks).
Moderate misconduct. The accused member does not accept fault.	Short term suspension	Medium – long term suspension
Serious misconduct. The accused member accepts fault and apologises.	Medium – long term suspension	Expulsion
Serious misconduct. The accused member does not accept fault.	Expulsion	Expulsion

General examples of misconduct include but are not limited to, bringing the ADA into disrepute, racism, sexism and discrimination. Examples of general 'types' of misconduct for the purposes of this matrix are given below. It should be noted that each individual matter will be decided on its own facts and these categorisations are for illustrative purposes only.

Examples of mild misconduct include:

Disruptive behaviour at ADA meetings, events etc.; disparaging ADA on social media or in any other way; General misconduct at branch events (e.g. excessive intoxication, swearing etc.).

Examples of moderate misconduct include:

Continuation of behaviour for which the member has received a written warning; Disparaging another member personally; 'low level' firearm safety breaches, providing assistance to or advancing the interests of competing bodies.

Examples of serious misconduct include:

Any form of criminal behaviour; any physical confrontation; any misconduct involving minors; serious firearm safety breaches; animal cruelty; game offences.

9. Legal advice

9A) The ADA disciplinary processes are not judicial or legal.

9B) Whilst accused members are free to seek external advice about complaints or processes at their own expense and discretion, there is no allowance for those members to be represented by a legal practitioner at any disciplinary hearing or meeting with the disciplinary sub-committee or disciplinary committee. The ADA will not entertain any claims for costs incurred by a member subject to this policy.

9C) All correspondence relating to disciplinary matters will be between the Association and the accused member. There is no allowance for the accused member to correspond with the Association via an intermediary, including a legal practitioner.

10. If a member resigns or declines to renew their membership whilst the resolution processes are still in action

10A) If a member resigns or declines to renew their membership whilst the resolution processes are still underway, the ADA may decide to proceed to consider the matter based on the information at hand at that time, and the member (or ex member) will be given an opportunity to participate but is not obliged to do so

10B) If the outcome of that process is expulsion or suspension, that will be applied to the members record on the membership database and will be taken into account should they re-apply for membership. Any suspension period imposed as a penalty will commence immediately and not when the member re-applies for membership.

11. Respect for process and confidentiality

11A) All members participating in the disciplinary process are asked to commit to the following principles

- Respect for each other – Submissions are to be made respectfully and to avoid reflections or statements of a personal nature.
- Respect for confidentiality – Members should limit discussion of the processes as much as possible to protect all members' confidentiality. However, there is no binding nature of privacy (except for Board discussions), so members should be cognisant of the reality that complaints and statements could be distributed more broadly than to the intended audience.

12. Anonymous complaints and hearsay

12A) The Board will not generally consider any complaints made anonymously or based on hearsay. Exceptions can be made at the discretion of the Board.