

Holstein, UK

Disciplinary Rules and Procedure

These Rules are made under the power given to Holstein, UK (the "Society") in its Articles of Association.

Definitions

In these Rules:

"Animal" means any animal registered or eligible to be registered in the Society's Herd Book under the provisions of the Society's Articles of Association and any Rules or byelaws made under those Articles of Association.

"Appeal" means the right of appeal under the Procedure made in accordance with Rule 6 of these Rules.

"Appeals Committee" means a committee consisting of 3 members of the Board who shall be appointed by the Board upon receipt of a Notice of Appeal, lodged in accordance with Rule 6 of these Rules.

"Appeal Hearing" means the hearing at which the Appeals Committee considers an Appeal lodged by a Member in accordance with Rule 6 of these Rules.

"Board" means the Board of Management for the time being of the Society.

"Chairperson" means a member of the Legal Committee or Appeals Committee appointed by the relevant Committee to act as a Chair whilst a Charge is being considered under the Procedure.

"Charge" means an allegation of Misconduct made against a Member which the Legal Committee determines shall be considered under the Procedure.

"Charge Notice" shall mean the formal document following the Charge which sets out: (i) the facts and matters relied upon in support of the Charge; (ii) the basis upon which this constitutes Misconduct; and (iii) the evidence (documentary or otherwise) relied upon in support of the Charge.

"Hearing" means a disciplinary hearing at which the Legal Committee receives evidence in relation to a Charge.

"Legal Committee" means a committee consisting of not less than 3 out of 5 members of the Board who shall be elected or re-elected annually by the Board at the first meeting of the Board held after the Annual General Meeting of the Society or appointed by the Board upon the retirement of a member of the Legal Committee during the following year with the right to co-opt other members of the Board and to take legal or other advice if necessary.

"Member" means a member of the Society.

"Participant" means all owners, exhibitors, fitters, agents and other participants in a Show.

"Presenting Officer" means a member of the Board or a member of Holstein, UK's Management Team appointed by the Board to carry out investigations into allegations of Misconduct by any Member of the Society and to present evidence of any alleged Misconduct to the Legal Committee under the procedure.

"Procedure" means the disciplinary Procedure set out in these Rules.

"Show" means any show organised by or for the Society.

"Showing Rules" means the Society's Rules and Regulations for Showing Dairy Cattle which are in force at the time that the Misconduct or alleged Misconduct took place.

1 GENERAL PRINCIPLES

- 1.1 The Society may take action against any Member or Participant which it considers may be guilty of "Misconduct". Any Member or Participant shall remain liable for any Misconduct committed during the period of his membership or during the period of participation, notwithstanding the cessation of Membership or participation in Shows.
- 1.2 It shall be the duty of all Members to report any incidents of Misconduct to the Legal Committee.
- 1.3 The Society attaches particular importance to all Members maintaining the highest standard of animal welfare and maintaining the good reputation of animal shows. Members must at all times comply with the Society's Rules and Regulations for Showing Cattle. The Society is unable to impose its own showing rules on the organisers of other events where an Animal is shown. Each show has its own rules which Members are bound to observe and a failure to observe those rules will amount to Misconduct.
- 1.4 The Society also attaches great importance to ensuring the fairness of its Procedure. The Procedure shall respect the following principles:
 - (a) a timely hearing;
 - (b) fair and impartial hearing body;
 - (c) the right to be represented by legal counsel at the Member or Participant's own expense;
 - (d) the right to be fairly and timely informed of the alleged act of Misconduct;
 - (e) the right to respond to the alleged act of Misconduct;
 - (f) the right of each party to present evidence, including the right to call and question witnesses (subject to the Legal Committee's discretion to accept testimony by telephone or written submission);
 - (g) a timely, written, reasoned decision; and in reaching its decision, the Legal Committee shall:
 - (i) be satisfied as to the facts of the case based on the evidence presented to it;
 - (ii) determine whether it is satisfied that those facts amount to Misconduct; and
 - (iii) if the facts amount to Misconduct consider whether it is appropriate to impose any Sanction.

2 MISCONDUCT

- 2.1 It shall be "Misconduct" under these Rules if a Member or his employee, representative or agent:
- (a) knowingly, recklessly or negligently makes any incorrect or inaccurate statement or provides any incorrect or inaccurate information concerning the breeding or the records relating to an Animal;
 - (b) does anything prejudicial to the interests of the Society or which might bring the Society into disrepute;
 - (c) breaches any bylaw or Rule of the Society;
 - (d) breaches any of the Showing Rules;
 - (e) if the Member or his animal participates in any show (whether one of the Society's Shows or a show organised by another body) while disqualified or is disqualified at any show; or
 - (f) is convicted of a criminal offence or is found to be in breach of any statutory regulations or requirements in connection with membership of the Society or conduct relating to an animal.

3 INVESTIGATION

- 3.1 The Presenting Officer may of his own motion or following a complaint or allegation investigate whether Misconduct has taken place.

4 CHARGE

- 4.1 Following such an investigation, if the Presenting Officer considers that a Charge should be brought, the Presenting Officer shall notify the Member or Participant by means of a Notification Letter.
- 4.2 The Notification Letter shall set out the Charge, together with brief details of the facts upon which it is based.
- 4.3 The Member or Participant who is the subject of the Charge shall have 14 days to respond to the Notification Letter. Within that period a Member or Participant must either admit or contest the Charge by service of a Letter of Response to the Notification Letter.
- 4.4 If no response is received to the Notification Letter, the Member or Participant shall be deemed to have denied the Charge.
- 4.5 If the Charge is admitted, the Legal Committee shall consider only the question of sanction. If it is not admitted or denied, the procedural steps below shall be taken.

5 DIRECTIONS

- 5.1 Following receipt of the response to the Notification Letter, the Legal Committee shall give directions as to the disposal of the Charge. Where the Charge is admitted directions shall be given as to the Hearing to decide the appropriate Sanction. Where the Charge is denied, the Directions shall set out at least the following matters;
- (a) the time for service of the Charge Notice;

- (b) the time for service of the response to the Charge Notice by the person charged;
- (c) the time for service of a reply to the Charge Notice (if any);
- (d) the date by which any applications should be made for disclosure of documentary or other evidence by either party; and
- (e) the projected date of the hearing and its duration.

6 POWERS OF THE LEGAL COMMITTEE

6.1 The Legal Committee shall have power

- (a) to determine its own procedure.
- (b) to call upon any other Member of the Society or Participant to produce any documentary evidence or to give such oral evidence as the Presenting Officer and/or the Legal Committee may consider necessary.
- (c) to amend or abridge any timetable set out in the Directions or to impose a new timetable on the parties;
- (d) to adjourn the hearing for any purpose it sees fit;
- (e) to request any evidence not tendered by the parties which it considers would assist it in the disposal of the Charge.

7 BURDEN OF PROOF

The Presenting Officer on behalf of the Society will bear the burden of proving the Charge on a balance of probabilities. Where a charge relates to conduct which is also capable of constituting a criminal offence, the Presenting Officer shall bear the burden of proving the Charge beyond reasonable doubt.

7.1 Findings of fact and/or law by a civil or criminal court of competent jurisdiction shall be irrebuttable evidence of the matters of fact and/or law decided.

8 ADMISSIBILITY OF EVIDENCE

8.1 In the exercise of their powers neither the Legal Committee nor the Appeal Committee shall be bound by any enactment or rule of law relating to the admissibility of evidence in proceeding before the English Courts (whether civil or criminal)

9 THE HEARING

9.1 The hearing shall be in private.

9.2 The Legal Committee shall make its decision on a majority vote.

9.3 A legal advisor may be present to advise the Legal Committee.

9.4 Both the Member or Participant and the Presenting Officer shall be entitled to use a legal representative to present his/her case on his/her behalf.

- 9.5 The Legal Committee shall be entitled to a request to hear evidence from the Presenting Officer, the Member and any third party witness, providing their evidence has been previously disclosed in the Charge Notice or the Response or otherwise prior to the Hearing.
- 9.6 If the Member or Participant does not attend the Hearing, the Legal Committee shall be entitled to proceed with the Hearing in their absence.
- 9.7 The Chairperson may adjourn the Hearing at any stage.
- 9.8 The procedure at the Hearing shall be determined at the discretion of the Chairperson.
- 9.9 Notwithstanding the foregoing, the hearing shall generally commence with the Presenting Officer making a short opening statement. The Member or Participant shall then also make a short opening statement. The Presenting Officer shall then present the case on behalf of the Society. Where witnesses are called, they shall give their evidence, subject to the right to be cross examined by the Member or Participant. The Member or Participant shall then present their case. Where witnesses are called, they shall give their evidence and the Presenting Officer shall be given the opportunity to cross examine them. Once both parties have presented their case and evidence, there shall be a short adjournment after which time each party shall present short closing submissions.
- 9.10 Once the Legal Committee has heard the case, the Legal Committee shall adjourn to deliberate in closed session, and may be advised by a legal advisor.

10 DECISION

- 10.1 The Legal Committee shall provide the Member and the Board with a reasoned decision in writing within 14 days of the date of making its decision. This period may be extended if the circumstances so warrant by the Legal Commission Committee.

11 MITIGATION

- 11.1 If a Charge is proved the Legal Committee shall consider any plea in mitigation put forward by or on behalf of the Member or Participant which is the subject of the Charge.
- 11.2 In reaching its decision on sanctions, the Legal Committee shall:
- (i) consider the previous history and character of the Member and any mitigating circumstances; and
 - (ii) determine whether it is appropriate to impose any Sanction on the Member and, if so, what is the appropriate sanction.

12 SANCTIONS

- 12.1 On Misconduct of the Rules being proved to the satisfaction of the Legal Committee and the Legal Committee having considered any plea in mitigation, it shall have the power to impose one or more of the following "Sanctions":

- (a) to expel or suspend a Member from the Society for a stated period or until conditions laid down by the relevant Committee are satisfied;
 - (b) to suspend a Member from participating in all or such specified activities of the Society as the relevant Committee shall determine for a stated period or until conditions laid down by the relevant Committee are satisfied;
 - (c) to de-register an Animal from the the Society's Herd Book;
 - (d) to suspend an Animal from registration in the Society's Herd Book for a stated period;
 - (e) to fine a Member up to a maximum of £10,000 (or such other maximum amount as may be determined by the Board from time to time and notified to the Members in the Society's Journal);
 - (f) to suspend a Member from exhibiting Animals at shows for a stated period;
 - (g) to suspend an Animal from being exhibited at shows for a stated period;
 - (h) to require a Member to pay compensation to any other Member;
 - (i) to censure a Member; and/or
 - (j) to require a Member to pay the Society's and/or any third party's expenses of and incidental to the matter as the Legal Committee or Appeals Committee thinks fit.
- 12.2 Any Participant or Member who has, in the opinion of the Legal Committee, made a complaint which is made in bad faith or is frivolous or vexatious may be ordered to pay the reasonable costs of the Legal Committee and/or the Presenting Officer incurred in investigating such allegations.

13 APPEAL PROCEDURE

- 13.1 The decision of the Legal Committee shall be subject to the right of Appeal.
- 13.2 An Appeal must be lodged in the Society's standard form (available from the Society's Management Team and the Legal Committee) with the Appeals Committee within 14 days of service of the Legal Committee's decision. If the Member fails to lodge an Appeal within 14 days his Appeal will only be heard at the discretion of the Appeals Committee.
- 13.3 Only the Member against whom a decision has been made may bring an Appeal.
- 13.4 No person who has sat as a member of the Legal Committee may sit on the appeal committee considering the same matter.
- 13.5 An Appeal may only be made on the grounds that:
- (a) the Legal Committee failed to give the Member a fair hearing;
 - (b) new evidence has become available which could not reasonably have been made available to the Legal Committee and that new evidence would have made the Legal Committee reach a materially different decision;

- (c) the decision to find the Charge proved was so unreasonable that no reasonable body charged with the task could have reached that conclusion; or
 - (d) the Sanction imposed was unreasonable or excessive.
- 13.6 An Appeal shall be conducted as a review of the original case. Other than where the appeal is based upon the grounds set out in paragraph 13.5(b) above, fresh evidence shall only be brought with the leave of the Appeals Committee.
- 13.7 Upon receipt of the Appeal the Appeals Committee shall inform the Member of the date and time of the Appeal Hearing.
- 13.8 An Appeal may not be withdrawn without the leave of the Appeals Committee and in any event the Appeal fee will not be repaid.
- 13.9 The decision of the Legal Committee may, on the application of the Member or Participant, be suspended pending the outcome of the Appeal Hearing. In general, however, any suspension imposed by the Legal Committee shall stand pending the outcome of the appeal and all fines of compensation payable shall be held in a joint account pending the outcome of such an appeal.
- 13.10 Having heard the submissions of the Presenting Officer and Member, the Appeal Committee shall close the Appeal Hearing and shall meet to deliberate in closed session and may be advised by a legal advisor. That legal advisor may not be the same person that advised the Legal Committee on the same matter.
- 13.11 The burden of proof that none of the factors set out in paragraph 14.5 occurred shall be on the Presenting Officer. The standard of proof shall be that set out in paragraph 7 above.
- 13.12 Upon the hearing of an appeal, the Appeals Committee may:
- (a) allow the appeal;
 - (b) dismiss the appeal;
 - (c) vary any penalty imposed or made at first instance;
 - (d) make any other such order as it thinks fit.
- 13.13 The Appeals Committee shall make its decision on a majority vote.
- 13.14 The Appeal Committee shall provide the Member and the Board with a reasoned decision in writing within 14 days of the date of making its decision.
- 13.15 The Appeal Committee may order the Member to pay such costs of and associated with the Appeal as it deems reasonable in the circumstances.
- 13.16 The decision of the Appeal Committee shall be final.

14 DEFAULT

- 14.1 On default for 14 days (or any longer period laid down at the discretion of the Legal Committee or Appeal Committee) of payment of any fine or

compensation imposed, the Legal Committee or the Appeal Committee upon application for the Presenting Officer shall have power to order the defaulting Member to be expelled or suspended (conditionally or otherwise) from membership of the Society.

15 SERVICE

- 15.1 The Charge Notice and any letter, request or communication to be sent by the Presenting Officer, the Legal Committee or the Appeals Committee shall be properly sent if addressed to the last registered address of the Member charged.
- 15.2 The Response and any letter, request or communication sent under the Procedure by a Member shall be properly sent if addressed to the Chairperson of the Legal Committee or Appeals Committee, as appropriate, at [**insert address**].
- 15.3 The Charge Notice, Response and any letter, request or communication sent in relation to the Procedure shall be sent by first class post and shall be deemed to be served two business days after the date of posting.

16 JURISDICTION AND GOVERNING LAW

- 16.1 These Rules shall be governed by English law and subject to the exclusive jurisdiction of the English Courts.

17 PUBLICITY AND CONFIDENTIALITY

- 17.1 The findings of the Legal Committee and the Appeals Committee will be published in the Society's Journal.
- 17.2 Other than such publication the details of the proceedings shall remain private and confidential between the parties.

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