



Disciplinary Procedures of the Lleyn Sheep Society Ltd.

**affiliated to
The Welsh Agricultural Organisation Society Ltd.**

October 2007

DISCIPLINARY PROCEDURES

Professional conduct is governed by the Code of Conduct set out above. Alleged breaches of the Code may prove to be founded in fact and deserving of sanction, so each must be investigated by the Society's Council. The principles of the investigation, and any subsequent disciplinary enquiry, are that:

- no one is guilty until so found,
- any enquiry will be open and fair, and
- proved breaches of the Code shall attract sanctions commensurate with the seriousness of the breach.

(a) Preliminary Investigation

The first stage, on receipt of an allegation (the complaint), is a preliminary investigation to determine whether or not there is a case to answer.

Such investigation will be conducted by the Preliminary Investigation Committee (PIC), on behalf of Council, comprising a standing Chairman appointed by Council from among its members (who shall chair all investigation meetings during his two year period of office) and up to two others from Council selected on a case-by-case basis by the Chairman. The PIC shall be serviced by the Society's Secretary.

The Secretary, on receipt of a complaint, shall inform the Chairman of the PIC and the person complained about (the Defendant) in writing. The Defendant will also receive a copy of the Society Rules, Code of Conduct and Disciplinary Procedure. The Chairman shall seek what elaboration, evidence, and answers he considers necessary.

When enough information is available, the Chairman shall convene a meeting of the PIC to consider the complaint and the supporting information. Normally, the Defendant would not attend, although the Chairman may exercise discretion to the contrary.

A finding of 'no case to answer' would dismiss the complaint, and the Defendant would be so informed in writing. However, a record will be

maintained (consistent with the Data Protection Act 1998) for audit purposes.

A finding of 'case to answer' would require a recommendation to Council that the Disciplinary Procedure be activated.

All workings of the PIC will be held strictly confidential to the PIC and Council.

(b) Disciplinary Investigation

A Disciplinary Committee (DC) shall be appointed. It will be composed of not less than three, nor more than five, members of the Society, who shall not be members of Council at any time that they are members of the DC. Members of the DC shall be elected by the Society at its Annual General Meeting. Appointment will initially be for one year, but members will be eligible for re-election. One member of the DC shall be appointed as Chairman. He shall chair all meetings during his period of office. A quorum for any meeting of the DC shall be three members. The DC shall be serviced by the Society's Secretary.

The DC shall have delegated authority from the Society's Council to examine the complaint, and to decide its justification, but only to recommend appropriate sanctions if it finds the complaint justified.

The DC shall gather information relevant to the complaint primarily, but not necessarily exclusively, by an inspection of the Defendant's Flock and the records of the Defendant.

When enough information is available, the DC will consider the complaint. The Defendant has the right to attend a meeting of the DC, with or without legal representation, and to present his case in person, or to submit evidence in writing.

At the conclusion of the investigation, the DC decides, and reports, its decision on the justification or not of the complaint, and makes its recommendation to Council.

If the complaint is admitted, the only steps are to hear mitigation and to decide the recommended penalty.

The Society's Secretary will inform the parties (the Defendant and Council) accordingly in writing and notify the Defendant of a right to appeal. Penalties may include but not be limited to:

- written reprimand;
- an appropriate fine;
- suspension of the Member for a period from entering sheep for Society shows and sales and taking part in other Society-sponsored activities;
- cancellation of registrations of sheep belonging to the Member;
- suspension of the Member from membership of the Society for a fixed period;
- expulsion of the Member from membership of the Society;
- other.

Proposed penalties will be in the form of recommendations to Council.

It may be appropriate that a repeat inspection of the Defendant's Flock and/or records may be required either before penalties are confirmed or before suspended membership can be resumed.

All workings of the DC will be held strictly confidential to the DC and Council.

(c) Consideration by Council

Council shall receive the report of the DC on its investigation into the allegations of misconduct, shall note the DC's findings of fact and consider the recommendations concerning penalties, if any, that should be imposed on the Member concerned.

The Member who is the subject of such report shall be given copies of the report and reasonable notice of the meeting of Council at which such report is to be considered. He shall have the opportunity to attend such meeting, with or without legal representation, and to make any plea in mitigation.

No new evidence shall be admitted at the Council meeting which considers the report of the DC into the complaint against the Member.

Council shall not be bound, in any way, by the DC's recommendations on penalties, but shall be required to give reasons for any different penalty to that recommended which it decides to impose on the Member.

In case any Member of the Society, following a Disciplinary Procedure against him, shall be expelled or suspended from membership of the Society, or reprimanded or fined, or subject to any other penalty, written notice of such event shall forthwith be sent by the Society's Secretary to such Member by registered post.

A record will be maintained (consistent with the Data Protection Act 1998) of the investigation and the penalties for audit purposes.

All considerations of the case by Council shall be held strictly confidential.

(d) Appeal

If leave to appeal is sought from Council, it must so be done within Twenty Eight days of the publication of the decision of Council.

If leave to appeal has been sought, Council shall instruct the Society's Secretary to pass all relevant documentation to the National Sheep Association Appeal Committee (AC) for consideration.

The decision of the AC shall be communicated to Council and to the Defendant by the Society's Secretary. A record will be maintained (consistent with the Data Protection Act 1998) of the appeal and the decision for audit purposes.

All considerations of the appeal shall be held strictly confidential.

ROLE OF THE NATIONAL SHEEP ASSOCIATION IN APPEAL

(TAKEN DIRECTLY FROM NSA BYE LAW 1)

NSA's role in an Appeal Tribunal is to co-ordinate all arrangements regarding the Appeal. It may be necessary for a representative of NSA to be present at the Tribunal in an administrative capacity but that representative would not participate in the deliberations of the Appeal.

The parties by agreeing to appoint the Appeal tribunal accept that it is the final arbitrator of the dispute between the parties and that the Tribunal's decision shall be final and binding upon those parties to the Appeal.

Neither the National Sheep Association nor its servants or agents nor the members of any Appeal Tribunal shall be liable to any party for any act omission or misconduct in connection with any appointment made or any appeal conducted under this procedure.

(1) Instigating the Appeal Procedure

A party wishing to use the Appeal procedure must notify the NSA in writing of the matter(s) which give rise to the Appeal. The NSA in its absolute discretion will consider whether or not the matters raised are items that the Appeal Tribunal can properly consider and if it does then notification should be given to the Breed Society informing that Society of the complaints so that it can be aware of the matters to which it must address its response.

(2) Appeal Tribunal

(a) The Appeal Tribunal shall consist of:

- an independent legally qualified chairman;
- two members of other affiliated breed societies who have no connection with the Society involved in the appeal.

(b) The appeal shall be conducted in accordance with the principles of natural justice but subject thereto the conduct and procedure of the appeal shall be in such manner and form as the independent legally qualified chairman shall in his absolute discretion decide. The proceedings will be conducted on a relatively informal basis, without evidence being given on oath and the order

of presentation of evidence will be decided upon at the Appeal Hearing. The idea is to keep it informal but fair.

(c) If the Appeal Tribunal shall decide the appeal in favour of the Appellant the Society shall forthwith admit the Appellant to membership of the Society.

(d) The Tribunal has the power to decide which party shall pay the costs of the Tribunal and to reimburse some or all of the deposit paid to the successful party.

(3) Arrangements regarding the Appeal Tribunal

(a) Date and Time:

NSA to liaise with the independent legally qualified chairman and two other members regarding possible dates for the Tribunal to be held.

These dates to be offered to the Appellant and the involved Breed Society and a mutually convenient date and time agreed.

Not less than six weeks notice of the date of the Tribunal will be given and the parties will be expected to send to the NSA office, Malvern, not less than four weeks before the hearing date, all documentation upon which they seek to rely. See paragraph 3 (d) below.

(b) Location for hearing:

The Sheep Centre, Malvern, Worcestershire or nearby.

(c) Both parties to attend the Tribunal

In the event of non-attendance by one party or both parties the Tribunal will make such decision as is appropriate based on the information given to them.

(d) Background requirements and information:

It is hoped that the Appeal tribunal would be able to arrive at its decision in one day – therefore it is necessary for all relevant correspondence and information to be available beforehand.

- All relevant information, including statement of case from each party, and any witness statements to be relied upon to be sent to NSA, The Sheep Centre, Worcestershire WR13 6PH no later than four weeks before date of the Tribunal.
- This will be forwarded to members of the appeal tribunal and to the other party.

(4) Costs regarding the Appeal Tribunal

Not more than £2000.00 per day, to include all expenses regarding the Tribunal:

Attendance and travelling expenses incurred by the legally qualified chairman and two members from the other breed societies.

Meeting room and refreshments.

Administrative costs incurred by NSA, the legally qualified chairman and the other two members.

(5) Payment of costs regarding Appeal Tribunal

a. Before:

Each party has to deposit the sum of £2000.00 with NSA 28 days prior to the hearing to cover the Tribunal's costs. The money will be placed in a separate interest earning account.

b. After:

Refund of the deposits will be in the discretion of the Tribunal but the cost of the Tribunal will not exceed £2000.00. Accrued interest to be paid to each party.

Expenses to members of the Appeal Tribunal to be paid within 10 working days.

(6) Costs incurred by Appellant and Breed Society

a. £2000.00 deposited with NSA – possibly refundable. (5a & b refers).

b. Appellant and Breed Society to pay their own costs incurred and travelling expenses (eg administration, representation etc).
No party can claim costs against the other party.

Once date of Appeal agreed:

(7) Minimum of 6 weeks notice to be given to all parties (3a refers)

NSA to confirm date/time/venue of Appeal in writing to:

- The independent legally qualified chairman;
- The Appellant;
- The Breed Society;
- The independent Breed Society members.

(8) Information

NSA to request all relevant information from the Appellant and from the Breed Society to be received at NSA, The Sheep Centre, Malvern, Worcestershire no later than 28 days prior to the hearing (3di refers).

‘Relevant information’ from each party to include:

- Statement of case;
- Relevant correspondence;
- Any witness statements to be relied upon;
- Breed Society to provide copy of Memorandum and Articles of Association.

(9) Dissemination of information

NSA to forward copies of information to:

- The other party;
- The independent legally qualified chairman;
- The independent Breed Society members.

(10) Request for deposit

NSA to request deposit of £2000.00 from the Appellant and from the Breed Society to be received at NSA no later than 28 days prior to the hearing (5a refers).

NSA to place the deposits in a separate interest earning account.

(11) Record of proceedings

No record of proceedings will be made.

(12) Day of Hearing

- a. Attendance: Each party may be accompanied.
- b. Non-attendance: In the event of non-attendance by one party or both parties the Tribunal will make such decision as is appropriate based on the information given to them (paragraph 3c refers).
- c. No evidence to be given on oath (paragraph 2b refers).
- d. Broad outline of order of proceedings:
 - Introduction
 - Presentation of evidence followed by questions and discussion
 - Both parties then leave to allow Tribunal members to discuss case
 - Tribunal’s conclusion

(13) Following the Hearing

The independent legally qualified chairman will write to advise the parties of the decision of the Appeal Tribunal and to advise what costs will be required from either party as appropriate.

(14) Payment of costs and expenses etc

NSA to arrange for withdrawal of deposits and payment as directed by the Tribunal.