

MUSIC BROADCASTING SOCIETY OF SA INC
BOARD POLICY
EXPULSION OF MEMBERS

1 Introduction

1.1 Rule 8 of the Association's rules provides:

- (1) Subject to giving a Member an opportunity to be heard or to make a written submission, the Board may only resolve to expel a Member upon a charge of misconduct detrimental to the interests of the Association.
- (2) Particulars of the charge shall be communicated in writing to the Member at least one month before the meeting of the Board at which the matter will be determined.

1.2 A reference to 'Board' in this policy shall be taken as a reference to the Board of Directors of the Association.

1.3 Rule 8 goes on to specify requirements for the communication of any decision to the Member concerned (clause (3)) and to provide for a right of appeal to the Association in a General Meeting (clauses (4) and (5)).

1.4 This policy sets out the procedures that will be adopted in the event that it is alleged that a Member has acted in a way that warrants expulsion from the Association. Before doing that, however, it is important to consider what the grounds for expulsion are.

2 Grounds for expulsion

2.1 Rule 8 provides only one ground for expulsion, namely that the Member has committed misconduct detrimental to the interests of the Association. This is a fairly broad statement and it is not appropriate to seek to limit its interpretation. However, it is worthwhile to set out some examples:

- Unauthorised activity that seriously jeopardises or is likely to jeopardise seriously the finances (including the assets) of the Association. This would include theft from or fraud on the Association. But it could also include making large purchases purportedly on behalf of the Association but with no authority.
- Conduct that brings or is likely to bring the Association into disrepute; in particular:
 - conduct that might adversely affect people's willingness to join or maintain their membership of the Association or to make donations to the Association or to provide sponsorship for the Association; or
 - conduct likely to affect the Association's broadcasting licence.
- Conduct that causes or is likely to cause significant numbers of volunteers to cease their activities as such.

2.2 In the end though, the decision makers will need to take into account all the circumstances to determine whether or not conduct is detrimental to the interests of the Association.

3 The laying of allegations and initial consideration

3.1 The Board's consideration of an allegation of misconduct detrimental to the interests of the Association can arise in one of two ways.

(a) *A Member makes the allegation*

3.2 If a Member (*the accuser*) wishes to make an allegation that another Member (*the accused*) has behaved in a manner detrimental to the interests of the Association, the accuser must provide to the Secretary a written statement setting out the details of the alleged behaviour and reasons why that behaviour is considered detrimental to the interests of the Association. The accuser shall be advised in writing that the Board will consider the matter and that in due course the accuser will be advised of the outcome.

3.3 The Secretary shall cause the accuser's statement to be laid before the Board at its next meeting and the Board shall consider whether there is a case to answer. If the Board is of the view that there is a case to answer it will be dealt with in accordance with the procedures set out in the remainder of this policy.

3.4 In cases where the Board does not consider that there is a case to answer it shall advise the accuser accordingly with or without reasons entirely at the Board's discretion. There shall be no communication either with the accused or any other Member.

(b) *The Board determines that there is a case to answer*

3.5 Circumstances might arise where the Board forms a view that the conduct of a Member is detrimental to the interest of the Association, even though there has been no allegation from another Member. In this case the Board shall cause a statement to be drafted setting out the specific behaviours of concern and why they are considered to be detrimental to the interests of the Association. The matter will then be dealt with in accordance with the procedures set out in the remainder of this policy.

4 Procedures

4.1 In the remainder of this policy the statement setting out the alleged behaviour and the reasons why it is considered to be detrimental to the interests of the Association, whether prepared by an accuser (as referred to in paragraph 3.2) or by the Board (as dealt with in paragraph 3.5) shall be referred to as *the charge*. In cases where a Member has made the charge, no reference shall be made to that Member because, in effect, by agreeing that there is a case to answer the Board has taken ownership of the matter.

4.2 Once it has been determined that a matter will proceed, the charge shall forthwith be provided to the accused together with a copy of this policy and the date on which the Board proposes to deal with the matter (such date to be not less than one month from

the date on which the charge is sent to the accused). If the accused intends to address the Board in person (see paragraph 4.3) they shall be entitled to negotiate an alternative date, provided that it is not more than one month after the date set by the Board.

- 4.3 The accused shall be advised that they may address the matter by making a written response to the charge, by attending the Board meeting at which the charge is to be considered, or both. They shall also be advised that in responding to the charge they need only deal with the veracity of the matters contained therein but may also raise other matters that they consider pertinent to the case.
- 4.4 At the meeting to consider the charge, the Board shall take note of the response made by the accused either in writing or in person. If the accused attends in person the Board shall seek clarification from them on any matter it may require. If the accused does not attend and the Board is uncertain of any matter in the accused's response it may seek clarification before proceeding to make a decision.

5 Decision

- 5.1 Once the accused has been provided with the opportunity to respond to the charge and the Board has received clarification on any matters where that is required, the Board shall proceed to a decision.
- 5.2 If the Board considers that the accused has demonstrated that the alleged conduct did not occur or that it was not as serious as originally thought or that even if the conduct did occur it was not detrimental to the interests of the Association then it shall dismiss the case and advise the accused in writing that no action will be taken. Where relevant, the accuser shall also be advised of the outcome.
- 5.3 If the Board considers that the charge has, on the balance of probabilities, been proven, it shall determine to expel the Member (the accused) from the Association.

6 Application of expulsion

- 6.1 If it is determined that the accused is to be expelled then, in accordance with Rule 8(3), the Board shall cause to be prepared a statement setting out the grounds for expulsion which shall forthwith be communicated to the accused.
- 6.2 If the accused does not indicate an intention to appeal against the Board's decision within one week of it being communicated to them, the accused's membership shall be cancelled.
- 6.3 If the accused indicates a desire to appeal against the decision then, subject to any other action taken under the rules, it shall be at the Board's discretion to determine whether the appeal shall be heard at the next Annual General Meeting or at a Special General Meeting convened specifically to consider the matter.