

## **The BMG has two separate Procedures: one for an Accident and another for a Complaint.**

### **Introduction**

The BMG's Code of Professional Conduct places a number of obligations on a Guide, who has a legal duty of care to his/her clients, but also wider professional responsibilities and obligations to mountaineers and mountaineering in general, which in some circumstances may also constitute a legal duty of care. The Code forms the basis on which the Professional Standards Committee may act.

Throughout both Procedures, the term Guide refers to all categories of BMG Membership irrespective of category. PSC refers to the Professional Standards Committee of the BMG.

When a Guide is involved in an Accident or a Complaint, the BMG must act quickly and fairly within constraints set by legal and insurance issues. Members must recognise that a colleague, whether through fault or not, is involved in what may be a very stressful situation and may be in need of support for a considerable time afterwards.

On no account should Guides discuss an Accident or a Complaint in public.

These Procedures are designed to:

- act quickly to establish facts
- inform the membership and others of relevant facts and any lessons to be learned; and to facilitate the effective communication of any general risk management issues arising from or to be learned from an incident
- take any necessary action where shortcomings by a Guide are identified

- support a Guide involved in an accident, and protect a Guide from an unjust complaint
- recognise the BMG's duty to its clients and to its Insurance Company
- recognise the BMG's obligations to mountaineers and mountaineering in general

Before making a formal complaint, complainants are encouraged to resolve the issue informally.

Time objectives are set for the various stages. These are only advisory, but nevertheless every effort should be made to achieve them, and failure to meet specific deadlines may constitute a disciplinary matter in its own right.

The Procedures are the BMG's internal self-regulatory procedures for dealing with Accidents and Complaints, and there is no intent to affect any parties' rights in law. Under the Procedures, a Guide may be subject to a disciplinary sanction; and in addition, under the Articles of Association, the President may in exceptional circumstances immediately suspend a Guide for up to 3 months.

The Chair PSC is appointed by the BMG Management Committee for a renewable period of 3 years and may not be a voting member of the BMG Management Committee. If the Chair PSC is unavailable, the President may appoint an Acting Chair in consultation with members of the BMG Management Committee.

## **THE PROCEDURE TO BE FOLLOWED IN AN ACCIDENT INVOLVING A GUIDE**

For simplicity the Guide who was involved in the accident is referred to as the Guide.

### **1. ACCIDENTS**

An accident in this context is any injury or event requiring professional medical attention or serious enough potentially to justify an insurance claim or potentially affecting the reputation of the BMG.

### **2. OBLIGATIONS ON GUIDE**

2.1 The Guide must not make any admission of liability to anyone.

2.2 With serious and fatal accidents the Guide must contact the BMG Office at

Capel Curig immediately by phone (01690 720386), email ([guiding@bmg.org.uk](mailto:guiding@bmg.org.uk)) or fax (01690 720248). If the Office is closed, the Guide must make immediate contact with the President, Chair PSC or other member of the Management Committee.

2.3 Any statements to the Press must be purely factual; expressions of opinion should be avoided. Statements to the Press are normally made only by the President or representative.

2.4 Within 48 hours of the accident the Guide must send a detailed Report to the BMG Office containing:-

- Name of Guide with email address
- Date of Accident
- Route or Place
- Casualty's Name, Age, Address, Occupation, Marital Status
- Name, Age and Address of Others in the Party
- Name and Address of Other Witnesses

- Name and Address of Police Officer if involved
- Detailed Account of circumstances leading up to, during and after the accident

2.5 The preferred method is by email to the BMG Office, simultaneously copied to the President and Chair PSC. If the Guide is unable to send in the Accident Report within 48 hours, the Guide should contact the BMG Office (in normal office hours) or (outside normal office hours) the President or Chair PSC.

2.6 It is important that the Report is written while events are still fresh and details are easily recalled. This may be important later from an insurance point of view.

2.7 If any claim is brought against a Guide, the Guide must notify the BMG Office and must forward any further correspondence to the BMG Office without reply.

2.8 It is the Guide's responsibility to ensure that a Report is submitted; and until a receipt is received from the BMG Office, the Guide must assume that the Office has not yet received it.

2.9 Where the Guide is insured under the BMG Policy, the BMG Office informs the insurers under paragraph 3.3. Where the Guide is insured under another policy, the onus is on the Guide to inform his/her insurers.

2.10 Failure by a Guide to comply with these requirements may constitute a Disciplinary Matter in its own right.

### **3. BMG OFFICE**

The BMG Office is contacted by a Guide involved in an accident.

3.1 The BMG Office sends the Guide an Accident Report Form if required, preferably by email.

3.2 The BMG Office contacts the President or in the President's absence a senior member of the BMG Management Committee, who will decide whether to contact the Police and/or in exceptional circumstances the next of kin.

3.3 The BMG Office contacts the BMG Insurance Brokers by letter, email or fax; forwards to them the Accident Report Form, and files a copy.

3.4 The BMG Office forwards a copy of the Accident Report Form to the President and Chair PSC; and acknowledges receipt to the Guide.

Time Objective: 7 Days

3.5 If the BMG Office receives an insurance claim it must pass the claim on to the BMG Insurers immediately without replying, and must notify the President and Chair PSC.

#### **4. A CASE TO INVESTIGATE**

The President and Chair PSC receive an Accident Report Form.

4.1 They decide jointly if the accident warrants an Inquiry. In making this decision they will consider whether there may be lessons to be learned. With serious and fatal accidents there is a presumption that an Inquiry will be held.

4.2 If they decide that an investigation is not warranted, the Chair PSC writes to the Guide explaining the decision, and the matter is closed. This decision may be reviewed if fresh evidence justifies a review. The Guide is encouraged to share any issues resulting from the incident with the membership.

- 4.3 If they decide an investigation is warranted, the matter is passed to the Chair PSC.
- 4.4 In accidents involving a fatality, the President will make contact with the family offering sympathy and support, and explaining the BMG Accident Procedure.

Time Objective: 7 days

## **5. INQUIRY**

### **5.1 Planning of Inquiry Committee**

**Inquiry Guide** The Chair PSC may appoint an Inquiry Guide, who will be an expert in the particular field, to help establish the facts.

**Membership** The Inquiry Committee is convened by the Chair PSC. Membership is at the discretion of the Chair PSC and normally consists of the Chair PSC and two other senior Guides, one of whom is the Training Officer or other member of the Training Committee, and one of whom is the Inquiry Guide, if appointed, or other senior Guide. The Chair PSC may invite any other Guide(s) as appropriate.

**Personal Interest** The Chair and Members must declare any personal interest, and there is a presumption that personal interest is a bar to sitting on the Inquiry Committee.

Time Objective: 14 days

### **5.2 The Inquiry Committee**

**Objectives** The Objectives of the Inquiry Committee are:

- to establish and consider facts
- to decide if there are lessons to be learned
- to report to the President

**Electronic Consultation** This is the preferred method of holding the meeting and may be used where the Chair PSC believes that enough evidence has been made available by written statements. It is not appropriate for witnesses including the Guide to take part in an electronic meeting.

**Physical Meeting** If the Chair PSC believes that insufficient evidence has been made available by written statements, or if the Chair PSC believes it would be beneficial to hear witnesses including the Guide, or if the Chair PSC has any other reason for doing so, a physical meeting may be held. The proceedings will be as informal as possible and will not be governed by any formal rules of evidence.

**Report** The Inquiry Committee writes a Report which consists of a factual account of the accident and any lessons to be learned. This Report is sent to the President, the Guide and the BMG Office.

Time Objective: 21 days

## **6. IS THERE A CASE TO ANSWER?**

6.1 The President and Chair PSC jointly decide if the Guide has a Case to Answer on disciplinary grounds.

6.2 If there is a Case to Answer, the Chair PSC informs the Guide of that decision and starts the procedure for a PSC Hearing. The Inquiry Committee Report is made available to the PSC Hearing.

6.3 If there is no Case to Answer, the Chair PSC informs the Guide of that decision, which may be reviewed if new evidence later comes to light. The President and Chair PSC decide on the extent and method of circulation of the Inquiry Report. In making that decision, care will be taken to balance the need to inform the membership and others

of relevant facts and lessons to be learned, while protecting the Guide.

Time Objective: 7 days

## **7. LEGAL ISSUES**

An Inquiry Committee has reported on an accident, and the President and Chair PSC have jointly decided that there is a Case to Answer on disciplinary grounds.

The President and Chair PSC decide if the incident is likely to give rise to a legal case and whether continuing with the PSC Hearing at this stage is likely to compromise the interests of the Guide, BMG insurers and/or the BMG. In making this decision they may consult with BMG insurers and any lawyers appointed by them; and they may take separate legal advice on behalf of the BMG. The BMG's insurers are likely to be the same as the Guide's, but if the Guide has different insurers, the BMG may consult with them also.

Time Objective: 21 days

## **8. PROFESSIONAL STANDARDS COMMITTEE HEARING**

### **8.1 Planning of PSC Hearing**

**Convening** The Hearing is convened by the Chair PSC, and consists of the Chair PSC and appointed Members.

**Members** There is a minimum of three Members who are BMG Guides appointed for a specific Hearing by the Chair PSC. In selecting Members the Chair PSC will consider the seniority of members and any specialist knowledge or skills they might bring to the Hearing. A Guide who took part in the Inquiry may not be a Member of a PSC Hearing Committee of the same case.

**Personal Interest** The Chair and Members must declare any personal interest, and there is a presumption that personal interest is a bar to sitting on a Hearing.

**Notification of Hearing** Parties will be given at least 28 days notice of the date and place of the Hearing. If the parties agree, this can be sooner.

**Accidents Involving a Fatality or Serious Injury** The family will be invited to attend the Hearing as observers and the Chair PSC may ask questions on their behalf. A maximum of 2 members from any one family may attend.<sup>1</sup>

Time Objective: 7 days

## 8.2 PSC Hearing

**Objectives** The Objectives of the PSC Hearing are to make recommendations to the BMG Management Committee on:

- whether the Guide was in breach of the BMG's Code of Professional Conduct
- whether or not to impose a sanction(s) against the Guide

**Written Submissions** The Guide must produce a written submission which may be the same as that produced for the Inquiry Committee or may be different; and it may include submissions from witnesses. These submissions must be received by the BMG Office at least 10 days before the Hearing for circulation to members of the Hearing Committee.

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<sup>1</sup> The BMG recognises that a family has a legitimate interest in attending in order to help understand the incident and to come to terms with it. The BMG also recognises that its investigation of these events should be as open as possible. Nevertheless, the primary purpose of a PSC Hearing is to examine a Guide's actions, to see if there was a breach of the BMG's Code of Professional Conduct, and to establish if there are any lessons to be learned. The BMG believes that any influence which could detract from that should be kept to a minimum and that a large family presence could be such a detraction.

**New Evidence** There is a presumption against new evidence being produced at the Hearing. The Chair PSC may waive this presumption.

**Witnesses** The Guide may attend the PSC Hearing and may be requested to attend by the Chair PSC. The Guide may be accompanied at the Hearing by a friend or supporter<sup>2</sup>, who may speak at the Hearing but may not be a lawyer<sup>3</sup>. The PSC may call any witnesses it wishes.

**Procedure** The Hearing is chaired by the Chair PSC in an independent role. The proceedings will be as informal as possible and will not be governed by any formal rules of evidence.

**BMG Secretary** The Hon. Secretary of the BMG (or deputy) attends and takes notes for the Chair PSC.

**Recommendations and Sanctions** The Committee decides whether the Guide was in breach of the BMG's Code of Professional Conduct. If the finding is 'in breach' the Committee may, but is not compelled to, apportion the level of breach. If the Guide is found to be 'in breach', any of the following sanctions may be recommended:

- reprimand
- reprimand with condition(s)
- fine (to a maximum of 7 times the average current Alpine or UK daily rate, as applicable)
- suspension and /or suspension with condition(s)
- expulsion

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<sup>2</sup> The BMG has Guidelines on the role of the friend/supporter.

<sup>3</sup> While the BMG is a Non-Regulatory body and is not therefore bound by formal rules of evidence and procedure, it nevertheless recognises that its procedures must be fair and in accordance with the principles of natural justice. The primary purpose of a PSC Hearing is to examine a Guide's actions, to see if there was a breach of the BMG's Code of Professional Conduct, and to establish if there are any lessons to be learned. The BMG believes that any influence which could detract from that primary purpose should be kept to a minimum and that the presence of lawyers could be such a detraction.

**Lessons to be Learned** The Committee decides if there are any lessons to be learned, even if the finding was 'not in breach'.

**8.3 Notification of Recommendation** The Chair PSC writes to the Guide with notification of the Recommendation, advising the Guide that this is subject to ratification by the BMG Management Committee.

Time Objective: 7 days

**8.4 Report of Hearing** The Chair PSC produces a Report of the Hearing agreed by the Members of the PSC Hearing Committee, which is sent to the BMG Management Committee for ratification. If there is an Appeal, this Report will be made available to the Chair of the Appeal Committee.

Time Objective: 14 days

## **9. BMG MANAGEMENT COMMITTEE**

The BMG Management Committee receives a Report from the Chair PSC.

- 9.1 At its next meeting the BMG Management Committee makes a Decision on the Recommendations of the PSC Report. If the President and Chair PSC believe the case is uncontroversial, this Decision may in the interests of speed be made by the four Directors - in which case this decision is confirmed by the Management Committee at its next meeting.
- 9.2 The President sends this Decision to the Guide and advises the Guide of the Right to Appeal.
- 9.3 The Committee writes a Report on this Decision. In deciding the extent and method of circulation of the Report, care will be taken to balance the need to inform

members of the relevant facts and any lessons to be learned, while protecting the Guide. If there is an Appeal, this Report is not circulated, but is made available to the Chair of the Appeal Committee.

Time Objective: 7 days

## **10. APPEAL**

**10.1 To Whom the Appeal Should be Made** An Appeal is made in writing to the President c/o the BMG Office and it must be received within 28 days of receipt of the Decision as in 9.1. It must contain sufficient details of the Grounds for Appeal to allow the Recommendations to be made as in 11.2.

**10.2 Grounds for Appeal** An Appeal may be made on the following grounds:

- that there was an abuse of process at the PSC Hearing
- new evidence
- the level of sanction

The President decides if there are valid Grounds for Appeal in consultation with members of the BMG Management Committee. If the Grounds for Appeal are 'new evidence' and are found to be valid, the President refers the matter back to the Chair PSC, who will reconvene a PSC Hearing.

Time Objective: 7 days

## **11. APPEAL COMMITTEE**

**11.1 Planning of Appeal Committee.**

**Membership** The Appeal Committee is convened by the

President in consultation with members of the BMG Management Committee and consists of a Chair and two Members.

**Chair Appeal Committee** A well respected mountaineer who is not a Guide.

**Members** (1) One senior Guide who is a member of BMG. (2) One senior representative from another professional organisation who, if appropriate, may be a senior Guide from another IFMGA Organisation.

**Personal Interest** The Chair and Members must declare any personal interest, and there is a presumption that personal interest is a bar to sitting on an Appeal Committee. Participation in any capacity at the PSC Hearing is a bar.

**Objections** Objections to the composition of the Appeal Committee may be made by the Guide and must be sent to the President within 7 days of Notification.

**Notification of Appeal Hearing** Parties will be given at least 28 days notice of the date and place of the Appeal Hearing.

Time Objective: 14 days

## 11.2 Appeal Hearing.

**Objectives** The Objectives of the Appeal Hearing are to:

- examine the valid Grounds for Appeal
- make Recommendations back to the BMG Management Committee

**Written Submissions** The Guide must produce a written submission on the Grounds for Appeal, which may include submissions from witnesses. These submissions must be received by the BMG Office at least 14 days before the Appeal Hearing, for circulation to the Appeal Committee.

**New Evidence** There is a presumption against new evidence being produced. The Chair may in exceptional circumstances waive this presumption.

**Witnesses** The Guide must attend the Appeal Committee Hearing and may be accompanied at the Hearing by a friend or supporter<sup>4</sup>. This friend or supporter may speak at the Hearing but may not be a lawyer<sup>5</sup>. The Appeal Committee will have the Inquiry Committee Report and the Report of the PSC Hearing, and may call any witnesses it wishes.

**Procedure** The proceedings will be as informal as possible and will not be governed by any formal rules of evidence.

**Recommendations** The Appeal Committee makes a Recommendation(s) back to the BMG Management Committee.

Time Objective: 7 days

## **12. BMG MANAGEMENT COMMITTEE**

12.1 At its next meeting the BMG Management Committee considers the Reports of the PSC Hearing and the Appeal Committee and makes a Final Decision, which is sent to the Guide.

12.2 The Management Committee writes a Report on its Final Decision. In deciding the extent and method of circulation of this Report, care will be taken to balance the need to inform the membership of relevant facts and any lessons to be learned, while protecting the Guide.

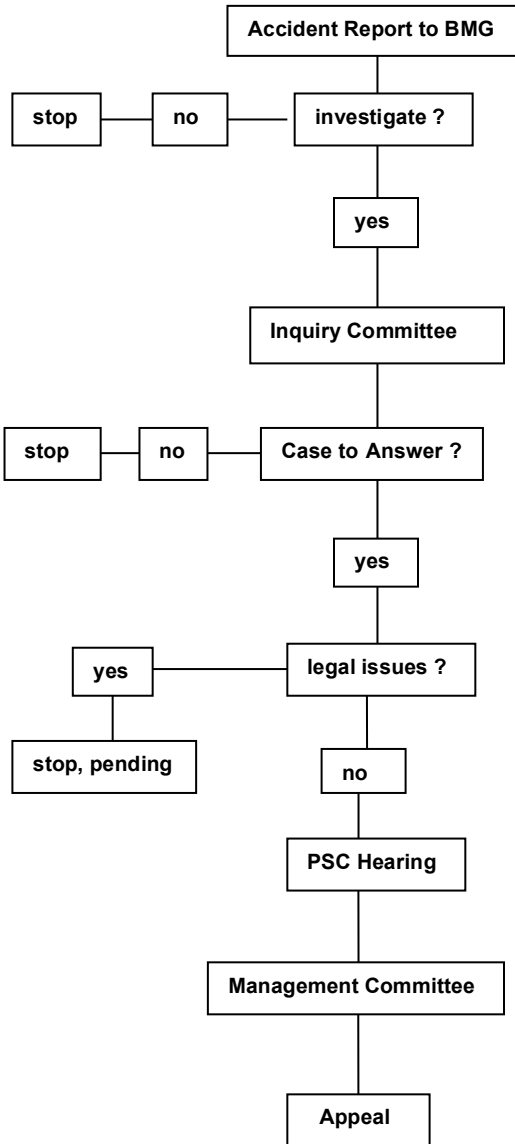
Time Objective: 7 days

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<sup>4</sup> See footnote 2

<sup>5</sup> See footnote 3

# Accident Procedure Flow Diagram



## **THE PROCEDURE TO BE FOLLOWED IN PROCESSING A COMPLAINT**

Following this Procedure can be a time consuming and stressful experience for both Complainant and Guide - also time consuming for the BMG members who necessarily become involved.

Complainants and Guides are therefore urged to try and reconcile their differences between themselves, and to only resort to this Procedure as a last recourse.

Nevertheless, the BMG recognises that there are occasions when, for very genuine reasons, Complainants and Guides are unable to resolve their differences and it accordingly has in place this Procedure.

For simplicity the Guide who is the subject of the complaint is referred to as the Guide.

### **1. COMPLAINT**

- 1.1 A Complaint can be brought by a member(s) of the public and/or by a member(s) of the BMG.
- 1.2 A Complaint can be brought against any member(s) of the BMG irrespective of category.
- 1.3 Grounds for Complaint:
  - Breach of the BMG Code of Professional Conduct
  - Any other reason held to be reasonable by the Chair PSC

- 1.4 The Complaint must be addressed to the President at the BMG Office, Siabod Cottage, Capel Curig, Conwy LL24 0ES.
- 1.5 It should consist of a description of the incident, identification of the Guide and Identification of the grounds for the complaint. It is up to the Complainant to provide enough details for a decision to be made as to whether the complaint is valid or not. Complaints which are worded in too general a sense and which lack substantial detail will be ruled invalid. It is not the role of the BMG to try and establish this detail.
- 1.6 The Complainant must show the steps taken to try and resolve the issue informally.
- 1.7 The Complaint must be received at the BMG Office within 3 months of the event. In exceptional circumstances, this may be extended by the President and Chair PSC.
- 1.8 For a complaint to be valid it must satisfy all of the above criteria.

## **2. WHEN A COMPLAINT IS RECEIVED**

A Complaint is received at the BMG Office.

- 2.1 The BMG Office acknowledges to the Complainant that the complaint has been received, and forwards the complaint to the President and Chair PSC.
- 2.2 The Chair PSC notifies the Guide.
- 2.3 The President and Chair PSC decide jointly if the complaint is Valid within the above mentioned criteria. If

they need further details in order to make this decision, they will contact the Complainant and/or Guide.

- 2.4 If it is decided that the complaint is Not Valid, the Chair PSC contacts the Complainant and the Guide, explaining the decision.

Time Objective: 7 days

### **3. AGREED SOLUTION?**

A complaint has been received which has been judged to be Valid.

3.1 If the President and Chair PSC believe that insufficient efforts have been made by the Complainant and Guide to resolve the issue informally, the Chair PSC may refer it back to them.

3.2 At the discretion of the Chair PSC, an approach may be made by the Chair PSC to the parties to see if a solution can be reached. In doing so, it may be appropriate for the Guide to offer an apology or refund, or to make another similar gesture; and it may be appropriate for a senior guide to discuss the issue informally with the Complainant and/or Guide.

Time Objective: 14 days

3.3 When a valid Complaint has been received and an agreed solution has been reached, the President and Chair PSC decide if the Guide has a Case to Answer on disciplinary grounds. In doing so, they follow 6.1 onwards.

## 4. QUICK PROCEDURE

A Complaint has been received which has been judged to be valid and no solution has been agreed on.

If the President and Chair PSC decide, on the information available, that the Guide has a Case to Answer on disciplinary grounds, in the interests of speed and convenience, this may be dealt with by the Complaint Committee, in which case:

- the President informs the Guide that he/she has a Case to Answer and on what grounds, and that this will be dealt with by the Complaint Committee
- the President directs the Complaint Committee to deal with the Case to Answer issue
- the President and Chair PSC make the decision on Legal Issues as in 7
- the Chair PSC convenes a Complaint Committee as in 5.1
- the Complaint Committee firstly proceeds as in 5.2. The Complainant and the Guide may attend in person and may be requested to attend by the Chair PSC
- .
- the Complaint Committee secondly proceeds as in 8.2. The Complainant may not attend; the Guide may attend, may be requested to attend by the Chair PSC, and may be accompanied by a friend/supporter<sup>6</sup>
- Time Objective: 21 days

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<sup>6</sup> The BMG has Guidelines on the role of the friend/supporter.

- the procedure continues through 8.3 to the end.

This is the only exception to the normal procedure, which continues in 5. Complaint Committee.

## **5. COMPLAINT COMMITTEE**

A Complaint has been received which has been judged to be valid; no solution has been agreed on; and the President and Chair PSC have not decided, on the information available, that the Guide has a Case to Answer on disciplinary grounds.

### **5.1 Planning of Complaint Committee**

**Inquiry Guide** The Chair PSC may appoint an Inquiry Guide, who will be an expert in the particular field, to help establish the facts.

**Membership** The Complaint Committee is convened by the Chair PSC. Membership is at the discretion of the Chair PSC and normally consists of the Chair PSC in an independent role, together with three other senior Guides, one of whom is the Inquiry Guide if appointed.

**Written Statements** The Complainant and the Guide must provide written statements to help establish the facts.

**Personal Interest** The Chair and Members must declare any personal interest, and there is a presumption that personal interest is a bar to sitting on the Complaint Committee.

### **5.2 The Complaint Committee**

**Objectives** The Objectives of the Complaint Committee are:

- to establish and consider facts
- to recommend if there are lessons to be learned

- to recommend whether the Complaint is upheld or not
- to report to the President

**Meeting** There is a presumption that the Meeting will be a physical rather than electronic one. The Complainant and Guide may attend in person and may be requested to attend by the Chair PSC; and the PSC may call any witnesses it wishes. The proceedings will be as informal as possible and will not be governed by any formal rules of evidence.

**Procedure** The Hearing is chaired by the Chair PSC in an independent role. The proceedings will be as informal as possible and will not be governed by any formal rules of evidence.

**BMG Secretary** The Hon. Secretary of the BMG (or deputy) attends and takes notes for the Chair PSC.

**Report** The Complaint Committee writes a Report which consists of a factual account of the incident, a recommendation as to any lessons to be learned, and a recommendation as to whether the Complaint is upheld or not. This Report is sent to the President, the Complainant, the Guide and the BMG Office.

Time Objective for 5.1 and 5.2: 21 days

5.3 As part of the Complaint Inquiry process, an agreed solution may be reached between the Complainant and the Guide.

## **6. IS THERE A CASE TO ANSWER?**

The Complaint Committee has sent its Report to the President.

6.1 Whether there has been an agreed solution or not, the President and Chair PSC will jointly decide if the Guide has a Case to Answer on disciplinary grounds.

6.2 If there is a Case to Answer, the Chair PSC informs the Complainant and the Guide, and starts the procedure for a PSC Hearing. The Complaint Committee Report is made available to the PSC Hearing.

6.3 If there is no Case to Answer, the Chair PSC informs the Complainant and the Guide. This decision may be reviewed if new evidence later comes to light. The Complaint Committee's Report is sent to the BMG Management Committee for ratification.

Time Objective: 7 days

## **7. LEGAL ISSUES**

A Complaint Committee has submitted its Report and the Guide has a Case to Answer on disciplinary grounds.

The President and Chair PSC decide if the incident is likely to give rise to a legal case and whether continuing with the PSC Hearing at this stage is likely to compromise the interests of the Guide, BMG insurers and/or the BMG. In making this decision they may consult with BMG insurers and any lawyers appointed by them; and they may take separate legal advice on behalf of the BMG. The BMG's insurers are likely to be the same as the Guide's, but if the Guide has different insurers, the BMG may consult with them also. The Complainant may be asked to clarify his/her intentions in respect to potential legal proceedings.

Time Objective: 21 days

## **8. PROFESSIONAL STANDARDS COMMITTEE HEARING**

### **8.1 Planning of PSC Hearing**

**Convening** The Hearing is convened by the Chair PSC, and consists of the Chair PSC and appointed Members.

**Members** There is a minimum of three Members who are BMG Guides appointed for a specific Hearing by the Chair PSC. In selecting Members the Chair PSC will consider the seniority of members and any specialist knowledge or skills they might bring to the Hearing. A Guide who took part in the Complaint Committee may not be a Member of a PSC Hearing Committee of the same case.

**Personal Interest** The Chair and Members must declare any personal interest, and there is a presumption that personal interest is a bar to sitting on a Hearing.

**Notification of Hearing** Parties will be given at least 28 days notice of the date and place of the Hearing. If the parties agree, this can be sooner.

Time Objective: 7 days

### **8.2 PSC Hearing**

**Objectives** The Objectives of the PSC Hearing are to make recommendations to the BMG Management Committee on:

- whether the Guide was in breach of the BMG's Code of Professional Conduct
- whether or not to impose a sanction(s) against the Guide

**Written Submissions** The Guide must produce a written submission which may be the same as that produced for the Complaint Committee or may be different; and it may include submissions from witnesses. These submissions must be received by the BMG Office at least 10 days before the Hearing for circulation to members of the PSC Hearing Committee.

**New Evidence** There is a presumption against new evidence being produced by the parties at the Hearing. The Chair PSC may waive this presumption.

**Witnesses** The Guide may attend the PSC Hearing in person and may be requested to attend by the Chair PSC. The Guide may be accompanied at the Hearing by a friend or supporter<sup>7</sup>, who may speak at the Hearing but may not be a lawyer<sup>8</sup>. The PSC may call any witnesses it wishes.

**Procedure** The Hearing is chaired by the Chair PSC in an independent role. The proceedings will be as informal as possible and will not be governed by any formal rules of evidence.

**BMG Secretary** The Hon. Secretary of the BMG (or deputy) attends and takes notes for the Chair PSC.

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<sup>7</sup> The BMG has Guidelines on the role of the friend/supporter.

<sup>8</sup> While the BMG is a Non-Regulatory body and is not therefore bound by formal rules of evidence and procedure, it nevertheless recognises that its procedures must be fair and in accordance with the principles of natural justice. The primary purpose of a PSC Hearing is to examine a Guide's actions, to see if there was a breach of the BMG's Code of Professional Conduct, and to establish if there are any lessons to be learned. The BMG believes that any influence which could detract from that primary purpose should be kept to a minimum and that the presence of lawyers could be such a detraction.

**Recommendations and Sanctions** The Committee decides whether the Guide was in breach of the BMG's Code of Professional Conduct. If the finding is 'in breach' the Committee may, but is not compelled to, apportion the level of breach. If the Guide is found to be 'in breach', any of the following sanctions may be recommended:

- reprimand
- reprimand with condition(s)
- fine (to a maximum of 7 times the average current Alpine or UK daily rate, as applicable)
- suspension
- suspension with condition(s)
- expulsion

**8.3 Notification of Recommendation** The Chair PSC writes to the Complainant and the Guide with notification of the Recommendation advising them that this is subject to ratification by the BMG Management Committee.

Time Objective: 7 days

**8.4 Report of Hearing** The Chair PSC produces a Report of the Hearing agreed by the Members of the PSC Hearing Committee, which is sent to the BMG Management Committee for ratification. If there is an Appeal, this Report will be made available to the Chair of the Appeal Committee.

Time Objective: 14 days

## **9. BMG MANAGEMENT COMMITTEE**

The BMG Management Committee receives a Complaint Committee Report as in 6.3 or a PSC Hearing Report as in 8.4.

9.1 At its next meeting the BMG Management Committee makes a Decision on these Recommendations. If the President and Chair PSC believe the case is uncontroversial, this Decision may in the interests of speed be made by the four Directors - in which case this Decision is confirmed by the Management Committee at its next meeting.

9.2 The President sends this Decision to the Complainant and the Guide, and advises them of the Right to Appeal.

9.3 The Management Committee writes a Report on this Decision. In deciding the extent and method of circulation of the Report, care will be taken to balance the need to inform members of the relevant facts and lessons to be learned, while protecting the Guide. If there is an Appeal, this Report is not circulated, but is made available to the Chair of the Appeal Committee.

Time Objective: 7 days

## **10. APPEAL**

**To Whom the Appeal Should be Made** An Appeal is made in writing to the President c/o the BMG Office and it must be received within 28 days of receipt of the Decision as in 9.1. It must contain sufficient details on the Grounds for Appeal to allow the Recommendations to be made as in 11.2.

**Grounds for Appeal** An Appeal may be made on the following grounds:

- that there was an abuse of process at the PSC Hearing
- new evidence

The Guide, and only the Guide, may also appeal on:

- the level of sanction

The President decides if there are valid Grounds for Appeal in consultation with members of the BMG Management Committee. If the Grounds for Appeal are 'new evidence' and are found to be valid, the President refers the matter back to the Chair PSC who will reconvene a PSC Hearing.

Time Objective: 7 days

## **11. APPEAL COMMITTEE**

### **11.1 Planning of Appeal Committee.**

**Membership** The Appeal Committee is convened by the President in consultation with members of the BMG Management Committee and consists of a Chair and two Members.

**Chair Appeal Committee** A well respected mountaineer who is not a Guide.

**Members** (1) One senior Guide who is a member of BMG. (2) One senior representative from another professional organisation who, if appropriate, may be a senior Guide from another IFMGA Organisation.

**Personal Interest** The Chair and Members must declare any personal interest, and there is a presumption that personal interest is a bar to sitting on an Appeal Committee.

Participation in any capacity at the PSC Hearing is a bar.

**Objections** Objections to the composition of the Appeal Committee may be made in writing to the President within 7 days of Notification.

**Notification of Appeal Hearing** Parties will be given at least 28 days notice of the date and place of the Appeal Hearing.

Time Objective: 14 days

## 11.2 Appeal Hearing

**Objectives** The Objectives of the Appeal Hearing are to:

- examine the valid Grounds for Appeal.
- make Recommendations back to the BMG Management Committee.

**Written Submissions** The person(s) appealing must produce a written submission on the Grounds for Appeal, which may include submissions from witnesses. These submissions must be received by the BMG Office at least 14 days before the Appeal Hearing for circulation to the Appeal Committee.

**New Evidence** There is a presumption against new evidence being produced. The Chair may in exceptional circumstances waive this presumption.

**Witnesses** The person(s) appealing must attend the Appeal Committee Hearing and may be accompanied at the Hearing by a friend or supporter. This friend or supporter may speak at the Hearing<sup>9</sup> but may not be a lawyer<sup>10</sup>. The Appeal Committee will have the Complaint Committee Report and the Report of the PSC Hearing, and may call any witnesses it

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<sup>9</sup> See footnote 2

<sup>10</sup> See footnote 3

wishes.

**Procedure** The proceedings will be as informal as possible and will not be governed by any formal rules of evidence.

**Recommendations** The Appeal Committee makes a Recommendation(s) back to the BMG Management Committee.

Time Objective: 7 days

## **12. BMG MANAGEMENT COMMITTEE**

12.1 At its next meeting the BMG Management Committee considers the Reports of the PSC Hearing and Appeal Committee and makes a Final Decision which is sent to the Guide.

12.2 The Management Committee writes a Report on its Final Decision. In deciding the extent and method of circulation of this Report, care will be taken to balance the need to inform the membership of relevant facts and any lessons to be learned, while protecting the Guide in question.

Time Objective: 7 days

**A Complaint Procedure Flow Diagram** is on the following page:

