

**LOA Itheko SAC
Disciplinary Procedure
(Approved by Governing Council on 3 February 2014)**

DISCIPLINARY PROCEDURE

For ease of writing LOA Itheko SAC will be referred to as 'Itheko' in this document and all days shall refer to calendar days.

Pre-amble:

The disciplinary procedure must be read in conjunction with para 3.7 of the Itheko Constitution. The disciplinary committee is authorized to deal with written complaints of misconduct arising from actions as outlined in para 3.7.1 of the Itheko Constitution and actions which transgress the Itheko Code of Conduct (see Appendix A).

All complaints of misconduct must be submitted on the member complaint form (see Appendix B). The disciplinary procedure shall become effective and in operation from the date it is approved by the Itheko Governing Council.

RULES RELATING TO THE HEARING OF DISCIPLINARY MATTERS

The complaint:

1. A complaint, against a registered Itheko member (hereafter referred to as "the respondent) may be laid by any registered Itheko member, sports official, sporting bodies, co-runners or a member of the public against a registered Itheko member (hereafter referred to as "the complainant").
2. A complaint must be made in writing and must state what rule (either generically or by stating the actual rule) has allegedly been contravened and briefly state the facts upon which the complaint is based.
3. The duly completed complaint form must be delivered to the Administration Commissioner of Itheko, or where the complaint concerns the Administration Commissioner, to the President of Itheko.

Drawing up of the charge:

4. Any complaint duly lodged shall be immediately forwarded to the chairperson of the disciplinary committee.
5. If the complaint is laid by or against the chairperson of the disciplinary committee, it shall be referred to another member of that committee.
6. The chairperson and/or another member of the disciplinary committee shall peruse the complaint and decide whether the complaint could sustain a valid charge.
7. If the complaint can sustain a valid charge, a charge sheet shall be drawn up.
8. The charge sheet shall indicate that the person accused has; the right to legal representation at his/her own expense, the right to call witnesses, who must be present at the hearing, and the right to fully state his/her case.
9. If the complaint cannot sustain a charge, the complainant shall be advised of that fact in writing.

Service of the charge sheet:

10. The charge sheet shall be served on the respondent by the Itheko Administration Commissioner and proof of delivery shall be obtained by the Administration Commissioner.
11. It shall be a disciplinary offence to refuse service of the charge sheet (receipt of the charge sheet does not imply admission of guilt).
12. The Administration Commissioner shall send a copy of the proof of delivery to the Presiding Officer.

The time place and date of the hearing:

13. The respondent shall be given at least 7 (seven) days' notice of a hearing.

The presiding officer: (i.e.: the disciplinary committee member delegated to chair the applicable hearing)

14. The presiding officer shall always be a member of the Itheko disciplinary committee.
15. Where more than one member of the disciplinary committee is delegated to hear a matter, the chairperson of the disciplinary committee shall appoint one of them as the presiding officer, failing which they shall agree on one of them from amongst themselves.

Absence from the hearing:

16. In the event of the complainant being absent after thirty minutes later than the time set down for the hearing to start, without notifying the presiding officer, the charge shall be taken as withdrawn. Should the complainant wish to revive the charge he/ she will have to file a fresh complaint.
17. In the event of the respondent being absent after thirty minutes later than the time set down for the hearing to start, without notifying the presiding officer, the matter shall be postponed. The respondent shall be advised of the new date, time and place of the hearing and be advised that he/she must explain his/ her absence at the previous hearing.
18. Should the respondent fail to be present within thirty minutes after the time set for the matter to recommence after it has been postponed in terms of rule 17, the matter may continue in the respondent's absence.

The hearing:

19. The hearing shall follow the following format:
 - 19.1. The charge shall be read to the respondent (or the respondent may be asked to acknowledge that he/ she knows and understands the charge).
 - 19.2. The respondent shall be asked to either admit or deny the charge.
 - 19.3. Where the respondent admits guilt; the presiding officer may elect to proceed directly to the finding stage of the hearing.
 - 19.4. In all other cases, the complainant shall be asked to present his/ her case. The complainant may appoint a legal practitioner to present the case at his/her own expense.
 - 19.5. Where evidence is lead, the complainant shall lead the witness, who may be cross-examined by the respondent in which case the complainant shall have the opportunity to re-examine the witness.
 - 19.6. At the close of the complainant's case, the respondent may ask for the case to be discharged on the basis that no case of misconduct has been established.
 - 19.7. If the respondent's request is denied, or if no such request is made, the respondent may present his/ her case and rule 19.5 above shall in the same manner apply.
20. Evidence may be tendered by way of affidavit, but shall be accorded lesser weight than oral evidence and shall be disregarded to the extent that there is direct and reliable oral evidence to contradict it. Evidence by way of affidavit shall also be disregarded if there is direct and reliable evidence to contradict it also tendered by affidavit.
21. The *onus* shall be on any party alleging a fact to prove that fact.
22. The *onus* shall be on the complainant to prove his or her case on the balance of probabilities.
23. The presiding officer and disciplinary panel may ask questions of clarity during the hearing.

The finding:

24. A decision on the finding may be given at the end of the hearing or within 30 (thirty) days of the hearing.
25. Reasons shall be furnished in writing for the final decision reached, if requested.
26. The presiding officer shall communicate the finding to the respondent in writing.
27. The presiding officer shall lodge a copy of the finding with the Itheko Administration Commissioner.

The sanction:

28. If the respondent is found guilty of the charge, then the complainant shall have the right to lead evidence and/or make any submissions regarding the sanction to be imposed.
29. The respondent shall have the right to answer and present further evidence in mitigation of sanction.

30. A sanction may be given at the end of the hearing or within 7 (seven) days.
31. Sanction given by the presiding officer must take cognizance of para 3.7.5 of the Itheko Constitution.

Appeal:

32. The respondent, if found guilty, shall have the right to appeal to the Governing Council of Itheko, provided that a written notice of appeal is lodged with the Administration Commissioner of Itheko not later than 7 (seven) days after the decision of the presiding officer has been communicated to the respondent. Such notice of appeal shall succinctly set out the grounds upon which the appeal is based and whether it is directed against the finding of guilt or the sanction imposed.
33. The Administration Commissioner of Itheko shall forward the appeal to the President of Itheko.
34. The notice of appeal shall be sent to the complainant, the presiding officer and the member/s of the disciplinary panel which heard the matter.
35. Both the complainant and the respondent shall be afforded the opportunity to present written arguments to the Governing Council of Itheko before it makes its decision on the merits of the appeal. The presiding officer and member/s of the disciplinary panel shall be entitled to comment on the arguments so presented.
36. The Governing Council shall deal with the appeal in terms of para 3.7.10 of the Itheko Constitution, after having given the parties a reasonable time to make their representations, as provided for hereinabove.
37. The Governing Council shall provide brief reasons for arriving at their decision on the appeal and communicate the outcome of the appeal to the respondent, in writing.

Miscellaneous:

38. In the event of the complainant withdrawing the complaint, after the respondent has been asked to admit or deny the charge, the respondent shall be entitled to a finding of not guilty.
39. Once a finding has been made or a hearing has been abandoned, the disciplinary panel hearing the matter shall be discharged and shall have no further role in the matter, save regards the right to comment to the Governing Council hearing an appeal on the notice of appeal or the arguments presented by the parties, as provided hereinabove.
40. It shall constitute a disciplinary offence to prevent or obstruct any evidence being placed before a disciplinary panel hearing a matter.
41. A disciplinary panel hearing a matter shall only be seized with the matter once the matter actually serves before it.
42. After the findings of the Governing Council on the appeal has been communicated to the respondent and either the respondent or complainant is unhappy with the outcome, they have the right to follow any other applicable procedures as set out in the Constitution of Western Province Athletics (WPA).
43. All registered members of Itheko are to comply with the attached code of conduct. (See Appendix A)

APPENDIX A:

LOA Itheko SAC Code of Conduct

Preamble

This Code of Conduct outlines the standard of behavior expected of all members Itheko.

It is a formal statement of the values and ethical standards that guide individuals who participate in the sport of running as an Itheko member.

This Code of Conduct document will be used in conjunction with the Constitution as a point of reference when dealing with disciplinary procedures involving Itheko members.

Introduction

This Code of Conduct has been drawn up to hold all registered Itheko members accountable for their actions..

Values Statement

The Purpose of this code is to identify unacceptable actions & behaviors and to encourage ethical behavior so that if the Code is contravened, appropriate disciplinary action can be taken.

All members must:

- Respect the rights, dignity and worth of every human being.
- Be fair, considerate & honest and show respect for the law.
- Show respect and courtesy to all involved with the sport.
- Respect the decisions of officials, coaches and administrators.
- Respect the event facilities & equipment.
- Refrain from any racial, gender, verbal, physical or emotional abuse or harassment.
- Act within the rules and spirit of the sport of running.
- Be trustworthy and professional and accept responsibility for their actions.
- Ensure their decisions and actions contribute to a safe environment.
- Ensure their decisions and actions contribute to a harassment-free environment.
- Do not tolerate and display abusive, bullying or threatening behaviour.
- Act honestly, in good faith and in the best interests of the sport and club as a whole.
- Compete fairly.
- Refrain from the use of profane, insulting, harassing or offensive language or behavior.
- Refrain from making derogatory comments/statements via the social media platforms and other public forums which may cause harm and lead to disrepute to the club, its members, governing structures and constitution.
- Never advocate, condone or use drugs or other banned substances or methods.
- Reject corruption, drug abuse, alcohol abuse, racism, violence and other dangers to the sport.
- Never provide under age participants with alcohol or tobacco.
- Communicate and co-operate with registered medical practitioners/testing centers in the diagnoses, treatment and management of his/her medical problems.
- Respect the concerns the medical experts have when they consider my future health & well-being & when they make decisions regarding his/her ability to compete or train.

In order to understand the Code, the following questions should be asked by the individual:

- Is what I have done or plan to do legal and constitutional?
- What does the Code of Conduct say?
- How would what I have done or plan to do look in tomorrow's newspaper?
- Does what I have done or plan to do comply with Itheko's rules and regulations?
- How does what I plan to do or have done make me feel?
- Does what I have done or plan to do go against Itheko's professional standards?
- Will it reflect negatively on Itheko or me?

- Who else could this affect?
- Would I be embarrassed if others knew I took this course of action?
- Is there an alternative action that does not pose an ethical conflict?
- What would a reasonable person think?
- Can I sleep at night having taken this course of action?

Failure to conform to the Code of Conduct could result in disciplinary action.

