

BOWLS SCOTLAND ("BS")

DISCIPLINARY RULES

The object of the Disciplinary Rules is to set down rules and procedures with a view to obtaining justice in disciplinary proceedings and to ensure that decisions are made in a fair, consistent, impartial, independent and expeditious manner.

1 Jurisdiction

- 1.1 This Disciplinary Rules shall apply to (i) all Members of BS, (ii) all office bearers of BS, (iii) all coaches of BS, and (iv) all persons registered with and affiliated to BS in any capacity, including players of the game.
- 1.2 The Board of BS shall from time to time appoint Disciplinary Committees made up of persons who, by virtue of their knowledge of bowls or experience in disciplinary processes, the Board considers are well placed to hear and determine disciplinary issues arising out of alleged misconduct. No Board Member will sit on a Disciplinary Committee.
- 1.3 The Board of BS shall from time to time appoint Appeals Committees made up of Board Members and/or persons who, by virtue of their knowledge of bowls or experience in disciplinary processes, the Board considers are well placed to hear and determine appeals against decisions of a Disciplinary Committee.
- 1.4 Committees shall ordinarily comprise three members but the quorum shall be two persons. The Chairman of the Panel shall designate one member appointed to the Committee to be Chair. No member with an interest in the case to be heard shall be appointed or otherwise sit.
- 1.5 The Board of BS shall from time to time appoint a person to prosecute a disciplinary offence before a Disciplinary Committee, which person may be a Board Member, or a solicitor with a current practising certificate in Scotland, or an advocate currently practising at the Scottish bar ("the Disciplinary Officer").
- 1.6 No person sitting at first instance in a Disciplinary Committee shall be appointed to a subsequent appeal in the same matter.
- 1.7 All decisions shall be by majority unless there is an even number on the committee in which case the Chairman shall have the casting vote.
- 1.8 Meetings of the Disciplinary Committee or Appeals Committee may take place, either in one or more places, by letter, telephone, e-mail, webcast or by other or combinations of

convenient means. Any party against whom a complaint is made or any other party to proceedings may request a personal hearing and the Chairman of the Disciplinary Committee (or Appeals Committee as applicable) shall consider the request.

2 Misconduct

2.1 The conduct which may be brought before a Disciplinary Committee is:-

- (a) conduct by any person or body subject to these rules which amounts to a breach of these rules;
- (b) any alleged breach of the Articles of Association of BS;
- (c) any alleged breach of any rules and/or procedures promulgated under the Articles of Association of BS;
- (d) any alleged breach by a member of the High Performance Squad of any terms of his or her High Performance Contract with BS;
- (e) any alleged breach of any other policy of BS and/or World Bowls and/or any other body or organisation to which BS may be a member of or affiliated to and which the party is expected to comply with; or
- (f) any conduct which is otherwise conduct which may be considered to bring the sport of bowls into disrepute or which is considered to be detrimental to the best interests of the sport of bowls.

3 Procedure

3.1 The Board of BS shall consider any suspicion of misconduct that it is made aware of and determine whether a complaint ought to be issued to a person, member or associate member suspected of misconduct.

3.2 It shall be open to the Board of BS, at any point in time prior to the determination of proceedings before a first instance Disciplinary Committee, to impose a provisional suspension and/or any other interim order on any person or club who is the subject of a complaint and proceedings.

3.3 Only the Board of BS shall be entitled to put a complaint before the Disciplinary Committee.

3.4 Any person who wishes to notify the Board of BS of any alleged misconduct against any person to whom this Disciplinary Rules applies should notify the Chief Executive Officer

(CEO) of BS, unless the matter is in respect of the CEO in which event notification should be made to the Chair of the Board of BS. The CEO (or the Chair of the Board, in the case of a complaint in respect of the CEO) shall investigate the alleged misconduct and recommend that either (i) a complaint should be issued by the Board or (ii) no further action should be taken.

- 3.5 The decision of the Board of BS as to whether a complaint should be issued is entirely at the discretion of the Board and is final and binding and is not a decision that may be appealed.
- 3.6 A complaint shall be sent to an accused person, member or associate member in writing by the Disciplinary Officer. The complaint shall set out the alleged misconduct and invite a written response within 14 days of the date of the complaint confirming whether the accused person, member or associate member:-
- (a) admits the complaint, and wishes to say nothing further;
 - (b) admits the complaint, and encloses a written statement of factors relevant to the question of sanction;
 - (c) admits the complaint, and requests a hearing on sanction; or
 - (d) disputes the complaint, and encloses a written statement of defence.
- 3.7 At the same time as issuing a complaint, the Board of BS shall appoint a Disciplinary Committee to determine the complaint and any sanction that follows.
- 3.8 In the event that no written response is received by BS within 14 days of the date of the complaint, the accused person or club shall be deemed to have admitted the complaint and the Disciplinary Committee shall proceed to determine and issue a sanction.
- 3.9 In the event that an accused person or club admits the complaint, that will be considered by the Disciplinary Committee as a mitigating factor when determining any sanction.
- 3.10 On receipt of a defence to the complaint, or a request for a hearing on sanction, the Chair of the Disciplinary Committee shall fix a hearing and notify the parties of the date, time and place of hearing.
- 3.11 A complaint may be brought notwithstanding that the party against whom the complaint is brought may be separately under investigation by any regulatory authority or in respect of any alleged criminal behaviour arising from the same or connected circumstances. Proceedings further to this Disciplinary Rules shall not be automatically stayed if there are criminal proceedings connected to or arising out of the same circumstances as the complaint.

- 3.12 Unless otherwise directed by the Chair of the Disciplinary Committee the party against whom the complaint is brought shall set out, in writing, no later than 48 hours prior to the commencement of the hearing (i) whether they have any preliminary matters to raise and (ii) who shall attend the hearing and in what capacity. At the same time copies of any documentary or other evidence to be produced and relied on at the hearing must be lodged by the party with the Disciplinary Committee and provided to the other side.
- 3.13 The Disciplinary Committee shall have the power to regulate its own procedure and to determine any matter arising under or in connection with the Disciplinary Rules (except in relation to appeals when the Appeal Committee shall be entitled to exercise such powers) and in so doing may waive any requirement of and/or extend any period of time provided for in this Disciplinary Rules. All decisions and procedural directions taken shall have due regard to the requirements of natural justice. Subject to the foregoing it shall ordinarily be for the Disciplinary Officer to place before the Disciplinary Committee the complaint and all supporting material. The function of the Disciplinary Officer shall be to assist the Disciplinary Committee in its inquisition of the complaint. For the purposes of the Disciplinary Rules, BS shall be regarded as a party to proceedings and shall act through the Disciplinary Officer.
- 3.14 It shall be the duty of any party wishing to call a witness to ensure their attendance. Subject at all times to the direction and control of the Chair of the Disciplinary Committee, the parties can take evidence from witnesses, and cross examine witnesses at any hearing.
- 3.15 The Disciplinary Committee shall not be bound by any rule of evidence and shall be entitled to receive and consider such evidence as it considers appropriate, including expert evidence, attaching such weight to evidence put before it as it sees fit. The Disciplinary Committee shall have the power to summon witnesses to any hearing or call for any documents or other evidence to be produced at or in advance of any hearing and all persons and parties who are subject to this Disciplinary Rules shall comply and cooperate with the same. At any hearing the Disciplinary Committee shall be entitled to ask such questions of any witness as it considers fit and undertake such investigations as it considers appropriate.
- 3.16 Ordinarily a decision shall be taken as to liability (whether or not the complaint is upheld or not) and separately a decision shall be taken as to sanction, albeit both decisions can be taken at the same hearing.
- 3.17 The Disciplinary Committee shall have the power to postpone or adjourn a hearing on the application of any party to the proceedings or on its own motion.

4 Representation before the Disciplinary Committee or Appeal Committee

4.1 Any person, member or associate member in respect of whom a complaint is made may be legally represented at any hearing. In addition a person who is a member of a club in membership of BS and who wishes to be accompanied by a club official may request the same. Where a club is the subject of proceedings the club should be represented by no more than 2 officials of the club.

4.2 Any individual who is the subject of a complaint or who is a witness and is under the age of 16 years must be accompanied by one of his or her parents or legal guardian.

5 **Deliberations**

5.1 The deliberations of the Disciplinary Committee and the Appeal Committee shall be in private.

6 **Notification of decisions**

6.1 The decision shall be notified in writing to all interested parties as soon as reasonably practicable after conclusion of the hearing and where practicable no later than ten working days from the date of hearing. When it considers it appropriate the Disciplinary or Appeal Committee may deliver an oral decision at the conclusion of a hearing. In the event that an Appeal is lodged, the Disciplinary Committee shall be entitled to supplement its reasons either at its own discretion or at the direction of the Appeal Committee.

7 **Disposal**

7.1 In the event that the Disciplinary Committee determines that a complaint brought before it has been established and is upheld, the Disciplinary Committee may impose whatever penalty it considers appropriate. The Disciplinary Committee shall have regard to any guidelines or direction published from time to time by BS and in force at the time regarding the same. Examples of sanctions include, but are not limited to:

- (a) a caution;
- (b) warning as to future conduct;
- (c) reprimand;
- (d) a suspension for a period of time from playing lawn bowls in Scotland at any member club;
- (e) exclusion from participating in any competition operated by BS for a period of time;

- (f) in relation to a member of the High Performance Squad, a suspension from participating in High Performance events on behalf of BS (including coaching and similar sessions);
- (g) expulsion from BS; or
- (h) any combination of the above.

7.2 Sanctions shall ordinarily take immediate effect. However they may be delayed in commencing or suspended at the discretion of the Disciplinary Committee.

8 Appeals

8.1 The party who has been the subject of a decision of the Disciplinary Committee (“the Appellant”) shall have the right to appeal against such decision, but only if a notice of appeal is lodged in writing with the CEO (or Chair of the Board of BS, if the Appellant is the CEO or the original complaint is in respect of the CEO) within 7 days of the issue of the decision of the Panel. Such notice shall state the ground(s) of appeal and contain the full reasons and basis upon which the appeal is being pursued.

8.2 The Appeal Panel shall be entitled to regulate its own procedure in according with the principles outlined above for first instance proceedings. The appeal may be determined by way of written representations and without the need for a personal hearing at the discretion of the Appeal Committee.

8.3 Appeals shall typically proceed by way of review. A re-hearing of the case considered at first instance shall not be permitted unless the Appeal Committee is satisfied that there was an error in the decision of the Disciplinary Committee and that error requires the case to be re-heard *de novo*. Admission of any new evidence not considered at first instance shall only be permitted at the discretion of the Appeal Committee and upon cause shown by the person lodging the appeal including a full explanation as to why the evidence was not produced earlier and placed before the Disciplinary Committee at first instance.

8.4 Where an appeal hearing is to take place in person the Appellant and any other party to the appeal proceedings shall have the right to be present and be accompanied by their legal representative, if any, at the hearing of the appeal.

8.5 In disposing of the appeal the Appeal Committee may decide to:

- (a) affirm the decision of the Disciplinary Committee;
- (b) uphold the appeal by setting aside the decision appealed against and quashing any penalty imposed by the Disciplinary Committee;

- (c) uphold the appeal in part by setting aside part only of the decision appealed against and/or modify, reduce or increase any penalty imposed;
- (d) substitute for the decision appealed against a decision to find the relevant party guilty of a lesser or more serious offence and/or to impose a lesser penalty or penalties;
- (e) uphold the appeal and remit the issue to the Disciplinary Committee for reconsideration and re-determination by them;
- (f) defer consideration of the appeal pending receipt of information, evidence or clarification from the Disciplinary Committee or from a person not present at the appeal hearing;
- (g) stay a suspension imposed by the Disciplinary Committee pending the determination of an appeal; and/or
- (h) take any steps which in the exercise of its discretion the Appeal Committee consider it appropriate to take in order to deal justly with the appeal.

8.6 The decision of the Appeal Committee shall be advised to the Appellant as soon as practicable after the conclusion of the hearing. When it considers it appropriate the Appeal Committee may deliver an oral decision at the conclusion of a hearing.

8.7 Where an appeal is taken the determination arrived at and/or the sanction imposed by the Disciplinary Committee shall not be automatically stayed pending resolution of the appeal. A party against whom a decision has been made and by whom an appeal has been taken shall be entitled to ask that the imposition of the determination and/or sanction be stayed pending resolution of the appeal and the Appeal Committee shall consider the same as a preliminary matter. The Appeal Committee will, when deciding whether to stay any determination or sanction, have regard to all such matters as it considers appropriate in determining the application including but not limited to the interests of the sport, any prejudice that may arise and the impact that any such stay may have on any other party.

9 **Standards and Burden of Proof**

9.1 The standard of proof on all matters shall be proof on the balance of probabilities.

10 **Multiple Incidents**

10.1 Where disciplinary proceedings, however arising, are taken against more than one person or entity as the result of a related incident or incidents such proceedings may be heard

together, where the Disciplinary Committee so determines, provided there is no manifest prejudice to any person against whom such disciplinary proceedings are taken.

11 Publicity

11.1 The Board may publish details of any misconduct or offence together with the sanction imposed or other determination and the identity of the person, member or associate member concerned. The Disciplinary Committee and/or Appeal Committee shall be entitled to recommend that publication takes place.

12 Additional Provisions Procedures

12.1 Procedures or proceedings under these Rules or any decision of a Disciplinary Committee or Appeal Committee shall not be quashed or held invalid by reason only of any defect, irregularity, omission or technicality unless such results in a material doubt as to the reliability of the findings or decision of the Disciplinary Committee or Appeal Committee, or results in a miscarriage of justice.

12.2 In respect of any matter not provided for in these Rules, a decision of the Disciplinary Committee or, as the case may be, the Appeal Committee shall be taken according to the general principles of fairness and justice.

12.3 The Disciplinary Officer may appear at any hearing in person or through a nominee and they may be legally represented.

12.4 As a general rule all parties shall bear their own costs and expenses but the Disciplinary Committee and/or the Appeal Committee shall be entitled to make an award of expenses against one or more parties as they see fit. In respect of an appeal, an appellant shall lodge £250 with the notice of appeal (unless waived by the Board) as a contribution towards administrative costs of the appeal. No action shall be taken to register or progress an appeal until BS has received the appeal fee (unless waived by the Board) in cleared funds. Failure to ensure that BS is in receipt of the appeal fee by no later than 7 days from the date of lodging of the appeal shall lead to the appeal being dismissed.

12.5 Where any member of a Disciplinary Committee or Appeal Committee is unable to sit or to continue sitting in any matter the remaining members shall be entitled to continue to sit as a Committee and determine all matters before them.

12.6 In the event of non-attendance by any party to proceedings the Committee may continue and hear any matter and reach a conclusion in the absence of that party, including but not

limited to reaching a determination, imposing a sanction or disposing of an appeal in that party's absence.

- 12.7 The decisions of Disciplinary Committees that are not competently appealed and the decisions of any Appeal Committees shall be final and binding on all parties.