



BASKETBALL ENGLAND

DISCIPLINARY CODE

CONTENTS

| | |
|--|----|
| Definitions | 3 |
| 1. Background..... | 5 |
| 2. Jurisdiction and Powers..... | 5 |
| 3. Powers of Enquiry | 7 |
| 4. Discipline Rules | 9 |
| 5. Interim Suspension..... | 9 |
| 6. Discipline Procedures General Provisions..... | 10 |
| 7. Preliminary Matters | 11 |
| 8. Confidentiality and Publication | 11 |
| 9. Dealing with Adults at Risk and Young People..... | 12 |
| Young People as Witnesses | 12 |
| 10. Summary Procedure | 13 |
| 11. Full Disciplinary Procedure..... | 14 |
| Serious incidents | 16 |
| 12. Appeals Procedure | 17 |
| Appeal Board Hearing | 18 |
| Appeal Board Decisions | 19 |
| 13. Sanctions and Costs..... | 19 |
| 14. Offences in Other Sports | 20 |

DEFINITIONS

| | |
|--------------------------------|--|
| AOC | means: the Association of Colleges |
| Adults at Risk | means: any person who is aged 18 years or over who; <ul style="list-style-type: none"> - Has care or support needs - Is experiencing, or is at risk of abuse or neglect - Is unable to protect themselves against significant harm or exploitation |
| Appeal Respondent | means: the Organisation who has had an Appeal made against one of their decisions |
| Appeals Board | means: any Panel established by The Association to adjudicate on an Appeal |
| Appellant | means: a person or Organisation that has submitted an Appeal against a decision |
| Associates | means: other organisations with connection to The Association including but not limited to educational establishments running Basketball Programmes, the British Basketball Federation (BBF), the International Basketball Federation (FIBA), Basketball Wales (BW), Basketball Scotland (BS), Basketball Ireland (BI), the Association of Colleges (AOC) and the British Universities & Colleges Sport (BUCS) |
| BBF | means: the British Basketball Federation |
| BE | means: Basketball England |
| BI | means: Basketball Ireland |
| BS | means: Basketball Scotland |
| BW | means: Basketball Wales |
| Case Management Group | means: a body appointed to hear a Safeguarding case also known as a Safeguarding Panel |
| Disciplinary Officer | means: any person appointed by The Association to carry out their Discipline process. |
| Discipline Commission | means: a Panel established by The Association or delegated association to adjudicate on a Misconduct case |
| FIBA | means: the International Basketball Federation |
| Independent Chair | means: a person, not employed by The Association, to hear a disciplinary matter |
| Inside Information | means: any information passed on to a third party without authority which may be used inappropriately. |
| Institution | means: a school or higher education establishment whom Basketball England have an affiliation with |
| Interim Suspension | means: A suspension imposed by an authorised body prior to either a charge or the final hearing of a charge |
| Member Organisation | means: any Club, League or Association, including Regional Associations, under the jurisdiction of Basketball England |
| Members | means: any person associated with a Member Organisation |
| Misconduct Complaint | means: a report or communication of any type that indicates a breach of The Association Membership Rules or Regulations or the standard of conduct expected by The Association |
| National Discipline Commission | means: a Panel appointed to hear a Serious Case Offence |
| Officers | means: any employee or volunteer connected to any organisation under the jurisdiction of The Association |

| | |
|--|---|
| Officials | means: Referees, Table Officials, Commissioners, Observers, Referee Coaches and Statisticians |
| Participant | means: any Members, Member Organisation, Members of Member Organisations, Officers, Officials, or Players |
| Players | means: any person registered or unregistered under the jurisdiction of The Association. |
| Protected Characteristic | means: any characteristic protected under the Equality Act 2010 which are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, and sexual orientation. |
| Regional Association | means: any local Association under the jurisdiction of The Association |
| Respondent | means: any Individual or Organisation who has had a Misconduct Complaint or Charge raised against them. |
| Safeguarding and Integrity Senior Manager ("SISM") | means: any person appointed by The Association to carry out their Safeguarding process. |
| Safeguarding Panel | means: a body appointed to hear a Safeguarding case also known as the Case Management Group |
| Serious Case Offence | means: an Offence to be referred to a National Discipline Commission for an offence listed by The Association as a Serious Offence from time to time |
| Summary Offence | means: a breach that can be proceeded against summarily, without the need for a full disciplinary hearing. |
| Summary Procedure | means: the procedure to be adopted to deal with a Summary Offence. |
| The Association | means: Basketball England |

1. Background

- 1.1 Basketball England ("**The Association**") is committed to providing a fair, consistent and proportionate approach to the handling of Complaints and Disciplinary Matters.
- 1.2 For the purpose of this document a "**Misconduct Complaint**" is any communication to The Association from which it appears that there has or may have been a breach of the Membership Rules or Regulations or Standards of Conduct, whether expressed as a complaint, disclosure, grievance, allegation, query or expression of concern or identification of an issue.
- 1.3 This document is designed to provide an open and transparent route for Misconduct Complaints made under this procedure to be resolved fairly within a reasonable period.
- 1.4 Other complaints that are not considered to be a Misconduct Complaint will be dealt with under a separate complaint handling process.
- 1.5 As the governing body, Basketball England's approach is to focus on the most serious breaches of standards of conduct that may give rise to questions about a member or member organisation's suitability to participate in the sport, whilst providing support to Member Organisations to manage the lower-level breaches.
- 1.6 Where a Misconduct Complaint necessitates formal disciplinary proceedings, The Association shall exercise its disciplinary powers in the manner set out in this document.
- 1.7 Where a Misconduct Complaint, following investigation is not considered a breach that requires formal disciplinary action, it may still be investigated for such non disciplinary action that The Association deems appropriate at their absolute discretion.
- 1.8 It is our intention to promote a culture where it is safe and acceptable for any person to raise any type of complaint or concerns including those of poor practice, bullying or harassment, neglect, grooming, abuse, or other forms of misconduct. No person should be victimised for raising concerns or making a Complaint.
- 1.9 Nothing in this document overrides, amends or waives any provision in the Articles of Association or restricts the rights of Basketball England or the Board to make or amend Regulations or other Byelaws or to manage the business of Basketball in England as they think fit.
- 1.10 Basketball is also under the jurisdiction of International Basketball Federation (FIBA) in accordance with FIBA Internal Regulations.

2. Jurisdiction and Powers

- 2.1 The Association's Articles of Association, its Rules and Regulations and the various conditions of membership, registration and affiliation, require that all members, registered clubs and those associated with clubs as members and all affiliated associations and those associated with affiliated associations as members, comply with Regulations made by the Board and conduct themselves in accordance with the Code of Ethics and Conduct and all and any other relevant Basketball England Rules and Regulations.
- 2.2 There are three processes Basketball England may use to investigate and sanction misconduct;
 - (i) NBL Competition. Any behaviour contravening the NBL Rules and Regulations shall be presided by the Disciplinary Officer, with right of appeal through the NBL disciplinary process. The Disciplinary Process is outlined in NBL Rules and Regs

(ii) Membership Disciplinary Procedures. Any behaviour contravening Membership Rules and Regulations and Code of Conduct and Ethics shall be subject to the process outlined within this document.

(iii) Safeguarding Case Management. Any behaviour contravening the Basketball England Safeguarding Policy shall be subject to the process outlined in the relevant Safeguarding Case Management Policy.

2.3 The Association has disciplinary jurisdiction over:

- (i) All individual members of The Association (the “**Members**”);
- (ii) All member organisations including clubs, leagues and associations and, in each case, their members and officers (the “**Member Organisations**”);
- (iii) All employees and volunteers of or connected to The Association (the “**Officers**”);
- (iv) All Officials including Referees, Table Officials, Commissioners, Observers, Officiating Coaches and Statisticians (the “**Officials**”);
- (v) All basketball players who are members of a Member Organisation or who participate in any Basketball activity organised or authorised by The Association or by any of its Associates (the “**Players**”);

2.4 These Procedures do not apply to disciplinary action contemplated or taken by The Association against employees of Basketball England, concerning matters arising while in the course of their employment. However, where formal action is taken against Basketball England employees in the course of their employment, resulting in any form of sanction that impacts on their ability to continue with Basketball England membership, this can be addressed under this policy.

2.5 This policy does not apply to complaints about Basketball England services. Any complaints concerning these matters should be addressed initially through the Basketball England Complaints Policy. Complaints about The Association’s staff members should be directed to the Governance Team.

2.6 The Association shall exercise its disciplinary powers in the manner set out in this policy.

2.7 While Basketball England will always consider any anonymous information where a child or Adult at Risk may be at risk of harm, it may not be able to progress anonymous complaints.

2.8 It is normally necessary to identify the complainant to provide the Respondent with a clear understanding of the allegations and ensure procedural fairness. In some situations, it may be possible to keep the details of a complainant confidential (where there is a good reason for concern and/or the identity of the complainant is not material to the case or anonymity has been requested), but this is sometimes not possible as the complainant’s identity may be apparent from the details of the complaint provided to the Respondent.

2.9 Basketball England procedures are not an alternative way of addressing criminal offences. Basketball England encourages complainants to report allegations or suspicions of a criminal nature to the police in the first instance.

- 2.10 Basketball England itself will involve the statutory authorities in appropriate matters. Basketball England will support the police with any resulting investigation in line with its legal obligations.
- 2.11 The Association will exercise its discretion when deciding whether to consider the Complaint before any criminal proceedings have concluded and may liaise with the police in this regard.
- 2.12 However, the fact that criminal action is being taken or considered does not prevent Basketball England from taking action within their own regulations.
- 2.13 Basketball England may order that a Member be suspended from all or any specific activity on terms it deems appropriate where the Member has been convicted of a criminal offence and where Basketball England considers it appropriate to safeguard the Sport.
- 2.14 Where a Member or Member association has breached a Rule or Regulation whilst engaging in Basketball in an Institution or League for Institutions, the SISM will liaise with the responsible bodies to agree the process of investigation.

3. Powers of Enquiry

- 3.1 Basketball England requires Members, Member Organisations, Members of Member Organisations, Officers, Officials, or Players ("**Participant**") to co-operate in any Misconduct Complaint investigation, where requested, to participate in interviews; to provide information and/or statements or any other information believed to be in their possession or knowledge and to attend hearings to give evidence. Members or those representing Basketball England registered or affiliated organisations who fail to comply with these requirements, may themselves be subject to disciplinary action.
- 3.2 Subject to the reporting of any decision by the Safeguarding Case Management Group ("CMG"), Disciplinary Commissions or Appeals Boards and with the exception of communications with appropriate authorities, in pursuit of legal obligations, all investigations, communications and proceedings shall be conducted in confidence, with all parties involved subjected to an obligation of confidence.
- 3.3 All and any hearings shall be held in private.
- 3.4 The Association shall delegate its power to:
- (i) act upon disciplinary matters to a Disciplinary Officer (the "**Disciplinary Officer**").
 - (ii) act upon disciplinary matters to the Safeguarding and Integrity Senior Manager ("**SISM**") or other member of the Governance Team in the case of Association Regulation breaches.
 - (iii) in the case of minor breaches of policy and regulations, to **Regional Associations** of Basketball England.
- 3.5 The policy and procedures within this document are mandatory for all matters under the jurisdiction of Basketball England and supersede any Regional Association or local League procedures.

- 3.6 This policy shall apply to any disciplinary matter in respect of match fixing, financial speculation and betting in accordance with FIBA Internal Regulations, Basketball England Code of Ethics and Conduct.
- 3.7 This policy shall apply to Anti-Doping Rule violations in accordance with UK Anti-Doping Rules and the Basketball England Code of Ethics and Conduct.
- 3.8 This policy shall apply to any disciplinary matter which also raises Safeguarding or Child Protection concerns.
- 3.9 The Association shall also have jurisdiction to investigate any other matter which the Disciplinary Officer or SISM, at their sole discretion, considers may constitute Misconduct.
- 3.10 The Association shall also have jurisdiction at their sole discretion over appeals against decisions or rulings of a Member Organisation and/or in respect of a Member Organisation's competition regulations and/or in respect of non-disciplinary decisions of the Member Organisations. Such appeals will be dealt with by the "**Appeals Board**" in accordance with this policy.
- 3.11 Where both The Association and a Member Organisation or Associate have jurisdiction over a matter, the SISM or Discipline Officer may, respecting any FIBA recommendation, make a decision on behalf of The Association, to determine that:
- (i) such matter should be dealt with by The Association; or
 - (ii) such matter should be dealt with by a Member Organisation.
- In such a case, Basketball England will not usually consider the matter until the organisations own complaints procedures have been exhausted, save for 'serious incidents' as defined in this policy.
- 3.12 A Participant may formally request that The Association deals with a matter, in which case the SISM or Discipline Officer shall, in their sole discretion on behalf of The Association, determine whether the matter should be dealt with by The Association or by a Member Organisation. Such a decision regarding the jurisdiction would be final and binding and not subject to an appeal.
- 3.13 Where a club is in dispute with another club or one of its own members, Basketball England is unable to intervene unless the club or the member is in breach of the Code of Conduct or any other Basketball England Regulations save where it is clear that an act of misconduct has occurred.
- 3.14 Where a Member Association or Associate conclude disciplinary action is necessary, The Association can review the investigation and make their own decision about whether disciplinary action is taken by The Association, subject only to any contrary instruction from FIBA.
- 3.15 Where an individual against whom a complaint is made is under the age of 18 years when the matter complained of occurred, the matter will be dealt with under the procedures for Young People within this document.

- 3.16 Where an individual is considered an Adult at Risk, these procedures will be adapted appropriately at the sole discretion of The Association addressing the needs of the Adult at Risk.
- 3.17 The Association may amend these procedures as it sees fit from time to time. Any such amendments shall come into full force and effect upon the date specified by The Association.
- 3.18 Investigations shall be conducted in accordance with the version of the Disciplinary Code in operation on the day an investigation opened.

4. Discipline Rules

- 4.1 The Association may act at their sole discretion against any Participant which is considered to be acting in breach of any of the Discipline Rules or any other Regulation of The Association.
- 4.2 Participants are required to ensure their behaviour is appropriate at all times and maybe subject to a charge under these rules and regulations where such behaviour falls below the standard expected irrespective as to whether that misconduct was committed during a game or at any other time.
- 4.3 A Participant is required at all times to act in the best interests of the game of Basketball and shall not act, at the sole determination of The Association, in any way that brings the game of Basketball into disrepute.
- 4.4 A Participant shall not use any language or behaviour that is Aggravated by the use or reference, whether explicitly or implied, to another person's ethnic origin, colour, race, age, nationality, religion or belief, gender, gender reassignment, sexual orientation, or disability.
- 4.5 A Participant shall not act in any form of victimisation or discrimination by reason of any "**Protected Characteristic**" covered under the Equality Act unless otherwise permitted by law.
- 4.6 A Club is responsible for ensuring its Officials, Spectators, and all persons purporting to be its supporters or followers, conduct themselves in an orderly fashion and refrain from any behaviour that in the opinion of The Association brings the game into disrepute, including, but not limited to, behaviour, that includes a reference, whether express or implied, to any Protected Characteristic.
- 4.7 A Player is required to act in accordance with any anti-doping regulations and any social drug regulations or either WADA, UKAD, or The Association.
- 4.8 Betting or Integrity matters - A Participant is required to adhere to the Basketball England Betting and Anti-Corruption Regulations as issued by Basketball England.
- 4.9 A member shall not use any information relating to Basketball obtained by virtue of their position within the sport, not available publicly, ("**Inside Information**") in relation to betting nor may they pass information on to a third party for their benefit.

5. Interim Suspension

- 5.1 If the Discipline Officer or SISM considers that an allegation, complaint or matter which has been drawn to their attention falls within the scope of The Association's disciplinary or Safeguarding regime and is of sufficient seriousness to warrant the suspension of a person or body from any aspect of involvement in Basketball (including, where relevant, the suspension of a license or accreditation) until such time as the Disciplinary Commission or Safeguarding Case Management Group has reached its decision (an "**Interim Suspension**"), they shall write to such person or body informing them of the terms of the interim suspension.
- 5.2 The decision of the SISM, in this matter, shall only be subject to review by an **Independent Chair** and will be considered on correspondence only.
- 5.3 A review in such a circumstance must be submitted by the Respondent within 14 days of the imposition of the Interim Suspension or any application for a review will be declared void.
- 5.4 If at any time the facts or circumstances surrounding a case change, the SISM or Discipline Officer may consider, either of its own motion or by an application brought by a person or body subject to an interim suspension, whether such interim suspension should continue.
- 5.5 In their absolute discretion the SISM or Discipline Officer may lift such interim suspension or may impose such conditions as they think fit in default of which the person or body will remain subject to suspension.
- 5.6 The fact of an interim suspension being imposed may be published by The Association.

6. Discipline Procedures General Provisions

- 6.1 These General provisions shall apply to all **Inquiries, Disciplinary Commissions, Appeal Boards, Safeguarding Panels** and any other disciplinary body under the control of Basketball England.
- 6.2 The bodies subject to these General Provisions are not courts of law and are disciplinary as opposed to arbitral bodies.
- 6.3 It is important to reach a just and fair outcome and any procedural or technical irregularities must come second to ensuring that parties are treated in a just and fair manner and that a just and fair outcome is reached.
- 6.4 All parties are expected to act in a manner of cooperation to ensure such proceedings are dealt with in a timely and appropriate fashion having due regard for its sporting objectives.
- 6.5 The bodies subject to these provisions may regulate their own procedures ensuring fairness is maintained throughout.
- 6.6 The applicable standard of proof will be the civil standard of the balance of probability unless stated elsewhere in the applicable regulations.

- 6.7 Any charge in relation to a Misconduct complaint must be raised within 90 days of being notified of the incident unless written dispensation has been granted on application to an Independent Chairman to extend the time limit in advance of the expiration of the 90 days.
- 6.8 Any first instance hearing must be heard within 180 days of the report being received in the first instance unless written dispensation has been granted on application to an Independent Chairman to extend the time limit in advance of the expiration of the 180 days.
- 6.9 Without the written dispensation being granted within 6.7 and 6.8 above, the case will be declared void and expunged from the records.
- 6.10 Any Participant subject to a charge and attending any Commission or hearing is entitled to be represented, including legally, by a person of their choice.
- 6.11 Any **Appellant** or **Respondent** attending an Appeal Board is entitled to be represented, including legally, by a person of their choice.
- 6.12 Any costs of the representation in 6.10 or 6.11 above shall be borne by the party appointing the representative irrespective of the outcome of the case.

7. Preliminary Matters

- 7.1 A Discipline Commission Chair or Appeal Board Chair will have the right, sitting alone, to deal with any Preliminary Matter and may as a result, make directions, including but not limited to:
- (i) Amending any time limit
 - (ii) Setting aside any earlier decision being appealed against
 - (iii) Order a party to attend a hearing
 - (iv) Permit any "interested party" to attend and make submissions to the Appeal Board
 - (v) Dispense or amend any of the procedures outlined in these regulations
 - (vi) Consider and make determination on any matters of law.
 - (vii) Any such other order deemed applicable or appropriate
- 7.2 The Discipline Commission Chairperson or Appeal Board Chairperson may also refer any Preliminary Matter to be considered by the full Panel.
- 7.3 Any order of a Preliminary Matter is final and binding.

8. Confidentiality and Publication

- 8.1 All disciplinary and safeguarding proceedings shall take place in private and only parties involved are entitled to attend.
- 8.2 Any application for observers should be considered as a preliminary matter prior to the commencement of any hearing or appeal board.
- 8.3 The Association has the authority to publish the outcome and details of any appeal board or hearing that it deems appropriate at its sole discretion. Until such

time as The Association publishes the details, they remain Private and Confidential.

- 8.4 The Disciplinary Commission or the Appeal Board may recommend that a complete dossier of the evidence submitted in the course of the proceedings be prepared and sent to the police and other relevant authorities, together with an expression of the view of the Disciplinary Commission or the Appeal Board that the matter should be investigated by such authorities to establish whether a criminal offence or other infringement has been committed.

9. Dealing with Adults at Risk and Young People

- 9.1 It is important to note that when dealing with young people in an investigation or as a witness that they are dealt with in a manner considered appropriate for young people. These procedures should also be applied as necessary to any adults at risk who are involved in the discipline process. The application will depend on the needs of the adult, determined on a case-by-case basis.

- 9.2 No person under the age of 18 years can be fined. Any financial penalties will be the responsibility of the Club as appropriate.

- 9.3 A child under the age of 12 cannot appear before any Commission or Panel either as a witness or the Member charged.

- 9.4 Where there is a potential breach by a child under the age of 12, an alternative resolution to formal disciplinary action should be considered, such as, but not limited to group or individual training.

- 9.5 Where a child under the age of 12 would have appeared as a witness, The Association should arrange for a Welfare Officer, with the permission of the Parents/Guardians of the Child, to obtain a statement from the Child.

- 9.6 The Welfare Officer would attend the hearing in proxy of the Child to deliver the statement.

- 9.7 A child between the ages of 12 and 15 years may attend a hearing, accompanied by an adult, by video conference only and only where:

- i. The evidence is considered so important to necessitate a child to attend:
- ii. The procedures to hear from a Young Person as a witness, as outlined in this document are strictly followed.

- 9.8 A child aged 16 or 17 years may attend in person, accompanied by an adult, but a Commission may consider it appropriate also for the young person to appear by video conference only.

Young People as Witnesses

- 9.9 When a young person is giving evidence, only essential personnel should be in attendance. Essential personnel are considered as the Panel Members, the Secretary, the person charged and their representative. All others shall leave the room whilst the young person is giving evidence.

- 9.10 Only the Chair of the Commission will be permitted to ask questions of the young person.
- 9.11 No cross examination will be permitted.
- 9.12 At the end of the questioning the Chair of the Commission will enquire from the person charged whether they had any other questions that should be asked of the young witness.
- 9.13 If so, the questions should be relayed to the Chair, outside of the hearing of the young person, and the Chair will determine the relevance.
- 9.14 Once all the questioning has been completed, the young person will leave the hearing.

10. Summary Procedure

- 10.1 The Summary Procedure may be applied if:
- (i) the person or body admits the offence in the correspondence that has passed between the Respondent and the SISM; and
 - (ii) the Disciplinary Officer is satisfied that:
 - (a) the offence is a Summary Offence (as defined in 10.2); and
 - (b) it can properly be dealt with under this paragraph.
- 10.2 A "**Summary Offence**" is one where the SISM or Discipline Officer believe that, if the facts placed before them are true, the appropriate sanction should be no more than:
- (i) a censure;
 - (ii) a suspension for a period not exceeding 28 days;
 - (iii) a fine;
 - (iv) apology to victim or association;
 - (v) education or training
 - (vi) a suspended penalty where, if the terms of the suspension are breached, a suspension of no more than 28 days would be appropriate; or
 - (vii) a combination of any of the above.

For the purposes of this paragraph, a "suspension" shall mean suspension from Association activities or Association-sanctioned events.

- 10.3 Where an admission in correspondence has been made and the SISM or Discipline Officer considers it appropriate to invoke the Summary Procedure, they shall write to the person or body concerned informing them that it is their view that this is a Summary Offence and that the Summary Procedure for dealing with such offences may be applied. In such correspondence, the SISM or Discipline Officer shall:
- (i) seek the consent of such person or body to the matter being dealt with under the Summary Procedure
 - (ii) formally charge that Participant with Misconduct.

10.4 If the person or body rejects the decision of the SISM, the case will proceed to Full Disciplinary Procedure.

10.5 There shall be no right of appeal from the imposition of a sanction imposed under the Summary Procedure.

11. Full Disciplinary Procedure

11.1 If the person or body who is the subject of the matter does not consent to the Summary Procedure or if the SISM or Discipline Officer considers that a case is not appropriate for the Summary Procedure, the Full Disciplinary Procedure of The Association, as set out below, shall be invoked. (the "**Full Disciplinary Procedure**").

11.2 The Association shall commence the procedure by sending to the person or body the charge in writing, setting out a summary of the alleged Misconduct, together with a short factual summary of the evidence supporting the charge.

11.3 The person or body against whom the charge has been made shall have 14 days following the date of issue of the written communication setting out the charge to answer the charge where they may:

- (i) Accept the charge and request the matter be dealt with by correspondence only; or
- (ii) Accept the charge and request to appear before a Disciplinary commission to enter a plea in mitigation; or
- (iii) Deny the charge and request the matter be dealt with by a correspondence hearing; or
- (iv) Deny the charge and request the matter be dealt with by a Personal Hearing.

11.4 Should the person or body against whom the charge was raised elect to appear in person for a plea in mitigation or a Personal Hearing, will be required to pay a Hearing Fee of £100.00.

11.5 Failure to respond shall render the person or body concerned to forfeit the right to a personal hearing and the matter will be referred to the next Disciplinary Commission to be considered as a denial of the charge in writing.

11.6 The Discipline Officer will schedule a date for the hearing and appoint a Discipline Commission to adjudicate the case.

11.7 A Disciplinary Commission shall consist of no less than three members and no more than five members, save for a non-personal hearing where The Association may appoint a single Chair to determine the case alone.

11.8 A Secretary to the Commission shall also be appointed.

11.9 At least 7 days' notice will be given of the date, place and time of any personal hearing under the Full Disciplinary Procedure unless all parties consent to a shorter timeframe.

- 11.10 At least 5 days before the date of the personal hearing, the Discipline Officer shall serve on the person or body charged a Panel pack including the charge letter, evidence to support that charge and any response from the charged party.
- 11.11 The Panel Pack will also be served on the Commission at the same time as it being served on the parties for a personal hearing.
- 11.12 The Discipline Officer will also be required to arrange attendance for all witnesses in support of the charge to attend any Personal Hearing.
- 11.13 It will be the responsibility for the party charged to arrange attendance of any witness they require to defend the charge.
- 11.14 In all cases, The Association shall face the burden of proving that the charge has been made out.
- 11.15 All Association witnesses will give their evidence first.
- 11.16 The person or body subject to the charge shall have the right to cross-examine any witnesses called by The Association to prove the charge, save for any witnesses under the Young Person or Adults at Risk procedures.
- 11.17 The fact that a person charged has been convicted of a criminal offence or issued with a formal police caution in relation to the same incident shall be deemed to be conclusive evidence of a conviction or caution and of the facts and circumstances surrounding it.
- 11.18 The person or body subject to the charge shall give their evidence before any defence witnesses are called and after which they will be entitled (subject to considerations of relevance) to call all any witnesses that they wish to call.
- 11.19 Disciplinary Commission Members shall have the right to question any witnesses at any stage of the process.
- 11.20 Once the person or body subject to the charge has completed their submissions, the person or body subject to the charge shall then have the right to make closing arguments.
- 11.21 The Disciplinary Commission will adjourn to consider liability and shall consider its decision in private.
- 11.22 It shall first consider whether or not the charge of Misconduct is proved and any decision shall be found by a majority verdict.
- 11.23 The Commission shall reconvene and
- (i) in the event of any case being found proven;
 - a) the Secretary of the Commission will be required outline any previous disciplinary history on the record of the party charged.
 - b) The party charged shall be given the opportunity to enter a plea in mitigation against sanction.

- c) The Disciplinary Commission will retire to consider sanction as outlined in the sanction and costs guidance.
- (ii) In the event the charge is found Not proven:
 - a) All details of the charge shall be withdrawn from the person charged record and any monies paid refunded.
- 11.24 Having reached its conclusion, the Disciplinary Commission shall communicate that decision either at the time of the hearing or within 5 days thereafter.
- 11.25 In all cases the Disciplinary Commission shall produce a written decision setting out the reasons for reaching its conclusions, including whether the decision was unanimous or by a majority verdict.
- 11.26 Any such decision will be subject to a right of appeal in accordance with the appeal procedures.
- 11.27 In exercising its functions under this policy, the Disciplinary Commission shall have the power to regulate its own procedure. Without prejudice to the generality of this power it shall have the power:
 - (i) to extend or vary any limit set out in this policy including the 28 day appeals period;
 - (ii) to permit Basketball England, or any other party bringing a charge, to set out their case in advance of hearing from witnesses and provide a closing summary.
 - (iii) to adjourn the proceedings, whether prior to a scheduled hearing date or during the hearing, to allow time for the submission of further evidence or for any other reason;
 - (iv) to ask questions directly of any party or witness to any proceeding before the Disciplinary Commission;
 - (v) to admit or exclude evidence on grounds of relevance or failure to comply with directions;
 - (vi) to make appropriate directions (whether in advance of the hearing or at the start or during the hearing) with respect to the conduct of proceedings before the Disciplinary Commission.
- 11.28 In the course of any proceedings before the Disciplinary Commission, the Disciplinary Panel shall not be obliged to follow the strict rules of evidence and may admit such evidence as it thinks fit and accord such evidence such weight as it thinks appropriate in all the circumstances.
- 11.29 Subject to the right of appeal, a decision of the Disciplinary Commission shall be deemed to be a decision of The Association and be binding.

Serious incidents

- 11.30 Misconduct Offences which are defined as 'Serious incidents', will take precedence over Summary Offences.

- 11.31 Serious incidents must always be referred to a “**National Disciplinary Panel**” under such terms approved by The Association from time to time.
- 11.32 The incidents referred to the Serious Case Panel include but are not limited to;
- (i) Discriminatory Language or behaviour towards any person
 - (ii) Discriminatory Language or behaviour expressed in any written form or on social media.
 - (iii) Violence or threats in any form towards match officials
 - (iv) Any action online or offline by members in positions of trust and authority which brings the game of Basketball into disrepute
 - (v) Any Safeguarding concerns about a child or about a person working with children or adults at risk.
 - (vi) Any other matter deemed appropriate by the Association at their sole discretion.

12. Appeals Procedure

- 12.1 Appeals may be made to an Appeals Board in the following circumstances:
- (i) a decision of a Disciplinary Commission.
 - (ii) a decision of the Basketball England Competitions Committee
 - (iii) a decision of a Safeguarding Panel
 - (iv) a decision of a local League or Regional Association
 - (v) any other decision considered appropriate by The Association save for where the relevant rules properly declare there is no right of appeal.
- 12.2 The grounds of appeal applicable are that the body appealed against;
- (i) failed to give the appellant a fair hearing; and/or
 - (ii) came to a decision that no reasonable body should have reached; and/or
 - (iii) failed to comply with the necessary rules and regulations pursuant to the charge; and/or
 - (iv) imposed an award or sanction that was excessive.
 - (v) in addition to the above, The Association may also appeal that the sanction imposed was so unduly lenient as to be unreasonable.
- 12.3 An Appellant shall have 14 days from the date of the relevant decision to submit a notice of appeal (“The Notice”) along with a £250.00 fee or in the case of a Safeguarding Panel decision, £100.00.
- 12.4 The Notice submitted by the Appellant shall include:
- (i) the precise details being appealed against.
 - (ii) the Grounds of appeal
 - (iii) the precise basis of the appeal
 - (iv) any application to submit new evidence to the Appeal Board
 - (v) the relevant appeal fee.
- 12.5 The **Appeal Respondent** shall within 21 days submit:
- (i) the case papers considered in relation to the case
 - (ii) the response to the Notice of Appeal

- (iii) the response to any application by the Appellant to include New Evidence

- 12.6 New Evidence will only be admitted by the Appeal Board where they are satisfied that there is an exceptional reason why such evidence was not available to be submitted previously to the original body.
- 12.7 The original order will remain in force unless an application is received by either party to the Appeal Board for it to be set aside pending the outcome of the Appeal. This decision is at the sole discretion of the Appeal Board.
- 12.8 An Appeal Board will be appointed in accordance with The Association appointing procedures in force from time to time.
- 12.9 The Association will be responsible for preparing the panel pack for the Appeal Board and the pack must be distributed to all parties no less than 5 days prior to the Appeal hearing.
- 12.10 Appeal Boards shall be by the way of a review of all correspondence, however, the Parties have the right to attend an Appeal Board hearing to make oral submissions to support their written submissions if they so desire.
- 12.11 An Appeal can only be withdrawn with the approval of an appointed Appeal Board Chairperson.

Appeal Board Hearing

- 12.12 The following procedures will be adopted unless the procedures are amended by either the Appeal Board Chairperson or the Appeal Board Tribunal:
 - (i) The Appellant will set out their case summarising their submission
 - (ii) Any New Evidence from the appellant will be considered, if accepted by the Appeal Board, and any witnesses included as part of the New Evidence may be questioned and cross examined by all parties.
 - (iii) The Appeal Respondent will set out their response summarising their submission.
 - (iv) Any New Evidence from the respondent will be considered, if accepted by the Appeal Board, and any witnesses included as part of the New Evidence may be questioned and cross examined by all parties.
 - (v) The Appeal Board may pose questions at any time but the Appellant and Appeal Respondent are not permitted to pose questions other than to witnesses submitting New Evidence.
 - (vi) The Appeal Respondent will make closing submissions.
 - (vii) The Appellant will make closing submissions.
 - (viii) The Appeal Board will then retire to consider the merits of the appeal.

Appeal Board Decisions

- 12.13 The Appeal Board shall have power to:

- (i) Allow the Appeal
- (ii) Dismiss the Appeal
- (iii) Make any decision that was open to the original panel which includes the ability to increase, decrease or vary any order of the original panel
- (iv) Order a re-hearing
- (v) Order costs to contribute towards the actual costs of the Appeal Board
- (vi) Order the refund or forfeit of the appeal fee
- (vii) Any other order deemed appropriate

12.14 A decision of the Appeal Board is final and binding, save for the ability to appeal the quantum of costs.

12.15 An appeal on the quantum of costs will be heard by a different Chair of Appeal Boards sitting alone and on correspondence only.

12.16 Any appeal on the quantum of costs must be submitted within 14 days of the Appeal Board decision.

13. Sanctions and Costs

13.1 If the Disciplinary Commission or the Appeal Board finds a charge of Misconduct to have been proven under the Full Disciplinary Procedure, it may impose upon the person or body concerned:

- (i) suspension from competition or from taking part in any other capacity in any activity sanctioned by The Association;
- (ii) permanent exclusion from competition or taking part in any other capacity in any activity sanctioned by The Association;
- (iii) exclusion or suspension from coaching, playing or volunteering at a Member Organisation or an Associate or at any event organised by a Member Organisation or an Associate;
- (iv) exclusion or suspension from officiating at a Member Organisation or an Associate or at any activity organised by a Member Organisation or an Associate;
- (v) exclusion or suspension from attending any activity sanctioned by The Association or organised by a Member Organisation or an Associate;
- (vi) expulsion, suspension or exclusion from standing for, or holding, any office within The Association, either for a temporary period or permanently;
- (vii) a fine;
- (viii) a caution and/or censure in respect of his, her or its conduct;
- (ix) a suspended penalty, being a penalty which is only invoked in the event that a person or body, subject to The Association's disciplinary power, commits another disciplinary offence within a stated time of the date of the decision;
- (x) the removal of an accreditation either for a temporary period or permanently;
- (xi) the imposition of any such conditions on an accreditation as it sees fit; and/or
- (xii) a requirement to attend appropriate training

- (xiii) A requirement to pay a contribution to the costs of the disciplinary hearing.

13.2 In imposing or reviewing a suspension, the Disciplinary Panel or the Appeal Board shall take into account the amount of interim suspension and/or suspension served by the person or body in deciding the appropriate period of such further suspension (if any) that should be imposed.

13.3 Where the Disciplinary Panel imposes any period of suspension, that period of suspension shall run from the date set by the Disciplinary Panel which shall not be:

- (i) before the deadline for the submission of an appeal or, if earlier, when the person or body subject to the suspension confirms that they will not be submitting an appeal
- (ii) where the person or body subject to the suspension submits an appeal in accordance with this policy, before the conclusion of such appeal process (should a suspension still be imposed).

13.4 If, for any reason, the Basketball season does not operate in accordance with usual calendar of events, the Disciplinary Panel reserve the right to review and extend the period of suspension to ensure that a sanction has been served.

14. Offences in Other Sports

14.1 Any Member found guilty of any of the following offences in another Sports proceedings may be charged under Basketball England Regulations for not acting in the best interest of the game:

- (i) Any Betting or Match Fixing Event
- (ii) Any Doping offence under WADA Rules
- (iii) Any Safeguarding decision
- (iv) Any offence in connection with discriminatory behaviour.

14.2 The findings of the other Sport will be deemed to be correct unless any appeal to that sport has been lodged and upheld.

14.3 A Discipline Commission may impose a sanction in line with Basketball England sanctions as if the offence had been committed within the sport of Basketball.