

DISPUTE
RESOLUTION HANDBOOK
GUIDELINES FOR RESOLVING
PROBLEMS IN THE
KINGDOM OF LOCHAC



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Introduction

Two main documents set out how to handle disputes in the SCA:

- Corpora of the SCA, Appendix A: Suggested Channels for Complaint and Appeal

<http://sca.org/docs/pdf/govdocs.pdf>

A good, plain English outline of the principles and procedures the Society encourages all members to use.

- The Laws of the Kingdom of Lochac, Section X: Dispute Resolution Procedure

<http://lochac.sca.org/laws/>

This sets out a three-stage process for resolving disputes and a fourth step in the event the first three steps are unsuccessful. Unlike Corpora, which offers guidelines, the Kingdom laws are required to be followed.

The terms “grievance”, “dispute” or “complaint” are often used to describe a formal expression of dissatisfaction about a situation and so “grievance procedures” are assumed to describe formal and quite serious steps. For example, you may hear someone say “there is no grievance” in the absence of a formal written complaint. Equally, people may believe the processes are not relevant to someone simply venting and expressing their opinion.

In reality, both Corpora and Kingdom Law are intended to apply to *any* concerns between individuals or groups and not only to “formal” complaints. Thus, the steps outlined in the Laws and Corpora are intended for complaints, concerns, issues, disputes, arguments, disagreements, conflict, misunderstandings (or whatever other words come to mind that describe situations where two or more people have problems with each other’s decisions, actions or behaviour).

Above all, when a dispute looms, remember the wisdom of Napoleon Bonaparte:

“Never ascribe to malice that which is adequately explained by incompetence”

1 Common Causes of Dispute in the SCA

There are three main types of dispute that arise in the SCA: Personal disputes, Procedural disputes and “Real world” disputes.

1.1 Personal Disputes

The SCA is full of personal disputes. One person is rude to another, performs some activity that others disagree with, etc.

Personal disputes should be handled individually and informally where possible.

If personal disputes are brought to your attention as Seneschal, remind people of the steps outlined in Corpora and in Lochac Kingdom Law and, above all, encourage them to try some of the steps recommended below.

Usually both parties will consider themselves to have been wronged and have reasons why their point of view is reasonable. Don't be tempted to make a determination at a local level that someone is "wrong", or else you will be drawn into the next type of dispute yourself!

If they have been unable to resolve the issues themselves, offer to mediate and use the five steps in section 3 as a way to help them work through their concerns. If one side might see you as more sympathetic, or if you don't feel you can be impartial, or if you're not sure you have the skills, then you can appoint someone else to mediate. Ask the Kingdom Seneschal for a recommendation if necessary.

Politics

A subset of the personal dispute is "small p" politics. Just like any other organisation, the SCA is full of politics. Some common examples are:

- Some people want to be more historically accurate. Others want to wear track-suit pants.
- One group of people all went to school/university/ played role-playing games together. Others feel that they are a clique, or feel excluded.
- One group stewards most of the events. Another group feels they don't get a look in.
- One group of people turns up to A&S classes and dance practice together regularly. Another group shows up every week for fighter practice. Each group has no idea about what the other group does, who they are, or why they are in the SCA. The groups are deeply suspicious of each other or feel the other group is treated better in some way.
- A prominent peer has a small household of friends that gather at his or her place every Saturday night to fight/have dinner/chat/play video games/drink beer. Everyone else in the group is suspicious of them and sure they are planning a take-over of the group.

Political problems usually come down to power, influence and perceptions. The simplest ways to address any "political" problems are to make sure that, as much as possible:

- Power is shared
- Influence is balanced through broad consultation
- Communication and information is open and accessible to everyone

- All participation and contributions are acknowledged

For example:

- Ensure that office positions are divided as equally as possible.
- Maximise the communication in the group – publish agendas, minutes, financial reports and other important information widely and promptly, and invite discussion of complex or important matters at practices or on the group mailing list well ahead of the Council meeting at which they will be decided.
- Ensure that all groups have the opportunity to steward events, in a style that they prefer. Note that the laws of the SCA says you must allow any attempt at pre-17th C clothing at an event, but stewards can encourage different standards on an event by event basis. For example, an event flyer might say “welcome to our event, accurate 14th C garb is encouraged and all food will be documented against Platina”, or it might say “we are having a leg wrestling contest and a large dead animal will be carved up and devoured”.
- Encourage communication between both sides of a divide. In nearly all cases, people are suspicious of each other because of ignorance.

These steps will minimise perceptions of exclusion or special treatment but will not please all of the people all of the time. Some people simply enjoy the politics or the drama.

Be prepared to pull people into line when they act to encourage divisions in the group, or threaten the harmony of the group. *This applies as much to electronic media, such as the group mailing list, as it does to behaviour at events or at group Council meetings. Work to maintain a safe environment.*

If you witness the poor behaviour yourself, you do not need to await a formal complaint from someone else. Act fairly and prudently, but *do* act.

Electronic Media

Most people would have little problem deciding what to do about poor or discourteous behaviour at SCA meetings and events. But the same people may be less sure how and when to handle problems on electronic media such as mailing lists, websites, forums and especially on third-party services such as Facebook.

In most cases, it's pretty simple: if the poor behaviour is on an SCA-owned or managed resource, the officer responsible -- usually a group Seneschal -- has the power to apply administrative sanctions.

These might include public reminders to everyone, private warnings or even moderation of posts by the person concerned. A graduated and appropriate scale of response is desirable, just as for non-electronic problems.

It's less clear when the medium is not owned (or at least moderated) by an SCA officer.

Desirably, a group's main communication resources should always be. But what about cases where, for example, someone posts apparently defamatory or harassing information on their own semi-public Facebook page?

This is a much greyer situation, analogous to a physical act such as putting posters on a wall near a target's house. The more public or serious the act, the more likely the aggrieved party can involve the appropriate mundane authority - Facebook itself, in the example mentioned above. So contacting the relevant mundane authority should always be recommended to those expressing concern about such posts.

The remaining question is: should SCA officers also take note or action?

If the material being posted relates to someone's actions as an SCA officer or at an SCA event, then yes, with care. That is, if serious SCA-related allegations are being made, they should certainly be followed up. However, if the issue is just one SCAdian sounding off badly against another in an all-but-private setting, official reaction should generally be confined to a private discussion and a request to moderate themselves.

In the past, someone's private complaints, venting and musings to another private individual were purely their business, never the province of the SCA. The subtle difference today is that the media being used often mean that such comments are not (or not likely to remain) private at all. Some modern media are much closer to a poster on a wall rather than to a private letter -- and also much easier to do.

Because of this, a quiet and private intervention may be desirable when news of such posts reach a responsible officer's ears, to help prevent a more serious situation affecting the parties concerned or the SCA itself.

1.2 Procedural Disputes

A grievance may take the form of a statement that an officer, event steward, or someone acting in some official capacity has not performed their task adequately or has overstepped their authority.

The dispute resolution processes still apply, with some extra options available:

- Check whether the person has raised their concerns with the officer directly.
- Clarify the roles and responsibilities of the officer and check that everyone has a similar understanding of those roles and responsibilities.
- Help make sure the officer gets specific and constructive feedback and has the opportunity to respond and time to address the concerns.

If you intend to investigate an issue, consider what your aim is in doing this. What are you trying to find out, what information do you need, what decisions might need to be made and who will make them? Explain this to the officer concerned and invite them to cooperate so you can work through the situation together. Remember that the aim is to resolve the problem (see 4 for more information).

There are procedures within the SCA to suspend or remove an officer. An officer may be suspended for up to 90 days by a superior, or may be replaced. It may be appropriate to suspend an officer for a short period of time, perhaps 14 or 30 days, while an investigation into the activity that caused the grievance is conducted. If an officer has been consistently lacking in effectiveness, a Seneschal may issue a suspension for a short period, perhaps 30 days, with a warning that further problems may be met with removal.

It is never appropriate to remove someone from office without warning, except in circumstances that indicate that the group is in danger if that officer was allowed to continue, or in other circumstances as allowed by Kingdom Law (e.g. complete failure to report).

It is never appropriate to suspend or remove an officer if you are not in that officer's direct chain of command. A Baron may not suspend the group Marshal, for example, without the involvement of the Kingdom Marshal.

Note: where a complaint involves an officer, always ensure that their group Seneschal is in the loop – don't simply bypass them in favour of dealing only with the next-up Officer.

1.3 Real World Disputes

The SCA is a bunch of people that get together on the weekends, dress funny, and play medieval stuff. It is not a police force or a jury.

If there is a real world criminal activity being conducted in the SCA, it is not your role to deal with it.

It is not for the SCA to investigate or act when allegations are made of crimes such as rape, assault, burglary, illicit drugs, etc. Let the police handle it.

Some guidelines:

- Encourage the complainant to inform the police about the complaint, and co-operate entirely with any investigations.
- If asked by the authorities, offer whatever assistance you can, including providing any evidence that you have or are requested to obtain.
- Take care you do not involve the authorities on the basis of mere supposition or hearsay, especially for allegations about minor offences. If a complainant with direct knowledge of the alleged offence is not willing to inform the police, you are in no position to do so on their behalf – you may instead be contributing to a serious and unsubtle form of harassment.

During and after a POLICE Investigation

In New Zealand and Australia (and most other countries), you are innocent of a crime until proven guilty in a court of law. The police may elect to detain a suspected criminal in custody during or until trial, however in all cases the person is exactly that, a "suspected criminal". No permanent action in the SCA can be taken against them until the trial is complete, though in some situations the SCA may choose to place certain restrictions on that person until the trial is complete, but that is a matter for the Board of SCA Ltd or the Committee of SCA NZ Inc.

If a criminal investigation or a court of law determines that a person is innocent of a crime, then they are exactly that – innocent. They didn't do it, and the game goes on as if they did not do it. If a criminal investigation or a court of law concludes that a person is guilty, then they may be fined or sentenced to prison.

At this point the SCA, though the relevant corporate body, Crown or Kingdom Officers, may choose to take further action to limit or prevent that person's continued participation in the SCA. What further action, if any, will be taken will depend on the individual circumstances.

2 Preventing and Managing Disputes

“Most people are unaware that we are in possession of a most remarkable skill, because this skill is exercised daily, and in the most ordinary of contexts. It is usually overlooked, but then without it our lives would be unfulfilled and empty. It is the ability to relate to others, to engage them in conversation, to operate as social and sociable individuals, and to develop both short-term and long-lasting relationships, which lies at the heart of our very existence as human beings. We were not born with this ability, we have to learn what to do”.

Peter Marsh: Eye to Eye (Conflict Resolution -network, Chatswood -SW)

2.1 Features of Good Grievance Procedure

Grievance procedures are simply agreed steps that individuals and the organisation are expected to follow to deal with problems.

Effective grievance procedures should be:

- Prompt

(!!! Conflict often seems urgent and it is important to begin a process quickly, but resolution takes time. Don't rush solutions at the cost of discussion.)

- Informal

(!!! An informal process usually works best, but more long-standing or severe situations may need formal processes.)

- Accessible

- Consistent, balanced

- Non-judgemental & non-adversarial

Outcomes should encourage:

- Natural justice for all participants.

- Quick and effective resolution of concerns

- Practical, realistic solutions

- Open and honest communication

- Participation and consultation with all those affected
- Respectful relationships
- Closure

(Adapted from The Termination Handbook, -SW Office of Industrial Relations)

Officers in the SCA have a special duty of care to follow good and careful procedure, and in fact our rules require it from everyone in the populace. Above all, we should all act responsibly to try and prevent and, if possible, resolve disputes.

2.2 What you can do yourself

Here are some suggestions for preventing and managing disputes:

- If you don't already know the person well, try to get to know them.
- Don't assume the other person knows there is a problem – often they don't.
- Sometimes it is a simple misunderstanding.
- Take people's concerns seriously, even if they seem small issues to you.
- When people feel heard and understood it is easier to work through a problem.
- Focus on the problem not the person. Do not blame, attack or threaten them.
- Work on what you can change, not what you can't. If you and the other person cannot agree on a change, try implementing some strategies to reduce stress.
- Ask for help, seek advice (do this constructively, not as an excuse for gossip or venting).

2.3 Respectful Listening

For a listener, the responsibility is to listen to what the speaker is saying with the implicit assumption that they have something wise and important to say. Listen with a willingness to be influenced, listen for where this person is coming from and appreciate that their perspective, regardless of how divergent from your own, is equally valid and represents a part of the larger picture which none of us can see by ourselves.

A few tips for improving our listening:

- We have a tendency to plan our response to what is being said, this actually detracts from both the speaker and the listener
- Listen as if each person were truly wise, and sharing some truth that you may have heard before but do not yet fully grasp
- Listen with an openness to be influenced by the speaker
- Listen to support the speaker in fully expressing themselves

- Listen for deeper questions, patterns, insights and emerging perspectives
- Listen for what is not being spoken along with what is being shared

2.4 Tips for better communication

- Face to face is usually better than letters or messages. Finding the right time and enough time is important.
- Think ahead about what you have to say. State your concerns clearly and how you feel.
- Listen to the other person and be prepared to understand their concerns. Acknowledge what they have told you to reassure them you have heard.
- Work together to find and explore options that meet each of your needs. Not all problems can be resolved, but all disputes can be managed.
- Create an atmosphere of healing.
- Be willing to say sorry or admit a mistake. Be willing to forgive, forget and move on.
- Be honest. Show respect for yourself and for others.
- Focus on feelings at least as much as content.

Said is not yet heard;

Heard is not yet understood;

Understood is not yet agreed

Agreed is not yet applied;

And applied is not yet always applied.

Konrad Lorenz, Austrian ethologist

3 The Five Steps of the No-Lose Method

Step 1: Identifying and defining the conflict

- Select an appropriate time for discussion.
- State that there is a problem and a willingness to resolve it, invite cooperation e.g. “would you like to try and work this out?”
- Ask the other person for their perspective, needs and feelings without interrupting.
- Tell the other person about your feelings, needs and what is bothering you.
- Ask yourselves whether you are prepared to work **together** towards a solution, open to the possibility that you may find one that neither of you have yet come up with and which is better than you could come up with alone.

Step 2: Generating the possible alternative solutions

- Generate a variety of solutions – share options and ideas, brainstorm.

- Do not evaluate, judge or belittle any of the solutions.
- Look for as many alternative solutions as you can think of.

Step 3: Evaluating the alternative solutions

- “Which of these solutions looks best?”
- “Which do we feel is the one we want?”
- “Are any of these better than the others?”
- “What are the pros and cons of the better ones?”
- Try to keep oriented towards solutions, i.e. explore how solutions might work, rather than focusing on what won’t work.

Step 4: Deciding on the best solution

- Keep testing out the remaining solutions, checking how realistic in time, dollars and resources each is.
- Have “decisions in progress” which can be changed e.g. “Let’s try and see if this works.”
- “I’m willing to accept this one, would you be willing to give it a try?”
- Make sure that it is clearly understood that each person is making a commitment to carry out the decision.
- Identify/agree who is responsible for which actions and steps.

Step 5: Implementing the decision

- “Who is to do what and by when?”
- Be specific and realistic. Allow margins for error, time for reasonable delays and options to continue discussions if solutions don’t work out as planned.

Adapted from Robert Bolton’s (1987) People Skills

4 Mediation

Mediation is where the parties to a dispute choose to involve an independent third party (the mediator) to help them reach an agreement. It can sometimes resolve an issue between people who are having trouble resolving their issue with each other directly without resorting to formal processes.

Mediation should be:

- Voluntary
- Confidential
- Impartial
- Come to a resolution that is agreed to by both parties

- Independent- parties need to find a mediator who is acceptable to both sides and who is not biased towards one side or another.

Mediation in the SCA can be approached in different ways. The main difference is how much the mediator controls what happens.

- ‘Facilitative’ mediation: mediation in which the mediator does not steer the parties towards any particular settlement. In some facilitated mediation sessions the mediator may offer suggestions, in other cases the mediator may not.
- ‘Evaluative’ mediation: where the mediator makes suggestions as to the likely outcome of the dispute. If you are looking for a mediator to suggest a resolution, you would probably be more satisfied with an evaluative approach rather than a facilitative one.

Mediation can take place face to face or it can take place over the phone or by using electronic media such as Skype. If using the phone the process can take place via a conference call or it can take place by individual one off conversations with the mediator going from one person to the next.

Ideally mediation, where both parties are present for the mediation, should take place in a neutral venue not at one of the people’s houses or in an area where the dispute is taking or has taken place.

Mediation is not just a simple chat. Mediation should have a structure which would normally include:

- Working out what the issues are - the mediator will start by finding out from you what you think are the important issues that need to be sorted out. Sometimes this happens before the mediation.
- Asking questions and discussing different perspectives – mediation can be an opportunity to tell the other side what you think happened, to hear their view of it, and to ask each other questions.
- Working out what your options are - there is always more than one solution to a problem. Mediation gives you the freedom to think about a wide variety of options and possible solutions. The person doing the mediation should help you to explore all the choices open to you, and to think about what the advantages and disadvantages of each might be.
- Working out an agreement - the mediator should make sure that you and the other party are both clear about what you have agreed, and may put together a document setting it out in writing.

4.1 Appropriate Mediators

Mediators can be anyone, so long as both parties agree to that person being the mediator and the mediator can remain, and be seen to remain, impartial. Possible choices can include peers, officers or someone who has extensive experience of the SCA. However these are not the only people who are appropriate mediators. Some people in the SCA are real world mediators and these people are also a good choice. If you don't know who they are you can contact your local or Kingdom Seneschal to find out.

The mediator cannot be considered to be impartial if they have a significant connection to the people involved in the dispute. So it is inappropriate to use anyone who is related to one side or the other by blood, marriage, current relationship, shared SCA household or shared residence, peer-student or any other fealty relationship.

It is also inappropriate to use anyone who will be in the formal chain of command for the dispute in question should it go any further. This may include the up-line of any officer involved, the group Seneschal, and possibly the Baron and Baroness.

5 Formal Investigations

(With thanks to Master Bernard Stirling)

If it becomes necessary to undertake a formal investigation into a complaint, ask the Kingdom Seneschal for help! At the very least, they should be briefed as to what is going on. If it becomes necessary to determine whether someone was in the wrong, there are some basic legal principles that should be followed.

The foremost of these is what is known as the Principle of Natural Justice, and is one of the cornerstones of most western legal systems. Basically, what this principle boils down to is "no surprises". The person subject to investigation should know who has complained about them, what the complaint is about, and know the names and details of any witness statements or other evidence that will be used by the investigator. The person subject to investigation should also be made aware of what the potential outcomes (i.e. penalties) of the investigation could be.

This is to allow them to properly defend themselves. In a social group like the SCA there is often a lot of interpersonal history, and sometimes knowing who has said what, as well as what they have said is important information for the accused to provide a valid response to the accusations.

It can be tempting at times to try and "protect" witnesses, or complainers, particularly if they are upset with the person the complaint relates to. However this isn't fair on the person subject to investigation.

You should make it clear to whoever lays a complaint, and any witnesses, that the person complained of will see their statements. If they don't want to go on the record, there is little that can be done formally – though many informal avenues of course remain open, including those mentioned in earlier sections.

5.1 Three important hints for a successful investigation

1. Document the process at every stage, including all communications with the complainant, witnesses and the person being complained of. All this will inevitably be reviewed if the matter proceeds any further.
2. If someone is clearly serious about a complaint but seems unable to document it properly, offer to write down their concerns for them. If they agree, write it in neutral, non-emotive language and provide it to them for correction and (especially) a formal sign-off before you proceed.
3. Always stay process-driven and behave correctly, even if one or more parties to the dispute do not. Though it only happens rarely, occasionally someone may try to “game” the system by wrong-footing the investigating officer and causing them to lose their cool. Avoid the trap! Such manipulative behaviour tends to be quite obvious to any dispassionate observer who may later review the investigation, so keep your own responses neutral and thus let it speak for itself. Finally, and possibly this goes without saying, any decision should be reasonably derived from actual evidence. One should not simply take a complaint as gospel. Thus, for example, asking someone to provide what evidence they have available is *not* tantamount to calling them a liar – it is simply the proper duty of care required of you as a responsible officer of the SCA.