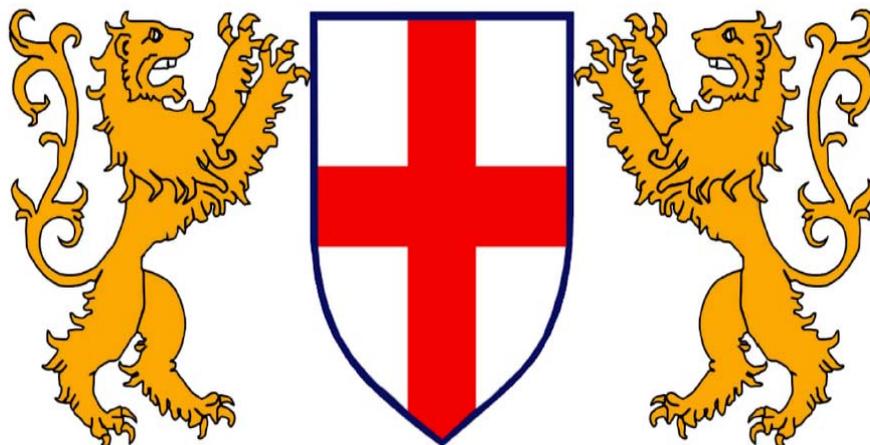


# **ENGLISH KARATE**



# **FEDERATION**

Guidance on Discipline Code  
English Karate Federation

## **INTRODUCTION**

(a) This guidance covers the Standards of Behaviour for members of the English Karate Federation (EKF)<sup>1</sup> and breaches of EKF rules. The procedures described in this guidance are designed to accord with the principles of natural justice and the basic principles of fairness, and should be administered accordingly. This guidance should be read in conjunction with the Code of Discipline and the articles contained within.

(b) The guidance is issued by the EKF. As such, those who are responsible for administering the procedures described in this guidance are reminded that they are required to take its provisions fully into account when discharging their functions. Whilst it is not necessary to follow its terms exactly in all cases, the guidance should not be departed from without good reason. This guidance is not a definitive interpretation of all the EKF rules. Interpretation is ultimately a matter for the tribunal and if necessary the courts.

(c) The guidance on the individual procedures is designed to further the aims of being fair to all and of arriving at a correct assessment of the matter in question and providing confidence in the system.

(d) The misconduct procedures set out in this guidance apply to all EKF members

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<sup>1</sup> For "Member" read  
Association/Organisation/Federation/Club/Individual  
affiliated to the EKF

## **FRIEND**

Those facing disciplinary proceedings have the right to consult with, and be accompanied by, a friend at any disciplinary hearing.

The member concerned may choose a fellow EKF member or a person nominated by the member's association to act as his or her friend. A person approached to be a friend is entitled to decline to act as such.

A friend cannot be appointed to act as such if he or she has had some involvement in that particular case e.g. he or she is a witness etc.

The friend can:

- Advise the member concerned throughout the proceedings.
- Unless the member concerned has the right to be legally represented and chooses to be so represented, represent the member concerned at the disciplinary proceedings, appeal hearing. Make representations to the appropriate tribunal concerning any aspect of the proceedings. and
- Accompany the member concerned to any disciplinary hearing which forms part of any proceedings.

It is good practice to allow the friend to participate as fully as possible. At any hearing the friend is not there to answer questions on the member's behalf. It is for the member concerned to speak for himself or herself when asked questions.

Subject to any timescales set out in the procedures at any stage of a case, up to and including the disciplinary hearing, the member concerned or his or her friend may submit that there are insufficient grounds upon which to base the case and/or that the correct procedures have not been followed, clearly setting out the reasons and submitting any supporting evidence. It will be for the Disciplinary & Legal Commission (DLC) for to consider any such submission and determine how best to respond to it, bearing in mind the need to ensure fairness to the member concerned.

At a where the friend attends, he or she may –

- i) put the member concerned case
- ii) sum up that case
- iii) respond on the member concerned's behalf to any view expressed at the meeting
- iv) make representations concerning any aspect of the proceedings
- v) confer with the member concerned

vi) in a hearing, ask questions of any witness, subject to the discretion of the person(s) conducting that hearing.

## **LEGAL REPRESENTATION**

A member is entitled to be legally represented at a hearing...

Any costs incurred of Legal representation, are to be borne entirely by the member concerned. The tribunal may, if it sees proper and just to do so, award such costs of such representation in the event of the member concerned's case being not proven.

## **CHAPTER 1**

### **Guidance on Standards of Behaviour**

#### **Introduction**

1.1. The standards set out below reflect the expectations that the EKF have of how its member's should behave. They are not intended to describe every situation, but rather to set a framework which everyone can easily understand. They enable everybody to know what type of conduct is acceptable and what is unacceptable. The standards should be read and applied having regard to this guidance.

1.2 The standards of behaviour also reflect relevant principles enshrined in the European Convention on Human Rights.

1.3 Where these Standards are being applied in any hearing, they shall be applied in a reasonable, transparent, objective and proportionate manner. Due regard shall be paid to the nature and circumstances of a member's conduct, including whether his or her actions or omissions were reasonable at the time of the conduct under scrutiny.

1.4 Where the disciplinary procedure is being applied, it is important to identify the actual behaviour that is alleged to have fallen below the standard expected of a member, with clear particulars describing that behaviour.

#### **Honesty and Integrity**

1.5 Members are to act with honesty, act with integrity and should not compromise or abuse their position.

1.6 Members must never use their position to gain an unauthorised advantage (financial or otherwise) that could give rise to the impression that the member is abusing their position Authority, Respect and Courtesy

1.7 Members should act with self-control and tolerance, treating members of the public, colleagues and officials with respect and courtesy.

1.8 Members must not abuse their powers or authority and respect the rights of all individuals.

1.9 Members must not harass or bully colleagues. Challenging conduct in an appropriate manner would not constitute bullying.

1.10 Members should not, under any circumstances inflict, instigate or tolerate any act of inhuman or degrading treatment (as enshrined in Article 3 of the European Convention on Human Rights).

1.11 Members should use appropriate language and behaviour in their dealings as a member of the EKF. They do not use any language or behave in a way that is offensive or is likely to cause offence.

### **Equality and Diversity**

1.12 Members must act with fairness and impartiality. They do not discriminate unlawfully or unfairly.

1.13 Members must respect all individuals and their traditions, beliefs and lifestyles provided that such are compatible with the rule of law. In particular members do not discriminate unlawfully or unfairly when exercising any of their duties, discretion or authority.

1.14 Different treatment of individuals which has an objective justification may not amount to discrimination.

### **Discreditable Conduct**

1.15 Members must behave in a manner which does not discredit the sport of Karate in general or the EKF in particular or undermine confidence in the EKF in any way. This will include any breach of WKF or EKF rules.

1.16 Members report any action taken against them for a criminal offence, conditions imposed by a court or the receipt of any penalty notice.

1.17 Discredit can be brought on Karate or the EKF by an act itself or because public confidence in the EKF undermined. In general, it should be the actual underlying conduct of the member that is considered under the discipline procedures, whether the conduct occurred whilst on EKF duties or outside. However where a member has been convicted of a criminal offence that alone may lead to disciplinary action irrespective of the nature of the

conduct itself. In all cases it must be clearly articulated how the conduct or conviction discredits the EKF.

1.18 In the interests of fairness, consistency and reasonableness the test is not solely about media coverage but has regard to all the circumstances.

1.19 Members are required to report as soon as reasonably practicable to the EKF any occasion in the UK or elsewhere where they have been subject to arrest, a summons for an offence a penalty notice for disorder, or a charge or caution for an offence by any enforcement agency.

1.20 Members must also report as soon as reasonably practicable all convictions and sentences and conditions imposed by any court, whether criminal or civil (excluding matrimonial proceedings (but including non-molestation orders or occupation orders)). 'Conditions imposed by a court' would include, for example, the issue of an Anti-Social Behaviour Order, a restraining order, or a bind-over.

1.21 A member being subject to any of these measures could discredit the EKF and may result in action being taken for misconduct against him or her depending on the circumstances of the particular matter.

### **Challenging and Reporting Improper Conduct**

1.22 Members report, challenge or take action against the conduct of colleagues which has fallen below the standards of behaviour expected.

1.23 Members are expected to uphold the standards of behaviour of the EKF by taking appropriate action if they come across the conduct of another member which has fallen below these standards. They never ignore such conduct.

1.24 Members who in the circumstances feel they cannot challenge another member directly, for example if they are a more junior and are not confident, report their concerns, preferably to the DLC.

1.25 Members are supported by the EKF if they report conduct by a member which has fallen below the standards expected unless such a report is found to be malicious or otherwise made in bad faith.

## **CHAPTER 2**

### **Guidance on Disciplinary Procedures**

#### **2. General**

2.1 This procedure applies to all members and underpins the Standards of Behaviour which set out the standards of behaviour that the EKF expect of its members.

2.2 The disciplinary procedures are designed to reflect what is considered to be best practice in other fields of sport and industry. The EKF is committed to ensuring that the procedure is applied fairly to everyone.

#### **Suspension and restrictions**

2.3 The decision to suspend a member will only be taken where there is an allegation of misconduct/gross misconduct and:

- An effective investigation may be prejudiced unless the member is suspended from all EKF matters including competitions; or
- public interest, having regard to the nature of the allegation and any other relevant considerations, requires that the member should be suspended.

2.4 The EKF member or his or her friend or Legal representative may make representations against the initial decision to suspend (within 10 working days beginning with the first working day after being suspended) and at any time during the course of the suspension if they believe the circumstances have changed and that the suspension is no longer appropriate.

2.5 Suspension is not a formal misconduct outcome and does not suggest any prejudgement.

2.6 The period of suspension should be as short as possible and any investigation into the conduct of a suspended member should be made a priority.

2.7 The member should be told exactly why they are being suspended, or being moved to other duties and this should be confirmed in writing. If suspension is on public interest grounds, it should be clearly explained, so far as possible, what those grounds are.

2.8 The use of suspension must be reviewed at least every 4 weeks, and sooner where facts have become known which suggest that suspension is no longer appropriate. In cases where the suspension has been reviewed and a decision has been made to continue that suspension, the member must be informed in writing of the reasons why.

2.9 In cases of suspension, the investigator will be responsible for ensuring that the DLC is supplied with sufficient information to enable it to effectively review the need for continuing the suspension.

**Conducting investigations where there are possible or outstanding criminal proceedings**

2.10 Where there are possible or outstanding criminal proceedings against a member, these will not normally delay the discipline procedure. The presumption is that action for misconduct should be taken prior to, or in parallel with, any criminal proceedings. Where it is determined that prejudice to the outcome of the criminal case would result, then this decision shall be kept under regular review to avoid any unreasonable delay to the discipline proceedings.

2.11 As soon as it appears to the DLC that there is no longer any potential prejudice (because, for example, a witness drops out, the trial has concluded or any other circumstances change), the DLC must take action. Where disciplinary proceedings were delayed, the DLC shall make a determination whether to continue with the proceedings.

2.12 The DLC should always consider whether in proceeding with a misconduct meeting or hearing in advance of any potential criminal trial, there is a real risk of prejudice to that trial. If there is any doubt then advice should be sought from the Crown Prosecution Service (CPS) or other prosecuting authority.

2.13 In a case where a witness is to appear at a discipline hearing and is also a witness or potentially a witness at the criminal trial then the DLC must first consult with the CPS (or other prosecuting authority). Having carefully considered the views of the CPS the DLC must then decide whether there is a real risk of prejudice to a criminal trial if the hearing proceeds.

2.14 It is important to note that a hearing is concerned with whether the member concerned breached the Standards of Behaviour and not whether the member has or has not committed a criminal offence.

2.15 The decision as to when to proceed with a hearing rests with the DLC.

2.16 At the end of a hearing, where there are also outstanding or possible criminal proceedings involving the member concerned, the CPS or other prosecuting authority shall (as soon as practicable) be informed of the outcome of the meeting/hearing.

### **Misconduct action following criminal proceedings**

2.17 Subject to the guidance above, where proceedings have not been taken prior to criminal proceedings and the member is acquitted, consideration will then need to be given as to whether instigating proceedings is a reasonable exercise of discretion in the light of the acquittal.

2.18 A previous acquittal in criminal proceedings in respect of an allegation which is the subject of misconduct is a relevant factor which should be taken into account in deciding whether to continue with those proceedings.

2.19 Relevant factors in deciding whether to proceed with disciplinary or special case proceedings include the following, non-exhaustive, list:

- (a) Whether the allegation is in substance the same as that which was determined during criminal proceedings;
- (b) Whether the acquittal was the result of a substantive decision on the merits of the charge (whether by the judge or jury) after the hearing of evidence; and
- (c) Whether significant further evidence is available to the disciplinary hearing, either because it was excluded from consideration in criminal proceedings or because it has become available since.

2.20 Each case will fall to be determined on its merits and an overly-prescriptive formula should not be adopted.

2.21 It may further be unfair to proceed with proceedings in circumstances where there has been a substantial delay in hearing disciplinary or special case proceedings by virtue of the prior criminal proceedings.

2.22 Regard should be had in this respect to such factors as:

- the impact of the delay on the member (including the impact on his or her health and career);
- whether the delay has prejudiced the case in any disciplinary proceedings; and
- whether there will be a further substantial delay whilst disciplinary proceedings are heard (including the impact on the member of that delay).

### **Complaints – Investigation**

2.23 The investigation of any complaint/allegation made, shall be carried out in accordance with the EKF Discipline Code

2.24 The investigation into the complaint must be proportionate having regard to the nature of the allegation and any likely outcome.

2.25 An investigation into a complaint is not automatically an investigation into whether a member has breached the standards of behaviour but rather an investigation into the circumstances that led to the dissatisfaction being expressed by the complainant of the actions of one or more members of the EKF

- i) the duty of the investigator to consider relevant statements and documents;
- ii) arrangements, if required, for interviewing the person whose conduct is being investigated; and
- iii) the matters to be included in the investigation report.

### **Special requirements**

2.26 If, during an investigation into a complaint, it appears to the person investigating that there is an indication that a person to whose conduct the investigation relates may have –

- a) committed a criminal offence, or
- b) behaved in a manner which would justify the bringing of disciplinary proceedings,

the person investigating (the investigator) must immediately inform in writing the DLC, who will then seek immediate advice from their Legal representative.

2.27 Where, following the investigation into a complaint, it is determined, in accordance with the code, that there is a case to answer in respect of misconduct or gross misconduct then the DLC will determine whether the matter should be referred to a disciplinary hearing.

## **Misconduct Procedures**

### **Dealing with misconduct**

2.28 Unless there are good reasons to take no action, there are two ways by which the DLC can deal with matters which have been assessed as potential misconduct:

- Written warning
- Disciplinary action for misconduct – where it is felt that the matter should be investigated. This could give rise to sanctions outlined in the Discipline Code at Article 12

2.29 A decision on which action will be appropriate will be made on the basis of the information available following Counsel's advice

2.30 The purpose of DLC action is to:

- Deal with discipline in a timely, proportionate and effective way that will command the confidence of EKF members.
- Identify any underlying causes or welfare considerations.
- Improve conduct and to prevent a similar situation arising in the future.

2.31 DLC action may include:

- Pointing out how the behaviour fell short of the expectations of the EKF
- Identifying expectations for future conduct.
- Establishing an improvement plan.
- Addressing any underlying causes of misconduct.

### **Taking disciplinary action**

2.32 The purpose of disciplinary action is to:

- Establish the facts underlying the allegation.
- Deal with cases of misconduct in a timely, proportionate, fair and effective way such as will command the confidence of EKF members
- Identify any underlying causes or welfare considerations.
- Identify any learning opportunities for the individual or the organisation.

### **Written notification to member concerned**

2.33 Written notification may be given to the member concerned (by the investigator) advising them that their conduct is under investigation. The notification will:

- Inform the member that there is to be an investigation, and inform the member of the name of the investigator who will investigate the matter.
- Describe the conduct that is the subject of the investigation and how that conduct is alleged to have fallen below the standards required of an EKF member
- Inform the member of their right to seek advice from a legal representative or appoint someone to act as their “friend”.

2.34 The investigator should ensure that the member subject to investigation shall, as soon as practicable, be provided with this written notification unless to do so would prejudice the investigation or any other investigation (including a criminal one). Any decision not to inform the member will be recorded and kept under regular review in order to avoid unreasonable delay in notifying the member concerned.

2.35 In the interests of fairness, care must be taken when an incident is being investigated to ensure that the notification is given to the member as soon as practicable when a potential issue of misconduct is identified (subject to any prejudice to that or any other investigation).

### **Appointment of investigator**

2.36 The DLC shall be responsible for the appointment of an investigator. The investigator shall be appointed promptly after any complaint has been received.

### **Investigation**

2. 36 The purpose of an investigation is to:

- Gather evidence to establish the facts and circumstances of the alleged incident/complaint
- Assist the appropriate authority to establish on the balance of probabilities, based on the evidence and taking into account all of the circumstances, whether there is a case to answer in respect of the complaint or that there is no case to answer.
- Identify any learning for the individual or the organisation.

2.37 The DLC should ensure that a proportionate and balanced investigation is carried out as soon as possible after any alleged incident/complaint comes to the DLC's attention and that the investigation is carried out as quickly as possible allowing for the complexity of the case. A frequent criticism of investigations carried out by other organisations into misconduct etc was that they were lengthy, disproportionate and not always focussed on the relevant issue(s). It is therefore crucial that any investigation is kept proportionate to ensure that an overly lengthy investigation does not lead to grounds for challenge.

2.38 The investigator has a duty to consider the suggestions submitted to him or her. The investigator should consider and document reasons for following or not following any submissions made with a view to ensuring that the investigation is as fair as possible. The suggestions may involve a further suggested line of investigation or further examination of a particular witness. The purpose is to enable a fair and balanced investigation report to be prepared and where appropriate made available for consideration at a hearing and to negate the need (except where necessary) for witnesses to attend a hearing.

### **Interviews during investigation**

2.39 It will not always be necessary to conduct an interview with the member subject to the investigation. In some cases, particularly involving low level cases, it may be more appropriate, proportionate and timely to request a written account from the member concerned.

2.40 Where a formal interview is felt to be necessary, the investigator should try and agree a time and date for the interview with the member concerned and their friend if appropriate. The member will be given written notice of the date, time and place of the interview. The member must attend the interview when required to do so and it may be a further misconduct matter to fail to attend.

2.41 If the member concerned or their friend is not available at the date or time specified by the investigator, the member may propose an alternative time. Provided that the alternative time is reasonable and falls within a period of 5 working days beginning with the first working day after that proposed by the investigator the interview must be postponed to that time...

2.42 Care should be taken when conducting a disciplinary interview where the member is also subject of a criminal investigation in respect of the same behaviour, as anything said by the member concerned in the discipline interview when not under caution and used in the criminal investigation could be subject to an inadmissibility ruling by the court at any subsequent trial. If necessary, appropriate legal advice should be obtained.

### **Investigation report and supporting documents**

2.43 At the conclusion of the investigation the investigator must as soon as practicable submit his or her report of the investigation setting out an accurate summary of the evidence that has been gathered. The report shall also attach or refer to any relevant documents and may include photographs, videos, paper documents etc. This report, together with the attached documents, shall be sent to the DLC for consideration. The DLC will then forward this to Counsel in accordance with the Discipline Code

2.44 The investigation report will also highlight any learning opportunities for either an individual or the organisation

2.45 Where the DLC (subject to Counsel's advice) consider that there is a case to answer, then a hearing should be arranged and the member shall be given a copy of the investigation report (or the part of the report which is relevant to him or her) and all relevant documents that will be relied upon at the hearing.

2.46 In determining which documents are relevant, the test to be applied will be that under the Criminal Procedure and Investigations Act 1996, namely whether any document or other material undermines the case against the member concerned or would assist the member's case.

2.47 The DLC will also provide the member with a notice clearly setting out the particulars of the behaviour that is alleged to have fallen below the required standards of an EKF member.

2.48 Within 14 working days (unless this period is extended by the person(s) conducting the misconduct meeting/hearing for exceptional circumstances) beginning with the first working day after being supplied with the investigator's report and relevant documents and the particulars setting out the alleged misconduct, the member will be required to submit in writing: -

- whether or not he or she accepts that the behaviour described in the particulars. where the member accepts that the conduct amounts to misconduct
- where he or she does not accept that his or her conduct amounts to misconduct, or they disputes part of the case, written notice of the particulars of the allegation(s) they dispute and an account of the relevant events and any arguments on points of law they wishes the person(s) conducting the hearing to consider.
- Whether the member requests a formal oral discipline hearing

2.49 The member concerned may object to a person(s) conducting a hearing or advising at such proceedings if, for example, the person(s) have been involved in the case in a way that would make it difficult to make an objective and impartial assessment of the facts of the case.

### **Documents for the meeting/hearing**

2.50 The person(s) conducting the misconduct meeting/hearing shall be supplied with: -

- A copy of the investigator's report or such parts of the report that relate to the member concerned.
- The notice provided by the member setting out whether or not the member accepts that their conduct amounts to misconduct, any submission they wish to make in mitigation where the conduct is accepted, and where they do not accept that the alleged conduct amounts to misconduct or they dispute part of the case, the allegations they dispute and their account of the relevant events; and any arguments on points of law submitted by the member concerned.
- Any other documents that the person(s) conducting the meeting/hearing request that are relevant to the case

2.51 The documents for the meeting/hearing should be given to the person(s) conducting the meeting/hearing as soon as practicable after he, she or they have been appointed to conduct the meeting/hearing.

### **Witnesses**

2.52 Generally speaking misconduct meetings and hearings will be conducted without witnesses. A witness will only be required to attend a hearing if the person conducting or chairing the hearing reasonably believes his or her attendance is necessary to resolve disputed issues in that case. The DLC should meet the reasonable expenses of witness (es).

2.53 Whilst the person conducting the hearing or the chair of a hearing will decide whether particular witnesses (es) are required, the DLC will be responsible for arranging the attendance of any witness.

### **Purpose of misconduct meeting/hearing**

2.54 The purpose of a formal hearing is to:

- Give the member a fair opportunity to make his or her case having considered the investigation report including supporting documents. In cases where misconduct has been proven or admitted, the misconduct meeting/hearing will allow the opportunity to put forward any factors the member wishes to be considered in mitigation (in addition to the submission which must be sent in advance to the person(s) conducting or chairing the meeting/hearing for his, her or their consideration).

- Decide if the conduct of the member fell below the acceptable standards based on the balance of probabilities and having regard to all of the evidence and circumstances.
- Consider what the outcome should be if the allegation is proven or admitted. Consideration will be given to any early admission of the conduct by the member.

### **Hearing in absence of member concerned**

2.55 It is in the interests of fairness to ensure that the hearing is held as soon as possible. A hearing may take place if the member fails to attend.

2.56 In cases where the member is absent (for example through illness or injury) a short delay may be reasonable to allow him or her to attend. If this is not possible or any delay is considered not appropriate in the circumstances then the person(s) conducting the hearing may allow the member to participate by telephone or video link. In these circumstances a friend/lawyer will always be permitted to attend the hearing to represent the member in the normal way.

2.57 If a member is detained in prison or other institution by order of a court, there is no requirement on the DLC/DT to have the member concerned present for the purposes of the hearing.

### **Conduct of a discipline hearing**

2.58 It will be for the person(s) conducting the hearing to determine the course of the hearing in accordance with the principles of natural justice and fairness.

2.59 The person(s) conducting the hearing will have read the investigator's report together with any account given by the member's notice/written reply. The person(s) conducting the hearing will also have had the opportunity to read the relevant documents attached to the investigator's report and any documents that the member concerned has submitted.

2.60 Where there is evidence at the hearing that the member concerned, at any time after being given written failed to mention orally or in writing any fact relied on in their defence at the hearing, being a fact which in the circumstances existing at the time the member concerned could reasonably have been expected to mention when questioned or providing a written response, the person(s) conducting the hearing may draw such inferences from this failure as appear appropriate.

2.61 Any document or other material that was not submitted in advance of the hearing by the investigator or the member concerned may still be considered at the hearing at the discretion of the person(s) conducting the hearing. However the presumption should be that such documents will not be

permitted unless it can be shown that they were not previously available to be submitted in advance.

2.62 Where any such document or other material is permitted to be considered, a short adjournment may be necessary to enable the tribunal members or member concerned, as the case may be, to read or consider the document or other material and consider its implications.

2.63 Material that will be allowed, although not submitted in advance, will include mitigation where the member concerned denied the conduct alleged but the person(s) conducting the hearing found the conduct proven and are to decide on outcome.

2.64 The person(s) conducting hearings will consider the facts of the case and will decide (on the balance of probabilities) whether the member's conduct amounted to misconduct or not. If the hearing decides that the member's conduct did not fall below the standards expected then as soon as reasonably practicable the member shall be informed.

2.65 A record of the proceedings at the hearing must be taken. In the case of a misconduct hearing this will be by means of a verbatim record whether by tape recording or any other recording method.

### **Standard of proof**

2.66 In deciding matters of fact the hearing must apply the standard of proof required in civil cases, that is, the balance of probabilities. Conduct will be proved on the balance of probabilities if the person(s) conducting the hearing is/are satisfied by the evidence that it is more likely than not that the conduct occurred. The more serious the allegation of misconduct that is made or the more serious the consequences for the individual which flow from a finding against him or her, the more persuasive (cogent) the evidence will need to be in order to meet that standard.

2.67 In making a decision whether the alleged conduct of a member is found or not, the person(s) conducting the hearing will need to exercise reasonable judgement having regard to all the circumstances of the case.

### **Outcomes of hearings**

2.68 If the person(s) conducting the hearing find that the member's conduct did fail to meet the acceptable standards, then the person(s) conducting the hearing will then determine the most appropriate outcome.

2.69 The person(s) conducting the hearing are also entitled to take account of any early admission of the conduct on behalf of the member concerned and attach whatever weight to this as he, she or they consider appropriate in the circumstances of the case.

2.70 In addition, the member concerned and their 'friend' (or where appropriate legal representative) will be given the opportunity to make representations on the question of the most appropriate outcome of the case.

2.71 The DLC also has the opportunity to make representations as to the most appropriate outcome.

### **Outcomes available at misconduct meetings/hearings**

2.72 The person(s) conducting the hearing may record a finding that the conduct of the member concerned amounted to misconduct and take no further action or impose one of the following outcomes (as per Article 12 of the Code):

- Warnings
- Reprimands
- Sport penalties (under the form of temporary ban from participation in competitions, courses, Dan gradings, etc)
- Financial penalties
- Suspension
- Expulsion

#### **a) Written warning**

The member will be told:

- The reason for the warning.
- That they have a right to appeal and to whom the appeal should be sent.
- That the warning will be put on file and will remain live for twelve months from the date the warning is given. This means that any misconduct in the next 12 months is likely to lead to further sanctions being taken

#### **b) Reprimands**

The member will be told:

- The reason for the reprimand.
- That any future findings may result in more serious sanctions being taken.
- That they have a right to appeal and to whom the appeal should be sent.

That the reprimand will be put on file and will remain live for eighteen months from the date the reprimand is given.

At a hearing, in addition to the outcomes available at a), and b) above the persons conducting the hearing will also have available the outcomes of:

**c) Sporting penalties** – This can take the form of a temporary ban from participation in competitions, courses, Dan gradings etc in so far as it relates to the sport of Karate

**d) Financial penalty-** The EKF DT can impose a financial penalty upon a member if it deems that the proven misconduct warrants such action. There is no limit on the amount it may impose, but it should be just and fair taking into account all the circumstances including any previous findings against the member concerned, any mitigating factors of the offence and/or offender.

**e) Suspension-** The DT may if its deems fit, suspend any member for up to 52 weeks. The suspension will mean that the member cannot participate in any activity whatsoever that is affiliated to, or conducted by, or in agreement with the EKF.

**f) Expulsion-** The DT has the power to expel any member, if it deems that the misconduct is such that, to retain the member as a member of the EKF would bring the EKF or the sport of Karate into disrepute

### **Notification of the outcome**

2.73 In all cases the member will be informed in writing of the outcome of the hearing. This will be done as soon as practicable and in any case within 10 working days of the hearing.

2.74 The notification in the case of a hearing will include notification to the member concerned of his or her right to appeal against the finding and/or outcome and the name of the person to whom any appeal should be sent.

2.75 In cases involving a complainant, the DLC will be responsible for informing the complainant of the outcome.

### **Expiry of Warnings**

2.76 Notification of written warnings/reprimands issued, including the date issued and expiry date will be recorded.

**Attendance of complainant or interested person at misconduct proceedings**

2.77 The hearing shall not be delayed solely in order to facilitate a complainant attending the hearing, although consideration will need to be given to whether the complainant is also a witness in the matter.

2.78 Where the complainant is required to attend a hearing to give evidence, he or she will not be permitted to be present in the hearing before giving his or her evidence. Any person accompanying the complainant and/or the person assisting the complainant due to a special need will not be permitted to be present in the hearing before the complainant has given evidence (if applicable).

2.79 A complainant and any person accompanying the complainant will be permitted to remain in the hearing up to and including any finding by the person(s) conducting the hearing, after having given evidence (if appropriate). The complainant and any person accompanying the complainant will not be permitted to remain in the hearing whilst character references or mitigation are being given or the decision of the panel as to the outcome. However, the DLC will have a duty to inform the complainant of the outcome of any hearing whether the complainant attends or not.

2.80 The person(s) conducting a hearing will have the discretion to allow a witness who has attended and given evidence at the hearing to remain or to ask him or her to leave the proceedings after giving his or her evidence.

**Right of appeal**

2.81 A member has a right of appeal against the finding/outcome imposed at the hearing. This appeal is commenced by adherence to the procedure set out in Article 18 of the Code.

2.82 The member concerned may only appeal on the grounds that: -

- a) the finding or disciplinary action imposed was unreasonable;
- b) there is evidence that could not reasonably have been considered at the misconduct meeting which could have materially affected the finding or decision on disciplinary action; or
- c) there was a serious breach of the procedures set out in the regulations or other unfairness which could have materially affected the finding or decision on disciplinary action.
- d) the sanction imposed was manifestly excessive given the circumstances and subject of the complaint.

2.83 The person(s) determining the appeal will be provided with the following documents: -

- a) The notice of appeal from the member concerned setting out his or her grounds of appeal.
- b) The record of the original misconduct meeting
- c) The documents that were given to the person who held the original hearing.
- d) Any evidence that the member concerned wishes to submit in support of his or her appeal that was not considered at the misconduct meeting.

2.84 The person(s) conducting the appeal may consider:

- Whether the finding of the original hearing was unreasonable having regard to all the evidence considered or if the finding could now be in doubt due to evidence which has emerged since the meeting.
- Any outcome imposed by the original hearing which may be considered as too severe or too lenient having regard to all the circumstances of the case.
- Whether the finding or outcome could be unsafe due to procedural unfairness and prejudice to the member (although the person conducting the appeal must also take into account whether the unfairness or prejudice could have materially influenced the outcome).

2.85 The AT determining the appeal may confirm or reverse the decision appealed against. Where the AT determining the appeal decides that the original disciplinary action imposed was too lenient then they may increase the outcome.

2.86 An appeal is not a repeat of the misconduct meeting. It is to examine a particular part(s) of the case which is under question and which may affect the finding or the outcome.

2.87 The appeal will normally be heard as soon as possible.