2004/2005 AIVC Committee

Code of Conduct and Guidance on Handling Disputes

The research and thinking that led to these documents

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April 2009
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1. Introduction

At the 2004 AIVC Conference there was a lot of anxiety about issues around misconduct in IVCs and how to handle them effectively.

This was thought enough of a problem by some that some were speculating that it might not be possible to continue to run IVCs at all.

The incoming AIVC committee was charged with helping a small number of clubs that had current severe difficulties and with seeing what could be done to make the handling of such issues easier and more effective.

A total of £3,000 was voted for seeking legal advice for specific problems and for seeking general legal advice to find ways of making things better. We did not spend any of it.

At the 2005 AIVC Conference the Code of Conduct and Guidance on Handling Disputes were adopted. Over the next few years these had a dramatic beneficial effect on the number and severity of issues affecting IVCs.

At the time more could have been done to explain why the documents were written the way they were. This information is useful to either validate the original approach or else to allow other ways to be found.

This document is an attempt to set out the research and thinking that went into these documents. I regret that it is so long – I did not have time to write something shorter.

2. The Severe Problem Issue

Those who are lucky enough not to have experienced a serious misconduct issue in an IVC may well be puzzled by all this.

The problem is not so much with low level and minor disagreements or squabbles – these can normally be fairly easily smoothed over or resolved.

The big problem is with large nasty disputes, often of serious alleged misconduct. If differing parties are people who are heavily embedded in IVC, and so unlikely to simply drift off, then you have the potential for a deep and serious club dispute that can quagmire the club and lead to many years of harmful and dangerous disharmony. Not just between the primary parties but also including many other members of the club.

Disputes like this can cripple clubs and can threaten their very existence.
Such serious problems are not amenable to a quick-fix or an “executive decision”. In fact it is easy to make the matter worse by attempting such solutions.

These issues are fortunately rare events. They probably happen no more than once every 10-20 years in any given IVC. With 46 IVCs across the country that still gives a rate of between 2.3 and 4.6 disputes in any year which is not good. Any IVC that has such a dispute go out of control can expect to take years to recover which is quite undesirable.

One of the impacts of this low frequency is that clubs are normally completely unprepared for them when they do happen and find it very hard to cope as a result. There is normally no learnt or remembered experience to help and this makes them all the more damaging and difficult to deal with.

3. Sources

In this research we looked at a document from the Scottish Mountaineering Society giving advice to members clubs on misconduct issues (MCS, 1998). This was very useful but we did not adopt their idea of having a Complaints Officer as we thought that would be a difficult post to fill, would place a lot of burden on one person and present a problem of who would guard against misconduct by the Complaints Officer? We chose instead a Tribunal made up of senior club members and other options explained later.

We looked at documents from ACAS on employment law and recommended practice for handling misconduct and grievances in the workplace. We looked at the terms of the 1997 Protection from Harassment Act.

We had the benefit of a Solicitors letter of advice about an IVCs suggested rule changes in this area. This solicitor specialises in Employment Law, has been trained in the Human Rights Act and at the time was a Deputy District Judge.

The documents we produced went through extensive consultation with all the member clubs of AIVC and were significantly changed as a result of the feedback we got.

4. The Solution

The AIVC Committee came up with a two-pronged solution to the problem.

The first of these was to have a Code of Conduct which would set standards and hence reduce harmful behaviour.
The second was to have a Guidance on Handling Disputes so that when things go wrong, or people think that things have gone wrong, there is an agreed mechanism for dealing with it.

The documents have been reviewed by four lawyers who have done so anonymously. They did this for no fee and it would be unfair to expect them to incur professional liability for what was done as a favour by being named. Their co-operation was begged, borrowed and pleaded for and it would be unrealistic to expect them to continue to give advice for nothing.

The motion at the 2005 Conference was seconded by a qualified Solicitor.

5. Document Principles

We wanted the documents to be as short as they possibly could be. The reason is that long turgid documents do not deliver much value simply because people hardly ever read them. Long documents may only be useful to a clubs rule-hounds.

So brevity equates to an ability to deliver value.

Another thing we wanted was for the documents to be written in an easy accessible style. We didn’t want them to be scary or intimidating documents.

We wanted these documents to help and support IVCs, for them to be something that people could rely on for support and assistance.

We wanted the documents to be practical and realistic.

6. Types of Club Decision

An IVC Committee is charged with the responsibility of running the club on behalf of the members.

From a Corporate Governance point of view there are three kinds of decision that may need to be made in a club.

Administrative or Clerical

These are routine decisions that no-one really cares about unless they are badly wrong. An example would be how many Bulletins to print each month. The members are very happy to allow this sort of decision to be made by the Committee.
Political

These are more complicated decisions which rely on some level of political judgement. These will be harder to make and might involve a lot of, sometimes heated, debate. Although sometimes a Committee would be wise to seek the views of the members or even to hold a General Meeting, normally members are happy to allow the Committee to make these decisions. In many ways the difference between an Administrative and a Political decision is simply how controversial it is.

Judicial

A Judicial decision is in a different class. In order to legitimately find someone either innocent or guilty of an allegation of misconduct the rules of Natural Justice should be adhered to. A common mistake made by clubs is to treat a Judicial decision as being merely a kind of Political or Administrative decision.

Sometimes the line between a Judicial and other decision can be quite fine. For example, a member organises an event and clearly states that deposits are not refundable. Another member books and then has to cancel and is refused a refund of their deposit. If that member applies to the Committee for a refund saying that it should be refunded out of fairness or because they have special circumstances then that is an Administrative decision. It might become a Political decision. If the aggrieved member alleges their deposit has been withheld out of malice or that they have been deliberately treated less favourably than other members then that is an allegation of misconduct.

7. Types of Membership

Being a member of an IVC is not the same as being a member of a local fitness club or a local Video/DVD store.

An IVC member is an owner of the club jointly with all the other members. This means that their rights must be respected. A committee runs a club on behalf of the members, all the members.

It seems fair that IVC members, who own the club, should be treated at least as well as an employee of the club would be entitled to be under the law.

8. Code of Conduct

So as not to be a hectoring document that would attempt to burden the members with obligations the Code of Conduct was written so as to explain to members what standards they could expect and therefore implicitly what standards they should provide.
It was based on reassurance and so provide a positive document that would label IVC as an organisation that cares about standards of behaviour and as an organisation in which people could expect to be treated well.

The aim was to draw a line in the sand and to define IVC as a quality organisation. We want to prevent, suppress and reduce incidents where we can. It is always much easier to keep out of trouble than it is to get out of it once you are in it.

This document has been well received. Line by line details of the thinking behind each section are in Appendix A.

9. **Guidance on Handling Disputes**

This was a much more difficult document to research and to write.

This needs to be obviously fair, to protect all parties and should only need a reasonable amount of effort to carry out. Without this as backup the Code of Conduct would be easily disrespected.

We wanted to protect those that had allegations made against them, those that found it necessary to make allegations and those that carried out the process.

It must be reasonably possible for an allegation to be made and resolved while at the same time not encouraging malicious or frivolous complaints.

Key to this document was the discovery that unless a Club makes decisions on misconduct in ways that adhere to the rules of Natural Justice, then that decision does not have any legal basis.

Quite simply you cannot find someone guilty (or innocent) of misconduct unless you do so in a way that is fair. Fairness means balance and the rights of both the accused and the accuser must be protected in equal measure.

More on the implications of this below.

We determined that what we needed was a mechanism that would allow minor issues to be dealt with in a minor way and would allow for serious issues to be dealt with in a strong enough way to make sure that they could be dealt with effectively.

We saw that dealing with issues in the lightest possible way would make a good outcome more likely as well as keeping thing in proportion and the amount of effort under control.
It seemed to us that a good quality decision was one that most people should be able to accept and that that meant that it was arrived at by a fair process. This led us neatly back to making such decisions in a way that follows the rules of Natural Justice.

We did consider having different methods for dealing with different kinds of issues. For example a simple disagreement as opposed to an allegation of violent misconduct or corruption. This would have meant having a series of tracks and for issues to have to be allocated to tracks and then perhaps re-allocated to a different track later. We thought this just too complex and felt that a single unified process for all complaints, grievances and allegations of misconduct would be best.

This does mean that the ‘heavier’ parts of the procedure are not going to be appropriate for little issues and conversely the lighter parts are not going to be appropriate for some of the more serious issues. Any of the steps can be omitted if everyone is happy so to do. Skipping steps despite opposition from some of the parties is likely to lead to a less satisfactory conclusion.

We saw that promoting harmony within a club as a key responsibility of a Committee. Harmony is more important than getting the ‘right’ decision or in ‘winning’ any argument. In a way no-one wins an argument, everyone loses just by different amounts. The club must come first.

Line by line details of the thinking behind each section are in Appendix B.

10. Detailed Procedures

We deliberately did not attempt to define detailed procedures for how issues should be dealt with. We avoided this for the following reasons.

- It would have been a lot of work
- Different clubs will want to do things in different ways
- We would ended up making sure that there was something in the proposal for everyone to be unhappy with and so prevented it getting adopted.
- We wanted to emphasise the broad principles and not have them getting lost in the detail.

This means that clubs will probably want to define their own detailed procedures for how they will stick to the principles in the Guidance.

To help clubs there are four example documents on the national web site.

- How to make a Complaint (AIVC, 2009a)
• How to Handle a Complaint (AIVC, 2009b)
• How to Hear a Complaint (AIVC, 2009c)
• How to Handle an Appeal (AIVC, 2009d)

11. How to Protect Your Club

To set your club up to be as safe as can reasonably be expected you should adopt the Code of Conduct and the Guidance on Handling Disputes as a matter of urgency if you haven’t already done so.

You can adopt them informally at your next committee meeting as committee policy and then get them adopted by the club, as part of the rules, at your next AGM. If that is a long way away you might even consider calling a quick General Meeting

You do not know when the next big argument is going to blow up, it could happen at any time.

This adoption needs to be done before any big issue blows up so you have in place an agreed process which can take the club through to closure of the issue.

Once a big issue has blown up it will be too late or much harder to adopt these National Standards as the method of handling the issue will form part of the issue.

12. Misuse of Misconduct Allegations

Three common ways in which allegations of misconduct are misused or mishandled are as follows.

1. Someone is wrongly accused

This can be used as a way of attacking someone or ‘putting them in their place’. If this comes from someone in a position of authority or standing in a club then it is clearly abusive and bullying.

The wrong accusation might be spinning some behaviour into something that can be construed as misconduct or it might be by taking a small piece of misconduct and making it into something bigger.

The answer to this is to make sure that people can fairly defend themselves.
2. **An allegation is not heard.**

To turn away an allegation, perhaps on the basis that it is “not on the best interest of the club” to pursue it, is a denial of justice. It allows misconduct to go unchecked and as a result encourages it.

It is very dangerous for a club to allow anyone to think that they can act with impunity. It is an open invitation to misconduct.

Alleged misconduct by prominent members of the club is always going to be a big challenge. However it simply is not safe to allow any immunity.

There is a risk that prominent members of the club could be more likely to face accusations of misconduct. The proper answer to this is to make sure that you have a fair process so that anyone who faces an allegation can be fairly protected.

3. **An Allegation is made but not pursued**

This can be used as a way of putting someone under pressure. It should not be allowed. Anyone who makes an allegation should either pursue it or drop it.

This is one reason why you must have an accessible and fair process for dealing with allegations. This prevents someone from making an allegation and then refusing to pursue it as they say it would be too much trouble for the club and refusing to withdraw it as they say they feel genuinely aggrieved.

One answer is for the accused person to make a reverse complaint. That is to lodge the complaint against themselves. This allows them to clear their name and denies the accuser the right to hold a grudge. It achieves closure.

If you have a fair process then no-one can get away with anything and hence no-one can reasonably think that anyone can get away with anything.

Similarly no-one should have anything to fear from being accused of something.

13. **The Myth of Executive Action**

Clubs are often tempted to deal with complaints of misconduct in an authoritative way. After all – isn’t the Committee in charge of the club?
This is unwise for a number of reasons.

1. By not following the rules of Natural Justice the decision has no legal basis. This means that anyone so treated can apply to the High Court and get an order reversing the decision and ordering the club to re-hear the matter. As the club is in the wrong it will probably have to pay the legal costs which might be significant.

2. If you don’t follow the rules of Natural Justice then you open the club and the people who took the decision to the possibility of legal action for damages. Why didn’t you follow the rules of natural justice? Was there any malice involved? You risk action under the Protection from Harassment Act 1997 if this act can be linked with just one other. You risk action for defamation.

3. You risk the reputation of the club and the loyalty of the members. People do not like to be treated roughly and they do not want to risk being treated roughly. People do not want to associate with poor quality organisations which is what you risk labelling your club as. If an obviously errant member has not been dealt with and still presents a problem for the club then that too will lead to discontentment and disharmony.

4. In serious cases you risk igniting a long running and bitter dispute which can last for years and wreck your club.

There is no need to take any of these risks. All you have to do is to have a firm and fair process.

Unfortunately many voluntary clubs have a rule which reads something along the lines of that the Committee may invite someone to resign and if they don’t want to they can appeal to the committee.

This does not follow the rules of natural Justice and so has no legal standing.

Club rules cannot override UK law.

It is possible to speculate that the reason for this clause is that a club constitution needs to allow for members to be expelled and this is of the right size – in terms of number of words – to fit into a reasonably sized constitution.

The danger of such a rule is that it can embolden committees to act other than in accordance with the rules of Natural Justice and so take quite unnecessary risks.

It is very rare for anyone in this modern world to have the freedom to do whatever they want to other people. For example, an Army Colonel cannot impose a penalty on one of their soldiers who always has the right to elect for a Court Martial.
14. The Rules of Natural Justice

This sounds very legalistic and difficult to achieve. In fact it is very simple and really quite easy. It is no more than you would want for yourself.

These rules were well laid out in the still widely quoted case of Dimes –v- Grand Junction Canal (Dimes, 1852) but they can be traced back to the Romans.

A very well known quote from this case is “justice must not only be done, but must be seen to be done.”.

This case laid out the following three principles which hearing bodies should adhere to.

1. have the authority or jurisdiction to make a decision (otherwise the decision will be ultra-vires the decision maker’s authority or power),
2. be unbiased, having no interest in the outcome, and
3. afford the parties the opportunity to hear the case against them, to present their case and consider/challenge any evidence.

Principle 1 is covered by the hearing body being appointed by the Committee or otherwise under the rules of the club.

Principle 2 above means that the hearing body should be independent. This does not mean as independent as possible but really genuinely independent. Within the context of a small social club this might mean that the matter cannot be fairly heard by anyone who is a member of the club. It certainly cannot be heard by anyone who has had any dealings in the matter at all or who has any notable friendship to or animosity with any of the parties.

This principle also means that the matter must be decided on the evidence presented and not on any prior knowledge or beliefs.

Principle 3 means that all the evidence against a person must be available to them so that they can challenge it and defend themselves against it. Without this ability to challenge and put another viewpoint it would be quite easy for evidence to unduly influence the outcome or for evidence to be maliciously submitted.

This principle does mean no anonymous evidence. This might inhibit people from giving evidence but without this principle the process cannot be seen to be fair and so the result will not carry the authority it needs to so that it will be accepted.
15. The Need for Closure

When a serious and controversial issue blows up in a club it needs to be resolved. If you do not achieve closure on such an issue then it becomes fertile ground for discontent and continued argument.

This can damage or even cripple a club. It poisons the well we are all trying to drink from.

In a sense achieving closure is more important than getting the correct decision made.

Clubs need to have an agreed process for dealing with issues before they arise. Otherwise the question of how to deal with an issue becomes part of the problem rather than the mechanism for fixing the problem.

Issues should then be simply processed. As long as the mechanism is obviously fair then there is no reason why the conclusion, whatever it might be, should not be accepted by all parties and by the members.

Any members who continue to gripe and complain about alleged misconduct long after the issue has been fairly resolved are guilty of negative and destructive behaviour. They should be so advised.

You should not tolerate ‘out of process’ behaviour.

In order to get to a position where you can firmly state that the issue has been resolved you must have an obviously fair mechanism for dealing with an allegation. That brings us back to sticking to the rules of Natural Justice.

If the issue was dealt with other than by respecting the rules of Natural Justice then you allow grounds for continued griping. For this reason it is important to deal with Judicial issues in an utterly fair way.

16. The Need for Speed

When complaints, grievances or allegations arise it is very important that they are dealt with in the shortest time possible consistent with being fair.

Having allegations hanging is corrosive and damages the individuals involved. It also allows time for the issue to spread and for others in the club to, rightly or wrongly, adopt positions on the issue.

The hardening of attitudes that goes with time will make it harder for any subsequent conclusion to be accepted.
If, exceptionally, it has been felt necessary to suspend a member then the harm that this does to their right to enjoy their membership must be kept to a minimum.

As a target it should be possible to resolve the most serious possible issues in a matter of weeks only. Days is preferable.

If a party appears to be dragging their heels and not co-operating then the process should not be stopped because of that. If someone is given a fair opportunity to present their case or to defend themselves and they do not then the matter should still be decided. The question of whether or not they have been given a fair opportunity is a matter for the body that hears the issue.

17. The Need for Confidentiality

It is very important that allegations against members are dealt with confidentially. If not they can become a source of bullying behaviour or harassment and it makes achieving a good quality result much harder.

Such allegations are great gossip and very tempting topics but they must not be treated like that. Gossiping is a breach of confidence if done by Committee members and probably malicious if done by anyone.

Without confidentiality the parties will feel an increased need to defend themselves and it will be harder for them to accept any solutions or remedies.

This should not prevent parties in the issue from seeking the advice of their friends as that may well help them to gain balance and perhaps see that they are in the wrong or taking things too seriously. When taking advice people should say that the conversation is confidential for their own sake if not that of the club and other parties.

18. Initiating a Complaint

Complaints should be accepted from anyone about a current member as long as the complaint has an IVC dimension. If in doubt about this allow the hearing body to sort it out. IVC dimension could mean behaviour likely to bring the club into disrepute but be careful not to allow this reason to be used as a catch-all.

A club committee can initiate a complaint against a member if inappropriate behaviour comes to its notice.

Once someone ceases to be a member the club has no further jurisdiction over them.
19. Mediation

Mediation is much more useful than many people realise.

It is often the case that trained mediators can help parties reach a good quality decision that they can all live with despite starting from apparently irreconcilable points of view.

There are paid for services that can help here and they are well worth looking at.

On the one hand you might think that the club should not be paying money to help people settle differences that they perhaps should never have had. On the other hand you might feel that the improvement to internal relationships that you get is well worth the cost. It might be fair to ask the parties to make such contributions as they reasonably can dependant on their circumstances.

No club will welcome high maintenance members.

20. Hearing Body

The Guidance suggests three kinds of body to hear matters. These are in increasing order of independence.

- Internal Tribunal made up of current Club members
- External Tribunal made up of members of other IVCs
- An external Professional such as a Solicitor or perhaps an Accountant.

Other variations are possible such as a Tribunal of one local IVC member and two from other IVCs.

The Guidance does suggest also that Committees might hear cases. This is fraught with difficulty and should only be attempted when the matter is minor.

A wise committee will side-step the responsibility and hence the blame for any decision made and preserve its ability to steer the club towards closure.

If a Committee makes a decision then it is hard to see who would appoint a body to hear any appeal.

If a Committee does undertake the decision then they should take care to do the following.

- Make sure that every member of the committee fully understands the evidence and pays full attention to the decision.
• Any Committee member who has had prior dealings in the matter must be excluded.
• Any Committee member that has any notable friendship to or animosity with any of the parties should be excluded.
• Only decide the matter on the evidence presented.

If a Committee wants to keep it ‘in-house’ then perhaps the best way would be to appoint three members of the committee as the internal tribunal.

A committee cannot fairly hear any matter that one of its members is involved in or for that matter which is about the committee itself. You need to be clear about whether an issue is merely a disagreement or a petition to the committee or if it is an allegation of misconduct.

The committees responsibility is not to take the decision but to make sure that the decision is properly taken.

The key is to make sure that a decision is made that carries the maximum acceptability and so sticks and closes the matter off.

In many clubs other than IVC it is a firm rule that Judicial matters are only dealt with by members of other branches. This is to ensure fairness and independence.

Suitable IVC members to carry out these duties would be ex-Committee members as they are experienced in Club matters, have shown their commitment to the club and have been trusted by the members before. However anyone suitable will do. The important criteria is that they can be trusted by the parties involved and the members to do a good job and to be fair and reasonable.

It is suggested that clubs might like to keep a list of members who might be suitable for this job as and when it comes up. Tribunal Members can then be chosen at random and excluded if not independent of the issue (or excluded if not independent first and chosen second).

The reasons for a Tribunal of three are as follows.

• By having an odd number of members you can be sure of a decision although a unanimous decision is much better than a majority one.
• To place such a burden on one member is asking an awful lot of them.
• Three members are much less likely to be subject to real or imagined pressure or intimidation.
• A decision by three people is much harder to challenge and is much more likely to be accepted than a decision by one.
Tribunals should act in concert. This is to protect the individuals and to increase the authority of their work. If a majority decision is made then the final report might make mention of it if a member felt particularly strongly about it or a minority report might be produced. These signs of a lack of unanimity should be avoided if at all possible.

A suitable external professional would be a Solicitor, especially one who deals in Employment Law matters. You might be able to find a Solicitor who acts as a Deputy District Judge.

The reasons why one external professional should be good enough is that they will be independent and carry sufficient authority for their decision to be accepted.

In severe and extreme cases it might be necessary to have a panel of two or three such external professionals to hear a matter. In this case it would be hard to see how anyone could challenge the outcome.

IVC members (internal or external) should be paid their reasonable expenses which means they should neither be out of pocket or gain.

External professionals are likely to be expensive.

Whatever the cost, if it allows the club to maintain its reputation as being a place where people are fairly treated and allows the club to escape or avoid damaging controversy then it is money well spent.

The two reasons for escalating the independence of the body hearing the matter are going to be the level of difficulty in the issue and the willingness of IVC members (internal or external) to hear the matter.

Once a hearing body has been appointed they should be allowed to carry out their work without interference. The committee and all its officers should only involve itself further to support or protect the hearing body.

21. Hearing Body Procedure

How a hearing body deals with the matter is up to them.

It is best if the matter can be dealt with without holding a formal hearing. This is to reduce the effort needed and to contain costs. A hearing carries risks in terms of how it is carried out and may cause undue stress to one or more of the parties. If a hearing is needed then efforts should be made to make it as comfortable as possible. It should be held in a convenient, preferably neutral location.

It will often be suitable to simply provide the accused party with the written allegation and invite them to respond. This response can then be passed to
the person making the allegation for their response. In turn any comments they might want to make can be passed back.

This can be continued until the interchange peters out.

All communication about the matter between the parties should be via the hearing body. The hearing body should not allow responses which are merely an attempt to have a go at the other party or to undermine them or show them in a bad light. In other word the process should not be used as a method of getting at people. Such responses should be refused with a suggestion that they be re-worded. This needs to be handled with care as refusing to allow a response is an obvious ground for an appeal.

New allegations should not emerge during this process but should form part of a separate complaint.

The hearing bodies decision should be sent in writing to all parties and the committee at the same time. In writing includes email.

### 22. Balance of Probability

We did decide that the basis of deciding allegations of misconduct should be the Civil standard of “Balance of Probability” or 50:50 rather than the Criminal standard of “Beyond Reasonable Doubt” which is a 75% certain standard.

This fits well with the Employment law standard of “Reasonable Belief”.

Part of the reason for this was the desire to make sure that those who disrupt and damage clubs can be bought to account. A 75% standard can be very hard to achieve.

### 23. Appeals

Fair processes must have an appeal mechanism.

An appeal is not another chance to ask the same question. It is not to allow someone to keep asking the same question until they get an answer they like.

An appeal must be on some ground that the matter has not been properly decided.

The Guidance provides for three such grounds

1. That the decision reached was one that no reasonable body could have come to. This is not the same as simply disagreeing with the decision.
2. That errors in procedure or of understanding the rules or facts were made and these were serious enough to have possibly affected the outcome
3. That new evidence has come to light which was not available at the time of the original hearing and which may have affected the outcome if it had been known.

Point 1 above means that the decision made was invalid as it was outside the bounds of reasonableness. Therefore it must have been biased or careless or otherwise plainly wrong. If a decision is within the bounds of reasonableness but simply one that some think to lenient or harsh then that is no ground for an appeal.

A key reason for having an appeal process is that it is a great way of making sure that whoever makes the original decision will do a good job of it. No-one likes to see their decision overturned by an appeal.

An appeal should be heard by a body that is more independent than that which made the original decision. That is if an internal Tribunal heard the matter originally then an external tribunal or external professional should hear the appeal.

The first job of a body hearing an appeal is to decide if the appeal is on valid grounds. If it is not then the matter ends there. An appeal body may either order that the matter be re-heard (by another body) or may decide to re-hear the matter themselves.

24. Possible Criminal Proceedings

We did consider what to do if a member faced criminal charges or the possibility of criminal charges in connection with an incident.

Should a club hold its own proceedings in abeyance for what could be months or years?

We thought the best approach is to continue with the club proceedings. We thought that there is room for this as the standard of proof is different and we felt there would be an over-riding need to protect the club and its members.

Holding someone in suspension for what might be many years seemed to be excessive.
If the person is subsequently exonerated then that can form the basis of an appeal (fresh evidence) or the club could simply re-admit them as a new member.

25. Club Differences

IVC Clubs are all different and that is part of the strength of the movement.

This does mean that what might be considered entirely normal and reasonable in one club might be considered unreasonable and unacceptable in another.

If an external hearing body is appointed it may be appropriate for the committee to submit evidence as to what is considered normal and acceptable in your club.

This evidence, like all evidence, should be available to all parties so that it may be properly tested and challenged.

26. Frivolous or Malicious Complaints

An obvious risk of having a process is that it will be misused. It is not possible to have a ‘gateway’ to prevent such issues from being raised as that would be a barrier to justice. Who would fairly decide?

Instead it was decided that this should be a matter for the hearing body to decide. That is if they felt that an issue was either frivolous or malicious they should say so and if they thought appropriate issue a penalty.

27. Suspensions

Members should not be suspended from their membership as a matter of course if they face an allegation. This is because it attaches a presumption of guilt and denies the member their right to enjoy their club.

You cannot suspend someone from membership unless the clubs rules allow it.

The reason for this is that a members relationship with a club is one of contract and the terms of the contract are governed by the rules of the club. If a committee suspends someone when they do not have the right to under the rules then they are acting outside their legitimate authority and putting the club in breach of contract.
A member should only be suspended on the basis of protecting the club and/or its members from future misconduct. If there is little or no prospect of further misconduct then suspension cannot be justified.

In the event of a member being suspended, the issue must be dealt with as a matter of the utmost urgency. It would be quite wrong to suspend someone, which deprives them of their right to enjoy their membership and runs the risk of harming their reputation, and then to be lackadaisical about concluding the issue.

If a member is subsequently cleared then it would be fair for the club to pay some compensation to the member. Perhaps 100 times the daily cost of their membership or perhaps £50 a week. This may help to focus peoples minds on getting the issue resolved.

Suspending a Committee member from their post is slightly different. There is no being deprived of any right as a person does not have the right to be on the Committee. It should not be done routinely and should only be done when needed to protect the club. Suspending an elected member of the committee is contradicting the decision made by the members to elect them and so should not be done lightly.

28. Gross Misconduct

If a member is guilty of Gross Misconduct then they can be immediately expelled from the club.

The definition of Gross Misconduct is behaviour which shows that the member has no respect for their responsibilities under the contract that exists between them and the club. This is then the member repudiating the contract and all the club has to do is to accept that repudiation.

A decision about whether or not behaviour amounts to Gross Misconduct should be left to the hearing body. The committee may give their opinion in evidence to the hearing body if they think it appropriate.

29. Liability of Tribunal Members

Some people may be reluctant to serve on a Tribunal for fear of retribution or incurring a liability, being sued.

If you are struggling to appoint a Tribunal because of fears of retribution then the answer is to up the level of independence. That is appoint an external Tribunal or an external professional.
As long as the members of the Tribunal make a reasonable effort to do a good job it is very unlikely that they would become liable. The courts will support any reasonable effort and are loath to get involved in Club disputes.

If one or more members of a Tribunal do act in a way that is clearly biased and unfair then they may well become liable which is just as it should be.

The one case where Courts will readily intervene is if it can be shown that someone has been found guilty of misconduct where the matter has not been dealt with in accordance with the rules of Natural Justice. In such cases Courts will order the club to re-hear the matter properly.

30. Protection from Harassment Act 1997

This is the famous anti-stalkers law which has turned out to have a much wider application than was expected.

Details can be found on the Crown Prosecution web site (CPS, 2009).

This Act makes it an offence to carry out “a course of conduct” “which amounts to harassment of another” and “which the defendant knows, or ought to know amounts to harassment of another”.

“a course of conduct” means two or more connected incidents. It is up to the court to decide if incidents are connected.

A person cannot claim in defence that they thought it was not harassment.

“The defendant ought to know if his course of conduct amounts to harassment if a reasonable person in possession of the same information would think the course of conduct amounted to harassment of the other.”

Also from this web site

“Harassment is not defined, but includes causing alarm or distress, and conduct is defined as including speech.”

“The amendment at (a) above makes it clear that a campaign of collective harassment by 2 or more people can amount to a "course of conduct". It also confirms that one person can pursue a course of conduct by committing one act personally and arranging for another person to commit another act.”

This is of relevance to committees that might find themselves at the wrong end of a criminal complaint (made to the authorities, not the club) if acts
considered to be harassment are carried out by the committee without good cause.

If actions are fairly carried out in accordance with the legitimate authority and decisions of the committee then there will not be a problem. It would be risky for any member of the committee to freelance or to carry out actions on their own initiative or which were otherwise ‘out of process’.

“Conduct by one person shall also be taken to be conduct by another if that other has aided, abetted, counselled or procured the conduct.”

This is a useful clause which makes it plain that anyone that encourages harassment of another is placing themselves at risk of being held to account as if they had carried out the acts themselves. People cannot hide behind others.

Overall these clauses provide significant protection for an individual in the face of bullying behaviour even if it is from a collection of people, sometimes called “Mob Bullying”.

This Act is unusual in one respect in that it provides for both Criminal and Civil offences. That means that if the authorities decide against taking up an allegation, perhaps due to lack of evidence, a member might take action themselves at a Civil level where the burden of proof is so much less.

31. Getting out of a Quagmire

A quagmire is where an issue has spiralled out of control, perhaps with a certain amount of ‘out of process’ behaviour. When a club is quagmired over a conduct issue enough people do not accept a decision that has been made to cause a significant and damaging amount of harm and disharmony within the club.

Stress levels go up, the club is dysfunctional and not a nice place to be.

Members soon start to become disenchanted with the club and disengage and drift off.

The easiest way of getting out of a quagmire is to not get into it in the first place.

The root cause of this is that a proper ‘in process’ mechanism has not been properly applied to the allegation of misconduct. This will probably have come from a club not having protected itself properly as explained above and/or attempts to short-circuit the process.
How to escape from this.

There is only one way that I can see and that is as follows.

1. Get all parties to agree to have the matter heard again. If anyone refuses, perhaps citing double jeopardy, then they need to be told that it will go ahead with or without them.

2. Appoint a sufficiently powerful body to hear the matter. This might be a case where a tribunal of three external professionals might be appropriate. The idea is to make sure that the outcome is unarguable and so ought to be accepted by everyone even if they do not agree with it.

3. Allow as many people as want to to provide evidence to the Tribunal. Let people have their say and get it off their chest. Make sure that people know that this is going to be their last chance to do so and that once closure has been reached that will be the end of it.

4. Allow the Tribunal to proceed.

5. When the conclusion has been reached announce it and move on.

6. If anyone wants to continue the argument then make it very plain to them that they will be expelled for negative and destructive behaviour if they don’t desist. If needed lose a few members, but only after going through a fair process.

You might lose a few members over this. That will be a price worth paying if you get back a functional club.

The best answer is not to get into this situation in the first place.

32. Modifying these Documents

It might be tempting to fiddle with these documents in order to make them ‘better’.

It is probably best not to do this unless you can find some important and compelling reason to do so.

These documents have been prepared after extensive research and much thinking and consultation. They have been very carefully thought through and as a result small changes can easily make the documents worse not better.

If you are tempted to make changes please read carefully through all this document and do research and take advice so that you can make sure that your change will result in an improvement.
One very good reason why you should avoid making changes is that as they stand the documents are, for better or worse, national standards. This means that your justification for adopting them is simply that you adopted the national standards.

If you make changes, or even write your own, how is your club going to justify these differences if challenged? This challenge might not come this year or next, it might come in five or ten or fifteen years time. Your club will be in a stronger position if it can simply justify the documents in use by saying ‘we adopted the national standard’.
Model Code of Conduct

<AnyTown> IVC Code of Conduct

1. All Members of <AnyTown> IVC are entitled to freely enjoy their membership of the Club.
   *This is the single most important statement of this document. Fundamental and basic to a members relationship with their club.*

2. You are entitled to be treated with courtesy and respect at all times and conversely you must treat all other members with courtesy and respect. If you find that you cannot do this then this club is not for you. You don’t have to like every other member but you do have to treat every other member with respect.
   *Being discourteous and disrespectful to other members is always going to be very damaging behaviour in any group of people. If someone can’t treat others well then they are going to be a liability to an IVC. This clause is meant to discourage loud, shouty ego-driven behaviour.*

3. You must take reasonable care over the health and safety of yourself and other members, particularly if you are running an event.
   *Clubs should not tolerate behaviour that puts others at risk. You could write a whole document of Health & Safety. This short reminder of peoples responsibility in this area was thought enough.*

4. You must respect the rules and policies of the club.
   *Basic clause. Rules are normally the club rules as passed by members and policies are normally those decided by the committee but the terms are deliberately somewhat loose.*

5. You must respect the rights of others just as you are entitled to have your rights respected. By all means know your rights; please also know your responsibilities.
   *This is to do with balance and respect for others. Important that members are balanced in thinking about how they should behave towards others as well as how they should be treated.*

6. All Members are equal. It does not matter if you have been a member of the Club for 20 minutes or for 20 years. You still have exactly the same rights and responsibilities.
   *Surprisingly not every IVC member agrees with this which is why it is so important to assert it. For a club to be healthy you must allow new members to fully enjoy their membership and to get a good sense of ownership as quickly as possible. It is also legally true.*
7. Please bring a tolerant approach to your membership. Please be aware of the impact your behaviour is having on your fellow members and be prepared to moderate your behaviour if others aren’t as amused as you think they should be. The club needs happy smiling sociable members. 

*Tolerance and being aware of your impact on others are important behaviours. Awareness of your impact on others is sometimes called Emotional Intelligence. This clause does not mean that judgemental frowning people should hold sway. IVCs are social clubs and so having happy smiling members is key.*

8. No one should act in a negative or destructive manner towards the club, its events or its members. This does not preclude fair and reasonable comment appropriately and fairly expressed.

*This phrase about negative or destructive behaviour comes from the 1950s joining procedure and it is still very relevant today. Members should of course be able to have opinions and express themselves but need to do so in ways that are fair and appropriate.*

9. You are entitled to be free of harassment and of bullying or abusive behaviour. Harassment is any course of conduct from someone who either knows, or ought to know, that it will cause alarm or distress to the recipient. Bullying or abusive behaviour is any behaviour which is intended or is likely to cause a person to feel uncomfortable.

*The definition of harassment comes from the Protection from Harassment Act 1997. We did not include the need for it to be a course of conduct to be an offence under that Act as we did not want anyone to think that they could freely get away with one incident of harassment. The definition of bullying is taken from an ACAS leaflet on bullying at work.*

10. Issues and/or disputes do occasionally arise and they are best dealt with informally if at all possible. If, exceptionally, you find yourself involved in a dispute or disciplinary process, either as the person making a complaint, the person complained about or as a witness then you must act responsibly. You must treat the process as confidential and do your best to minimise rather than exaggerate the problem. Once the dispute or complaint has been dealt with everyone should accept the conclusion and ‘move on’. Complaints are not in the spirit of the club.

*This clause is intended to discourage any issues from spiralling out of control and to point clearly to the need for closure.*

**Committee Members**

Committee Members have the same rights as other members to enjoy their membership for a social purpose. However, they also have special responsibilities over and above those of an ordinary member.

*We wanted to make sure that people understood that committee members are also members and are entitled to enjoy their membership. It is enough of a*
burden being on a committee as it is.

11. Committee Members must act genuinely in the best interests of all members, present and future, and must not act for any collateral purpose or sectional interest.

We looked for some neat words that would express the responsibilities of committee members and put this together. It comes from the responsibility of company directors who run a company on behalf of the shareholders. These words seemed to us to be very suitable. We also had in mind that in future clubs might use the Company Limited by Guarantee model which one IVC already does. The wording is taken from a section entitled “THE DUTY TO ACT BONA FIDE IN THE INTERESTS OF THE COMPANY” which is section 6.30 of “Butterworths Company Law Guide, Third Edition” (Butterworths, 1995). This section is derived from case law about limited companies.

12. If Committee Members find themselves in a position where a conflict of interest arises, they should disclose it to the Committee and not take part in any discussions or votes on the issue.

This is a basic integrity clause. Committee members are given authority by the members to run the club for the members, not so that they can run it for themselves. All Committee members should protect their own integrity and reputation and that of the whole committee by making sure that neither they or others breach this clause.

13. Committee Members must exercise reasonable care and such skill as might reasonably be expected from a person of their knowledge and experience.

This again comes from Butterworths “Butterworths, 1995), this time from the last sentence of Section 6.28 with the words “Committee Members” being substituted for the word “director”. This clause means first of all that Committee members must “exercise reasonable care” which is simple and to be expected. The other phrase “such skill as might reasonably be expected from a person of their knowledge and experience” is harder to understand. What it is saying is that if you are, say, a qualified accountant then the level of skill you should bring to the job of being Treasurer will be different to that which would be expected if you did not have any bookkeeping or accounting experience. In other words the skill expectation depends on the amount of knowledge and experience that that person has.

14. As a result of being a member of the Committee, members should not gain any additional benefit or advantage that is not generally available to all members, unless provided for under the Constitution.

This is a simple fairness clause. The “unless provided…” part is as some clubs do pay Committee members an honorarium or allow them other benefits.

15. The Committee is only entitled to act genuinely in pursuit of the stated aims and objectives of the club. If the committee acts other than as above then their actions and decisions are illegitimate and invalid (the legal term for this is ‘ultra vires’ which is Latin for ‘beyond the power’).
Exceptionally individual committee members who took part in the decision might be held personally liable. 

Committees should make sure that they know what the aims and objectives of their club are and make sure that their decisions are focussed on them. This is also a reminder that a Committees powers are limited to that which they are entitled to make decisions about. Committees can sometimes get themselves into difficulties by over-stepping their legitimate authority.

16. Committee members should be aware that their behaviour and conduct will be more prominent than that of ordinary members. Any behaviour which looks as if it may be wrong may cause damaging controversy, may undermine confidence in the Club and should be avoided.

Being elected to a Committee does put a person into a public position. This means that you do carry an extra burden of responsibility to act well. Any questionable behaviour by a Committee member will have a stronger effect than by an ordinary member.

17. Committee members may come across confidential or sensitive information about members. They must respect and keep the confidentiality of such information, not just while a Committee Member but for all time.

The need for enduring confidentiality is important.

Sanctions

18. Members who appear to not be keeping to this Code of Conduct may be asked to be more careful about their behaviour and may, exceptionally, become liable to disciplinary action under the rules of the Club.

This is a gentle reminder that members might have action taken against them. This is deliberately quite gentle but it needs to be said.
Appendix B – Annotated Guidance on Handling Disputes

Dispute Guidance

Guidance to IVC Clubs on handling Disputes, Grievances and Complaints

1. Clubs need to be able to deal effectively with Disputes, Complaints and Grievances in ways that take only a reasonable amount of effort and which do not cause harm. This guidance has three aims.

   1. To give clubs enough confidence so that they can act to handle such issues
   2. To provide guidance so that clubs don’t make more problems for themselves
   3. To reassure members that they will be treated fairly

Protect everyone involved and so make actions easier to undertake and more likely to be rational and controlled.

2. Feelings can run high and matters should be dealt with in an utterly confidential way. It’s always ‘good gossip’ when problems happen but it does not help resolve issues and it can easily amount to bullying or harassment. It is quite possible that people on all sides will feel angry, threatened or vulnerable. It is quite normal for people caught up in an issue to behave less rationally than they otherwise would do. So that people are not unduly stressed it is important to deal with matters with care and sensitivity. Matters should be dealt with as speedily as possible with aim of limiting damage and achieving closure so that everyone can ‘move on’.

The importance of confidentiality and the need to achieve closure

3. There are four ways that disputes or problems can be handled. The more informal the methods are better as they take less effort and are more likely to produce a good result.

   1. If a members conduct is causing concern you could send them a copy of the Clubs Code of Conduct. You must only do this in a non-judgemental way and only once or very infrequently.

   The reason you must only do this once or infrequently is as it carries an implication that you have already judged this person to be at fault. If you keep doing this to someone it can easily amount to harassment.

   2. Get another member, who has the respect of the member whose conduct is causing concern, to have a ‘Quiet Word’.

   This is worth trying but it is dangerous. If someone is being wilful and ego-driven then even the most careful and skilled challenge may get an aggressive response. Worth trying as it can lead to a good quality result at a
3. Invite the persons concerned to take part in Informal Mediation. *This is a chance to encourage and help the parties into finding their own way to a solution. If this can avoid a formal complaint then it is well worth the effort.*

4. Instigate Formal Proceedings which may result in a penalty or sanction being imposed on a member. This should start with Formal Mediation for a period of one or two weeks in the hope of settling the issue with a minimum of effort or damage. If that fails then a Disciplinary Proceeding should automatically start.

*As specified in Clause 5 below, a written complaint is needed before Formal Proceedings can start. Formal mediation is a last chance to arrive at an agreed solution. It will not always be appropriate. The reason for second attempt at mediation is that once a formal written complaint has been made it may well focus the minds of the parties to sorting it out. It is worth a last try. Note that the formal hearing of the complaint should proceed if the Mediation does not work. Must not get stuck in the Mediation phase.*

4. Mediation must be completely confidential and nothing revealed in it should be used elsewhere. This needs to be done by someone who has the respect of all parties to the Dispute.

*It is an important principle that mediation is confidential. If parties retreat to their defensive positions then it will be hard to find a compromise or solution.*

5. Formal Proceedings can only be based on a written complaint.

Complaints should be accepted about any current member of the Club providing that there is an IVC dimension.

*If it is serious enough for a formal process then the complaint must be in writing. This ‘fixes’ the complaint and stops it from drifting and being impossible to pin down and deal with. Complaints should be accepted about anyone who is a current member but there must be an IVC dimension. You cannot handle complaints about people who are not currently members.*

6. Deciding to impose a penalty on a member is a judicial process and must be taken seriously. Clubs must not impose any sort of sanction or penalty on a member without sticking to the rules of Natural Justice. In other words you must be fair. If you do not do this then you leave the club, and possibly committee members, wide open to legal challenge.

*Aristotle once said “The law is reason, free from passion”. Must stick to the rules of natural Justice as otherwise any judicial decision will not have any legal basis.*

7. The rules of Natural Justice are simple and straightforward and there are only two.

1. **Fair Hearing** – All parties should be given a fair opportunity to present their case, should know what the other evidence is so they
can challenge it and what they say must be fairly considered.

2. **Judicial Impartiality** – The body hearing the matter must act in a genuinely fair way, its members must not have any pre-conceived ideas, they must not have any particular animosity or friendship with any of the parties to the case and they should not have any personal interest in the case. They should ideally have the confidence of all concerned (and others). They should not have had any prior dealings with the case. Decisions must be made solely on the evidence presented.

*These are the rules of natural Justice. Squeezed into the smallest possible space.*

8. Members should not normally be suspended prior to a case being heard as this deprives them of their right to enjoy their membership of the club and attaches a presumption of guilt. You cannot suspend a member unless the clubs rules allow it.

*Cannot suspend members at all unless the rules allow it. Should avoid it if possible for the reasons given.*

9. There are four bodies that can hear cases or Appeals.

   1. The Clubs Committee
   2. An Internal Tribunal made up of senior/experienced Club Members
   3. An External Tribunal drawn from nearby IVC’s
   4. An External Adjudicator (a Professional such as a Solicitor or Accountant)

*The bodies that can hear cases.*

10. It is not recommended that Club Committees get involved in Formal Proceedings unless the case is simple, the likely penalties light and the club is small. Committees are not the best body to hear cases for the following reasons.

   1. It is too distracting for the Committee which needs to concentrate on running a successful club.
   2. If the Committee deal with these matters then all the members of the Committee have to get involved and fully consider all the evidence. This is too much effort and the number of people may be intimidating for the people subject to the process.
   3. Committees can be political and these issues need looking at in an utterly rational way to ensure justice.
   4. The Committee cannot fairly deal with Complaints about itself or any of its members.

*Reasons why committees should stay out of it.*

11. There should be an Appeal process. Appeals should ideally be held by an external body (Tribunal or Adjudicator). They should be lodged within a short time, say two weeks (except on grounds of new evidence) and
should be allowed for any of the following reasons.

1. That the decision reached was one that no reasonable body could have come to. This is not the same as simply disagreeing with the decision.
2. That errors in procedure or of understanding the rules or facts were made and these were serious enough to have possibly affected the outcome.
3. That new evidence has come to light which was not available at the time of the original hearing and which may have affected the outcome if it had been known.

Must be an appeals process and what the grounds are.

12. Decisions should be in writing, should normally give reasons and should be delivered to all parties and the Committee at the same time. The decision should take effect immediately it is issued.

How decisions should be distributed

13. At the bodies entire discretion the matter may be dealt with without a hearing, ie entirely on paper. If there is a hearing then all parties should be invited. Each party is entitled to be accompanied by a friend who has a right to be heard. The standard to use is “Balance of Probabilities” rather than “Beyond Reasonable Doubt”.

How the hearing should be conducted.

14. Any Penalties should be appropriate to the case. The case being found may be penalty enough. Bodies hearing cases should use their ingenuity and imagination to come up with appropriate penalties suited to the case in question. Modest fines or compensation may be appropriate.

Penalties. The club rules should allow for penalties to allow maximum leeway and to make sure they can be legitimately imposed.

15. Suspensions from membership should be limited to a maximum of 6 months as otherwise it would effectively amount to an expulsion. Being barred from certain types of activity or event may be appropriate but should always carry a time limit of, say, a maximum of 2 years. Expulsion should only ever be a last resort and should be time bounded for a minimum of one year (to prevent a sympathetic Committee from re-admitting the person) and a maximum of five years. For misconduct by a Committee member in their official capacity a penalty of being barred from office should be considered (for a specified time which should not be more than five years).

Sensible stipulations about suspensions and expulsions.

16. The body may make whatever recommendations they feel appropriate or helpful to the Clubs Committee. Such recommendations are not binding.

Important to allow a feedback channel so committee can consider how to improve the club and avoid such things happening again.
17. If the body hearing the Complaint (or an Appeal) thinks that the Complaint (or Appeal) may be malicious, mischievous, frivolous, is otherwise an abuse of the process or possibly should have been resolved at an earlier stage then they should say so. If they are sure that this is the case then that decision should form part of their findings and they may award an appropriate penalty.

Protection against frivolous or malicious allegations. The committee should not try to prevent allegations for these reasons but leave it to the hearing body who can make a properly considered decision.

18. It is recommended that clubs have the following question on their application forms. “Have you ever been refused admission or expelled from any IVC Club? If so please give details.” An answer of Yes to this question should not automatically cause an application to be refused but it should prompt further consideration.

Would not be fair to exclude someone just because there was a minor issue decades ago. Need to consider each case on its merits.

Note: The information in this document is offered in good faith but no liability can be accepted for any errors or omissions.

Standard disclaimer.
References


Dimes, 1852, *Dimes v Grand Junction Canal [1852] 3 HLC 759*


*Regal (Hastings) Ltd v Gulliver* (1942) [1967] 2 AC 134n at 147

*Great Eastern Rly Co v Turner* (1872) 8 Ch App 149

*Re Smith & Fawcett Ltd* [1942] Ch 304 at 306, per Lord Greene


*Gaiman v National Association for Mental Health* [1971] Ch 317 at 330, per Megarry J.