



Club Discipline What Clubs Do And How to Get It Right!



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HOW ABOUT THIS!

- Two young men decide to play a game of golf, at sunrise, wearing only golf shoes!
- Or the gentleman ignoring the starter's instructions, tees off in the middle of a ladies competition!
- Or the member who bites another member while in the bar!

Club discipline incidents are not unheard of, but "happily they are few," says John Duncan, secretary/manager, Royal Dornoch Golf Club, Dornoch, Sutherland, Scotland, whose club experienced these breaches of the code.

magazine raised the issue of member discipline in a private club and "getting it right."

Stowell prefaced her remarks by quoting author Stephen Covey: "*While we are free to choose our actions, we are not free to choose the consequences of our actions.*"

So it is with the private club industry. No matter how much a general manager or the club's board of directors does not want to face disciplining a member, it happens. And unquestionably, club discipline raises many, many questions.

stresses Stowell, of Jennings, Strouss & Salmon, Phoenix, AZ.

"For member discipline, the club's board essentially acts as the legislature, police and judge by making the rules, charging and investigating violations and determining guilt and penalties."

And that's precisely how it seems to happen no matter the country.

"Under the club's articles, the board has the right to establish any rules pertaining to discipline," offers Ray Brett,

When a member's behavior jeopardizes the club's interest – by breaking a law, violating a club rule, or behaving in a manner unbecoming of a member – the clubs should act promptly and appropriately, because failure to do so, particularly failure to do so appropriately, can create liability for the club.

Lest we think these are isolated incidents on the other side of the pond, they're not. You've probably heard of a few incidents yourself at private clubs in both the United States and Canada.

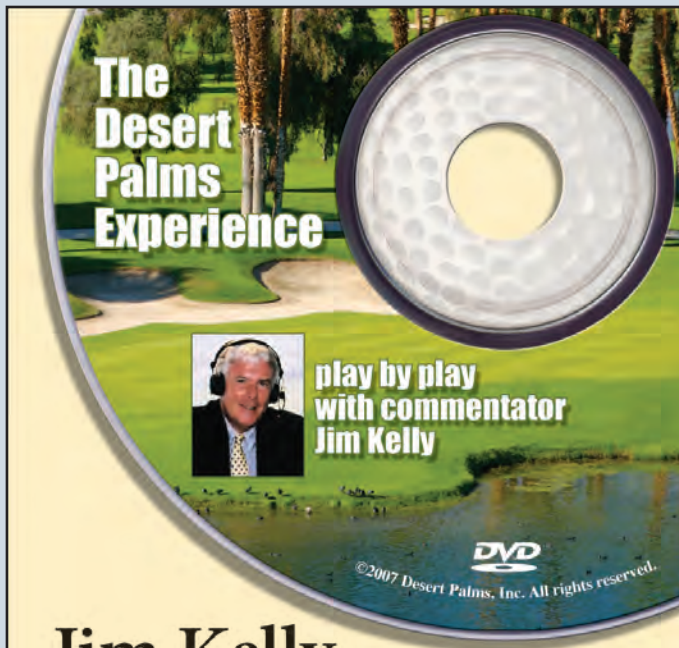
Contributor Robyn Stowell with her law and legislation article in our January/February 2008 BoardRoom

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chief executive officer, Calgary Glencoe Club, which operates both an athletic facility and golf operation in Calgary, Alberta, Canada.

Glencoe has 4600 shareholders at the athletic facility representing close

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to 12,000 total members. The golf club about 20 minutes outside the city from the downtown club has 1140 principal golfers representing almost 3,000 members, and all this represents one of Canada's largest clubs.

Under club's rules, any conduct of a member, on or off the premises, which is injurious to the character, interest or good order of the Glencoe, is open to disciplinary action.

"The club's management has the right to suspend for up to six months and the board of directors has the right to suspend for more than six months," Brett commented. Members have the right of appeal.

"Being a family club we get a lot of children issue...sneaking a guest into the club, minor vandalism, theft, bullying, rudeness to staff and generally misbehaving. Many of these incidents are handled by security staff then passed on to management if suspension is required. We've had this approach since the club was formed 77 years ago," Brett explained.

And the experiences with adult members aren't much different...not signing guests in, theft, a disagreement between two members and rudeness to staff. But "management deals with 99 percent of the cases," Brett added.

Scotland's Royal Dornoch Golf Club covers off discipline with a subsection in the club's bylaws, as do many other clubs. "We don't have a set timetable, but the secretary/manager is responsible for bringing to the board's attention any amendments required to keep the club's bylaws up to date with external legislation."

Royal Dornoch's bylaw is "quite general and tries to cover all envisaged scenarios. Discipline can result, Duncan says, "If the council is of the opinion there has been a breach by a member of any of these rules (the club's constitution) or conduct on the part of the member either in the clubhouse or elsewhere, such as might endanger the reputation, character, interest or good order of the club, or might offend its other members, or if the conduct of any member is the subject of a written complaint to the secretary/manager, signed by another member." A different continent, but very much the same guidelines.

Duncan, in relating other incidents over the past 14 years, can recall:

- Cheating during a competition
- Use of foul language to ladies
- Chaining a gate across an access route and marooning a contractor's equipment and
- A member, while under the influence of alcohol, taking away, without permission, items belonging to another member.

In the case of the cheating during a competition, the member was expelled from the club, and in the instance of

the foul language to ladies, after a period of suspension the member resigned. At Duncan's club the appeal process is allowed under the bylaws, but it's never happened.

Bylaws and the club's articles are also the base for Castle Golf Club, Dublin Ireland. "We're typical of many member-owned clubs in Ireland," explains John McCormack, president, Club Managers Association of Europe, and general manager, Castle Golf Club, Dublin, Ireland. Almost any area of complaint can come under member discipline.

"I have to say that it is (thankfully) very rare that...member discipline will come before the management committee. In fact, no one at our club can remember the last time it happened. It's also important to note that no member would want to be disciplined by the club because this could have social and professional implications, as well as the obvious implication for them within the club," McCormack stressed. The club's disciplinary process allows any member (or staff member) to raise an issue or complain, and the management committee deals with it.

"The most drastic action we can take is expulsion, but thankfully that's never happened at our club," McCormack added.

Golf La Moraleja, Madrid, Spain has a dual thrust. "There's a set of bylaws determining how members and shareholders can take advantage of being part of the club, and also a set of bylaws determining their rights and obligations when use the facilities and interacting with other members and employees," says Daniel Asis, director for sports, events and communication.

This second set of bylaws explains three different levels of infractions and how they can be punished.

"Most often our discipline issues are with members using facilities and not following rules established and enforced by employees," Asis explained. "For instance, riding golf carts into the fairways at times when this is prohibited; trying to sneak in a guest without paying the guest fee or smoking in areas where it is not permitted."

Rarely, have there been "stronger issues, involving a drunk member abusing some members; or a member being expelled for insulting board members, other members, or any employees.

In the cases where a member is "expelled from the club for a period of time, the members usually take the time to sell the share that gives him the right to use the facilities, and he doesn't come back again," Asis says.

At Golf La Moraleja, if the employee is the offended party, the complaint is made to the general manager. "If it's a member, the complaint usually comes through one of the club's committees, or directly in a letter to the board of governors, which has the responsibility of establishing a penalty," Asis added.

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"If the issue is directed through one of the committees, this committee will ask all the persons involved for their version of the incident, and often a letter to both parts will be issued determining if there is an objective basis on what to pursue a sanction, or asking both parts (if both are members) to make their best effort in helping everyone to enjoy their stay at the club.

"If the issue is a strong one the board of governors appoints three members along with the club's law firm to investigate it, calling all parties to sessions where they must provide their version and bring along proofs or witnesses," after which the board makes any decision regarding punishment.

The Beach Club of Santa Monica, CA has a "very simple, very broad and very flexible definition of 'bad conduct', which is written into the bylaws," explained general manager Gregg Patterson.

Member discipline involves many areas including financial behavior, behavior displayed during competitions, within the clubhouse, on the ground, between members, between members and staff, between guests and members, and between members-guests and staff.

So what kinds of discipline issues have arisen at The Beach Club?

members or of staff. For example, a member tells another member's wife a dirty story (which the man considers funny!) that she has no interest of hearing from a drunk man," Patterson explained.

At the Beach Club, complaints are lodged with Patterson, as the general manager, who then investigates by interviewing the participants and witnesses. The results of this investigation are then reviewed with the club president. The president then determines if the matter should be handled with counseling (and by whom – manager alone, president and manager, applicable committee chairman, or a sub-committee of the board) or during a formal hearing.

And the procedures for investigating a rules violation for 'behavior' is written into the club's house rules as **discipline procedures**:

a. The board of directors, and not the general manager, are responsible for disciplining members using procedures established by the board of directors.

b. The general manager is responsible for collecting facts relating to discipline issues.

c. At the time of a rules violation, the general manager shall take whatever action is necessary to end the violation.

d. The general manager will interview participants and witnesses, prepare a report, and will review the same with the president. The president will determine if further action is required.

When a person joins a private club, they're extended many rights and privileges, and as we've written before being an advocate and recruiting new members is one of a member's most important responsibilities. And so it is with discipline...members have the right to use facilities and use them responsibly without infringing on the rights and privileges of others.

"Discipline issues of the 'minor variety' often occur during competitions – bridge, volleyball and paddle tennis tournaments. For example, screaming obscenities at the referee who called the ball out," Patterson exclaimed.

"Discipline issues of the 'financial variety' involve members whose accounts are overdue. For example, members, who exceed the maximum level of indebtedness to the club, are automatically suspended. Those who are suspended must adhere to a required repayment schedule. Failure to meet the deadlines precipitates the automatic sale of the membership.

"Discipline issues of the 'truly serious variety' most often involve sexual harassment – member harassment of other

e. If further action is required, the president will refer the issue to the board of directors for review.

f. The board will review the matter, make appropriate findings, and determine what action, if any, is necessary thereafter.

g. All interview notes, reports, correspondence; hearing minutes or transcripts from any discipline procedure will be placed in the permanent file of the offending member.

"And when considering a suspension or expulsion for discipline issues, the board is required to follow the 'Due Process' requirements for corporations in the state of California," Patterson explained. The general manager

can suspend a member's club privileges for up to 30 days, or longer if necessary, until the board has made its decision concerning suspension of expulsion.

Discipline at the Beach Club "has happened several time for financial delinquency," Patterson added. "More often than not, behavioral issues are handled with a suspension from one week to 18 months. Although several members have been suspended for behavior, no one in my 25 years as general manager has been expelled from the club." All the penalties at the Beach Club are at the board's discretion.

As might be expected with all these clubs and their examples, offenders have the right to appeal their punishment, usually to an appeals committee. As recommended by Stowell, the offending member, of course, is notified of the discipline decision, in writing. With all these clubs it's all quite confidential with only the offending member being notified.

While these clubs have their discipline procedures in order, it's also something that clubs should review regularly.

"I cover discipline issues at new board orientations," says Stowell. "This is a good opportunity to review all the club's key documents, such as bylaws and the club's key policies.

"Club documents are often broad, meaning members can be disciplined for violations of specific rules or for non-specific 'bad behavior' that can, for example, 'jeopardize the congeniality or good reputation of the club,'

"Recently," Stowell explained, "I have had more cases of bad behavior involving member interaction with employees or involving various types of member intoxication."

"Two things I would like to see: club files where members have signed all of the required documents when they joined the club and clubs that document bad behavior when it occurs. I have had cases where, during the investigation, employees disclose prior **worse** acts. Employees need to be empowered to report concerns, suspicions, observations and the like to the general manager or their supervisor," Stowell explained.

"Employees training programs and employee handbooks should cover (a) the employee's right to report to a supervisor inappropriate member behavior and (b) the employee's obligation to keep member information confidential," Stowell added. "Disclosing member information, including bad behavior or information from a disciplinary investigation, should be grounds for termination."

The important thing, Stowell stressed is "to act uniformly. If it is a rule, enforce it. If it is not enforced, remove it from the rules.

"At my club-clients, each complaint is investigated. Some complaints can be addressed by a letter to the member's file and are handled by the general manager. Anything that involves potential liability for the club – for example, matters that involve employees or illegal behavior – should always involve the club board and the club's attorney.

"State law and the club's documents contain requirements for member discipline, generally, the member should receive notice and an opportunity to be heard by the board. And there's the confidentiality factor.

"But my clients do not share the outcome of a disciplinary issue with the general membership. It's unnecessary, and could lead to potential liability for the club," Stowell concluded. That seems to be a constant position with clubs.

PUBLISHER'S FINAL THOUGHTS

When a person joins a private club, they're extended many rights and privileges, and as we've written before being an advocate and recruiting new members is one of a member's most important responsibilities. And so it is with discipline...members have the right to use facilities and use them responsibly without infringing on the rights and privileges of others.

As our contributors to this story have stressed however, it's important to have a process dealing with member discipline, when that's necessary.

And Robyn Stowell, in her recent article "Getting Member Discipline Right", has some general guidelines worth repeating:

- Be sure every member signs all appropriate membership documents before you assign a membership number
- Make the rules and policies clear, keep them up to date, and publish them regularly
- Apply the rules consistently
- Document infractions in a member's file
- Investigate and clarify the information
- Apply punishment consistently
- Give the charged member notices and the opportunity to be heard
- Keep all discipline matters confidential.

At least, that's the way I see it! **BR**

John G. Fornaro, publisher

If you have questions or comments, John can be reached at: johnf@apcd.com