

# CURUFC Participation and Complaints Policy

## 1. Context

1.1 As stated in the CURUFC (Club) General Code of Conduct there is no place for any form of discrimination, harassment, victimisation or sexual misconduct at CURUFC. Such behaviour is contrary to the values and ideals of our shared community, subverts our core values and diminishes the dignity and integrity of all parties.

1.2 The aims of the Participation Policy are to:

- Support and sustain a positive (thriving) environment for all participants (staff, players, volunteers, spectators), free from any form of inappropriate or unacceptable behaviour;
- Make it clear that discrimination and harassment are unacceptable and that all members of the CURUFC community have a role to play in creating a thriving environment for everyone, free from discrimination and harassment;
- Provide a framework for respect and good conduct to prevent and eliminate all forms of bullying and harassment, including racial and sexual harassment and sexual misconduct;
- Highlight the options available to participants who feel they are or have been subject to bullying, harassment, racial discrimination, sexual misconduct, or any other inappropriate or unacceptable behaviour;
- Provide a mechanism by which complaints can, wherever possible, be addressed in a timely way;
- Set out the responsibilities for managing and supporting participants when concerns are raised under the Participation Policy.

1.3 The Club expects all participants to follow the General Code of Conduct and to treat each other with respect, courtesy and consideration at all times. All members of the Club community have a **personal responsibility** for complying with this Policy and Procedure and demonstrate active commitment to it by:

- Treating others with dignity and respect.
- Discouraging any form of discrimination and harassment by suitably challenging inappropriate behaviour, making it clear that such behaviour is unacceptable (and raising concerns with managers where appropriate so these can be dealt with).
- Supporting any member of the Club who feels they have been subject to discrimination and / or harassment, including supporting them to make a formal complaint if appropriate
- Those in Senior positions having particular responsibility for setting standards and ensuring appropriate workplace behaviours are maintained. They should set a good example and ensure concerns raised are acted upon.

1.4 The Participation Policy does not form part of and is not intended to vary the contract of employment of any worker's contract. It may be amended from time to time, as necessary.

1.5 CURUFC recognises the Cambridge University Dignity at Work Policy.

## 2. Eligibility

2.1 The principles of the Participation Policy apply to all players, members, supporters and staff. This list is not exhaustive.

2.2 If a member of staff wishes to raise a complaint, they may do so by using either the staff Grievance Procedures or the Participation Policy Complaints Procedure, depending on which is more appropriate given the nature of their complaint and the scope of the Participation Policy. Both routes provide fair and comprehensive grievance procedures and both provide channels of appeal in the event that the individual is not satisfied with the outcome.

## 3. Statement of Policy

3.1 CURUFC is dedicated to creating and maintaining a safe, welcoming, inclusive and diverse community which nurtures a healthy environment and culture of mutual respect and consideration, allowing all members

of the CURUFC Community to thrive without fear of harassment, racial discrimination, bullying, sexual violence, abuse, coercive behaviour, sexual harassment or related misconduct.

3.2 The Participation Policy details this commitment and explains what actions can be taken if its principles are not observed. CURUFC encourages individuals and those with positions of responsibility to make every effort to resolve problems informally in the first instance as this is often the most effective method of dealing with unacceptable behaviour, although it is recognised this may not always be appropriate.

3.3 CURUFC defines harassment as single or repeated incidents involving unwanted or unwarranted conduct towards another person which it is reasonable to think would have the effect of (i) violating that other's dignity or (ii) creating an intimidating, hostile, degrading, humiliating, or offensive environment for that person. Harassment may be verbal, psychological, or physical, in person or via a virtual platform, or through other methods of contact. Examples of behaviour which may amount to harassment under this Policy include (but are not limited to) the following:

- making sexually offensive comments about dress or appearance, the display or distribution of sexually explicit material, or demands for sexual favours;
- engaging in harassment on the grounds of a person's sexuality (or assumptions about a person's sexuality) including making derogatory homophobic, transphobic, or biphobic remarks or jokes aimed at a particular person, offensive comments relating to a person's sexuality, refusal to acknowledge a person's gender or identity, or threats to disclose a person's sexuality to others;
- making offensive references to a person's race, ethnicity, skin colour, religion or nationality, dress, culture, background or customs which have the effect of ridiculing or undermining an individual or fostering hatred and/or prejudice towards individuals or particular groups;
- ignoring, disparaging, or ridiculing a person because of assumptions about their capabilities, or making offensive reference to an individual's appearance which may or may not be in the context of their disability;
- controlling or coercive behaviour, such as pressure to subscribe to a particular political or religious belief.

Online harassment may take the form of intimidating, offensive, or graphic posts or threats on social media sites or chat rooms, or communications by email, text, or instant messaging.

Sexual misconduct includes the following, whether or not within a sexual or intimate relationship, including where consent to some form of sexual activity has been given and then withdrawn, or if consent has been given on previous occasions:

- sexual intercourse or engaging in a sexual act without consent;
- attempting to engage in sexual intercourse or engaging in a sexual act without consent;
- sharing private sexual materials of another person without consent;
- kissing without consent;
- touching inappropriately through clothes without consent;
- inappropriately showing sexual organs to another person;
- repeatedly following another person without good reason;
- making unwanted remarks of a sexual nature.

3.4 ***When a criminal offence may have been committed, the Participation Procedure may not be appropriate.*** These cases include, but are not be limited to, serious assault or threat of serious assault. Participants may wish to seek advice from the Executive Secretary and/or approach the Police directly.

3.5 UK discrimination law provides specific protection against discrimination, harassment and victimisation on a variety of grounds. CURUFC takes its responsibilities in these areas very seriously.

3.6 The 'Pathway for taking up issues' gives direction as to whom to go to for advice and support.

# Complaints Procedure

## 1.1 General Principles

At any stage of the procedure, those involved in attempting a resolution or in investigating a complaint must act in accordance with good practice and certain principles:

### 1.1.1 Natural justice

Any person against whom a complaint has been made has the right to know the nature and sufficient details of the complaint in order to respond. It is important that no decision is taken until the complaint has been investigated and the person against whom the complaint has been made has had the opportunity to respond.

### 1.1.2 Representation

Both the complainant and the person against whom the complaint has been made may be accompanied to meetings and supported by a trade union representative or a work colleague.

### 1.1.3 Confidentiality

In order to safeguard individuals, confidentiality must be very strictly respected and information limited to those who have a need to know (and only to the extent necessary) for the purposes of the operation of these procedures and for maintenance of good order in the Club. The Club reserves the right to seek advice from or involve appropriate external authorities if it believes that it is under an obligation to do so. Any breach of confidentiality may result in disciplinary action being instigated.

### 1.1.4 Support

During and following the conclusion of a report and investigation it is important that support is given by the Institution to both parties and, if appropriate, other participants at the club to try and resume a working relationship.

### 1.1.5 Timescales

A complainant should make a complaint in a timely fashion (normally immediately after the incident or at the latest within three months of the most recent incident or occurrence of the behaviour). If there is good reason, this timeframe could be extended for example where a complainant does not feel able to make a complaint without initial support or counselling. Once a complaint is made it must be investigated promptly. While it is important that an investigation is thorough, a long-drawn out investigation is not in the interest of either party. However, there may be cases in which the investigation of a complaint is unavoidably delayed. In these circumstances every effort will be made to keep all parties informed of progress.

### 1.1.6 Conflict of interest

A conflict of interest can be defined as a set of circumstances that creates a risk that professional judgement or actions regarding one interest will be unduly influenced by another interest. Within the Club, a formal investigation will not normally be undertaken or an appeal heard by someone in the same area as the individual/s concerned. Concerns over conflicts of interest will be decided on a case-by-case basis.

### 1.1.7 Records

A note will be taken at meetings and will be sent to those present. Notes will not be verbatim but should nevertheless be accurate. The person interviewed will have an opportunity to comment on his/her notes. The Club and all those involved in this process must observe the data protection principles.

### 1.1.8 Malicious or vexatious complaints

A complaint may be considered to be malicious or vexatious if it is made in bad faith, if deliberately false allegations are made as a form of bullying against another club participant, or where there are a series of frivolous and clearly unfounded allegations.

## 2.2 Initial action

2.2.1 In the first instance, unacceptable behaviour should be dealt with informally, where appropriate, as this is often the most effective method for resolving issues raised under the Participation Policy. The document 'Pathway for taking up issues' gives direction as to whom to go to for advice and support. If informal action has been unsuccessful or if the alleged behaviour is deemed by a member of the designated Committee member (*see note in Policy 3.6*) to be sufficiently serious, it may warrant an immediate formal investigation.

2.2.2 The appropriate Committee Member should make every effort to protect the rights of both parties and make it clear that at this stage the complaint has not been substantiated and no decision has been taken as to culpability.

2.2.3 Participants who feel that they have been or are being subjected to unacceptable behaviour, or are accused of unacceptable behaviour, are advised to seek advice and support.

2.2.4 Participants can obtain advice from those suggested on the document 'Pathway for taking up issues'.

2.2.5 If requested, the Executive Secretary will be able to meet and discuss the matter confidentially with the complainant and/or the person against whom the complaint has been made, explain the CURUFC procedures and agree the best approach to try and resolve the problem so that a constructive way of working together can be agreed. They may also be able to provide further support to resolve the matter informally (for instance facilitating a meeting between the parties).

2.2.6 Participants may also wish to discuss the matter confidentially with a colleague. Additionally, a member of staff may wish to seek support from a trade union representative.

2.2.7 The University's *Equality & Diversity* webpages:

<http://www.equality.admin.cam.ac.uk/training/equalities-law/key-principles> explain some of the principal concepts underpinning UK equalities law.

### **2.3 Informal direct approach**

2.3.1 A participant who feels that s/he is being subjected to inappropriate or unacceptable behaviour, for example bullying, discrimination or harassment, should if possible approach the other party informally, in a constructive manner, at the earliest opportunity, explain that they perceive their behaviour to be unacceptable and that they would like them to alter this. The approach may be made in person or in writing. The participant should give specific examples of the unwanted behaviour, and explain why this has made them feel uncomfortable. In many cases this may resolve the issue without any further action being taken and it may be possible to agree a constructive way of working in the future.

2.3.2 The complainant may seek support in formulating what s/he wants to say, either in writing or verbally to the other person, from a number of sources including the Executive Secretary and designated committee members listed on the document 'Pathway for taking up issues'.

### **2.4 Informal approach with support**

2.4.1 The complainant may be unable or reluctant to approach the other party on their own. If so, the complainant may obtain advice or ask for support from a colleague, the Executive Secretary and designated committee members to ask for help in achieving an informal resolution of the problem.

2.4.2 The individual from whom help has been requested may meet separately with the complainant and the person about whom the complaint has been made to discuss the situation. This person will establish the circumstances, the impact that the complainant considers the situation has had on him/her, any steps already taken to address it, and the response of the person about whom the complaint has been made. The complainant is encouraged to keep a record of any examples of the unacceptable behaviour that can support their complaint during the course of these discussions.

2.4.3 The individual from whom help has been requested will then seek to agree a course of action with the complainant. Wherever possible, resolution will be sought through informal means. This will usually involve a meeting between the complainant and the person about whom the complaint has been made. The spirit of such a meeting should not be one of accusation, but of attempting to raise awareness, increase understanding of and demonstrate why distress may have occurred as well as exploring how such incidents might be avoided in the future. If a successful resolution is achieved, the individual from whom help has been

requested may keep a confidential record and inform Executive Secretary if s/he considers this appropriate. The complainant and person complained about will be advised of such an eventuality.

## **2.5 Formal Participation Policy complaint's procedure**

2.5.1 If the situation is not resolved by the informal process or the matter is particularly serious, the complainant may decide to make a formal complaint to the Executive Secretary (or other designated Committee members). If the Executive Secretary is the subject of the complaint, or has/ is thought to have a conflict of interest, then the complaint should be addressed to the Executive Chairman or the President, who will appoint an Executive Committee or Board member to carry out the duties of the Executive Secretary outlined in the rest of this Procedure.

2.5.2 The Executive Secretary or designated person will generally instigate a formal investigation. However, if they consider at this stage that an informal resolution may still be feasible and appropriate, s/he will discuss this option with the complainant. There may be circumstances in which a complainant is not willing, or able, to make a formal complaint but where the Executive Secretary or designated person considers that the implications for the complainant or others actually or potentially affected are so serious as to warrant an investigation being taken forward. In this case the Executive Secretary or designated person may initiate a formal investigation, or informally look into the matter, and make a decision on further action on the basis of such evidence as is available.

2.5.3 The formal procedure incorporates a number of possible routes and outcomes. This is necessary in order to balance the rights and needs of both parties. The intention is to facilitate a non-confrontational approach to resolution, while ensuring that there is a clear formal route should it be necessary.

## **2.6 Formal written complaint**

2.6.1 A formal complaint should be in writing in a timely fashion (normally immediately after the incident or at the latest within three months of the most recent incident or occurrence of the behaviour). If there is good reason, this timeframe could be extended for example where a complainant does not feel able to make a complaint without initial support or counselling. Complaints should contain enough detail to allow an investigation to be initiated. The written complaint should include the following information:

- Details of any informal resolution that has been attempted;
- Any evidence supporting the allegations made, e.g. emails;
- Names of any participants who may be approached to provide evidence of the alleged unacceptable behaviour.

2.6.2 The complaint should be addressed to the Executive Secretary.

2.6.3 The complainant may seek the support of a trade union representative or a colleague in preparing the formal complaint. On receiving the formal complaint, the Executive Secretary may arrange a meeting with the complainant to clarify the grounds of the complaint and how the complainant thinks it should be solved, and explain what will happen next. If, following the meeting, it is considered appropriate; an investigation will be initiated by appointing an independent investigator (see section 2.8 of the Procedure).

2.6.4 The Executive Secretary will also meet with the person against whom the complaint has been made and will provide him/her with a copy of the complaint. The Executive Secretary will explain that an investigation into the allegations will be carried out, which will include an interview with the person against whom the complaint has been made and any relevant witnesses, and consideration of any evidence that may be presented.

2.6.5 The person against whom the complaint has been made may also seek the support of a trade union representative or a colleague.

2.6.6 There may be circumstances in which an aggrieved party is not willing, or able, to make a formal complaint but the Executive Secretary considers that the implications for the aggrieved person or others

actually or potentially affected are serious. This may include cases where other parties, but not the aggrieved party, have made a complaint. In this case, the Executive Secretary will consult other Committee members, and may initiate an investigation and make a decision on further action on the basis of such evidence as is available.

## **2.7 Right to be accompanied to meetings**

2.7.1 Both the complainant and the person against whom the complaint has been made may be accompanied to any meeting by a companion, who should be either a trade union representative or a colleague. The companion will be required to maintain appropriate confidentiality.

5.7.2 The companion will be allowed to address the meeting, to put and sum up the participant's case, respond on behalf of them to any views expressed at the meeting and confer with the participant during the meeting. The companion does not, however, have the right to answer questions on the participant's behalf, address the hearing if the participant does not wish it or prevent the club from explaining their case.

## **2.8 Investigation**

2.8.1 The investigation should not be carried out by the person who will assess and decide the outcome. Normally the investigator will be drawn from a panel of senior committee members who have been briefed appropriately.

2.8.3 The investigator will normally be appointed within 5 working days of receipt of the complaint. A note of any meeting will normally be made by the Executive Secretary. Arrangements for the investigation will normally commence within three working days of the appointment of the investigator and the investigation should be concluded as soon as is reasonably practicable. It is recommended that up to 5 working days' notice is given to attend an investigation meeting. The Executive Secretary will agree with the parties at the beginning of the process the appropriate method and timing of regular updates during the case.

## **2.9 Investigatory process**

2.9.1 The investigator will meet with the complainant in order to confirm the details of the complaint. The investigator will also, where reasonably practicable, request witness statements from and/or interview any relevant witnesses nominated by the complainant if they feel it is appropriate.

2.9.2 The investigator will meet the person against whom the complaint has been made to hear his/her response to the complaint.

2.9.3 The investigator will also, where reasonably practicable, request witness statements from and/or interview any relevant individuals nominated by the person against whom the complaint has been made.

2.9.4 The investigator will normally be supported at the investigatory meetings by the Executive Secretary who will take a note of each meeting.

2.9.5 Any person interviewed during the investigation will be sent a copy of the note of the meeting and asked if they agree it is a factually accurate note of their interview. Any factual comments must be received by the investigator within 5 working days of the interviewee receiving the meeting notes. Where there is disagreement as to the contents of the note, both versions will be sent to the Executive Chairman.

2.9.6 The two parties to the complaint will receive copies of all relevant documents which may include interview notes, written statements or other evidence. At the conclusion of the investigation, the investigator will write a report for the Executive Chairman, detailing the facts as established and saying whether, in their opinion, there is a case to answer. It will then be the responsibility of the Chairman, with the support of the Executive Secretary, to decide what action to take.

2.9.7 In carrying out the investigation, the investigator will need to ensure that the rights of both parties to fair treatment are observed. The principles of natural justice require that any person against whom the complaint has been made has the right to know the nature and details of the complaint, and to respond to the

complaint. In some exceptional circumstances, however, names/identities may be kept confidential and not disclosed to a party. If any party or a witness has any concerns about details or identity being disclosed, s/he should notify the investigator (giving full reasons, and evidence where possible, for his/her concerns) and the investigator will discuss the matter with the Executive Secretary.

2.9.8 The time scale of the investigation may vary according to the particular complaint but should always be completed as quickly as practicable.

## **2.10 Action by the Executive Chairman**

2.10.1 Once the Executive Chairman has reviewed the report, s/he will invite the complainant and the person about whom the complaint has been made to individual meetings if appropriate.

2.10.2 The Executive Chairman will send both the complainant and the person about whom the complaint has been made, a copy of the report and any other relevant documents in advance of the meetings.

2.10.3 During their separate meetings the complainant and the person about whom the complaint has been made will have the opportunity to discuss the report with the Executive Chairman.

2.10.4 Following the meetings and having carefully considered the investigation report, the accompanying paperwork and any comments on the report provided by the complainant and the person complained about, the Executive Chairman will decide what action s/he may take to resolve the issue.

2.10.5 The Executive Chairman will give both parties written confirmation of the outcome of the process as soon as is reasonably possible.

## **2.11 Action where there is no case to answer**

2.11.1 In the light of the findings of the investigation, the Executive Chairman will decide what action is appropriate.

2.11.2 If the investigator's report concludes that there is no case to answer and the Executive Chairman supports this view, the case will be closed, although steps may need to be taken to restore reasonable working relationships between the parties.

2.11.3 If the Executive Chairman concludes that there is no case to answer, and no further action is taken, no documentation regarding the complaint will be put on the personnel file of either the complainant or the person about whom the complaint has been made.

5.11.4 If the complainant does not accept the outcome, they may appeal (see section 6 below).

5.11.5 If the Executive Chairman has grounds to believe, or on considering the investigator's report, finds that the complaint was malicious or vexatious, s/he may instigate disciplinary action against the complainant, in consultation with the Executive Secretary. No disciplinary action will be taken against a complainant where a complaint is mistaken or otherwise ill-founded but not malicious or vexatious.

## **2.12 Action where there is a case to answer**

2.12.1 If the Executive Chairman decides to uphold the complaint, s/he may, as appropriate:

- Instigate disciplinary action under the relevant procedure against the person against whom the complaint has been made in consultation with the Executive Secretary.
- Initiate steps to attempt a resolution of the issues. If a successful resolution is achieved the case will be closed, but the situation will be monitored by the Executive Chairman or his deputy for an appropriate period.

2.12.2 Should action be taken against a party as a result of an investigation, the Executive Chairman, while respecting confidentiality, will inform the other party of the fact that appropriate action has been taken.

2.12.3 In all cases the Executive Chairman, in consultation with the Executive Secretary and will ensure the participants are kept up to date with progress and provided with any further information that has been agreed by both parties to be shared.

### **3. Appeal process**

#### **3.1 Appeal application**

Should a participant wish to appeal against the outcome of a formal Participation complaints procedure, he/she must appeal in writing to the Executive Secretary within 10 working days of the receipt of the outcome letter, setting out the grounds of appeal and stating whether the appeal is in respect of the whole or in respect of any specified part of any finding of fact or decision. In the proceedings of the appeal the member will not be entitled, except with leave of the Appeal Committee (see 3.2 of the Procedure, below), to rely on any grounds of appeal not specified in their written appeal.

#### **3.2 Appeal Committee**

The Executive Secretary will appoint an Appeal Committee to hear the appeal, consisting of a Chair and two senior members of staff. The Appeal Committee should have no conflict of interest in the appeal, be unbiased, and have the appropriate qualifications and experience to be able to evaluate the issues under investigation. An HR representative will take on the role of Secretary to the Committee and another HR representative may attend the meeting to take notes. The Appeal Committee will meet within 10 working days of its establishment to hear the appeal, or as soon as is reasonably practicable thereafter.

#### **3.3 Appeal Procedure**

The appeal procedure will generally be as follows:

- The appellant and the Executive Chairman (or such other person as was originally appointed to conduct the Participation Policy Complaints procedure) are encouraged to make representations in writing.
- The appeal will be determined following an oral hearing. The appellant and the Executive Chairman will be entitled to make a statement and to address the Appeal Committee. The appellant may bring a colleague or trade union representative with him/her to the appeal hearing.
- The investigator and the witnesses may be asked to attend the appeal hearing by the Appeal Committee if the committee has any questions they wish to ask them.
- The Chair may set time-limits for each stage of the proceedings, including the Hearing itself, to the intent that any appeal will be heard and determined as expeditiously as is reasonably practicable.
- Following the hearing of the appeal, the Appeal Committee will consider the facts of the case and may uphold or dismiss an appeal, in whole or in part.
- The decision of the Appeal Committee will be notified to the appellant in writing and recorded in a document signed by the Chair, giving the reasons for this decision within 7 working days or as soon as reasonably practicable.
- A copy of the document and letter will be sent to the Executive Secretary, and to the Executive Chairman (or such other person as was originally appointed to conduct the Participation Policy complaints procedure).
- The Appeal Committee may decide to vary the above procedure as it deems appropriate.
- There is no right of appeal against the Appeal Committee's determination of an appeal.

It is anticipated that appeal will be by way of review of the outcome of the formal process. However, in exceptional circumstances the Chair of the Appeal Committee may determine that a rehearing is necessary.