

CONDUCT AND COMPLAINTS POLICY

- 1 Wherever possible complaints must be in writing and include the name and address of complainant. The Conduct and Complaints Commission reserves the right to investigate complaints received anonymously if justified.
- 2 The Conduct and Complaints Commission Chair (or deputy) will make an assessment of the complaint and may refer it to any appropriate outside agency, other BJA Commission (ie, Referees, club or Area committee), seek an informal resolution or allocate to an investigator dependent on the circumstances and seriousness of the complaint. (It should be noted that a police or Social Services investigation will take priority and no action will be taken by the Conduct and Complaints Commission until that investigation and any resulting criminal proceedings has concluded.)
- 3 When allocated to an investigator he/she will inform the complainant that they are dealing with the matter and inform them that their details will be disclosed to the person complained against and the likely time-scales of the investigation. They will also inform the person complained against that they are subject of a complaint, an outline of the complaint, who made the complaint and seek a brief response to the complaint.
- 4 The investigator will then conduct an investigation that is thorough, proportionate, relevant and fair to all parties. Contact with witnesses will usually be via telephone or email but may be by face to face meetings. When contact is made by 'phone, a reasonable note of the conversation will be made and confirmation of the conversation will usually be sought by email.
- 5 Full disclosure of all relevant statements, including those that may undermine the case will be disclosed to the person complained against and they will be given an opportunity to respond. The investigator may also ask any appropriate questions of them and ask for any evidence or witness that supports the person complained against.
- 6 The investigator will then complete a standardised report and attach all notes/statements obtained during the investigation. This will be disclosed to the person complained against and they will be asked, in writing if they wish to make any written presentation to the adjudication panel that will hear their case including any procedural points (within 14 days).
- 7 The investigator will submit their report and any submission by the person complained against to the Chair of the Conduct and Complaints Commission who will decide, dependent on the complexity of the case, to either circulate the report and submission to Panel members by mail/email for adjudication, or to hold a formal Panel. If considered by emails, all Panel members may ask any questions of the investigator or other Panel members.
- 8 A formal Panel will consist of a Chair and at least two other Panel members and the investigator.
- 9 No personal appearance will be allowed by the complainant nor the person complained against at the Adjudication Panel.
- 10 The Panel will decide the case using 'the balance of probabilities' as the burden of proof and will find the case as 'Proven' or 'Not Proven'.
- 11 If the case is found to be 'Proven', the Panel will decide upon an appropriate sanction. This may range from 'words of advice' to expulsion. The Panel reserved the right to take into consideration any previous finding against the person.
- 12 The Chair of the Conduct and Complaints Commission will write to the complainant and the person

complained against within seven days notifying them of the outcome.

- 13 If the Conduct and Complaints Commission Panel is considering a sanction of a suspension or expulsion, the Hearing will be suspended to allow a personal appearance at a re-convened Panel by the subject of the complaint.
- 14 In such circumstances, the Chair of the Conduct and Complaints Commission will arrange a new Hearing date when the same Panel members and the subject of the complaint are available. Whenever possible, this will be within one month of the original Hearing.
- 15 At any such re-convened Hearing the person complained against may bring a friend or legal representative. It should be noted that no costs or expenses will be paid by the BJA to any person appearing before the Panel. The purpose of the Hearing is not to re-hear the case. After the Chair has outlined the finding against them, they will be allowed a combined total of 20 minutes to present any mitigation to the Panel. It must be emphasised that only mitigation as to action will be heard. The Panel will then retire to consider an appropriate sanction.
- 16 The Chair of the Conduct and Complaints Commission will notify the complainant and the person complained against of the Panel's decision within seven days.
- 17 The Chief Executive of the BJA reserves the right in exceptional circumstances to alter or amend these procedures so long as the investigation and adjudication remains fair to all parties. Where there has been a procedural error, the Chief Executive of the BJA may direct the Conduct and Complaints Commission to re-hear the case or make any further investigation considered necessary.
- 18 Any Appeal must be made within ten working days in writing to the Chief Executive and include a £100 admin fee.

APPEAL PROCEDURE

- 19 The notification of Appeal must contain the grounds for the Appeal. The only grounds for an Appeal are:
 - That there was a material error, either factual or procedural in the original Hearing.
 - There is material new evidence that, had it been known at the time of the Disciplinary Hearing, would have affected the decision of the panel.
 - An Appeal may also be made solely against the sanction imposed by the Disciplinary Panel.

An Appeal that does not meet one of these criteria may be refused by the BJA CEO and will not proceed further.
- 20 The Appeal Panel shall comprise of three members selected from the BJA Council and/or members of the Board of Directors at the discretion of the BJA Chair having regard to whether parties are known to each other and the complexities of the issues. The BJA Chair may also invite a person from another sporting NGB or a legal professional to be one of the three Panel members. The BJA Chair will designate one of the Panel as Chair of the Panel. The BJA Chair's decision as to membership and Chair of the Panel is final.
- 21 The Chief Executive's Office will be responsible for arranging the date and venue of the Appeal Hearing having due regard for the availability of all parties. The date of the Appeal should normally be within six weeks of the notification of Appeal.

- 22 A full set of the papers will be provided to panel members and the appellant no later than ten days before the Appeal date (unless the Appeal Hearing falls within that time, in which case the papers will be provided as soon as possible). A copy of the grounds for Appeal and any supporting statement will also be provided to Panel members.

THE APPEAL HEARING

- 23 An Appeal is not a re-Hearing of the original Disciplinary Hearing and whilst it will be necessary for panel members to review the evidence by reading the statements and any reports, it will not involve the calling of live witnesses unless material new evidence has come to light that was not available to the disciplinary panel. It should be noted that not every fact or procedure will be material to the Appeal. This will be entirely at the discretion of the Appeal Panel Chair whose decision will be final and absolute.
- 24 The appellant may invite a companion or legal representative to accompany them at the Hearing. The BJA Conduct and Complaints Commission Investigator, or Chair if the Investigator is not available, will normally attend all Appeals. Any other person attending an Appeal Hearing will be entirely at the discretion of the Panel Chair.
- 25 Before calling any person into the Hearing, the Chair will ensure that Panel members have read and understand the case and have a copy of the grounds for Appeal. The Chair will then call in the appellant together with their companion or legal representative and the BJA Conduct and Complaints Commission Investigator.
- 26 The Chair will then ask the appellant or their legal representative to outline the grounds for their Appeal and provide any verbal or documented support for their Appeal. The Panel may ask the appellant any questions or seek clarification of any of the points raised.
- 27 The Panel may then ask the BJA Conduct and Complaints Commission Investigator and/or Chair any questions or seek clarification on the information provided by the appellant or from the original investigation or Hearing.
- 28 Once the Chair is satisfied that the Panel have sufficient information on which to decide the Appeal, they will retire to consider whether the Appeal is upheld or dismissed. The Appeal Panel also has the power to change any sanction imposed by the original Disciplinary Panel.
- 29 At the conclusion of the Appeal, the Panel shall have the power to:
- Dismiss the Appeal.
 - Alter or vary the original decision.
 - Quash any sanction and/or substitute it for any other penalty or
 - Make any such other order or determination as it may think right or just.
- 30 The decision of the Appeal Panel will be communicated to the appellant within seven days of the Hearing.
- 31 The Appeal will be final and binding and there lies no other form of Appeal.