

SAFEGUARDING DISCIPLINARY POLICY

1 APPOINTMENT OF PANEL

- 1.1 On notification of the need to hold a disciplinary Hearing, the BJA CEO or their designated deputy, in consultation with the Safeguarding Officer, will appoint a Panel of three persons. These will normally be chosen from the Board of Directors, Council, Executive staff, Conduct and Complaints Panel members and Technical Officers. Normally at least one of the Panel will have a strong judo background. The CEO may also invite one person from another sport and/or a person with a legal background to be Panel members.
- 1.2 In selecting Panel members, the CEO (or designated deputy) will take into account whether parties are known to each other, the complexities of the case and ensuring fairness to both sides but their decision as to membership of the Panel is final.

2 PRE-HEARING ISSUES

- 2.1 Any person subject to disciplinary proceedings will be entitled to bring a friend or legal representative to the Hearing at their own expense.
- 2.2 The BJA case will normally be presented by the Safeguarding Officer but, in complex cases, they may appoint legal representatives to act on their behalf.
- 2.3 Within 14 days of appointment, the Chair of the Panel will make contact with the person who is subject of the proceedings and/or their legal representative and the BJA Safeguarding Officer (and their legal representative if appointed) and issue directions in relation to procedure and a timetable. This may include, but is not limited to:-
 - 2.3.1 Fixing a date, time and venue for the Hearing;
 - 2.3.2 Establishing a schedule for the exchange of written submissions including the service of the BJA's written and documentary evidence on the defence and service of defence statements on the BJA and order disclosure of any relevant documents by either side.
 - 2.3.3 The manner and form that witnesses or evidence is to be produced, providing that a statement or report is produced in all cases. (It should be noted that the Chair has the power to allow, refuse or limit the evidence or appearance of any witness. (As a general rule, character witnesses will not be called to give evidence in person but their statements will be read and where evidence is agreed by both sides, there will be no need for this to be given as live evidence)
 - 2.3.4 A directions Hearing may be held in person, by phone or video conference or any other method determined by the Panel Chair

3 HEARINGS

- 3.1 All Hearing will take place in private unless there is good cause (witnesses will normally be allowed to have a parent or friend present).
- 3.2 The procedure for the Hearing will be at the discretion of the Chair providing both sides a reasonable opportunity to present all relevant evidence.

- 3.3 Evidence may be in person, by telephone, video conference or in writing. Panel members and both sides will have the opportunity to question witnesses but the Chair has the right to control the questioning of witnesses by either party.
- 3.4 For the purposes of these Hearings, all persons under the age of 18 years will be considered as a child
- 3.5 The Chair will determine the manner in which the evidence of children will be admissible having regard to the need for a fair Hearing and to the welfare of the child. The evidence of a child may be given in person, by video link, by telephone, by watching or listening to any video or audio recording of any Achieving Best Evidence (ABE) interview or by reading their statement.
- 3.6 In reaching this decision the Chair will have regard to:
- 3.6.1 The child's wishes and willingness to give evidence
 - 3.6.2 The views of the child's parent or guardian
 - 3.6.3 The age of the child
 - 3.6.4 The importance of their evidence
 - 3.6.5 The quality and reliability of existing other evidence
 - 3.6.6 The quality and reliability of any Achieving Best Evidence interviews
 - 3.6.7 The right to challenge evidence
 - 3.6.8 Any other matter the Panel considers relevant
- 3.7 The Chair will take all reasonable steps to minimise harm to the child. This may include (but is not limited to):
- 3.7.1 The need for ground rules to be discussed prior to the Hearing
 - 3.7.2 The use of an intermediary to put any questions in cross- examination
 - 3.7.3 Agreement beforehand on the proper form and limit of questioning and the questioner
 - 3.7.4 The use of any Special Measures such as live video link, screens, the presence of a family member or supporter and appropriate breaks
 - 3.7.5 Admissions of as much of the child's evidence as possible in advance
- 3.8 Once all parties have completed their evidence and any final submissions, the Panel will retire to determine in private, whether it is satisfied to the required standards, the issues that are before them. The burden of proof will lie upon the BJA and the standard of proof will be the balance of probabilities.
- 3.9 The Panel may make its decision unanimously or by a majority verdict. Panel members may not abstain.

4 SANCTION AND RISK MANAGEMENT

- 4.1 If the Panel finds the matter(s) before them as proven, they will impose such sanctions and/or risk management measures as seem appropriate and fair in all the circumstances giving due regard to any risk to children that they pose.
- 4.2 Any sanction imposed by the Panel will take effect immediately.
- 4.3 The finding of the Panel and any sanction imposed, will be confirmed in writing.

- 4.4 In appropriate cases, the BJA will fulfil its statutory obligation in reporting the matter to the independent Safeguarding Authority or other appropriate statutory bodies.

5 THE RIGHT TO APPEAL

- 5.1 Any Appeal on the decision of a disciplinary Panel must be made in writing within seven days of the notification of the result of the Hearing. No Appeal will be allowed after this time.
- 5.2 All notifications of Appeal must be accompanied by a £50 administration fee which is refundable in the event of a successful Appeal.
- 5.3 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, it 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.

- 5.4 The Appeal Panel shall comprise of three members selected from the BJA Council and 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 the Chair of the Panel. The BJA Chair's decision as to membership and Chair of the Panel is final.
- 5.5 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.
- 5.6 A full set of the papers will be provided to Panel members and the appellant no later than 10 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.

6 THE APPEAL HEARING

- 6.1 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.
- 6.2 The appellant may invite a companion or legal representative to accompany them at the Hearing. The BJA Safeguarding Officer will normally attend all Appeals. Any other person attending an Appeal Hearing will be entirely at the discretion of the Panel Chair.

- 6.3 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 Safeguarding Officer.
- 6.4 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.
- 6.5 The Panel may then ask the BJA Safeguarding Officer any questions or seek clarification on the information provided by the appellant or from the original investigation or Hearing.
- 6.6 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.
- 6.7 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.
- 6.8 The decision of the Appeal Panel will be communicated to the appellant within seven days of the Hearing.
- 6.9 The Appeal will be final and binding and there lies no other form of Appeal.

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