

Disciplinary By-laws

By-law: Disciplinary By-laws	Approved by: Board of Directors
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1 Purpose

This By-law provides rules for dealing with alleged breaches by members of Keppel Bay Sailing Club Limited (The Club) that may lead to disciplinary action.

2 Scope

All members are bound by the Club's Constitution, By-laws, Code of Conduct, Policies, relevant legislation and Acts and any instructions set by the Board of Directors.

3 Establishment of a Disciplinary Panel

- (a) The Board of Directors will establish a Disciplinary Panel pursuant to Clause 9 of the Club's Constitution.
- (b) Members of the Disciplinary Panel can be called upon to form an Investigative Panel by the Board of Directors to investigate any alleged breaches under this By-law or any other disciplinary matter.

4 Disciplinary Panel

- (a) A Disciplinary Panel will consist of a minimum of three (3) persons to a maximum of six (6) persons.
- (b) The Disciplinary Panel remains current for a period of 12 months or until another is established after the next AGM.
- (c) No member of the Board of Directors shall be appointed to the Disciplinary Panel.

5 Investigative Panel

- (a) The Investigative Panel shall be Chaired by a member of the Disciplinary Panel.
- (b) The Chair can co-opt outside of the Disciplinary Panel for persons with specific or specialised skills and knowledge that would support the investigation into an alleged breach.
- (c) Three (3) shall be deemed a quorum for an Investigative Panel.
- (d) A person that has been directly involved in or affected by the matter in dispute, or where a conflict of interest would otherwise arise, shall not be eligible to be a member of the Investigative Panel.
- (e) No member of the Board of Directors shall be eligible to be a member of an Investigative Panel formed by the Disciplinary Panel.

6 Response to Alleged Breach

Where the Board of Directors is advised, or considers that a Member has allegedly:

- (a) intentionally breached, failed, refused or neglected to comply with a provision of the Constitution, By-Laws or Policies or any resolution or determination of the Board of Directors or any other duly authorised committee which is not of a trivial nature;
- (b) breached any Codes of Conduct of the Club;
- (c) acted in a manner unbecoming of a member in a manner prejudicial to the objects and interests of the Club; or
- (d) brought the Club into disrepute.

Then the Board of Directors shall determine to:

- (a) dismiss the matter;
- (b) determine it to be a trivial matter and refer it pursuant to Clause 7 of these By-laws;
- (c) refer the matter to the Disciplinary Panel pursuant to Clause 9 of these By-laws; and/or
- (d) make a determination in relation to the Member's disciplinary breach in accordance with the Club's Constitution.

7 Trivial Matters

Trivial matters are those which in the opinion of the Board of Directors would not lead to termination of the membership of the Member. The Board of Directors may delegate authority to the Manager to deal with the trivial matter. In the event that the matter is delegated to the Manager the provisions of this Disciplinary By-Law shall not apply to that matter. There shall be no right of appeal to the decision of the Manager.

8 Liquor Accord

In addition to all other disciplinary powers, the Board and duly authorised officers and employees of the Club, as nominated in the By-laws, have the power to prevent the entry to or remove any member from Club premises for the purposes of complying with the Liquor Accord to which the Club may be a party.

9 Disciplinary Panel Processes Re: Members

9.1 The Board of Directors may refer the matter to the Disciplinary Panel and appoint a Chairman. The Chairman will form an Investigative Panel. The Board of Directors shall delegate authority to the Chairman to investigate the alleged breach. The Board of Directors shall consider the recommendations of the Investigative Panel and make a determination of what course of action the Board shall take.

9.2 The Manager of the Club shall, as soon as practicable following the appointment of an Investigative Panel, serve on the Member a notice in writing as directed by the Investigative Panel:

- (a) setting out the specific details of the alleged breach by the Member;
- (b) setting out the facts and grounds on which the alleged breach is based;
- (c) stating that the Member or representative may address the Investigative Panel at a hearing to be held not earlier than 7 days and not later than 28 days after service of the notice;
- (d) stating that the Member may bring a support person to the hearing, Junior Sailing Member must have a parent or legal guardian with them at the hearing;
- (e) stating the date, place and time of that hearing;

- (f) informing the Member that they may do one or more of the following:
 - (i) attend the hearing; or
 - (ii) give the Investigative Panel, before the date of that hearing, a written statement regarding the alleged breach.
- (g) inform the Member that if they do not attend the hearing and/or provide a written statement prior to the hearing, the hearing will proceed and the matter will be determined in their absence.

9.3 Despite Rule 9.2 (f) of this By-Law, the hearing may be held at any other time that the Chairman of the Investigative Panel and the Member agree.

9.4 At a hearing the Investigative Panel shall:

- (a) give the Member every opportunity to respond;
- (b) give other aggrieved parties and any witnesses, the right to be heard, present evidence or submit a written statement;
- (c) give due consideration to any written statement submitted by a relevant person.

9.5 Legal representation for any party is not permitted during the investigative process.

9.6 The Investigative Panel shall hear and determine the alleged breach in whatever manner it considers appropriate in the circumstances (including by way of teleconference, video conference or otherwise) and shall determine what evidence shall be admissible at the hearing, provided that it does so in accordance with the principles of natural justice.

9.7 The Investigative Panel will make its decision by resolution;

- (a) to determine whether the alleged breach occurred; and
- (b) the panel's recommendation/s to the Board of Directors.

9.8 The Investigative Panel is to provide their recommendation/s within 2 days of the completion of the investigation to the Board of Directors.

9.9 The Investigative Panel shall not be required to, but may provide reasons for its decision.

9.10 The Board of Directors will make the final determination in what action is to be taken and will advise all relevant parties in writing.

9.11 Each party shall be responsible for their own costs associated with the Investigative Panel hearing. The Investigative Panel has no power to recommend costs to a party.

10 Penalties

If the Investigative Panel considers that the alleged breach occurred, the Investigative Panel may recommend any one or more of the following penalties:

- (a) impose a warning;
- (b) direct the Member to make a verbal or written apology;
- (c) where there has been damage to property, direct that the Member pay restitution to the relevant person or organisation that controls or has possession of the damaged property;
- (d) withdrawal of any awards, placings, records or achievements bestowed upon the Member in any tournaments, activities or events held or sanctioned by the Club;
- (e) direct that any rights, privileges and benefits provided to the Member by the Club be suspended for a specified period of time;
- (f) reprimand the Member;
- (g) terminate the Member's membership of the Club;
- (h) impose a suspended penalty; or
- (i) any other such penalty that the Board of Directors considers appropriate.

11 Appeals

No member has the right of appeal of any disciplinary decision made by the Board of Directors.