



# **GRIEVANCE POLICY**

**FORM 256**

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## British Skydiving Consolidated Disciplinary and Grievance Procedures

Effective from 31 January 2019

### Introduction

This document sets out the Grievance Procedure under Part A and the Disciplinary Procedure under Part B.

For the avoidance of any doubt, the Disciplinary and Grievance Procedures are two separate procedures but share the same point of commencement.

### Preliminary Steps

The Compliance Officer is the primary complaint handler and first point of contact regarding any grievances and/or disciplinary matters.

All complaints must be made in writing and submitted to both the Compliance Officer<sup>1</sup> and the Secretary-General. The Secretary-General will notify the Committee Secretary who provides administrative support to the Chair of the British Skydiving Committee whose activities are most closely related to the nature of a disciplinary complaint (the "**Relevant Committee**"). Therefore, they must be notified of the complaint too.

If the Compliance Officer is the subject matter of the complaint or if they are absent, their duties under the relevant procedure shall be undertaken by an appropriate alternative person ("**AAP**").

- a) Grievance Procedure – the AAP is the Secretary-General and/or Chief Operating Officer. Unless qualified otherwise, any reference to the Compliance Officer under the Grievance Procedure is a reference to the Secretary General or the Chief Operating Officer (as appropriate).
- b) Disciplinary Procedure – the AAP is the Chair of the Relevant Committee or their appropriate substitute as set out therein. Unless qualified otherwise, any reference to the Compliance Officer under the Disciplinary Procedure is a reference to the Chair of the Relevant Committee and their appropriate substitute.

The Compliance Officer or AAP will acknowledge receipt of the complaint within 2 clear days from the date of receipt.

As soon as reasonably practicable, and in any event within 5 clear days of the date of the complaint, the Compliance Officer or AAP will assess the nature of the complaint and inform the complainant of the most appropriate procedure (disciplinary or grievance) that will be followed ("**Notice of Allocation**").

The appropriate procedure (disciplinary or grievance) will be commenced within 5 clear days of the date of Notice of Allocation.

For further details, please refer to the relevant procedure set out in Parts A and B.

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<sup>1</sup> The Compliance Officer is a member of staff employed by the British Skydiving. If you are unsure as whom the Compliance Officer is, please contact British Skydiving HQ for their contact details.

# **PART A - THE GRIEVANCE PROCEDURE**

## **CONTENT**

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<b>1. ABOUT THIS PROCEDURE</b>	<b>3</b>
<b>2. INTERPRETATION</b>	<b>3</b>
<b>3. RAISING AND PURSUING A GRIEVANCE</b>	<b>4</b>
<b>4. INVESTIGATIONS</b>	<b>5</b>
<b>5. INFORMAL MEETING</b>	<b>5</b>
<b>6. FORMAL MEETING</b>	<b>5</b>
<b>7. APPEAL</b>	<b>6</b>
<b>8. ATTENDANCE AND REPRESENTATION AT GRIEVANCE MEETINGS</b>	<b>7</b>
<b>9. DISPUTE RESOLUTION</b>	<b>7</b>
<b>10. RECORD KEEPING AND DATA PROTECTION</b>	<b>7</b>

## 1. ABOUT THIS PROCEDURE

- 1.1. This Part explains the British Skydiving grievance procedure (the “**Grievance Procedure**”). It is British Skydiving’s policy to ensure that any individual or British Skydiving Affiliated Parachute Training Organisation (“**Affiliated PTOs**”) or British Skydiving Registered Display Team who may have a complaint or feel that they have been unfairly treated by a British Skydiving Member<sup>2</sup>, or by British Skydiving itself, have access to a procedure to help deal with those grievances fairly and without unreasonable delay.
- 1.2. British Skydiving aims to investigate any grievance raised, hold a meeting to discuss it with the complainant and the person(s) concerned (the “**Parties**”), inform the Parties in writing of the outcome, and give the Parties a right of appeal if they are not satisfied.
- 1.3. The Grievance Procedure provides you with information on how grievances should be brought to the attention of British Skydiving, the process that will take place when a grievance is raised, the timescales in which British Skydiving will endeavour to deal with the grievance and what will happen if it cannot be resolved. The Grievance Procedure applies to all members of British Skydiving.
- 1.4. Information arising from the Grievance Procedure will be treated confidentially and shared on a need to know basis, unless there is an agreement between the Parties to do otherwise.
- 1.5. Where an individual who is raising a grievance or is the subject of a grievance case is under the age of 18 years, it is obligatory that the parents or legal guardians of that child must be informed and that the individual is accompanied during any meeting or appeal.
- 1.6. British Skydiving reserves the right to amend the Grievance Procedure at any time without notice. You should always refer to the latest version of the Procedure, available on the British Skydiving website, for the most up to date terms. The rules in this Grievance Procedure supersede any previous versions. However, they are intended to supplement and assist in the operation of existing constitutions. They are not intended to replace or override the relevant procedures existing in the constitutions of Affiliated PTOs or similar organisations or other governing bodies.
- 1.7. This Grievance Procedure should not be used to handle complaints of a disciplinary nature. British Skydiving has a disciplinary procedure (set out in Part B of Form 282) a copy of which can be found on the British Skydiving website. If you are unsure about the nature of your complaint, the Compliance Officer can give you further guidance and has the discretion to transfer the complaint to the disciplinary process.
- 1.8. If you have difficulty at any stage of the Grievance Procedure because of a disability or because English is not your first language, you should discuss the situation with the Compliance Officer as soon as possible.

## 2. INTERPRETATION

- 2.1. Any reference to gender includes all genders, any reference to the singular includes the plural (and vice versa), and references to persons include bodies corporate, unincorporated associations and partnerships (whether or not any of them have a separate legal personality).
- 2.2. Headings and sub-headings are inserted for convenience only and do not affect the construction of the Grievance Procedure.

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<sup>2</sup> A ‘Member’ is defined in section 112 of the Companies Act 2006 and detailed under ‘Membership’ in the British Parachute Associations’ (British Skydiving’s) Articles of Association

- 2.3. All references below to paragraph numbers refer to the paragraphs in this document unless otherwise stated.
- 2.4. A period of time expressed as a number of days, months or year refers to “calendar” days, months and year unless otherwise stated. Any reference to “working days” refers to a normal working day in England, i.e. Monday to Friday, excluding public holidays. Time limits are not imposed strictly but it is advised that they are adhered to in order to ensure that complaints are dealt with fairly and without unreasonable delay.
- 2.5. If the Compliance Officer is the subject matter of the complaint or if they are absent, their duties under the Grievance Procedure shall be undertaken by the Secretary- General and/or Chief Operating Officer.
- 2.6. If the Chair of the British Skydiving Council or the Vice Chair of Council is the subject matter of the complaint, their duties under the Grievance Procedure shall be undertaken by another suitably qualified person i.e. Chair/Vice Chair of a relevant committee and/or a British Skydiving Vice President. For the avoidance of any doubts, a suitably qualified person must not have been directly or indirectly involved in any previous investigation or Panel that preceded it and shall not be directly or indirectly connected with the specific complaint nor have any interest whatsoever in such complaint.

### 3. RAISING AND PURSUING A GRIEVANCE

- 3.1. The complainant should put their grievance in writing and submit it to the Compliance Officer and the Secretary-General, indicating clearly that it is a formal grievance.
- 3.2. The written grievance should contain a brief description of the nature of the complaint, including any relevant facts, dates, and names of individuals involved. In some situations, the Compliance Officer may ask the complainant to provide further information.
- 3.3. After completion of the Preliminary Steps and allocating the complaint to the Grievance Procedure, the Compliance Officer shall carefully consider the most appropriate method of dealing with the complaint which may include any of the following actions:
- a. Investigate the matter further;
  - b. Dismiss the complaint as vexatious and/or spurious<sup>3</sup>;
  - c. Discuss and resolve the complaint with the parties involved without holding a meeting;
  - d. Conduct an informal reconciliation meeting between the parties to resolve the complaint;
  - e. Form a panel of three, which shall consist of at least one independent British Skydiving director or a Vice President, one British Skydiving Council or Committee member (including any volunteers) and one subject matter expert if necessary (“**the Panel**”) (all panel members must be independent of the dispute and cannot be employed or contracted by British Skydiving to consider the complaint at a formal meeting); or
  - f. Refer the matter to another authority deemed more appropriate in practice or in law to handle it, including, but not limited to, the police for criminal matters.
- 3.4. Within two days of completion of the step at paragraph 3.3 above, the Compliance Officer shall inform the complainant of the action(s) they intend to take.

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<sup>3</sup> For the avoidance of any doubts; (i) vexatious complaints are those made repeatedly, despite being unsuccessful based on any rational and objective assessment, and (ii) spurious complaints include, but are not limited to, disingenuous allegations.

- 3.5. Whatever the course of action, the Compliance Officer shall aim to conclude the matter within 28 days of receiving the complaint and notify the person(s) concerned of the outcome in writing as soon as practicable. For the avoidance of any doubts:
- (1) the extension of this time period is at the discretion of the Compliance Officer, taking into account the nature and complexity of each case; and
  - (2) where a Party refuses to co-operate with the resolution process or causes unreasonable delay, the Compliance Officer has the power to conclude the matter within a reasonable time as he or she sees fit.

#### **4. INVESTIGATIONS**

- 4.1. It may be necessary for the Compliance Officer to carry out an investigation into the grievance before taking further action(s). The amount of any investigation required will depend on the nature of the complaints and will vary from case to case. It may involve interviewing and taking statements from the Parties and any witnesses, and/or reviewing relevant documents.
- 4.2. The Compliance Officer may initiate an investigation before holding an informal meeting where they consider this appropriate. In other cases, they may hold an informal meeting before deciding what investigation (if any) to carry out. In those cases, the Compliance Officer may hold a further informal meeting after their investigation and before they reach a decision.

#### **5. INFORMAL MEETING**

- 5.1. Most grievances can be resolved quickly and informally through discussions. If appropriate and agreed by the Parties, the Compliance Officer shall facilitate an informal meeting as soon as practicable and convenient. This may help to clarify any misunderstandings or help identify the issues in dispute and may serve to resolve the issues or at least narrow them down before a formal meeting is convened.
- 5.2. The Compliance Officer should advise the terms of the informal meeting (paragraph 8 Attendance and Representation at Grievance Meetings defines who may attend) and the conduct of the meeting.
- 5.3. The outcome of this stage is not binding but may be referred to in any subsequent meeting or appeal hearing, as may any failure or refusal to participate in such meetings.

#### **6. FORMAL MEETING**

- 6.1. Where the grievance cannot be dealt with informally, the Compliance Officer shall convene the Panel within seven days of the decision to proceed to a formal meeting.
- 6.2. The Panel may conduct its own investigation and in any event within seven days of convening, it shall give at least 14 days' notice to the Parties of time, date and venue of the formal meeting.
- 6.3. The Panel shall have full discretion as to the terms of the meeting subject to the provisions in this document, the principles of natural justice and any relevant provisions of the Human Rights Act 1998. The Panel must give a fair and independent hearing to both sides of the dispute within an appropriate and agreed timescale.
- 6.4. If either party chooses not to attend the formal meeting, the Panel, has the right to proceed with the hearing based on written submissions.

- 6.5. The outcome of the meeting together with sufficient reason to explain the Panel's conclusion(s) must be communicated to both Parties within 14 days of the meeting.
- 6.6. If the outcome or resolution of the meeting is unacceptable to either Party, they have the right to appeal. However, the Party who chose not to attend the formal meeting without good reason does not have the right to appeal<sup>4</sup>.

## 7. APPEAL

- 7.1. If either Party wishes to appeal against the outcome of the formal meeting, they should set out the grounds on which they wish to appeal in writing. This letter should be sent to the Chair of the British Skydiving Council/Vice Chair of Council within 14 days of the outcome of the formal meeting.
- 7.2. The Chair of the British Skydiving Council/Vice Chair of Council decides whether an appeal should be heard or not.
- 7.3. An appeal should be granted where there is a "strong arguable case" that either:
  - a. Relevant information was ignored or not considered by the original panel;
  - b. The process was tainted by unreasonable bias or conflict of interests;
  - c. The provisions of the procedure were not adhered to;
  - d. The original panel exceeded its jurisdiction; or
  - e. The findings of the original panel were irrational or otherwise exhibited an error of general law.
- 7.4. The Chair of the British Skydiving Council/Vice Chair of Council must appoint an independent appeal panel to consider the appeal, none of whom have had any prior involvement in the matter (the "**Appeal Panel**"). The Appeal Panel should be constituted along the same principles as the formal meeting panel outlined above at paragraph 3.3.(e).
- 7.5. The chair of the Appeal Panel should convene a hearing of the appeals panel in a timely manner and provide at least 14 days' notice in writing to the Parties of the time, date and venue at which the appeal would be heard.
- 7.6. The chair of the Appeal Panel, in consultation with the other panel members, will decide the conduct of the proceedings, subject to the provisions in this document, the principles of natural justice and any relevant provisions of the Human Rights Act 1998. If appropriate they may request written submissions and the Appeal Panel may or may not require the Parties to attend.
- 7.7. If either Party seeks to rely upon any additional documentary evidence, they must ensure that this is provided to the Appeal Panel at least seven days before the hearing.
- 7.8. With the agreement of the Parties the hearing will be audio recorded.
- 7.9. The outcome of the meeting together with sufficient reason to explain the Appeal Panel's conclusion(s) must be communicated to both Parties within 14 days of the hearing.
- 7.10. The outcome of the appeal will be final. This is the end of the procedure and there is no further appeal.

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<sup>4</sup> This is to avoid escalating cases when they could be dealt with earlier.

## **8. ATTENDANCE AND REPRESENTATION AT GRIEVANCE MEETINGS**

- 8.1. The Parties may bring a companion to any formal grievance meeting or appeal hearing under this procedure. The companion may be either a British Skydiving Member or a legally qualified person. The Compliance Officer may, at their discretion, allow the Parties to bring a companion who is not a British Skydiving Member or a legally qualified person (for example, a family member) if this will help overcome a disability or other difficulties.
- 8.2. The Parties must tell the Compliance Officer who their chosen companion is, in good time before the formal meeting or appeal hearing.
- 8.3. The Parties and their companion (if any) should make every effort to attend grievance meetings/hearing. Alternatively, they may submit written evidence and submissions to the Panel/Appeal Panel. They should do so within 14 days from the date of notice of the formal meeting or appeal hearing.
- 8.4. At the formal meeting or appeal hearing, the companion may make representations and ask questions, but should not answer questions on behalf of the Parties. The Parties may talk privately with them at any time during the formal meeting or appeal hearing.
- 8.5. In the event of the non-attendance of the Parties or their representative at any meeting convened to consider the grievance or appeal, the grievance or appeal will be considered in their absence.

## **9. DISPUTE RESOLUTION**

- 9.1. Subject to paragraph 9.2, if either Party is not satisfied with a decision of the Appeal Panel, they may refer the matter to an independent dispute resolution through Sport Resolutions UK.
- 9.2. Matters that seriously impact safety of the sport and the proper exercise of British Skydiving's functions are excluded and cannot be referred to an independent dispute resolution.
- 9.3. In referring a case to Sport Resolutions UK, the Parties shall share the cost of independent dispute resolution and shall be responsible for the costs of preparing and presenting their own case.
- 9.4. Where recourse to dispute resolution is necessary, the Parties shall seek to agree an appropriate method of resolution, considering alternatives including mediation, informal advisory arbitration, and formal binding arbitration. The appropriate method of resolution will usually be the lowest cost method considered by the Parties taking into account the seriousness of the grievance. Where no agreement can be reached on the most appropriate method of resolution, full British Skydiving Council shall nominate the method to be used.
- 9.5. Representation by the Parties at any dispute resolution meeting convened by Sport Resolutions UK shall be under the standard rules and procedures of that body unless otherwise mutually agreed by both Parties.

## **10. RECORD KEEPING AND DATA PROTECTION**

- 10.1. All personal data held in connection with a grievance matter will be held in accordance with British Skydiving's Data Protection Policy and GDPR.
- 10.2. A list of historic decisions, not older than 6 years, will be maintained as precedent in order to promote equal treatment and consistency throughout the sport of skydiving in the United Kingdom.



- 10.3. The decisions will only be disclosed to third parties upon request and with the permission of the Parties or in an anonymous and/or redacted form so as to protect personal details.

# **PART B – THE DISCIPLINARY PROCEDURE**

## **CONTENT**

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<b>1. SCOPE</b>	<b>10</b>
<b>2 INTERPRETATION</b>	<b>10</b>
<b>3 CONFIDENTIALITY</b>	<b>11</b>
<b>4 COMMENCEMENT OF PROCEEDINGS</b>	<b>11</b>
<b>4 FATALITIES</b>	<b>12</b>
<b>5 INVESTIGATION &amp; DISPOSAL BY A PANEL OF INQUIRY</b>	<b>13</b>
<b>6 DISCIPLINARY TRIBUNAL</b>	<b>13</b>
<b>7 APPEAL TRIBUNAL</b>	<b>17</b>
<b>8 CONDUCT OF THE TRIBUNAL PROCEEDINGS</b>	<b>18</b>
<b>9 RECORD KEEPING AND DATA PROTECTION</b>	<b>19</b>
<b>APPENDIX A - DISCIPLINARY TRIBUNAL HEARING - FORM OF RESPONSE</b>	<b>20</b>

## 1. SCOPE

- 1.1 The disciplinary regulations set out in this Part (the "**Regulations**") are made pursuant to the powers of the British Skydiving to act as the governing body for skydiving in the United Kingdom as stated in its Articles of Association. To be eligible to participate in any event or activity organised or authorised by or held under the rules of British Skydiving, wherever held, a person must comply with these Regulations.
- 1.2 British Skydiving shall within its jurisdiction make, maintain and enforce rules relating to its policies, regulations, codes and practices. The Regulations set out in this Part are the means by which British Skydiving exercises its disciplinary authority relating to the conduct of all Members (as defined in section 112 of the Companies Act 2006 and as detailed under 'Membership' in the British Parachute Association Articles of Association). A Member subject to a disciplinary complaint or proceeding is hereinafter referred to as the "**Respondent**".
- 1.3 British Skydiving is an employer and any grievance or disciplinary matters concerning its employees, whether full time or part time, shall be dealt with under separate procedures as covered in its Staff Handbook, unless the issue of concern is clearly one that involves an employee's relevant voluntary activity in non-contractual time, which will be dealt with under these Regulations.
- 1.4 The purpose of these Regulations is to ensure justice in disciplinary proceedings and to provide a framework which satisfies the requirements of natural justice, namely; fair, clear and transparent procedures and consistent in their application. The Regulations also aim to inform Members about their rights and set out a robust method of dealing with disciplinary complaints without unreasonable delay.
- 1.5 The laws of England and Wales apply to the Regulations.
- 1.6 The Regulations may be amended under the authority of the Council (Board of Directors) of British Skydiving at any time without notice and at its sole discretion and such amendments shall be effective from the date stated. Members should refer to the latest version of the Regulations for the most up to date terms. The rules in this document supersede any previous versions.

## 2 INTERPRETATION

- 2.1 Any reference to gender includes all genders, any reference to the singular includes the plural (and vice versa), and references to persons include bodies corporate, unincorporated associations and partnerships (whether or not any of them have a separate legal personality).
- 2.2 Headings and sub-headings are inserted for convenience only and do not affect the construction of the Regulations.
- 2.3 All references below to paragraph numbers refer to the paragraphs in this Part unless otherwise stated.
- 2.4 A period of time expressed as a number of days, months or year refers to "**calendar**" days, months and year unless otherwise stated. Any reference to "**working days**" in the Regulations refers to a normal working day in England, i.e. Monday to Friday, excluding public holidays. Extension of time limits is discretionary in special circumstances.
- 2.5 If any part of the Regulations is held invalid, unenforceable or illegal for any reason, they shall remain in force apart from that part, which shall be treated as if it has been deleted to the extent to which it is invalid, unenforceable or illegal.

- 2.6 If the Compliance Officer is the subject matter of the complaint or if they are absent, their duties under these Regulations shall be undertaken by the Chair of a relevant committee or their substitute as necessary.
- 2.9 If the Chair of a relevant committee, the Chair of the British Skydiving Council or the Vice Chair of Council is the subject matter of a disciplinary complaint, their duties under these Regulations shall be undertaken by another suitably qualified person i.e. Vice Chair of the relevant committee.

### 3 CONFIDENTIALITY

- 3.1 Subject to paragraph 3.2 and other than in the case of a public hearing requested by the Respondent, all proceedings whether formal or informal shall be confidential, and other than in any official British Skydiving minutes, no information as to the identity of any party to the proceedings shall be disclosed or made public without the prior consent of that party.
- 3.2 British Skydiving may at any time during the investigation or disciplinary process notify any other relevant body of any details relating to the complaint as such body may need to know for ensuring safety and the proper exercise of its functions including but not limited to Members.

### 4 COMMENCEMENT OF PROCEEDINGS

- 4.1 British Skydiving may take disciplinary action against any Member who, inter alia:
- (i) is in breach of the British Skydiving's rules;
  - (ii) brings the sport of skydiving into disrepute;
  - (iii) brings British Skydiving into disrepute;
  - (iv) otherwise acts in a manner incompatible with any stated aims and objectives of British Skydiving.
- 4.2 Any allegation of an offence having been committed under 4.1 (the "**Allegation**") shall be communicated in writing ("**Notice of Allegation**") as soon as practicable and in any event not later than 3 months from the date of the incident or the date of the complainant's knowledge of the incident, whichever is later.
- 4.3 The Notice of Allegation must be sent to both the Compliance Officer and the Secretary General. The Secretary General provides administrative support to the Chair of the British Skydiving Committee whose activities are most closely related to the nature of the allegation (the "**Relevant Committee**"). Therefore, he or she must be notified of the Allegation too. British Skydiving's committees are subject to change from time to time, but a list of current committees can be found on the British Skydiving website.
- 4.4 On receipt of the Notice of Allegation, the Compliance Officer shall:
- (1) acknowledge receipt of the Allegation in writing within 2 days of receipt of the Notice of Allegation;
  - (2) set out the details of the allegation in a letter to the Respondent within 21 days of receipt of the Notice of Allegation and if appropriate, invite the Respondent to comment within 14 days; and
  - (3) undertake any investigation he or she sees fit in order to ascertain the best course of action to resolve the Allegation or commence disciplinary action.

- 4.5 Upon completion of the steps set out in Regulation 4.4 and any further investigation undertaken by the Compliance Officer, he or she shall take any of the following steps:
- (i) decide that no further action is required and will notify the Respondent and the complainant in writing;
  - (ii) reject the Allegation because it does not fall within the authority of British Skydiving, and if appropriate refer it to another relevant body;
  - (iii) dismiss the Allegation on the grounds that there is not sufficient evidence to warrant further action being taken and notify the Respondent and the complainant in writing;
  - (iv) refer the Allegation to another authority deemed more appropriate in practice or in law to handle it, including, but not limited to, the police for criminal matters. If there is a possible or actual breach of the law, then the investigation by British Skydiving may be suspended;
  - (v) dismiss the Allegation on the grounds that it is vexatious or malicious and notify the Respondent and the complainant in writing;
  - (vi) on the agreement of the complainant and the Respondent, deal with the Allegation through mediation, administered by the Compliance Officer and/or Chief Operating Officer and/or Safety and Technical Officer. Mediation shall be the preferred course of action where the Allegation is not serious enough to warrant full disciplinary proceedings or is one that has arisen from a wider dispute between the complainant and the Respondent. If such mediation does not resolve the matter, then the Compliance Officer may consider other options as set out in Regulation 4.5.
  - (vii) deal with the Allegation informally by way of advice or information because it is not serious enough to warrant full disciplinary proceedings;
  - (viii) refer the Allegation to a Panel of Inquiry (the "**Panel**") to investigate further and make recommendations in accordance with the rules under Regulation 5;
  - (ix) refer the Allegation to a Disciplinary Tribunal (the "**Tribunal**") to hear the matter in accordance with the rules under Regulation 6.
- 4.6 Where deemed appropriate, the Compliance Officer may consult with Chair of the Relevant Committee, the Chief Operating Officer and/or Safety and Technical Officer to determine the most appropriate course of action but he or she must subsequently inform the Respondent of the identity of those consulted.
- 4.7 As soon as is practicable, the Compliance Officer shall inform the complainant and the Respondent and any interested party or parties of the course of action taken.
- 4.8 In the event that a complainant withdraws an Allegation, British Skydiving retains the right at its absolute discretion to take any action deemed appropriate against the Respondent under the Regulations.
- 4 FATALITIES**
- 4.9 In the event of a skydiving fatality a Board of Inquiry will be convened by the Chief Operating Officer and / or Safety and Technical Officer.
- 4.10 The Board of Inquiry will consist of a minimum of two persons who shall be any of the Chief Operating Officer, Safety and Technical Officer, Chair of the Safety and Training Committee, or any British Skydiving Instructor Examiner nominated by them.

- 4.11 Following the investigation by the Board of Inquiry, a Panel will be automatically convened unless the Board of Inquiry recommends otherwise. The Board of Inquiry may comment on potential failings or breaches of British Skydiving's rules and/or policies but it does not make recommendations on disciplinary actions or sanctions.

## **5 INVESTIGATION & DISPOSAL BY A PANEL OF INQUIRY**

- 5.1 A Panel convened under 4.5 (viii) or 4.11 above, shall comprise a minimum of three persons who shall be suitably qualified and appointed by the Compliance Officer. In making the appointments, the Compliance Officer must pay due regard to the impartiality of the Panel members and members of the Panel should not have been members of the Board.
- 5.2 If necessary due to the nature of the Allegation (such as for matters concerning safety procedures), all members of the Panel will be Advanced Instructors / Instructor Examiners but in any event one member must be a current voting member of the Relevant Committee and one other member must have held an Advanced Instructor rating within the previous five years. One member will be appointed as the Chair of the Panel.
- 5.3 The Panel will conduct its own investigation to decide whether a disciplinary charge should be brought and makes recommendations accordingly. The Panel will be briefed by the information available to the Compliance Officer (if convened under 4.5 (viii)) or the Board of Inquiry's full report (if convened under 4.11) or both if applicable.
- 5.4 The Panel shall make a decision concerning the appropriate course of action and report their findings to directly to the Respondent (if any) and Compliance Officer as soon as practicable and in any event within 6 months from the date it was convened.
- 5.5 In its findings, the Panel may:
- (i) decide no further action is necessary as there is no case to answer; or
  - (ii) make such recommendations as it sees fit including any remedial or disciplinary actions be taken; or
  - (iii) refer the Allegation to the Tribunal.
- 5.6 The Respondent shall have 10 days from the date of receipt of the Panel's report, to accept or reject the recommendations (made under rule 5.5(ii)) in writing. Where disciplinary action(s) is recommended, such action(s) shall be taken by the Panel unless the Respondent has filed a rejection within the 10-day period and thereby elected a hearing before the Tribunal. The Panel shall inform the Compliance Officer of the Respondent's response and/or conclusion of the matter.

## **6 DISCIPLINARY TRIBUNAL**

### Preliminaries

- 6.1 If the Allegation is referred to a Tribunal, the Compliance Officer may, at his or her discretion, suspend the Respondent's eligibility to participate in some or all of the activities as referred to in paragraph 1.1 above.
- 6.2 On the Allegation being referred to a Tribunal, the Compliance Officer shall serve a Notice of Complaint ("**Notice**") on the Respondent within 14 days of the referral.
- 6.3 Service shall be affected by a copy of the Notice being handed to the Respondent personally or by it being sent by registered post to the address of the Respondent as it appears on British Skydiving's current mailing list.

- 6.4 A Notice shall include the following information:
- (1) the full name and address of the Respondent;
  - (2) the full name and correspondence address of British Skydiving;
  - (3) full details of the disciplinary charges, including:
    - a. which rule or rules have been breached;
    - b. when, where and how they are alleged to have been breached;
    - c. full particulars of any evidence relied upon to include:
      - i. the names of any witnesses;
      - ii. copies of any witness statements;
      - iii. copies of any expert or other written reports; and
      - iv. copies of any relevant photographs and and/or video/audio.
  - (4) a notice of suspension, if appropriate;
  - (5) a copy of the disciplinary procedure (these Regulations);
  - (6) a Form of Response ("**Form**") (attached to these Regulations as "**Annex A**");
  - (7) advice that the Respondent may wish to seek legal advice and may be represented at any hearing.

6.5 The Respondent shall within 21 days of receipt of the Notice, complete and return the Form to the Compliance Officer.

6.6 In the Form the Respondent may:

- (i) deny the complaint; or
- (ii) admit the complaint either in full or in part.

If the Respondent denies the complaint, he or she shall give full details of why the complaint is denied and what matters are in dispute.

If the Respondent admits the complaint, he or she may give details of any mitigating features they wish to bring to the Tribunal's attention.

The Respondent shall also be required to state:

- (1) whether they will attend the hearing; and
- (2) whether they intend to be represented and if so, by whom.

6.7 Upon receipt of the Form and not less than 28 days after service of the Notice the Compliance Officer shall arrange for the holding of a Tribunal.

#### Composition of the Tribunal

6.8 The hearing shall take place before a Tribunal comprising three persons appointed by the British Skydiving. The three persons shall be:

- (1) a member of the British Skydiving Council nominated by the Vice Chair of Council;
- (2) a subject matter expert, not being a member of the Relevant Committee if possible, nominated by the Vice Chair of Council; and

- (3) a person who is not a member of British Skydiving but who shall be a member of some other UK sporting body or association nominated by the British Skydiving Secretary General.

The three members of the Tribunal must not have been directly or indirectly involved in any previous investigation or Panel that preceded it and shall not be directly or indirectly connected with the specific complaint nor have any interest whatsoever in such complaint.

- 6.9 The Respondent shall be given not less than 28 days' notice in writing of the date, time and venue for the hearing. The notice shall contain the full names of the Tribunal members. The Respondent and the Compliance Officer shall be asked whether they object to any Tribunal members and, if so, on what grounds. The Chair of the British Skydiving Council considers any such objections and if upheld, recommends a new panel member be appointed under 6.8 (1-3) above.
- 6.10 A Notice served under paragraph 6.9 shall inform the Respondent that he or she:
  - (1) may attend the hearing in person;
  - (2) may be represented by a third party, including, if they so wish, by a legal representative;
  - (3) shall have the right to give and call evidence and to address the Tribunal; and
  - (4) may make written representations which shall be considered by the Tribunal if they do not intend to attend the hearing.
- 6.11 If not already done at the time of service of the Notice, a paginated and indexed bundle containing the evidence to be relied upon at the Tribunal should be provided to the Respondent not less than 7 working days before the hearing. Not less than 3 working days before the hearing, the Respondent shall inform British Skydiving of the names of witnesses who are not required to give evidence but whose statements may be read.

#### The Tribunal Procedure

- 6.12 Any hearing before the Tribunal shall be conducted in private unless the Respondent requests a public hearing.
- 6.13 If the Respondent attends the hearing either in person or by representation, the Tribunal shall:
  - (1) hear the evidence relied upon in support of the allegation;
  - (2) allow the Respondent or their representative the opportunity to ask questions of the witnesses and test the evidence;
  - (3) allow the Respondent or their representative the opportunity to give and call evidence in support of their case; and
  - (4) allow the Respondent or their representative to make a closing statement.
- 6.14 If the Respondent declines or fails to attend the hearing or be represented the Tribunal may proceed to hear the evidence in support of the allegation and shall take into account any written representations that the Respondent has submitted.
- 6.15 The Tribunal shall have the power to adjourn the hearing at any time and for such period and reason, as it considers appropriate and reasonable.



- 6.16 Any decision of the Tribunal shall be by a majority. The standard of proof required shall be such that the Tribunal is satisfied beyond reasonable doubt that the complaint has been established.
- 6.17 Having considered all of the evidence, the Tribunal may:
- (i) dismiss the disciplinary charge; or
  - (ii) find the disciplinary charge proven.
- 6.18 Following the conclusion of the hearing, the Tribunal may:
- (i) announce its decision and any sanction to be imposed on the date of the hearing and if possible, provide a summary of its findings; or
  - (ii) defer judgment to a later date.

In either event the Tribunal shall inform the Respondent and the Compliance Officer of its decision and findings in writing within 21 days of the conclusion of the hearing.

- 6.19 If the Respondent is found to have committed a disciplinary offence, the Tribunal may exercise its discretion to discharge the Respondent without sanctions whilst having regard to both the circumstances of the offence and any mitigation advanced by or on behalf of the Respondent.
- 6.20 Where the Tribunal decides that disciplinary sanction is appropriate, it may impose one or a combination of the following sanctions:
- (i) admonish the Respondent by way a warning or reprimand in respect of the misconduct or breach of a rule committed;
  - (ii) impose a financial penalty;
  - (iii) suspend the Respondent from membership of British Skydiving and/or from eligibility to participate in activities as referred to in paragraph 1.1 above for such period as it considers appropriate and reasonable (exceptionally which may be up to and including a lifetime period); and
  - (iv) require the Respondent to undertake training or be subject to a period of monitoring or mentoring.

The decision taken by the Tribunal in relation to the sanction to be imposed shall be reasonable and proportionate in all circumstances.

- 6.21 If the offence was committed during a sporting event, the Tribunal may at its discretion further disqualify the Respondent and his or her team from the event and the results of the event shall be amended accordingly. The Respondent shall not thereafter be entitled to any reward, title or record to which they would have been entitled by virtue of their participation at the event or any subsequent event.
- 6.22 In the event of the imposition of a financial penalty the Respondent shall be given a minimum of 28 days or such other longer period as the Tribunal considers appropriate to satisfy the penalty, after which they shall be suspended from membership of British Skydiving until the sum is paid.
- 6.23 The Tribunal may, at its discretion, make such award for costs either against or in favour of the Respondent as it considers appropriate. Where costs are awarded against the

Respondent, they shall be given a minimum of 28 days or such other longer period as the Tribunal considers appropriate to pay the costs, after which they shall be suspended from membership of British Skydiving until the sum is paid. While legal costs will not normally be awarded, in exceptional circumstances the Tribunal has the discretion to order a contribution up to a maximum of £500 towards such costs.

- 6.24 Where an appeal is lodged, the period for payment of such fine or costs as set out in 6.22 or 6.23 above will be suspended until the matter is resolved by British Skydiving. Where such appeal is unsuccessful, the Respondent will have 28 days from the final decision of the Appeal Tribunal or such other longer period as British Skydiving considers appropriate to pay the fine or costs specified by the Tribunal in its original decision.

## 7 APPEAL TRIBUNAL

- 7.1 A Respondent or the Compliance Officer (the “**Appellant**”) has the right to seek leave to appeal the decision of the Tribunal (the “**Decision**”).

- 7.2 Leave to appeal can only be sought against a Decision on one or more of the following grounds:

- A. the Decision was based on error of fact or could not have been reasonably reached by a Disciplinary Tribunal when faced with the evidence before it;
- B. serious procedural or other irregularity in the proceedings before the Tribunal;
- C. significant and relevant new evidence has become available which was not available before the conclusion of the Tribunal hearing but, had it been available, may have caused the Tribunal to reach a materially difference decision; and/or
- D. the sanction imposed was manifestly unreasonable in the light of the facts before the Tribunal.

- 7.3 A written Notice of Appeal must be submitted by the Appellant and received by British Skydiving within 21 days from the decision being announced or, if the decision was delivered in writing, 21 days from having been received by the Appellant. In exceptional cases (for example where fresh evidence has been discovered after the expiry of 21 days) the 21-day period may be extended at the discretion of the British Skydiving Council.

- 7.4 The Notice of Appeal shall:

- (1) state the date and decision of the Tribunal against which the appeal is lodged;
- (2) state the grounds of appeal relied upon in accordance with Regulation 7.2; and
- (3) set out the statement of facts upon which the appeal is based, specifying whether the appeal is against finding and sanction or just sanction alone and include any supporting documentation upon which the Appellant will rely.

- 7.5 Upon receipt of the Notice of Appeal, an Appeal Tribunal shall be convened to primarily consider whether the grounds for appeal are made out and if so, grant leave for the appeal to be determined under the Regulations. An appeal hearing shall be conducted by way of a re-hearing.

- 7.6 The Appeal Tribunal shall comprise three persons to be appointed by the British Skydiving Secretary General being:

- (1) a legally qualified person who is a practising Barrister or Solicitor, who shall act as its Chair;

- (2) a subject matter expert, not being a member of the Relevant Committee if possible; and
- (3) a person who is not a member of British Skydiving but who is a member of some other UK sporting body or association.

All members of the Appeal Tribunal shall be selected at random by the British Skydiving Secretary General from a list of individuals with suitable qualities and standing who have volunteered to sit on British Skydiving Appeals Tribunals. The Appeal Tribunal shall not include any person who sat on the Panel or the original Tribunal.

- 7.7 The Appellant shall be given not less than 21 days' notice in writing of the date, time and location of the appeal hearing and the full names of the persons intended to sit as the Tribunal.
- 7.8 The Appellant shall have the same rights of objection to the Tribunal members as contained in paragraph 6.9 above.
- 7.9 Further, the Respondent shall have the same rights of appearance, representation and conduct of the case (the right to hear, test and call evidence) as appear at paragraphs 6.10 and 6.13 above.
- 7.10 The appeal hearing shall be conducted in private unless the Respondent requests a public hearing.
- 7.11 The Appeal Tribunal shall have the power to adjourn the hearing at any time and for such period and reason, as it considers appropriate and reasonable.
- 7.12 Any decision of the Appeal Tribunal shall be by a majority.
- 7.13 The Appeal Tribunal shall have the power to vary any decision or sanction under appeal.
- 7.14 The Appeal Tribunal may, at its discretion, make such award for costs, either for or against the Respondent, as it considers appropriate. Legal costs will not normally be awarded, apart from in exceptional circumstances whereby the Appeal Tribunal has the discretion to order a contribution towards legal costs up to a maximum of £500.
- 7.15 Any decision of the Appeal Tribunal shall be final and binding upon both British Skydiving and the Respondent and no further right of appeal shall lie to any other tribunal without the consent of both parties.
- 7.16 The Appeal Tribunal will inform all the parties of its decision and findings in writing within 21 days of the conclusion of the hearing.

## **8 CONDUCT OF THE TRIBUNAL PROCEEDINGS**

- 8.1 Subject to the above provisions, the rules of natural justice and the provision of the Human Rights Act 1998, Disciplinary and Appeal Tribunals convened under these rules shall have the power to regulate the conduct of their own proceedings.
- 8.2 Any deviation from these Regulations by a Tribunal shall not invalidate any finding, procedure or decision unless that deviation raises material doubt as to the reliability of the finding, procedure or decision. <sup>[11]</sup><sub>[SEP]</sub>

## **9 RECORD KEEPING AND DATA PROTECTION**

- 9.1 All personal data held in connection with a disciplinary matter will be held in accordance with British Skydiving's Data Protection Policy and GDPR.
- 9.2 A list of historic decisions, not older than 6 years, will be maintained as precedent in order to promote equal treatment and consistency throughout the sport of skydiving in the United Kingdom.
- 9.3 The decisions will be disclosed to third parties upon request, but sensitive personal details may be anonymised or redacted in accordance with GDPR.

**British Skydiving**

**Disciplinary Tribunal Hearing – Form of Response**

I, [ ] acknowledge receipt of a Notice of Complaint dated [ ] together with the following documentation:

[The details of documents sent with the Notice of Complaint would be listed here]

I wish to deny the complaint for the reasons set out below.

I wish to admit the complaint or admit it in part as set out below.

Please use the following space and overleaf if necessary, to set out brief details of why the complaint is denied and if admitted in part what part is admitted, what remains in dispute and why. If the complaint is admitted please set out any explanation or mitigation you wish to bring to the Tribunal's attention.

Please note that you are entitled to attend the Tribunal and speak on your own behalf or have someone represent and speak for you (whether legally qualified or not). Please indicate

- (1) whether you will attend the hearing; and
- (2) whether you intend to be represented and if so, by whom.

Signed..... Dated.....