

# UNACCEPTABLE BEHAVIOUR POLICY

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**1 Purpose**

1.1 This Policy applies to the following individuals who shall be referred to as 'Relevant Persons':

1.1.1 Athletes who are selected to British Fencing Progression, Academy and/or Podium Performance Programme which is funded by UK Sport.

1.1.2 Any coach, trainer, manager, team staff, official, nutritionist, medical, paramedical personnel or other person working with, treating, and/or assisting an Athlete ('Athlete Support Personnel') who are either contracted to a Performance Programme (in whatever capacity) or contracted directly by Athletes on a Performance Programme.

1.1.3 Office holders of British Fencing.

1.2 Relevant Persons who bring a complaint about Unacceptable Behaviour ("UAB") shall be referred to as 'Complainants' and Relevant Persons accused of UAB shall be referred to as 'Respondents'.

1.3 Complaints about UAB shall be referred to Sport Integrity, the independent disclosure and investigations process, operated by Sport Resolutions ('SR'). This Policy should be considered in conjunction with the Sport Integrity Service Rules of Procedure (the "Rules of Procedure") and sets out what British Fencing or Home Country Sports Institute ('Relevant Body') considers to be Unacceptable Behaviour ('UAB').

British Fencing is committed to a climate in which all Relevant Persons are treated fairly, with dignity and respect and there is no Unacceptable Behaviour (UAB).

UAB (as further set out in Sections [5,6 and 7]) includes, without limitation:

1.3.1 bullying; and/or

1.3.2 harassment; and/or

1.3.3 abuse; and/or

1.3.4 victimisation; and/or

1.3.5 any unlawful conduct based on race, colour, sexual orientation, nationality, ethnic origin, religion, belief, disability, age, gender or gender reassignment, trade union membership, pregnancy or maternity or marital or civil partnership status [or any other criteria unrelated to sporting performance] ('Protected Characteristics').

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- 1.4 This policy covers all forms of UAB which occur inside and outside work or in training or in the training environment, such as on business trips, at work-related events or social functions or training camps, which is not otherwise dealt with under an employer's internal grievance or disciplinary process. However, any recommended Sanction concerning an employee under this Policy will be referred to the relevant employer for consideration.
- 1.5 UAB is behaviour which British Fencing will not tolerate. Every Relevant Person has the right to be treated fairly, with dignity and respect.
- 1.6 In accordance with the Rules of Procedure, independent investigations and appropriate disciplinary action (which may include dismissal and/or termination of contract), will be taken against any Relevant Person who contravenes this Policy.
- 1.7 Non-compliance with any such investigation and/or disciplinary process will be deemed to be a breach of this Policy which may in appropriate circumstances lead to dismissal, termination of contract or in the case of an Athlete removal from the Performance Programme.
- 1.8 British Fencing will not tolerate retaliation against or victimisation of any individual involved in the bringing of a complaint of UAB (a 'Complaint') under the Rules of Procedure or otherwise. Such retaliation or victimisation will itself constitute a disciplinary offence, which may in appropriate circumstances lead to dismissal, termination of contract or in the case of an Athlete removal from the Performance Programme.
- 1.9 Please be aware that this Policy is subject to change at any time without notice. This procedure does not confer any contractual rights.

## **2** Scope

- 2.1 British Fencing will promote and maintain an environment in which UAB will not be tolerated. All Relevant Persons will be deemed to have agreed that it is their personal responsibility to familiarise themselves with all the requirements of this Policy, including what conduct constitutes a violation of the Policy.
- 2.2 British Fencing and all Relevant Persons agree to submit to the jurisdiction of Sport Integrity. Matters referred to Sport Integrity shall be conducted in accordance with the Rules of Procedure.
- 2.3 All Relevant Persons are to act responsibly with regard to this issue. False accusations of UAB can have a serious effect on innocent people. Therefore, should investigation show that a false accusation has been made knowingly, appropriate disciplinary action, which could include termination of contract, or dismissal or in the case of an Athlete, removal from the Performance Programme, may follow.
- 2.4 This Policy does not substitute a Relevant Person's ability to take independent legal advice in respect of what they consider to be UAB.

### **3 Consequences of Unacceptable Behaviour**

The consequences of UAB can be devastating for individuals and the Relevant Body. It can result in any of the following:

- 3.1 An unpleasant atmosphere which makes it harder to retain trained and experienced individuals and attract new ones.
- 3.2 An increase in sickness and absence.
- 3.3 A reduction in productivity.
- 3.4 Poor morale and unhappy individuals.
- 3.5 Damaged reputations (British Fencing's reputation or the individual's reputation, or both) as well as wasted time and expense.
- 3.6 Legal action.
- 3.7 Individuals can also be sued personally for harassment or other unlawful acts.

Breaching this policy is likely to result in disciplinary action being taken, up to and including summary dismissal for employees; termination of contract for Athlete Support Personnel or removal from the Performance Programme for Athletes

### **4 Principles**

The principles governing the Policy are:

- 4.1 All Relevant Persons treat each other fairly, with dignity and respect.
- 4.2 British Fencing and all Relevant Persons value diversity and differences.
- 4.3 A culture that is fair and inclusive and where people feel able to raise complaints without fear of reprisal.
- 4.4 Acts of discrimination, exclusion, unfair treatment and other negative or demeaning behaviours are not tolerated.
- 4.5 Making full use of the talents of everyone, to help everyone in the organisation be the best they can be.
- 4.6 Treating each other professionally and courteously.
- 4.7 All Relevant Persons are offered equality of opportunity, and advancement on the basis of ability, qualifications, knowledge and skills.
- 4.8 Open and constructive communications.

### 5 What forms may UAB take?

#### 5.1 Bullying

5.1.1 Bullying is offensive, intimidating, malicious or insulting behaviour involving the misuse of power that can make a person or group of people feel vulnerable, upset, humiliated, undermined or threatened. Power does not always mean being in a position of authority but can include both personal strength and the power to coerce through fear or intimidation.

5.1.2 Bullying can take many forms. Examples prohibited by this policy, although the list is not exhaustive, include:

verbal abuse, such as shouting or swearing at others;

threatening or insulting others;

abusing power or using unfair penal sanctions;

practical jokes, initiation ceremonies or birthday rituals;

physical abuse such as hitting, pushing or jostling;

rifling through, hiding or damaging personal property; or

ostracising or excluding people from events or social activities.

5.1.3 Bullying does **not** include justifiable, legitimate, reasonable and constructive criticism of a Relevant Person's performance or behaviour, or reasonable instructions given to Relevant Persons, where appropriate.

5.1.4 It is important to recognise that what one individual may find acceptable, another may find totally unacceptable and that the essence of harassment and bullying is that the words or behaviour are unwelcome to the particular person who is the target of the words or behaviour. All Relevant Persons must treat others with respect and appropriate sensitivity.

#### 5.2 Harassment

5.2.1 Harassment means any physical, verbal or non-verbal behaviour which:

may involve conduct of a sexual nature (sexual harassment); or

may be related to Protected Characteristics.; and

is unwanted and has the purpose or effect of violating a person's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for them. A single incident can amount to harassment; and/or

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treats someone less favourably because they have submitted or refused to submit to such behaviour in the past.

5.2.2 Conduct can be harassment even if it was not intended to violate the recipient's dignity if it has that effect.

5.2.3 Harassment can take many forms. Examples of harassment prohibited by this Policy include, but are not limited to:

verbal abuse or offensive jokes or pranks (which may or may not be related to a Relevant Person's Protected Characteristic); lewd or suggestive comments; requests for sexual favours or other unwelcome sexual advances; and/or

unwelcomed physical contact; threatened or actual assault or violence; and/or

leering, or threatening looks; and/or

deliberate exclusion from conversations or activities whether on the basis of a Protected Characteristic or otherwise; and/or

display of 'pin-ups', pornography, inflammatory or abusive literature or graffiti; and/or

circulating personal and/or sensitive information or images via e-mail or the internet. Using e-mail, text, social media or the internet for the purpose of bullying or making abusive or offensive remarks whether on the basis of a Protected Characteristic or otherwise or to send pornography or inflammatory literature; and/or

threatened or actual sexual or any other physical or verbal assault or abuse; and/or

suggestions or threats that sexual favours, racial origins or any other Protected Characteristic could affect a Relevant Person's job security or prospects; and/or

repeated and unsubstantiated accusations of intentional misrepresentation or abuse of classification.

5.2.4 This is not intended to be an exhaustive list. However, such conduct will almost certainly amount to a disciplinary offence, the expected penalty for which is dismissal for gross misconduct for employees or termination of contract for non-employees. For Athletes, it could mean removal from the Performance Programme.

5.2.5 Employees should be aware that, as well as committing a disciplinary offence, an individual found by an employment tribunal to have harassed

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a fellow employee on the grounds of a Protected Characteristic in the course of their employment, may be personally liable to compensate the victim.

### 5.3 Abuse

5.3.1 Abuse may be of any form that causes, has caused, or could cause harm (including physical, verbal, psychological, emotional and/or sexual abuse).

5.3.2 Examples could include, without limitation:

repeated and excessive verbal assaults or attacks against someone personally in a way that serves no positive training or motivational purpose;

repeated or severe physical aggressive behaviour, including without limitation throwing sports equipment and/or objects at or in the presence of others, punching objects;

isolating or ignoring a Relevant Person for extended periods of time, including without limitation routinely and arbitrarily excluding a Relevant Person from training or treatment;

isolating an Athlete in a confined space or forcing an Athlete to hold a painful stance or position for no performance related purpose;

withholding, recommending against or denying adequate hydration, medical attention or sleep;

providing alcohol to a Relevant Person under the legal age for alcohol consumption.

### 5.4 Inappropriate conduct of a sexual nature

5.4.1 This includes but is not limited to sexual harassment.

5.4.2 Examples of inappropriate conduct of a sexual nature could include, without limitation:

intentional touching of a sexual nature, with an object or a body part by a Relevant Person on another Relevant Person without consent;

engaging in voyeurism without the consent of those being viewed;

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recording or photographing private sexual activity or a Relevant Person's intimate parts without their consent.

### 5.5 Victimisation

5.5.1 This is a form of retaliation.

5.5.2 Victimisation is subjecting or threatening to subject a person to unfair treatment because the person has made, or intends to make, a complaint or lawful disclosure, including under this Policy or relevant discrimination legislation. It also includes such unfair treatment for supporting another person to take such action. For example, isolating someone because they have provided evidence in support of someone making a complaint under this Policy.

### 5.6 Direct discrimination

5.6.1 This occurs when a person or group of people are treated less favourably because of a Protected Characteristic. This can include an individual's perceived Protected Characteristic or one of a close associate.

5.6.2 Examples could include, without limitation not selecting an athlete because:

their parents are a gay couple.

they have young children and it is feared that they might be unreliable.

because they have a paraplegic partner.

they are Muslim and it is feared that person will not "fit in" with an existing team.

the team manager wrongly assumes the athlete is gay, regardless of actual sexual orientation.



### 5.7 Indirect discrimination

5.7.1 This is an act, decision or policy that applies to everyone but adversely affects people with a particular Protected Characteristic more than others and is not justified.

5.7.2 Examples of indirect discrimination are:

a minimum height requirement for a position where height is not relevant to the role would likely discriminate against women disproportionately to men, as women are shorter on average.

a rule that no-one in an NGB can work part-time could constitute indirect discrimination as a higher proportion of women than men may choose to work on a part-time basis to meet caring responsibilities. It may not be justified if the employer's business needs can still be met by more flexible working arrangements.

a requirement that an Athlete Support Personnel must be a "recent graduate" may be indirect age discrimination against older workers. This could only be justified if asking for someone who has recently left university is a proportionate means of achieving a legitimate aim.

a requirement for GCSE English as a selection criterion. This requirement would be harder for people who have been educated overseas to meet and may not be justified if all that is really needed is the ability to demonstrate a reasonable level of literacy. It might also be more difficult for older workers to meet as GCSEs were only introduced in the late 1980s.

Again, these examples are not intended to be an exhaustive list. The types of UAB listed above are likely to result in disciplinary action for employees, termination of contract for non-employees or removal from the Performance Programme for Athletes, as can other forms of UAB that fall short of these definitions or outside of these examples but fail to meet the standards of dignity and respect we expect.

### 6 The Procedure

#### 6.1 Introduction

British Fencing recognises the right of individuals to determine for themselves whether the words or behaviour of others is acceptable to them and to bring a complaint in respect of UAB.

#### 6.2 Informal resolution

6.2.1 Not everything that causes individuals to become upset is UAB and in some circumstances, informal processes and conversations between the Relevant Persons can solve the issue. Where a Relevant Person does not feel that this would be appropriate, they can raise the issue through a formal complaint.

#### 6.3 Formal complaints procedure

6.3.1 In the event that informal resolution of the matter is unsuccessful or considered inappropriate by the Relevant Person in the circumstances, the Relevant Person may make a formal complaint or the Relevant Body may make a referral of the matter in accordance with the Rules of Procedure.

6.3.2 Following the conclusion of the process identified in the Rules of Procedure British Fencing may decide that it is necessary to take formal action (see above). A formal complaint may lead ultimately to the imposition of disciplinary sanctions on the perpetrator up to and including dismissal in accordance with the Disciplinary Policy or termination of contract for a non-employee; or in the case of an Athlete, removal from the Performance Programme.

#### 6.4 Confidentiality and Record Keeping

Confidentiality is an important part of the procedures provided under this Policy and the Rules of Procedure. Details of the investigation and the Complaint and the Respondent must only be disclosed according to need. Breach of confidentiality may give rise to disciplinary action under our Disciplinary Procedure.

Information about a complaint by or about a Relevant Person may be placed on file with Sport Integrity, along with a record of the outcome and of any notes or other documents compiled during the process, in accordance with Rule 8.3 of the Procedural Rules.

**7 Sanctions**

7.1 Sanctions for UAB may include, without limitation, any of the following measures or any combination of such:

- (a) a reprimand or warning;
- (a) verbal or written apology;
- (b) direction to attend counselling or training to address their behaviour;
- (c) suspended sanction and/or good behaviour period;
- (d) removal of accreditation;
- (e) removal or withdrawal of awards or achievements;
- (f) exclusion from a particular event or events, competition, or activity;
- (g) suspension of membership from the Relevant Body and any other member affiliates;
- (h) suspension from such activities or events held by or under the auspices of the Relevant Body;
- (i) suspension and/or termination of any rights, privileges and benefits provided by the Relevant Body;
- (j) expulsion from the Relevant Body;

and

- (k) any other form of discipline that is considered appropriate.

(7.1 (a) to 7.1(k) shall be referred to as the 'Sanction')

7.2 The following factors will be considered when determining the appropriate Sanction:

- (a) the nature and seriousness of the behaviour or incidents;

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- (b) the considerations (if any) of the Complainant;
- (c) the contrition, or lack thereof, of the Respondent;
- (d) any Provisional Measures (as defined in the Rules of Procedure) taken in relation to the Complaint;
- (e) the effect of the Sanction on a Respondent including any personal, professional, or financial consequences;
- (f) if there have been relevant prior warnings or disciplinary action against the Respondent; and
- (g) if there are any mitigating circumstances.

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