

# Handling Disputes.

## Common types of dispute

We all experience conflict at one time or another. It is normal to do so whether with work colleagues, teammates, or those close to us. Disputes can soon escalate, and positions become entrenched, this can lead to difficulties for sports clubs if issues are not handled correctly.

Disputes within sports clubs can take many forms. What all have in common is that they can be very damaging in the short and long term. Everyone is very passionate about their sport. All want the best outcome but this can mean different things to different people. Everyone is invested personally. In sports clubs, there are two main types of dispute which commonly arise, these are:

- Disputes between members, these can often arise from competitions or just general conduct at the club; or
- Members may raise complaints about the club itself, for example, a decision taken by the club or how the club has applied its own rules

## Disputes between members

On many occasions disputes can be resolved without the need for a formal process to be invoked, a minor dispute can be resolved with an informal conversation between members facilitated by a committee or board member of the club. However on other occasions this will be difficult or impossible to achieve and something formal will be required.

Rather than resolving complaints through a formal process which takes up time of the club's board or committee, some complaints can often be resolved by alternative forms of dispute resolution.

This is common in elite sport where arbitration or mediation are the preferred methods used to resolve disputes.

Arbitration would not be appropriate in a club setting, however mediation between members could be an effective means of resolving disputes.

## Mediation

Mediation is a voluntary process, conducted confidentially, in which an independent and neutral person known as a mediator, supports and assists the parties to work towards an agreed resolution of a dispute, with the parties themselves remaining in control of the decision to resolve the dispute and the terms of any resolution. In short, it is about finding an outcome that everyone can live with and in most cases maintaining or rescuing a relationship. So why choose mediation as a means of resolving these disputes?

- Speed – mediation is generally quicker than other means of dispute resolution. There are few procedural requirements so a mediation can be organised at short notice and the mediation will normally be fairly quick process.
- Flexibility – there is a process to be followed but this can be adapted to suit the parties. Also, the parties are not constrained in any way as to the solutions they can reach which may include agreed ways of working together in the future, an apology, membership concessions.
- Success rate – mediation will not be appropriate in all cases, but where it is used it has a high success rate.

## Complaints brought by members

Another common type of dispute is those between clubs and their members. These disputes can arise from a variety of different circumstances but often at the heart of the disputes is the club constitution or associated club rules. Clubs need to ensure that in dealing with these disputes they closely follow the clubs rules and constitution.

This is something that clubs often overlook when taking decisions for a variety of reasons. A failure to follow the rules set out in the club procedures or constitution will mean that a member may be able to successfully challenge the decision of a club. Particularly if the club has stepped out with the powers conferred upon it in the constitution.

It is also of paramount importance that clubs ensure they properly record decisions taken. In these types of disputes clubs will often be called upon to justify their decision and their decision making process.

If the decision making process is clearly documented with reference to the relevant club rules and constitution it makes the act of defending any challenge much simpler as it is easier to evidence that the decisions taken were within the scope of club rules. The quality of the records is also important merely noting decisions taken only goes so far and if detailed and accurate records can be kept this also assists.

## Final Thoughts

Very often problems are encountered or exacerbated by a failure to take advice sooner, rather than as if often the case, later, sometimes too late. In particularly complex cases clubs should be encouraged to take advice.

# We are Harper Macleod.

Harper Macleod is a leading Scottish independent law firm that is driven to deliver.

Our growth and success is determined by your success, which is why we always try harder. We don't just see ourselves as lawyers, we see ourselves as problem solvers and business advisers, who focus on understanding your needs. We work side by side with you, using law as a tool to provide innovative solutions that are tailored to organisations and individuals.

It's this drive that sets us apart and delivers a better outcome for you or your organisation.

## Get in touch

**Andrew Maxwell**  
Senior Solicitor  
t: 0141 227 9617  
e: Andrew.Maxwell@  
harpermacleod.co.uk

