

## BADMINTON ENGLAND DISCIPLINARY REGULATIONS

### 1. Introduction

- 1.1 Badminton England is committed to the development of Badminton that is safe for all. To achieve consistency and fairness, it is important that we have transparent procedures to ensure that where issues do arise, action is fair and carried out expeditiously. These disciplinary regulations (the "**Regulations**") provide a framework to enable disciplinary matters to be managed effectively at all levels within Badminton England.
- 1.2 These Regulations have been approved for adoption by the Board of Badminton England in accordance with the Articles.
- 1.3 The Regulations are for matters relating to disciplinary issues only.
- 1.4 The Regulations form part of the rules of membership of Badminton England.
- 1.5 The Regulations are issued in accordance with Badminton England's status as the self-regulating governing body of the sport of Badminton.
- 1.6 It is important that all those who work in and around Badminton at any level understand the Regulations and demonstrate their commitment to driving up the standards in the sport for the enjoyment of all who play and are involved with the game.
- 1.7 All Members are required to ensure that all Persons listed in clauses 3.1.1 to 3.1.3 inclusive are expressly bound by, and that their attention is drawn to, these Regulations.

### 2. Definitions

- 2.1 The following words and phrases used in this Agreement shall have the following meanings, except where the context clearly requires otherwise:

**"Allegations"** has the meaning as set out at clause 15.2.2;

**"Anti-Doping Procedures"** means the Badminton England Anti-Doping Procedures as adopted and/or amended by Badminton England from time to time;

**"Appeal Chair"** means the chairperson of an Appeal Panel as appointed in accordance with clause 18.3.2(a);

**"Appeal Panel"** means the panel appointed in accordance with clause 18.3.1;

**"Appellant"** has the meaning given to in terms of clause 18.2.1;

**"Appeal Respondent"** has the meaning given to in terms of clause 18.2.1;

**"Articles"** means the Badminton England articles of association, as amended from time to time;

**"Badminton England"** means Badminton Association of England Limited, a company incorporated under the laws of England and Wales with company number 01979158 and whose registered office is at National Badminton Centre, Bradwell Road, Loughton Lodge, Milton Keynes, MK8 9LA;

**"Badminton England Disciplinary Committee"** means the committee appointed in accordance with clause 7;

**"Badminton England Disciplinary Officer"** means the Badminton England employee designated by the Badminton England Disciplinary Committee to make key decisions on disciplinary matters from time to time;

**"Badminton England Disciplinary Panel"** means the panel appointed by the Badminton England Disciplinary Committee or the Badminton England Disciplinary Officer (as the case may be) appointed in accordance with clause 13;

**"Badminton England Codes"** means the Badminton England Code of Conduct and the Badminton England Code of Ethics adopted and amended by Badminton England from time to time;

**"Badminton England Policies"** means the Badminton England Equality and Diversity Policy and the Badminton England Betting Integrity Policy adopted and amended by Badminton England from time to time;

**"Balance of probabilities"** means the standard of proof required in court proceedings and as outlined in clause 16.3;

**"Board"** means the Board of Directors for the time being of Badminton England;

**"CEO"** means the Chief Executive of Badminton England for the time being;

**"Chair"** means the chairperson of a Disciplinary Panel as appointed in accordance with clause 13.3;

**"Child Protection Disciplinary Procedures"** means the Badminton England Child Protection Disciplinary Procedures as adopted and amended by Badminton England from time to time;

**"Clubs"** any club affiliated with Badminton England from time to time;

**"Complaint"** means any complaint regarding particular circumstances and/or conduct;

**"Complainant"** mean the person who makes the original complaint;

**"County Badminton Associations"** means any county badminton association recognised by Badminton England from time to time as per the Articles;

**"County Disciplinary Committee"** means the committee appointed in accordance with clause 8;

**"County Disciplinary Officer"** means the relevant County Badminton Association employee or volunteer designated by the County Disciplinary Committee to make key decisions on disciplinary matters from time to time;

**"County Disciplinary Panel"** means the panel appointed by the County Disciplinary Committee or the County Disciplinary Officer (as the case may be) in accordance with clause 13;

**"Disciplinary Committee"** means the County Disciplinary Committee or the Badminton England Disciplinary Committee as the context requires;

**"DBS"** means the Disclosure and Barring Service;

**"Disciplinary Issue"** means those matters as set out in clause 4;

**"Disciplinary Officer"** means either the Badminton England Disciplinary Officer or County Disciplinary Officer, as the context requires;

**"Disciplinary Panel"** means a Badminton England Disciplinary Panel or County Disciplinary Panel, as the context requires;

**"Club and County Grievance Procedure"** – means the grievance procedure for club and county volunteers as adopted and amended by Badminton England from time to time;

**"Hearing Notification"** means a notification as described in clause 14.1;

**"HR Policies"** means the Disciplinary Procedure and General Conduct and Behaviour at Work Policy as adopted and/or amended by Badminton England from time to time;

**"Independent Person"** means a person who, from the perspective of an objective outsider, would be viewed as independent and who is not an employee of Badminton England;

**"Liaison"** means the person appointed in terms of clause 22.4.1 of these Regulations;

**"Members"** or **"Member"** means those persons defined as "club members" and "Individual Members" in the Articles.

**"Member Organisations"** means the County Badminton Associations, the Badminton Umpires Association of England, the Badminton Line Judges Association of England and any other organisations admitted to membership of Badminton England in the general meeting.

**"Notice of Appeal"** means a notice to appeal a decision of a Disciplinary Panel as set out in clause 18.1.1;

**"Person"** means a natural person (including a child, player, coach, official, referee, umpire and/or officer), corporate body or unincorporated body (whether or not having a separate legal personality);

**"Regulations"** means these Badminton England disciplinary regulations and all its appendices;

**"Respondent"** means the person who is the subject of a Complaint;

**"Specified Person"** means those persons set out or referred to in clause 3.1;

**"Sports Resolutions"** means Sports Dispute Resolution Panel Ltd, company number: 3351039;

**"Tournament Regulations"** means the Badminton England Tournament Regulations as adopted and amended by Badminton England from time to time;

**"World Class Performance Procedures"** means the GB and England Performance Programme Disciplinary Procedure and the World Class Performance Programme Grievance Procedure as adopted and amended by Badminton England and / or GB Badminton from time to time.

### **3. Jurisdiction**

3.1 Subject to clause 3.2, the Regulations apply to any Complaint or Disciplinary Issue involving any of the following:

3.1.1 any Member;

- 3.1.2 any Person who takes part in Badminton in any capacity directly or indirectly under the jurisdiction of Badminton England or its Members; and
  - 3.1.3 any Person who has, whether by enjoying any form of licence, accreditation or any other status from Badminton England or a Member, or otherwise, consented (whether expressly or impliedly) to be bound by these Regulations.
- 3.2 These Regulations will not apply:
- 3.2.1 in matters which fall under the jurisdiction of the Child Protection Disciplinary Procedures;
  - 3.2.2 in matters which fall under the jurisdiction of the Anti-Doping Procedures;
  - 3.2.3 to staff of Badminton England, in their capacity as employees, (who will be dealt with via the relevant HR Policies);
  - 3.2.4 in matters which fall under the jurisdiction of the Tournament Regulations;
  - 3.2.5 in matters which fall under the jurisdiction of the World Class Performance Procedures; and
  - 3.2.6 in matters which fall under the jurisdiction of the Club and County Volunteers Grievance Procedure.

#### **4. What is a Disciplinary Issue?**

- 4.1 Subject to clause 3.2, it shall be a ground for disciplinary action to be taken under these Regulations where a Specified Person is found to have acted or failed to act (as appropriate) in a way which, without limitation:
- 4.1.1 is contrary to the Badminton England Codes and/or Badminton England Policies and/or any other Badminton England codes and policies adopted from time to time;
  - 4.1.2 is unlawful
  - 4.1.3 is contrary to these Regulations; or
  - 4.1.4 is incorrect, inappropriate, unacceptable, unsportsmanlike, opposed to the general interests of Badminton England and/or its Members or constitutes a criminal act, misconduct, cheating, an act of dishonesty, a failure to co-operate or brings, or may bring, the sport of Badminton into disrepute.

- 4.2 Appendix 1 sets out the reporting mechanism and process regarding Disciplinary Issues.

#### **5. Delegation**

- 5.1 Badminton England has powers under the Regulations to hold inquiries and impose sanctions or take such other action as it sees fit. These powers are delegated to, and exercised on behalf of Badminton England, by duly appointed Badminton England Disciplinary Panels and Appeal Panels, the Badminton England Disciplinary Committee and the Badminton England Disciplinary Officer. Badminton England may also delegate powers to the County Badminton Associations from time to time who may delegate those powers to the County Disciplinary Committee and the County Disciplinary Officer.

- 5.2 Subject to clause 5.3 and Appendix 4 which sets out the types of issues and complaints and the officer level most appropriate to deal with them, these Regulations are to be implemented at the appropriate level based on where the Disciplinary Issue has arisen or where the matter is referred to as follows:

Level at which Disciplinary Issue arises	Disciplinary body of first instance	Appeal
County Badminton Associations (subject to Appendix 4) including matters referred to the County Badminton Associations by Clubs.	County Disciplinary Panel	Badminton England Appeal Panel appointed in accordance with clause 18.3.1 of these Regulations
Badminton England including matters referred to Badminton England	Badminton England Disciplinary Panel	Badminton England Appeal Panel appointed in accordance with clause 18.3.1 of these Regulations

- 5.3 Badminton England may, at any time, take over and/or require the transfer of any Badminton England disciplinary proceedings initiated in terms of these Regulations.

## 6. Confidentiality

- 6.1 Save to the extent that disclosure and/or publication is provided for in the Regulations, or is otherwise required in accordance with the law, all matters considered under the Regulations will, so far as practicable, be regarded as confidential and to be used only for the purposes of the Regulations.
- 6.2 All persons who wish to make a complaint under the Regulations will be required to sign an appropriate confidentiality agreement.
- 6.3 The disclosure of DBS information and/or reporting of information to DBS will be subject to the DBS Code of Practice.
- 6.4 All proceedings of the Disciplinary Panel and/or Appeal Panel shall take place in private. The public and press shall have no right of access. The Disciplinary Panel and/or Appeal Panel shall not issue any press statement or conduct any press conferences. All press/media announcements in relation to any decision of the Disciplinary Panel and/or Appeal Panel shall be approved by the Chief Executive of Badminton England ("**the CEO**") in the first instance, or, if the CEO is not available or the matter directly relates to the CEO, announcements shall be made by the Chair of the Board.
- 6.5 Notwithstanding anything to the contrary in these Regulations, Badminton England may publish, in an anonymous manner, details of any disciplinary action taken including details of any decision made by the Disciplinary Panel in order to promote fair and consistent disciplinary action.

**7. Appointment of and the role of the Badminton England Disciplinary Committee**

- 7.1 The Board of Badminton England shall appoint the Badminton England Disciplinary Committee and may delegate the operation and maintenance of these Regulations to the Badminton England Disciplinary Committee.
- 7.2 The Badminton England Disciplinary Committee may delegate such of its powers and functions to the Badminton England Disciplinary Officer as it sees fit, but the Badminton England Disciplinary Committee shall retain responsibility for the acts of the Badminton England Disciplinary Officer under these Regulations.
- 7.3 The Badminton England Disciplinary Officer will report all matters to the Badminton England Disciplinary Committee who will advise on appropriate action in accordance with these Regulations.
- 7.4 The Badminton England Disciplinary Officer will undertake all actions in respect of the day to day management of disciplinary cases under these Regulations but decisions on specific actions required on a given case will be made by the Badminton England Disciplinary Committee.

**8. Appointment of and the role of the County Disciplinary Committee**

- 8.1 Each County Badminton Association shall appoint, maintain and delegate the operation of these Regulations to the County Disciplinary Committee, failing which the management committee or board of that County Badminton Association shall be deemed to be the County Disciplinary Committee.
- 8.2 The County Disciplinary Committee may delegate such of its powers and functions to the County Disciplinary Officer as it sees fit, but the County Disciplinary Committee shall retain responsibility for the acts of the County Disciplinary Officer under these Regulations.
- 8.3 The County Disciplinary Officer will report all matters to the County Disciplinary Committee who will advise on appropriate action in accordance with these Regulations.
- 8.4 The County Disciplinary Officer will undertake all actions in respect of the day to day management of disciplinary cases under these Regulations but decisions on specific actions required on a given case will be made by the County Disciplinary Committee.

**9. The role of the Badminton England Disciplinary Officer**

- 9.1 Badminton England shall appoint and maintain the appointment of the Badminton England Disciplinary Officer.
- 9.2 The Badminton England Disciplinary Officer must:
- 9.2.1 uphold and fulfil the Regulations;
  - 9.2.2 subject to the overriding authority of the Badminton England Disciplinary Committee, appoint a Badminton England Disciplinary Panel which is constituted in accordance with these Regulations and in a way as to ensure a fair and objective hearing;
  - 9.2.3 act, and ensure that Badminton England acts, fairly towards all Specified Persons and other persons affected by these Regulations in investigating and dealing with Disciplinary Issues;

- 9.2.4 sit on the Badminton England Disciplinary Committee and make recommendations for improvements in the Regulations and associated matters;
- 9.2.5 promote and ensure that the confidentiality provisions of these Regulations are maintained; and
- 9.2.6 act in accordance with Appendix 2.

## **10. The role of the County Disciplinary Officer**

10.1 Each County shall appoint and maintain the appointment of the County Disciplinary Officer.

10.2 The County Disciplinary Officer must:

- 10.2.1 act on behalf of the County Badminton Association to instigate the Regulations in cases delegated from the Badminton England Disciplinary Officer and in matters referred directly to County level;
- 10.2.2 be the first point of contact with the Badminton England Disciplinary Officer;
- 10.2.3 when required from time to time and subject to the overriding authority of the Badminton England Disciplinary Committee, appoint a County Disciplinary Panel which is constituted in accordance with these Regulations and in a way as to ensure a fair and objective hearing;
- 10.2.4 ensure the County Badminton Association acts fairly towards all registered coaches, county squad players, affiliated Members and volunteers of the County Badminton Association and any other persons when investigating and dealing with Disciplinary Issues;
- 10.2.5 be a member of the relevant County Badminton Association and the County Disciplinary Committee (if applicable);
- 10.2.6 promote and ensure that the confidentiality provisions of these Regulations are complied with at County level; and
- 10.2.7 act in accordance with Appendix 3.

## **11. Complaints**

11.1 A Complaint may be delivered to the County Badminton Association or Badminton England and in each case the relevant Disciplinary Officer shall deal with the Complaint in the manner set out in this clause 11.

11.2 A Complaint must:

- 11.2.1 be delivered within 30 days (or such longer period as the Disciplinary Officer may determine in their sole discretion) of the incident (or knowledge of the incident by the Complainant) complained of;
- 11.2.2 be written; and
- 11.2.3 include sufficient details of the incident complained of so as to identify the Complainant, the Respondent and the Disciplinary Issue complained of.

- 11.3 If the Complainant does not wish for his/her identity to be disclosed to the Respondent (as set out at clause 22), the Complainant must make this clear in his/her written Complaint in which case clause 22 shall apply to the Complaint.
- 11.4 The Disciplinary Officer must:
- 11.4.1 acknowledge receipt of the Complaint within 14 days of receipt;
  - 11.4.2 within 14 days of receipt of the Complaint, inform the Respondent of the substance of the Complaint, and invite a written response within 14 days (or such longer period as the Disciplinary Officer may determine in their sole discretion); and
  - 11.4.3 investigate the Complaint as soon as practicable.
- 11.5 Thereafter, and once the Disciplinary Officer has concluded their investigation into the Complaint, the Disciplinary Officer may:
- 11.5.1 decide that no further action is required and must notify the Complainant and the Respondent accordingly;
  - 11.5.2 reject the Complaint on the basis that it does not fall within the scope of these Regulations and, if appropriate, refer the Complainant to the relevant procedures;
  - 11.5.3 dismiss the Complaint on the grounds that:
    - (a) it is vexatious or malicious; or
    - (b) there is insufficient evidence to warrant further action (in which case there is no right of appeal to such a decision but a case may be re-examined if further evidence is later forthcoming); andin either instance, notify the Complainant and Respondent in writing;
  - 11.5.4 refer the Complaint to another authority deemed more appropriate in practice or law to handle the Complaint, including but not limited to, the police for criminal matters;
  - 11.5.5 deal with the Complaint informally by way of advice or information because it is not serious enough to warrant full disciplinary proceedings;
  - 11.5.6 on the agreement of the Complainant and the Respondent:
    - (a) deal with the Complaint by mediation, with the mediator to be nominated by the Disciplinary Committee; or
    - (b) refer the Complaint to Sports Resolutions for final and binding arbitration in accordance with the Arbitration Act 1996 and Sport Resolutions (UK)'s Arbitration Rules;
  - 11.5.7 where the Complaint is made to the County Disciplinary Officer, refer the Complaint to the Badminton England Disciplinary Officer to choose the most appropriate course of action;
  - 11.5.8 postpone any determination of the Complaint in accordance with clause 12.3 (External Agency Investigation); or
  - 11.5.9 refer the Complaint to the relevant Disciplinary Panel.

## **12. Investigation**

12.1 In its investigation, the Disciplinary Officer:

12.1.1 will consider the available evidence;

12.1.2 may request additional information from the Complainant and/or the Respondent;

12.1.3 may interview the Respondent, the witnesses to the circumstances of the Complaint, the Complainant and any other person the Disciplinary Officer decides may assist in the general aims of the investigation; and/or

12.1.4 may require any person subject to these Regulations to disclose documentation or information to him/her that is relevant to the general aims of the investigation. Any person subject to these Regulations agrees to assist the Disciplinary Officer by promptly disclosing all relevant documentation or information when requested. The Disciplinary Officer is entitled, where appropriate, to draw adverse inferences from any failure by a person subject to these Regulations to disclose documentation or information when requested.

12.2 Any request for documentation or information in terms of clause 12.1.2:

12.2.1 must be in writing;

12.2.2 may be sent by post, email, fax or delivered by hand; and

12.2.3 must stipulate that the addressee must respond within 14 days (or such longer period as the Disciplinary Officer may in their sole discretion determine).

12.3 External Agency Investigation: Where a Complaint is received in respect of a Respondent that has been charged with a criminal offence or is the subject of an investigation by the Police, Social Services or any other public or other investigatory authority, or where this becomes the case during any disciplinary proceedings, the Disciplinary Officer should seek advice from the relevant agency as to whether or not consideration of the matter should be postponed pending the outcome of any such agency proceedings/investigation, and as to whether or not in the meantime, an interim suspension should be imposed under these Regulations (provided that, the imposition of such an interim suspension on a Respondent is within the powers of the relevant Disciplinary Committee (subject to clause 21) and is not dependent upon the advice of the relevant agency).

## **13. Disciplinary Panel**

13.1 The Disciplinary Committee has the power to appoint the Disciplinary Panel which power it may delegate to the Disciplinary Officer. The Disciplinary Panel:

13.1.1 must consist of at least 3 persons;

13.1.2 must have at least one member who is an Independent Person;

13.1.3 the remaining 2 members of the Disciplinary Panel may be employees, contractors, directors or members of the County Badminton Association or Badminton England, as applicable.

13.2 No person may sit on the Disciplinary Panel where he/she has had any prior involvement with the case or matter, or has any material financial or other relevant interest in the outcome of the proceedings.

13.3 The Disciplinary Officer will select a suitable chair of the Disciplinary Panel from the Disciplinary Panel members ("**the Chair**").

#### **14. Pre-Hearing**

14.1 Hearing Notification:

14.1.1 If, following the investigation, the decision of the Disciplinary Officer is a decision under 11.5.9, the Disciplinary Officer will complete and forward a hearing notification to the Complainant and the Respondent. The hearing notification must:

- (a) state the specific allegation(s) together with a copy of the Complaint;
- (b) state the date, time and place appointed for the hearing, providing at least 3 weeks' notice to the Respondent;
- (c) advise the Respondent that it is their duty and responsibility that they should have available at the hearing any evidence they wish to present and/or any witnesses they wish to call in accordance with clause 14.3; and
- (d) advise the Respondent that they are entitled to be accompanied at the Hearing in accordance with clause 14.4;

("Hearing Notification").

14.2 Postal Plea

14.2.1 The Respondent may be asked in the Hearing Notification whether they admit liability to the allegation(s) specified and whether, if they admit the allegations, they wish the matter to be dealt with in their absence. This procedure is known as a "postal plea".

14.2.2 If, having been served with a Hearing Notification which indicates a postal plea would be acceptable, the Respondent wishes to admit liability via postal plea, he/she should notify the Disciplinary Officer of his/her postal plea, in writing within 7 days of the date of the Hearing Notification being received (or such longer period as the Disciplinary Officer may determine in their sole discretion).

14.2.3 The Disciplinary Officer may determine, in their sole discretion, that a postal plea is not appropriate. For example, where the Disciplinary Officer considers the circumstances of the case and/or the Respondent's record of previous offences make a hearing appropriate. In such instances, the Respondent must appear before the Hearing in accordance with the Hearing Notification.

14.2.4 Where a postal plea applies but none is entered, and in all other respects, the matter shall proceed to a Hearing in accordance with the Hearing Notification.

14.3 Witnesses and Evidence

- 14.3.1 The Complainant and Respondent are entitled to call a maximum of two witnesses each (or such higher number as the Chair may determine is reasonable in the circumstances).
- 14.3.2 Subject to clause 14.5, if a party intends to present evidence at the hearing, that party must, at least 10 working days before the date of the hearing, provide to the Disciplinary Officer:
- (a) any evidence and copies of all documents including witness statements (if any);
  - (b) the names of any witnesses intended to be called.
- 14.3.3 Subject to clause 14.5, at least 5 working days before the date of the hearing, the Disciplinary Officer must provide to the relevant parties (the Complainant, the Respondent, the Disciplinary Committee and the Disciplinary Panel) a copy of all relevant papers in the possession of the Disciplinary Officer at that stage (subject to issues of confidentiality as determined by the Chair of the Disciplinary Panel);
- 14.4 Representation
- 14.4.1 The Complainant and Respondent is entitled to either:
- (a) bring one companion provided that such companion must not be anyone who may prejudice the case or have a conflict of interests; and/or
  - (b) be represented by one legal or other representative provided this is of their own choice and entirely at their own expense. Badminton England accepts no liability whatsoever for any legal or other cost or expense incurred as a result of, or related to any matters arising from, these Regulations.
- 14.4.2 If the Complainant and/or Respondent is under the age of 18 (eighteen) then such underage Complainant and/or Respondent's parent(s) or legal guardian(s) may also accompany the underage Complainant and/or Respondent in addition to any person brought in accordance with clause 14.4.1.
- 14.4.3 The Complainant and Respondent is not entitled to any other representative or companion apart from as set out in clauses 14.4.1 and 14.4.2 above unless the Chair (defined at clause 13.3 above) agrees that such additional representative or companion is beneficial to the hearing.
- 14.5 If, before a hearing, it becomes apparent to the Chair that the case will involve specialist evidence, or has elements which are unusual or difficult, the Chair may, with or without a preliminary hearing, issue an order for directions setting out a timetable for the exchange of information and evidence, witness statements and/or skeleton arguments in order that the hearing of the case itself may be properly and fairly conducted. The Chair will determine if an interpreter is required. If appropriate a Chair may make such an order during a hearing prior to granting an adjournment.

**15. Procedure during a hearing**

- 15.1 If, at the hearing, the Complainant and/or the Respondent is not present or represented, the Disciplinary Panel may proceed to consider the matter in their absence if it is satisfied that all reasonable steps have been taken to give notice of the hearing to the absent person.
- 15.2 The Chair will explain the procedure before the hearing commences which procedure will be as follows.
- 15.2.1 the details of the Complaint will be explained;
- 15.2.2 the Respondent shall be asked whether the allegations being the subject of the hearing ("**the Allegations**") are admitted;
- 15.2.3 if the Allegations are not admitted the Disciplinary Panel will hear the evidence in the following sequence:
- (a) the Complainant will be invited to present the case and call any witness or evidence to establish the Complaint; and
- (b) the Respondent will be entitled to give and to call evidence in rebuttal;
- 15.2.4 before being called, witnesses should be asked to retire whilst evidence is being given, but may remain in the room when their evidence is concluded if they so wish, provided that if the Complainant or Respondent is under 18, witnesses will not be allowed to remain in the room;
- 15.2.5 upon the conclusion of their evidence, questions may be put to each witness, through the Chair, at the request of either party or by any member of the Disciplinary Panel;
- 15.2.6 in all cases the person answering the allegations shall have the right of the last word;
- 15.2.7 the Chair will then invite all persons other than the members of the Disciplinary Panel to retire whilst the Panel considers its decision. Decisions are made by a majority of the Disciplinary Panel;
- 15.2.8 the Chair will decide if the Respondent's previous disciplinary record is relevant to this disciplinary hearing and, if so, will bring to the hearing any such evidence which may be available;
- 15.2.9 if the Allegations are denied and not proved on a Balance of Probabilities then the Complaint will be dismissed;
- 15.2.10 if the Allegations are admitted or proved on a Balance of Probabilities then the Respondent may call evidence as to character and address the Disciplinary Panel in mitigation of sanction. No other person may address the Panel as of right but the Disciplinary Panel may seek such further information, as it requires from any party; and
- 15.2.11 the Chair will again invite all persons other than the members of the Disciplinary Panel to retire whilst the Panel considers the sanction to be imposed under the provisions of these Regulations.

## 16. Evidence and Burden of Proof

- 16.1 It must always be borne in mind that a Disciplinary Panel is not a court of law and those appearing before it will not as a rule be trained advocates and must therefore, in the interests of achieving a just and fair result, be given every assistance and latitude in presenting their submissions.
- 16.2 The Disciplinary Panel must at all times observe the rules of natural justice.
- 16.3 The standard of proof is the Balance of Probabilities and not, as in a criminal court, beyond all reasonable doubt. The Balance of Probabilities means that, having heard all the evidence and using their knowledge and experience, the Disciplinary Panel believes that it is more likely than not that the Allegations are proved.

## 17. Notification of decision

- 17.1 The Disciplinary Panel shall communicate its decision in writing to the Respondent either at the time of the hearing or as soon as reasonably practicable thereafter. In all cases the Disciplinary Panel shall produce a summary of written reasons for its decision. This shall be conveyed to the Respondent (and, where deemed appropriate by Badminton England, to the Complainant) as soon as possible, and in all events within 10 working days after the date of notification of the decision.
- 17.2 Badminton England shall otherwise record the matter in accordance with 23 below.

## 18. Appeals

### 18.1 Right of Appeal

18.1.1 Either the Complainant or the Respondent may, within 10 working days after receipt of the written reasons for the Disciplinary Panel's decision, submit a notice ("**Notice of Appeal**") against the Disciplinary Panel's decision (including a decision regarding a sanction, whether or not such sanction was pursuant to an admission of liability) on the following grounds:

- (a) that the Disciplinary Panel misdirected itself in its conduct of the matter;
- (b) that the Disciplinary Panel's finding was based on error of fact; or
- (c) that the Disciplinary Panel exercised its discretion wrongly in reaching its decision.

18.1.2 Badminton England has a full right of appeal in the same terms as the individual or organisation.

### 18.2 Notice of Appeal

18.2.1 The Person submitting a Notice of Appeal shall be known as the "**Appellant**". The other Person shall be known as the "**Appeal Respondent**".

18.2.2 The Notice of Appeal must be submitted to the Badminton England Disciplinary Officer within the relevant time limits.

18.2.3 The Notice of Appeal must contain a written statement of the grounds upon which the appeal is brought and the supporting facts and matters including, where applicable,

any new evidence upon which the Appellant intends to rely along with an explanation of why such new evidence was previously unavailable.

18.2.4 The Badminton England Disciplinary Officer must:

- (a) within 10 days after receipt of the Notice of Appeal, forward a copy of the Notice of Appeal to the Appeal Respondent; and
- (b) within 14 days after receipt of the Notice of Appeal, determine, in his or her sole discretion, whether to accept or reject the Notice of Appeal. The Badminton England Disciplinary Officer's decision in this regard is final and binding and must be communicated to both the Appellant and the Appeal Respondent in writing.

18.3 Appeal Panel

18.3.1 The Badminton England Disciplinary Committee has the power to appoint the Appeal Panel which power it may delegate to the Badminton England Disciplinary Officer.

18.3.2 Subject to the timely receipt and acceptance of the Notice of Appeal, the Appeal Panel shall be appointed comprising 3 members as follows:

- (a) an independent person who will take the role of Appeals Chair; and
- (b) two employees, contractors or directors of Badminton England.

18.3.3 For the purposes of clause 18.3.2(a), "independent" means an independent person as defined at clause 13.1.2, and also excluding any person who is a member of Badminton England or a player, coach, umpire, referee or other official within Badminton.

18.3.4 No person may sit on an Appeal Panel where he/she has had any prior involvement with the case or matter, or has any material financial or other relevant interest in the outcome of the proceedings.

18.3.5 Decisions shall be made by a majority of the members of the Appeal Panel.

18.4 Powers of the Appeal Panel

18.4.1 The Appeal Panel will:

- (a) consider all of the documents and evidence submitted to the hearing before the Disciplinary Panel;
- (b) subject to any explanation given pursuant to 18.2.3 being acceptable to the Appeal Panel, receive fresh evidence as it may in its sole discretion deem fit; and/or
- (c) re-hear any witness called before the Disciplinary Panel as it may in its sole discretion deem fit.

18.4.2 The Appeal Panel may uphold vary or set aside the decision of the Disciplinary Panel and may substitute any other finding or order (on such terms and conditions if any) as it considers appropriate.

18.5 Notification of hearing and exchange of information

- 18.5.1 The Appellant and Appeal Respondent shall be given at least 20 working days' written notice of the date, time and place of the appeal hearing.
- 18.5.2 At least 15 working days prior to the date of the hearing, both the Appellant and Respondent must, if they intend to rely on fresh evidence, or to seek the agreement of the Appeal Panel to the re-hearing of any witness called before the Disciplinary Panel, submit:
- (a) any such fresh evidence that they wish to rely upon; and
  - (b) the names and addresses of any witnesses whom they wish to call in person.
- 18.5.3 Notwithstanding compliance with clause 18.5.2, the Appeal Panel is under no obligation to hear fresh evidence or re-hear witnesses.
- 18.5.4 Neither party shall, without the consent of the other or the permission of the Appeal Panel, rely on any fresh evidence or call any witness other than those provided or identified under clause 18.5.2.
- 18.6 Presenting, or responding to the Appeal: Representation
- 18.6.1 The Appellant and Appeal Respondent is entitled to either:
- (a) bring one companion provided that such companion must not be anyone who may prejudice the case or have a conflict of interests; and/or
  - (b) be represented by one legal or other representative provided this is of their own choice and entirely at their own expense. Badminton England accepts no liability whatsoever for any legal or other cost or expense incurred as a result of or related to any matters arising from these Regulations.
- 18.6.2 If the Appellant and/or Appeal Respondent is under the age of 18 (eighteen) then the underage Appellant's and/or Appeal Respondent's parent(s) or legal guardian(s) may also accompany the Appellant and/or Appeal Respondent over and above any person brought in accordance with clause 18.6.1.
- 18.6.3 The Appellant and/or Appeal Respondent is not entitled to any other representative or companion apart from under the provisions set out at clause 18.6.1 and 18.6.2 above unless the Appeals Chair agrees that such additional representative or companion is beneficial to the hearing.
- 18.7 Adjournment
- The Appeal Panel may, on request or on its own volition, adjourn the appeals hearing if it considers it appropriate.
- 18.8 Absence of the Appellant and/or Appeal Respondent
- If, at the appeals hearing, the Appellant and/or Appeal Respondent is not present or represented, the Appeal Panel may proceed to consider the matter in their absence if it is satisfied that all reasonable steps have been taken to give notice of the hearing to the absent party.

- 18.9 The order of proceedings for the appeals hearing, unless the Chair otherwise directs, shall be as follows:
- 18.9.1 submissions by the Appellant;
  - 18.9.2 if approved by the Panel, re-hearing of any witnesses called by the Appellant, followed by cross examination (if any);
  - 18.9.3 submissions by the Appeal Respondent;
  - 18.9.4 hearing of any witnesses called by the Appeal Respondent, followed by cross examination (if any);
  - 18.9.5 closing submissions by the Appeal Respondent (if any); and
  - 18.9.6 closing submissions by the Appellant.
- 18.10 Decision of the Appeal Panel
- 18.10.1 The decision of the Appeal Panel shall be notified to the Appellant and Appeal Respondent as soon as practicable after the conclusion of the hearing, and shall be otherwise published in accordance with clause 23 below.
  - 18.10.2 The decision by the Appeal Panel is final and shall be deemed to be the final decision of Badminton England.

## **19. Appropriate sanctions**

If the Disciplinary Panel or Appeal Panel finds a Complaint to have been proven or admitted, it may make any one of, or a combination of, the disciplinary orders set out at clause 20 on such terms and conditions as it considers appropriate having regard to:

- 19.1 the nature and seriousness of the Complaint;
- 19.2 the person's character;
- 19.3 the person's past record;
- 19.4 whether the Complaint was admitted and whether the person was remorseful;
- 19.5 appendix 5;
- 19.6 previous similar cases (in order to ensure consistency); and
- 19.7 any other relevant circumstances.

## **20. Sanctions**

- 20.1 Sanctions for Individuals:
- 20.1.1 a written warning;
  - 20.1.2 an order to undertake specified training;
  - 20.1.3 temporary suspension or permanent removal from the register of coaches;
  - 20.1.4 an order requiring an individual to be monitored or supervised in specific matters;

- 20.1.5 temporary suspension or permanent ban of the right to play in any matches and to be entered in tournaments or taking part in the administration of Badminton;
  - 20.1.6 temporary suspension or permanent exclusion from involvement in Badminton in any capacity directly or indirectly under the jurisdiction of Badminton England; and/or
  - 20.1.7 temporary suspension or termination of Badminton England membership.
- 20.2 Sanctions for Organisations:
- 20.2.1 a written warning;
  - 20.2.2 temporary suspension or termination of Badminton England membership; and/or
  - 20.2.3 a deduction of league points, relegation or exclusion or disqualification from any competition.
- 20.3 Where the Disciplinary Panel imposes any period of suspension, that period shall run from the date of the decision, notwithstanding that any Notice of Appeal is submitted.
- 20.4 In imposing or reviewing a suspension, the Disciplinary Panel or Appeal Panel shall take into account the length of suspension (whether interim or otherwise) served by the individual in deciding the appropriate period of any further suspension.
- 21. Interim Suspension**
- 21.1 Badminton England has a general right to suspend any Specified Person on an interim basis following the direct or indirect receipt of a Complaint.
- 21.2 It should be noted that an interim suspension is a neutral act taken by Badminton England; it is communicated as such and is not considered to be a sign of liability for the Respondent.
- 21.3 The only body with the authority to suspend is Badminton England via the Badminton England Disciplinary Officer and with ratification from the Disciplinary Committee, or in exceptional circumstances the Board of Directors. In determining whether to suspend a Respondent, the Badminton England Disciplinary Officer must consider, by reference to the factors at clause 21.4 below, that it is appropriate to exclude the Respondent concerned from any involvement in Badminton under the jurisdiction of Badminton England until the conclusion of all proceedings/investigations (both internal and external investigations).
- 21.4 The factors to be taken into consideration are:
- 21.4.1 the level of seriousness of the matters complained of;
  - 21.4.2 whether there is a risk of reputational damage;
  - 21.4.3 whether there is a risk of harm or damage to persons or property;
  - 21.4.4 whether a suspension is necessary or desirable to facilitate the conduct of any investigation or proceedings by Badminton England or any other authority or body; and
  - 21.4.5 having regard in all cases to the need for any action to be proportionate.
- 21.5 The Badminton England Disciplinary Officer shall as soon as reasonably practicable, notify the Respondent in writing of the interim suspension, and shall otherwise publish the decision and send notice to any concerned party.

21.6 An interim suspension shall be reviewed by the Badminton England Disciplinary Committee thereafter at appropriate regular intervals, of not less than 6 weeks, taking into particular consideration the factors outlined at 21.4 above and whether the circumstances or facts surrounding a case justify the continuation of the interim suspension.

21.7 Any breach of an interim suspension shall constitute grounds for further disciplinary action under these Regulations.

## 22. Anonymity

22.1 Subject to the provisions of this clause 22, neither Badminton England nor any County Badminton Association will entertain complaints that do not comply with clause 11 (particularly clause 11.2.2).

22.2 Only Badminton England may deal with anonymous complaints in terms of this clause 22. If any County Badminton Association receives a Complaint with a request for anonymity, that request must be referred to Badminton England.

22.3 Neither Badminton England nor any County Badminton Association are under any obligation in terms of these Regulations to action completely anonymous Complaints (i.e. where Badminton England or the relevant County Badminton Association is not aware of the identity or source of the Complaint).

22.4 If a Complainant does not wish for their identity to be disclosed to the Respondent, the Badminton England Disciplinary Committee must:

22.4.1 appoint a liaison ("**the Liaison**") to meet with the anonymous Complainant in order to take their statement, conduct ongoing communications and investigate the Complaint as required;

22.4.2 determine whether to proceed with the Complaint on an anonymous basis, taking into account the report back from the Liaison and all other relevant factors on a case by case basis including, but not limited to:

- (a) whether the Complainant has a genuine fear of reprisals if his/her identity is disclosed to the Respondent;
- (b) if the Complainant has a genuine fear of reprisals, is that fear reasonably justifiable;
- (c) whether the Complainant may have any other motive to remain anonymous;
- (d) whether there is any corroborating evidence or statements available;
- (e) whether the nature of the Complaint is sustainable if the Complainant remains anonymous.

22.5 Within 5 working days of such decision, the Badminton England Disciplinary Committee must, through the Liaison, notify the anonymous Complainant of its decision to proceed with the Complaint or not.

22.6 If the Badminton England Disciplinary Committee determine that the Complaint may proceed on an anonymous basis, the Badminton England Disciplinary Committee must make such arrangements as it deems fit in order to ensure that the proceedings are robust, fair and just

notwithstanding the fact that the Complainant will remain anonymous. Such arrangements may include, but are not limited to:

- 22.6.1 extending any time limits and adjusting the procedures set out in these Regulations as the circumstances may require;
- 22.6.2 at each stage of the disciplinary procedures the Liaison should interview the anonymous Complainant and satisfy herself/himself what weight is to be given to the information;
- 22.6.3 any information provided by or obtained from the anonymous Complainant should be reduced into writing in one or more statements;
- 22.6.4 the written statement of the anonymous Complainant must be made available to the Respondent, the Disciplinary Committee and the Disciplinary Panel provided that, if necessary, certain parts of the statements may be redacted before submission in order to prevent identification; and
- 22.6.5 if during any proceeding any particular and relevant issue is raised which should be put to the anonymous Complainant, then it may be desirable to adjourn for the Liaison to make further inquiries of the anonymous Complainant.

### **23. Reporting of decisions of Disciplinary Panel and Appeal Panel**

- 23.1 Every 6 months, the County Badminton Associations must provide a report of all Complaints received and disciplinary decisions taken to the Badminton England Disciplinary Officer.
- 23.2 Badminton England shall report interim suspensions and disciplinary decisions and orders made under these Regulations, on a 'need to know' basis, in such form and manner, and to such extent, as it deems necessary for the purposes of enforcement of/compliance with such decisions and orders.
- 23.3 For the avoidance of doubt, in addition to providing notice to the Complainant and Respondent or Appellant and Appeal Respondent, as the case may be, Badminton England will, at its discretion, report interim suspensions and disciplinary decisions and orders to relevant senior officials of any club, County Badminton Association or other organisation within the membership of Badminton England through which the individual is known, or reasonably believed to operate.
- 23.4 Badminton England will also inform the Complainant of an interim suspension and/or disciplinary decision and order where it deems appropriate.

### **24. Transfer of proceedings**

Badminton England reserves the right to commence disciplinary proceedings under this procedure and then transfer proceedings to another procedure, for example, by transferring a matter to the Child Protection Disciplinary Procedures. The person about whom the Complaint has been made will be notified in writing about any change to the procedures under which his or her case will proceed.

### **25. Enforcement of Disciplinary Orders**

- 25.1 Members must take all steps necessary to ensure compliance with any interim suspension and any disciplinary order made under these Regulations.

25.2 If a Member fails to comply with its obligations under 25.1 above, such conduct shall be grounds for further disciplinary action against the Member under these Regulations.

**26. Exclusion of liability**

Badminton England shall not be liable to any individual or organisation for any loss arising out of any action taken or omission under these Regulations.

**27. Record Keeping**

All records kept of proceedings under these procedures shall be kept by Badminton England for a period of 6 years upon which they will be destroyed.

**28. Service of notices**

28.1 Any notice or other documents required by these Regulations to be given to an individual or organisation who is the subject of an allegation or charge may be delivered either personally or by post and be sent by recorded delivery.

28.2 Where any such notice or any document is served by post or recorded delivery, it shall be sent to the last known address of the individual or organisation concerned, and it shall be deemed that wherever that address may be, to have been served on the second day following that on which it was posted.

**29. Interpretation**

29.1 The headings in these Regulations are inserted for convenience only and shall not affect its construction or interpretation.

29.2 Words importing the singular include the plural and vice versa.

29.3 Words importing a gender shall include all genders.

29.4 Reference to a clause or schedule is a reference to a clause or schedule or Appendix of or to these Regulations.

29.5 Reference to any statute, statutory provision or statutory instrument includes a reference to that statute, statutory provision or statutory instrument together with all rules and regulations made under them as from time to time amended, consolidated or re-enacted.

29.6 Any words following the terms **including, include, in particular, for example** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.

**Appendices**

Appendix 1 - flowchart of process

Appendix 2 - role description BE Disciplinary Officer

Appendix 3 - role description County Disciplinary Officer

Appendix 4 - types of disciplinary matters and jurisdiction

Appendix 5 – guidance on the application of sanctions