



BASKETBALL ENGLAND

DISCIPLINARY CODE

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DEFINITIONS

In this Code the following definitions and rules of interpretation apply:

Adults at Risk	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
Affiliated Member	a Club or League affiliated with BE who have undergone the Affiliation process (in accordance with the Membership Terms and Conditions as in place from time to time)
Aggravated Breach	Misconduct including a reference, whether express or implied, to any one or more of the following: ethnic origin, colour, race, age, nationality, religion or belief, gender, gender reassignment, sexual orientation or disability
Anti-Corruption Regulations	The Association's anti-corruption and integrity regulations as in place from time to time
Anti-Doping Regulations	any and all WADA (including the WADA World Anti-Doping Code) and/or UKAD anti-doping and any social drug regulations, rules, codes of practice and/or policies of any kind whatsoever in place from time to time
AOC	the Association of Colleges
Appeal	an appeal against a decision of the Disciplinary Commission, any Competitions Committee of the Association, Safeguarding Panel, an Affiliated Member, or any other matter considered appropriate by the Association, save for matters where rules properly declare there is no right of appeal
Appeal Fee	a non-refundable fee payable upon the submission of a Notice of Appeal
Appeal Respondent	the organisation who has had an Appeal made against one of their decisions
Appeals Board	any Panel established by The Association to adjudicate on an Appeal
Appellant	a person or organisation that has submitted an Appeal against a decision
Articles of Association	Basketball England's Articles of Association as in place from time to time
Associates	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)
Basketball Laws	the rules and regulations from time to time in force of any confederation, Governing Body, national association, or league under the auspices of FIBA and/or the BBF to the extent that they relate or apply to BE
BBF	the British Basketball Federation
BE	Basketball England
Betting Regulations	The Association's betting regulations as in place from time to time
BI	Basketball Ireland
BS	Basketball Scotland
BW	Basketball Wales

Case Management Group	a body appointed to hear a Safeguarding case also known as a Safeguarding Panel
Chair	the person appointed from time to time to be the independent chairperson of the Disciplinary Committee or the Appeal Panel
Club	a basketball club affiliated with and an Affiliated Member of BE competing in England under the auspices of BE
Code	the Basketball England Disciplinary Code
Code of Conduct	a code as amended from time to time, providing guidance as to the standards of behaviour, conduct, transparency, accountability, and integrity required from every Participant, entity or person under the jurisdiction of BE
Complainant	the person or body raising the Misconduct Complaint
Complaint Policy	the Association's complaint policy as in place from time to time, outlining the process for handling complaints that are not Misconduct Complaints
Decision	the written decision of the Disciplinary Commission or Appeal Board as applicable
Discipline Commission	a panel established by The Association or delegated association to adjudicate on a Misconduct case
Discipline Officer	any person appointed by The Association to carry out their Discipline process
Discipline Rules	rules detailed within the Disciplinary Code
FIBA	the International Basketball Federation
Free Member	a person who has free membership of BE (in accordance with the Membership Terms and Conditions as in place from time to time) which typically includes fans, followers, parents, medics, club organisers, league organisers, administrators and others who do not require a Licence
Full Disciplinary Procedure	the procedures outlined in the Disciplinary Code for dealing with a Misconduct charge that is not dealt with as a Summary Offence
General Provisions	the provisions stated within the Disciplinary Code relating to discipline procedures, including provisions for Disciplinary Commissions, Appeals Boards and Safeguarding Panels
Governing Body	BE in England, other national associations, the BBF, FIBA and any other recognised and properly constituted basketball governing body
Independent Chair	a person, not employed by The Association, to hear a disciplinary matter
Inside Information	any information passed on to a third party without authority which may be used inappropriately
Institution	a school or higher education establishment whom Basketball England have an affiliation with
Interested Party	any person or member, who in the Investigations Officer's opinion, is likely to be affected by the outcome of any Complaint
Interim Suspension	a suspension imposed by an authorised body prior to either a charge or the final hearing of a charge
Investigations Officer	the Investigations Officer(s) of BE appointed from time to time either on a case-by-case basis or generally and includes any deputy appointed by him/her
League	a basketball league affiliated with and an Affiliated Member of BE including local leagues, schools, colleges, university leagues and NBL
Licensed Activity	basketball related activity sanctioned by and/or falling under the jurisdiction of BE which requires a Licence
Licensed Member	a person (including but not limited to a player, coach, referee, table official, team follower, bench personnel and/or statistician) and

	Member of BE (in accordance with the Membership Terms and Conditions as in place from time to time) who requires a Licence in order to carry out Licenced Activity
Members	a member of BE (including but not limited to a Free Member, Licenced Member and/or Affiliated Member who from time to time participate in any activity sanctioned by and/or falling under the jurisdiction of BE
Membership Disciplinary Procedures	the disciplinary procedures outlined within this document
Membership Terms and Conditions	the Association's terms and conditions of membership as in place from time to time
Misconduct	any action or behaviour considered by The Association to be a breach of the Discipline Rules or any other regulation in place from time to time
Misconduct Complaint	a report or communication of any type that indicates a breach of the Discipline Rules or any other relevant regulation in place from time to time
National Association	BI, BS and BW or such other successor bodies recognised by BE from time to time
National Discipline Commission	a panel appointed to hear a Serious Case
NBL	the National Basketball League
Notice of Appeal	a notice submitted in accordance with the appeal procedures outlined in the Code
Officers	any employee or volunteer connected to any organisation under the jurisdiction of The Association
Officials	referees, table officials, commissioners, observers, referee coaches and/or statisticians
Participant	any Member, Officer, Official, Player, or member of a Club, League, or Regional Association
Personal Hearing	a hearing attended in person (including online) by the Respondent and any witnesses, and the Disciplinary Commission or Appeal Board
Players	all basketball players who are members of an Affiliated Member or who participate in any basketball activity organised or authorised by The Association or by its Affiliated Members or Regional Associations, including those who are selected to play for England
Preliminary Matter	any matter needing consideration by a Chair prior to the commencement of a Discipline Commission or Appeal Board
Protected Characteristic	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	a local association with responsibility for regional activity under the jurisdiction of BE including North East, North West, Yorkshire, London, East, East Midlands, West Midlands, South, South East and South West Regions
Registered Testing Pool	as defined in Anti-Doping Regulations
Respondent	any Participant who has had a Misconduct charge raised against them
Safeguarding and Integrity	any person appointed by The Association to carry out their safeguarding process

Senior Manager ("SISM")	
Safeguarding Panel	a body appointed to hear a safeguarding case also known as the Case Management Group
Safeguarding Policy	the Association's safeguarding policies as in place from time to time
Sanction	the penalty imposed upon the determination of a Misconduct Complaint
Serious Case	any Misconduct to be referred to a National Discipline Commission for an offence listed by The Association as a Serious Case from time to time
Summary Offence	a breach that can be proceeded against summarily, without the need for a full disciplinary hearing
Summary Procedure	the procedure to be adopted to deal with a Summary Offence.
UKAD	the UK's national anti-doping organisation, which carries out the functions ascribed to such organisations in the WADA World Anti-Doping Code through implementation and management of the UK's national anti-doping policy
The Association	Basketball England
WADA	the World Anti-Doping Agency
Young Person/People	an individual under the age of 18

1. Background

- 1.1 Basketball England ("**The Association**") is committed to providing a fair, consistent and proportionate approach to the handling of Misconduct 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 Disciplinary Code, Basketball England Code of Ethics and Conduct or any other BE regulations as in place from time to time, 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 Participant's suitability to participate in the sport, whilst providing support to Affiliated Members 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, licensing and affiliation, require that all Participants, comply with all applicable laws, Basketball Laws, Data Protection Legislation, Safeguarding Policy, Anti-Doping Rules, the Code, Betting Regulations, Anti-

Corruption Regulations, Basketball England Code of Ethics and Conduct, cancellation policies and/or any other rules or regulations published by or in place under the auspices of BE from time to time.

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 Discipline 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, including but not limited to the Disciplinary Code and Code of Ethics and Conduct 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 Affiliated Members and Regional Associations and in each case, their members, and Officers
- (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/or statisticians (the “**Officials**”)
- (v) All basketball players who are members of an Affiliated Member or who participate in any basketball activity organised or authorised by The Association or by its Affiliated Members or Regional Associations (the “**Players**”), including those who are selected to play for England.

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 the Code.

2.5 The Code does not apply to complaints about Basketball England services including but not limited to Member Services, Competitions, Safeguarding and Integrity 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 via integrity@basketballengland.co.uk.

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

- 2.7 While Basketball England will always endeavour to investigate anonymous complaints where a child or Adult at Risk may be at risk of harm, it may not always be possible 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 in accordance with the Code and/or Safeguarding Policy.
- 2.13 Basketball England may order that a Participant be suspended from all or any specific activity on terms it deems appropriate where the Participant has been convicted of a criminal offence and where Basketball England considers it appropriate to safeguard the Sport.
- 2.14 Whilst any criminal behaviour (whether subject to investigation by the Police or resulting in a criminal conviction, formal charge, caution, or reprimand) by a Participant will not automatically result in disciplinary action, the Association reserves the right to commence disciplinary action if in its reasonable opinion the applicable conduct renders the individual potentially unsuitable to undertake their role or is such that it may lower the reputation of the Association.
- 2.15 The Association can commence disciplinary proceedings in the absence of criminal proceedings, and also in the event of an acquittal.
- 2.16 Where a Participant 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 Participants 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.

Participants 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 Discipline Officer (the "**Discipline 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** or Affiliated Members 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 Affiliated Member 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 Discipline 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 an Affiliated Member and/or in respect of an Affiliated Member's competition regulations and/or in respect of non-disciplinary decisions of the Affiliated Member. Such appeals will be dealt with by the "**Appeals Board**" in accordance with this policy.
- 3.11 Where both The Association and an Affiliated Member or Associate have jurisdiction over a matter, the SISM or Discipline Officer may, respecting any FIBA recommendation or in consultation with an Associate organisation, 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 an Affiliated Member or Associate.

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 an Affiliated Member. 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 Ethics and Conduct or any other Basketball England regulations save where it is clear that an act of misconduct has occurred.
- 3.14 Where an 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 Misconduct 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
- 3.19 In the event that a Participant who is subject to the BE's jurisdiction commits an act of Misconduct that relates to anti-doping, but which does not amount to a violation of the Anti-Doping Regulations, BE shall be entitled to commence disciplinary proceedings against that person on the grounds of Misconduct, having consulted with UKAD and where applicable WADA in relation thereto and taking its views account
- 3.20 Without prejudice to Clause 3.19 above, where a Participant subject to BE's jurisdiction undermines or brings anti-doping efforts into disrepute by conduct which shall not constitute an anti-doping rule violation, BE shall be entitled to commence disciplinary proceedings against that person on the grounds of Misconduct, having consulted with UKAD and where applicable WADA in relation thereto and taking its views in to
- 3.21 Where a Participant refuses or fails without compelling justification to comply with any provision of Anti-Doping Regulations, but such refusal or failure does not fall within any of the anti-doping rule violations, BE shall be entitled to commence disciplinary proceedings against the relevant Participant. If the Disciplinary Commission finds that there has been such refusal or failure without compelling justification then it shall impose upon the Participant such Sanction

as it sees fit (which may include, a period during which the Participant shall not be eligible to participate in basketball).

- 3.22 Where a Player included within the Registered Testing Pool, fails to provide accurate and up-to-date whereabouts filings for the purposes of testing, the Player must cooperate fully with BE and any other organisation conducting investigations into possible anti-doping rule violations.

4. Rapid Repatriation

Managers and/or coaches of Players in the UK and abroad, appointed by or on behalf of the Association, may (in conjunction with the coaching staff for that team or training squad), take immediate disciplinary action to repatriate or otherwise exclude any member of the team or training squad due to misconduct after the team or training squad has been formed (i.e. the members of that team or squad have come together either at the point of departure from the UK or at the competition or training venue, whichever is the earlier). For the avoidance of doubt, such persons shall not be entitled to use the power to take immediate disciplinary action for the sole purpose of altering the composition of the team or squad of which they are in charge. In the event of such immediate disciplinary action being taken, the team manager responsible for taking such action shall report the matter to the Association as soon as practical but within 72 hours of the event. The Association may at its discretion invoke disciplinary proceedings if it considers further action is necessary

5. Discipline Rules

- 5.1 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.
- 5.2 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.
- 5.3 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.
- 5.4 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.
- 5.5 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.
- 5.6 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.

- 5.7 All participants shall be deemed to have made him/herself familiar with, and agreed to be bound by the UK Anti-Doping Rules and any Anti-Doping Rules of The Association, and to submit to the authority of UK Anti-Doping in the application and enforcement of the Anti-Doping Rules.
- 5.8 Betting or Integrity matters – A Participant is required to adhere to the Basketball England Betting and Anti-Corruption Regulations as issued by Basketball England.
- 5.9 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.

6. Interim Suspension

- 6.1 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.
- 6.2 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.
- 6.3 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.
- 6.4 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.
- 6.5 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.
- 6.6 The fact of an interim suspension being imposed may be published by The Association.

7. Discipline Procedures General Provisions

- 7.1 These General provisions shall apply to all **Disciplinary Commissions, Appeal Boards, Safeguarding Panels**, and any other disciplinary body under the control of Basketball England.

- 7.2 The bodies subject to these General Provisions are not courts of law and are disciplinary as opposed to arbitral bodies.
- 7.3 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.
- 7.4 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.
- 7.5 The bodies subject to these General Provisions may regulate their own procedures ensuring fairness is maintained throughout.
- 7.6 The applicable standard of proof will be the civil standard of the balance of probability unless stated elsewhere in the applicable regulations.
- 7.7 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.
- 7.8 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.
- 7.9 Without the written dispensation being granted within 7.7 and 7.8 above, the case will be declared void and expunged from the records.
- 7.10 Any Participant subject to a charge and attending any Disciplinary Commission or hearing is entitled to be represented, including legally, by a person of their choice.
- 7.11 Any **Appellant** or **Appeal Respondent** attending an Appeal Board is entitled to be represented, including legally, by a person of their choice.
- 7.12 Any costs of the representation in 7.10 or 7.11 above shall be borne by the party appointing the representative irrespective of the outcome of the case.

8. Preliminary Matters

- 8.1 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

8.2 The Discipline Commission Chair or Appeal Board Chair may also refer any Preliminary Matter to be considered by the full panel.

8.3 Any order of a Preliminary Matter is final and binding.

9. Confidentiality and Publication

9.1 All disciplinary and safeguarding proceedings shall take place in private and only parties involved are entitled to attend.

9.2 Any application for observers should be considered as a Preliminary Matter prior to the commencement of any hearing or appeal board.

9.3 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.

9.4 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.

10. Dealing with Adults at Risk and Young People

10.1 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.

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

10.3 A child under the age of 12 cannot appear before any Commission or panel either as a witness or Respondent.

10.4 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.

10.5 Where a child under the age of 12 would have appeared as a witness, The Association should arrange for a Welfare Officer (as defined within the Safeguarding Policy), with the permission of the Parents/Guardians of the child, to obtain a statement from the child.

10.6 The Welfare Officer would attend the hearing in proxy of the child to deliver the statement.

- 10.7 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; and
 - (ii) The procedures to hear from a Young Person as a witness, as outlined in this document are strictly followed.
- 10.8 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

- 10.9 When a Young Person is giving evidence, only essential personnel should be in attendance. Essential personnel are considered as the Discipline Commission or Appeal Board members, the Secretary, the Respondent and their representative. All others shall leave the room whilst the Young Person is giving evidence.
- 10.10 Only the Chair of the Commission will be permitted to ask questions of the Young Person.
- 10.11 No cross examination will be permitted.
- 10.12 At the end of the questioning the Chair will enquire from the Respondent whether they had any other questions that should be asked of the Young Person.
- 10.13 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.
- 10.14 Once all the questioning has been completed, the Young Person will leave the hearing.

11. Summary Procedure

- 11.1 The Summary Procedure may be applied if:
- (i) the Respondent admits the offence in the correspondence that has passed between the Respondent and the SISM; and
 - (ii) the Discipline Officer is satisfied that:
 - (a) the offence is a Summary Offence (as defined in 11.2); and
 - (b) it can properly be dealt with under this paragraph.
- 11.2 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; and/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.

11.3 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 Participant 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.

11.4 If the Respondent rejects the decision of the SISM, the case will proceed to Full Disciplinary Procedure.

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

12. Full Disciplinary Procedure

12.1 If the Participant 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**").

12.2 The Association shall commence the procedure by sending to the Participant the charge in writing, setting out a summary of the alleged Misconduct, together with a short factual summary of the evidence supporting the charge and copies of the evidence referred to.

12.3 The Respondent 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.

12.4 Should the Respondent elect to appear in person for a plea in mitigation or a Personal Hearing, they will be required to pay a Hearing Fee of £100.00.

- 12.5 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 a Disciplinary Commission to be considered as a denial of the charge in writing.
- 12.6 The Discipline Officer will schedule a date for the hearing and appoint a Discipline Commission to adjudicate the case.
- 12.7 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.
- 12.8 A Secretary to the Commission shall also be appointed.
- 12.9 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.
- 12.10 At least 5 days before the date of the Personal Hearing, the Discipline Officer shall serve on the Respondent a case pack including the charge letter, evidence to support that charge and any response from the Respondent.
- 12.11 The case pack will also be served on the Commission at the same time as it being served on the parties for a Personal Hearing.
- 12.12 The Discipline Officer will also be required to arrange attendance for witnesses in support of the charge to attend any Personal Hearing.
- 12.13 It will be the responsibility for the Respondent to arrange attendance of any witness they require to defend the charge.
- 12.14 In all cases, The Association shall face the burden of proving that the charge has been made out.
- 12.15 All Association witnesses will give their evidence first.
- 12.16 The Respondent 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.
- 12.17 The fact that a Respondent 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.
- 12.18 The Respondent 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.
- 12.19 Disciplinary Commission members shall have the right to question any witnesses at any stage of the process.
- 12.20 Once the Respondent has completed their submissions, they shall then have the right to make closing arguments.

- 12.21 The Disciplinary Commission will adjourn to consider liability and shall consider its decision in private.
- 12.22 It shall first consider whether or not the charge of Misconduct is proven, and any decision shall be found by a majority verdict.
- 12.23 The Commission shall reconvene and
- (i) in the event of any case being found proven;
 - a) the Secretary of the Commission will be required to outline any previous disciplinary history on the record of the Respondent.
 - b) The Respondent 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 Appendix 1, and with consideration of The Association's sanction guideline document.
 - (ii) In the event the charge is found not proven:
 - a) All details of the charge shall be withdrawn from the Respondent's record and any monies paid refunded.
- 12.24 Having reached its conclusion, the Disciplinary Commission shall communicate that decision either at the time of the hearing or within 5 days thereafter.
- 12.25 In all cases defined as Serious Offences 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.
- 12.26 Any such decision will be subject to a right of appeal in accordance with the appeal procedures.
- 12.27 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 14 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; and/or
 - (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.

- 12.28 In the course of any proceedings before the Disciplinary Commission, the Disciplinary Commission 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.
- 12.29 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

- 12.30 Misconduct Offences which are defined as Serious Cases, will take precedence over Summary Offences.
- 12.31 Serious incidents must always be referred to a **“National Disciplinary Panel”** under such terms approved by The Association from time to time.
- 12.32 The incidents referred to as a Serious Case include but are not limited to;
- (i) Discriminatory language or behaviour towards any person (including any charge under 5.4 or 5.5 of the Code);
 - (ii) Discriminatory language or behaviour expressed in any written form or on social media (including any charge under 5.4 or 5.5 of the Code);
 - (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; and/or
 - (vi) Any other matter deemed appropriate by the Association at their sole discretion.

13. Appeals Procedure

- 13.1 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 an Affiliated Member 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.
- 13.2 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.
- 13.3 An Appellant shall have 14 days from the date of the relevant decision to submit a Notice of Appeal along with a £250.00 fee or in the case of a Safeguarding Panel decision, £100.00.
- 13.4 The Notice of Appeal 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; and
 - (v) the relevant appeal fee.
- 13.5 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; and
 - (iii) the response to any application by the Appellant to include new evidence.
- 13.6 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.
- 13.7 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.
- 13.8 An Appeal Board will be appointed in accordance with The Association appointing procedures in force from time to time.
- 13.9 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.
- 13.10 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.
- 13.11 An Appeal can only be withdrawn with the approval of an appointed Appeal Board Chair.

Appeal Board Hearing

- 13.12 The following procedures will be adopted unless the procedures are amended by either the Appeal Board Chair or the Appeal Board:
- (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 Appeal 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

13.13 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 or Sanction 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

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

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

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

14. Sanctions and Costs

14.1 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 Respondent:

- (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 an Affiliated Member or Regional Association or at any event organised by an Affiliated Member, Regional Association or The Association;

- (iv) exclusion or suspension from officiating at an Affiliated Member or Regional Association or at any activity organised by an Affiliated Member, Regional Association or The Association;
- (v) exclusion or suspension from attending any activity sanctioned by The Association or organised by an Affiliated Member or Regional Association;
- (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;
- (xii) a requirement to attend appropriate training; and/or
- (xiii) A requirement to pay a contribution to the costs of the disciplinary hearing.

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

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

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

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

14.5 Sanctions for any charges arising from Serious Cases must not be less than the mandatory minimum sanctions outlined in Appendix 1.

15. Offences in Other Sports

15.1 Any Participant found guilty of any of the following offences in another sports proceedings may be charged under the Code for not acting in the best interest of the game:

- (i) Any Betting or Match Fixing Event (as defined within the Betting Regulations and Anti-Corruption Regulations)

- (ii) Any Doping offence under the Anti-Doping Regulation
- (iii) Any safeguarding decision
- (iv) Any offence in connection with discriminatory behaviour, which may include any language or behaviour constituting an Aggravated Breach).

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

15.3 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.

DISCIPLINARY CODE - APPENDIX 1

SANCTIONS FOR SERIOUS CASES INCLUDING MANDATORY MINIMUMS

The sanctions listed below give guidance to Disciplinary Commission applying sanctions for Serious Cases, and where a mandatory minimum sanction is stated the Commission cannot impose a sanction below this level unless an exception is explicitly stated.

The Basketball England sanction guideline document and sanctioning grid should also be referred to for further guidance.

The mandatory minimum levels and sanctioning guidelines may be amended from time to time at the discretion of Basketball England to ensure they meet the expectations of the Basketball community.

AGGRAVATED CHARGE UNDER DISCIPLINE RULE 5.4

1. For a first offence, the sanction must be:
 - 1.1. A suspension of 6-14 matches, with an initial entry point, prior to consideration of aggravating and mitigating factors, of 8 matches. The Commission may go above 14 matches if there are significant or multiple aggravating factors present; and
 - 1.2. A fine of £75-£300. Any fine issued against a participant aged under 18 will be the responsibility of the Club; and
 - 1.3. A suitable equality education session as stipulated by BE.
2. A 6 match suspension is the mandatory minimum sanction that can be imposed. A suspension below 6 matches is only permitted in the following circumstances:
 - 2.1. If the individual charged was under the age of 16 at the time the offence was committed, and it can be demonstrated that the individual did not have an understanding of the severity and impact of the words or behaviour used; or
 - 2.2. If the offence was committed prior to the implementation of the Disciplinary Code. The sanctions should be imposed in line with the standards and regulations in place at the time of the offence.
3. For a second aggravated offence, the sanction must be:
 - 3.1. A suspension of 12-18 matches, with an initial entry point of 14 matches; and
 - 3.2. A fine of £150-£500. Any fine issued against a participant aged under 18 will be the responsibility of the Club
4. For a third, or further, aggravated offence the Discipline Commission should give serious consideration to a lifetime ban.
5. Where a match-based suspension is not appropriate due to the role held by the participant, an equivalent day-based suspension should be imposed.

OFFENCES TOWARDS A MATCH OFFICIAL

6. For charges of threatening language or behaviour towards a Match Official the mandatory minimum sanction is 2 months. This should only be applied in circumstances where there are compelling mitigating factors and the Discipline Commission can justify a sanction below the usual sanctioning range of between 3 and 12 months.
7. For charges of violent conduct towards a Match Official the mandatory minimum sanction is 3 months. This should only be applied in circumstances where there are compelling mitigating factors and the Discipline Commission can justify a sanction below the usual sanctioning range of between 6 months and 5 years.
8. In cases where Misconduct by an individual causes injury to a Match Official, or where injury is only avoided due to preventative measures taken by the Match Official or others, the Discipline Commission should impose a sanction of between 2 and 5 years, increasing above 5 years where any injury is significant. A significant injury is defined at the discretion of the Commission, but should include injuries requiring medical treatment, or injuries with a long lasting impact.

MEDICAL EXEMPTIONS TO MANDATORY MINIMUMS

9. In exceptional circumstances a Disciplinary Commission may impose a sanction below a mandatory minimum. This can only be applied in the following circumstances:
 - 9.1. Evidence must be submitted prior to sanctioning from a suitably qualified medical practitioner; and
 - 9.2. The evidence must show a medical condition that impacts the individual's behaviour or ability to control their behaviour; and
 - 9.3. The Discipline Commission must balance the medical evidence with the impact of the individual's behaviour on the wider basketball community.
10. Evidence of a medical condition does not automatically mean a sanction should be imposed below the mandatory minimum. It is at the discretion of the Discipline Commission to apply a proportionate sanction.