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BW Disciplinary Policy

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1.0 Instructions for the Procedures at and Conduct of Disciplinary Hearings

1.1 Badminton Wales has powers under its Disciplinary Procedure to hold inquiries and impose sanctions or take such action as it sees fit subject to a right of Appeal. These powers are normally exercised on behalf of Badminton Wales by duly appointed Disciplinary Panels and Appeal Panels including independent Appeal Arbitrators. Badminton Wales may also delegate powers, subject to specified limitations, to the County Associations. However, a County Association may in special circumstances, with the consent of the Badminton Wales Disciplinary Officer, surrender back to Badminton Wales its delegated powers generally or in specific cases.

1.2 The purpose of the Procedure is to ensure that Badminton Wales behaves fairly towards all registered coaches, national squad players/parents, members of county associations and affiliated bodies, members and other persons in investigating and dealing with alleged instances of unacceptable conduct or performance. Accordingly, Badminton Wales reserves the right to depart from the precise requirements of the Procedure where it is expedient to do so and where the resulting treatment of the relevant person is no less fair.

1.3 Employees of Badminton Wales, whether full time or part time, are covered by separate disciplinary procedures as covered in Badminton Wales Staff Handbook. However, where the issue of concern is clearly one that involves an employee's voluntary badminton activity in non-contractual time, or relates to safeguarding or anti-doping this procedure may be followed in addition to any HR process.

1.4 County Disciplinary Panel – It is recommended that every registered County Association should appoint a Disciplinary Panel charged with the responsibility of maintaining the standards of discipline within the County. Should a County Association not have a Disciplinary Panel, they will consult with the Badminton Wales Disciplinary Officer as to procedure.

1.5 The procedures set out below apply equally to the conduct of hearings before any Disciplinary Panel, Appeal Panel or an Arbitrator (except when these Regulations are inconsistent with the appointment of an individual) which for the purposes of these Regulations are referred to generically as 'the Disciplinary Panel.'

1.6 Where these Regulations require any notice or correspondence to be sent to Badminton Wales all such notices shall be sent to Badminton Wales CEO.

1.7 All cases of disciplinary action under the Procedure will be recorded and placed in Badminton Wales records. A copy of Badminton Wales records relevant to the alleged unacceptable conduct or performance will be supplied to the person being disciplined upon that person's request in writing.

2.0 Disciplinary Officer

2.1 The Board of Badminton Wales shall each year appoint a Disciplinary Officer, who will normally be a senior employee of Badminton Wales. The Board in accordance with such terms of reference it may determine from time to time, will oversee the exercise of the powers through a disciplinary sub committee.

2.2 The Disciplinary Officer is authorised to act on behalf of Badminton Wales in instituting disciplinary proceedings where there is an alleged breach of the Code of Ethics and Behaviours, the Anti-Doping rules, the safeguarding Policy or any other relevant regulations. In a case involving safeguarding the Disciplinary Officer should act on the advice of the Badminton case management group and the Badminton Wales safeguarding officer. Where the Disciplinary Officer brings proceedings pursuant to this authority, he/she shall not be involved in the appointment of the Disciplinary Panel to hear it; such arrangements and appointment shall be made by the Chair of Badminton Wales.

2.3 A Disciplinary Panel shall normally number no less than three people including one person who is independent of Badminton Wales. The Panel must comprise of no less than one Board member from a pool of Board members nominated by the Board. These requirements may be varied if the Chair decides in their absolute discretion that variation is appropriate or necessary and that all parties to the case first agree.

2.4 The Disciplinary Officer will normally be present at a Disciplinary Panel meeting to give guidance and to keep a record of the proceedings and the outcomes of the Panel Hearing.

2.5 County Association Disciplinary Panels do not have to comply with the criteria in paragraph 2.3 above but should be constituted in such a way as to ensure a fair and objective hearing.

2.6 Proceedings, findings or decisions of a Disciplinary Panel shall not be invalidated by reason of any minor defect, irregularity, omission or technicality unless such defect, irregularity, omission or technicality raises a material doubt as to the reliability of the proceedings, findings or decisions.

3.0 Jurisdiction

3.1 A Disciplinary Panel shall have jurisdiction to hold inquiries and impose a sanction on members of Badminton Wales. Jurisdiction extends to:

3.1.1 All coaches on the Badminton Wales register of coaches;

3.1.2 All members of Wales national performance squads including their support team e.g. private coaches, parents, guardians, family members;

3.1.3 All persons affiliated to Badminton Wales including members of County Associations and persons affiliated to such county associations:

3.1.4 Any person subject to an Interim Suspension imposed under this policy or the General Complaints Policy or who is suspended from any Badminton activities as a sanction following a Disciplinary Hearing Panel irrespective of whether they have continued to pay their subscription for Badminton Wales;

3.1.5 Any person who takes part in Badminton in any capacity directly or indirectly under the jurisdiction of Badminton Wales or its Member Organisations;

3.1.6 Any person who has, whether enjoying any form of licence, accreditation or any other status from Badminton Wales or a Member Organisation, or otherwise, consented (whether expressly or impliedly) to be bound by this Policy;

3.1.7 Any club affiliated to Badminton Wales.

4.0 Complaints and Concerns

4.1 A potential disciplinary issue may be raised through a complaint (see General Complaints Policy) or as a general concern that a person (or relevant body) has acted;

4.1.1 Contrary to Badminton Wales Code of Conduct or policies

4.1.2 Unlawfully

4.1.3 In a way which harms the safety and/or welfare of a young person or adult at risk in Badminton, or whose conduct (whether in Badminton or not) is considered to pose an actual or potential risk of harm to the safety and/or welfare of a young person or adult at risk in Badminton

4.1.4 In a way that brings, or has the potential to bring, Badminton Wales and/or the sport of Badminton into disrepute.

4.2 Where a potential disciplinary issue has been identified, there is no time limit on the commencement of proceedings however when considering whether disciplinary action is appropriate due consideration should be given to the proportionality of any such action.

4.3 Upon receiving a written complaint or concern (whether direct or through Badminton Wales), the Secretary of the County Association or the County Association Disciplinary Panel or Badminton Wales Disciplinary Officer (as appropriate) shall inform the person about whom the complaint has been lodged of the substance of the complaint (this needs to be a clear overview), but not the identity of the complainant, within fourteen days of receipt of the complaint or concern unless doing so would frustrate any investigation or put any person at risk. Where notification does not take place take place within fourteen days it should be made as soon as practicable

4.4 The person about whom the complaint has been made will be given an opportunity to respond in writing to the notifying Officer and must, if he/she wishes to refute or deny the complaint, do so in writing within fourteen days of his/her receipt of notification of the complaint from the County Association or Badminton Wales. The Disciplinary Officer or County Association may extend the deadline in his/her/its absolute discretion.

4.5 Where information is given in writing to the Badminton Wales Disciplinary Officer or to a County Association from a named person within the game (i.e. not anonymously) which in the reasonable opinion of the Badminton Wales Disciplinary Officer/County Association would amount to a breach of the Code of Conduct the Anti-Doping Rules and/or the Safeguarding Policy, the Badminton Wales Disciplinary Officer/County Association may require the person to whom that information relates to attend before a Disciplinary Panel to answer the allegations.

5.0 Investigation

5.1 As part of the investigation process the Badminton Wales Disciplinary Officer or County Association Discipline Panel will consider the available evidence and may request additional information from the complainant or the person about whom the complaint has been made, or about whom the concern has been raised.

5.2 It may be necessary to interview the person complained about (or about whom the concern has been raised). Likewise, any witnesses to the alleged behaviour or action may also need to be interviewed in order to obtain further detail.

5.3 The Badminton Wales Disciplinary Officer may require any person subject to this policy to disclose documentation or information to them that is relevant to the general aims of the investigation. Any person subject to this policy agrees to assist the Disciplinary Officer by promptly disclosing all relevant documentation or information when requested. A Disciplinary Hearing Panel may draw adverse inferences from any failure by a person subject to this policy to disclose documentation or information when requested.

5.4 Where such documentation or information is requested any request:

5.4.1 Must be in writing

5.4.2 May be sent by post, email or delivered by hand

5.4.3 Must stipulate that the addressee must respond within fourteen days or such longer period as the Disciplinary Officer may determine) and

5.4.4 If the Disciplinary Officer considers this may be a case where adverse inference could be drawn from a failure to disclose documentation or information, the person to whom the request is made should be advised this is the case.

5.5 During the course of the investigation the identity of any complainant or person making allegations about the behaviour or actions of the individual subject to investigation should be made known to the individual concerned unless the Disciplinary Officer determines there are compelling reasons not to do so. Such reasons may include a need to ensure a complainant or witness does not suffer harm or potential harm.

5.6 It is at the sole and absolute discretion of Badminton Wales whether or not to commence or proceed with an investigation under this policy where a complainant does not consent to their identity being disclosed to the person complained about (or about whom concern has been raised) or where a complaint is withdrawn.

5.7 Where an individual has been charged with a criminal offence or is subject of an investigation by police, social services or any other public or investigatory authority (or where this becomes the case during any disciplinary proceedings) in respect of conduct which is, or may be grounds for disciplinary action, the Disciplinary Officer shall seek advice from the relevant agency. Specifically, advice should be sought as to whether or not further consideration of the matter by Badminton Wales should be postponed pending the outcome of any such proceedings/investigation.

5.8 When all relevant documentation and further information has been gathered the Badminton Wales Disciplinary sub committee, County Association Discipline Panel or Badminton Case Management Group will decide whether:

5.8.1 There is no case to answer; or

5.8.2 A Hearing should be convened; or

5.8.3 That the summary disciplinary process should be used; or

5.8.4 It is likely that civil or criminal proceedings will arise from the case and that a postponement is appropriate until the conclusion of the likely civil or criminal proceedings (see 7.16.5)

5.9 If the decision is taken that there is no case to answer all relevant parties will be notified in writing as soon as practicably possible. There is no right of Appeal to such a decision, but a case may be re-examined if further evidence is later forthcoming.

Interim Suspension

5.10 Badminton Wales has a general right to suspend any relevant person from any, or all, activities under the jurisdiction of Badminton Wales until the conclusion of any appropriate investigation and/or disciplinary proceedings.

5.11 An interim suspension is a neutral act taken by Badminton Wales and is not considered to be a sign of liability.

5.12 An interim suspension may be from all activities under the jurisdiction of Badminton Wales, or from a more limited range of activities (e.g. suspension only from coaching).

5.13 The individual or body with authority to impose an interim suspension are the Disciplinary Officer and the Badminton Case Management Group (for safeguarding cases). Where an interim suspension is imposed by the Disciplinary Officer in relation to a safeguarding issue, this decision must be ratified by the Badminton Case Management Group within fourteen days.

5.14 An interim suspension must only be used when it is both necessary and proportionate. In making the decision to impose an interim suspension, the following factors should be considered:

5.14.1 Whether there is a risk (or potential risk) of harm, or to the safety or welfare of any individual (including a young person or adult at risk);

5.14.2 The level of seriousness of the allegation;

5.14.3 Whether there is a risk of damage to the reputation of Badminton Wales and/or the sport of badminton;

5.14.4 Whether there is a risk of damage to, or loss of, property;

5.14.5 Whether an interim suspension is necessary to facilitate the conduct of any investigation or disciplinary proceedings by Badminton Wales or any other authority or body;

5.14.6 Any welfare issues relating to the person subject to investigation and any other relevant individual.

5.15 The Disciplinary Officer shall as soon as possible cause the individual to be notified in writing of the interim suspension.

5.16 Any concerned party (for instance, a complainant or witness) may be notified of the interim suspension.

5.17 Badminton Wales may publish the interim suspension on their website. If this is done it should only include the name of the suspended person and must not describe the allegation(s).

5.18 In considering notification of concerned parties or publication of details on the Badminton Wales website, this should only occur where the Disciplinary Officer decides it is both necessary and proportionate in order to:

5.18.1 Minimise or remove a risk (or potential risk) of harm or to the safety or welfare of any individual

5.18.2 Minimise or remove a risk of damage to the reputation of Badminton Wales

5.18.3 Minimise or remove a risk of damage to, or loss of, property; and/or

5.18.4 To facilitate an investigation or disciplinary proceedings by Badminton Wales.

5.19 Publication of the interim suspension must not take place where doing so may lead to the identification of a vulnerable person or where any investigation, disciplinary, regulatory or judicial proceedings may be compromised.

5.20 An interim suspension shall be reviewed at regular intervals of not less than eight weeks. Where the case relates to safeguarding issues the review should be carried out by the Badminton Case

Management Group. Any review should consider whether an interim suspension remains necessary and proportionate. If this is no longer the case the interim suspension must be removed and (if relevant) any concerned party should be notified, and any Badminton Wales website entry should be removed without delay, and in any case within two working days of the decision being made.

5.21 There is an ongoing responsibility for the Disciplinary Officer to keep an interim suspension under review. If circumstances change, or if an interim suspension is no longer necessary and proportionate, the suspension should be removed. This should be done following consultation with the Badminton Case Management Group for safeguarding cases.

5.22 Any breach of an interim suspension may constitute grounds for further disciplinary action under this policy.

Summary Procedures

5.23 Summary procedures can be used where a person has not denied the alleged behaviour or action happened and the Disciplinary Officer (or Case Management Group for safeguarding cases) determine the sanction should be no more than:

5.23.1 A warning; and/or

5.23.2 An order specifying certain training to be undertaken within a given timescale; and/or

5.23.3 An order requiring an individual to be monitored in specific matters for a set period; and/or

5.23.4 A suspension for a period not exceeding 28 days.

5.24 Where an individual is suspended under Summary Procedures their details will not be published on the Badminton Wales website.

5.25 Once the Disciplinary Officer (or case management group) has decided a case may be dealt with by Summary Procedures, the Disciplinary Officer shall cause a written notice to be sent to the individual informing them of the decision and:

5.25.1 Confirming the Charge formally, setting out a summary of the supporting facts and evidence;

5.25.2 Requesting their consent within 21 days to the matter being dealt with under the Summary Procedures; and

5.25.3 Requesting (if they consent to Summary Procedures) any additional evidence or mitigation in relation to the sanction to be submitted in writing to the Disciplinary Officer within 28 days.

5.26 Where an individual against whom a Charge is made was under 14 years when the alleged matter occurred, all correspondence will be addressed to their parent or guardian.

5.27 Where an individual was between 14 and 18 years when the alleged matter occurred, all correspondence will, if reasonably possible, be copied to the parent or guardian as well as the individual.

5.28 If the individual concerned consents to the Summary Procedures within 21 days, the Disciplinary Officer (or case management group for safeguarding matters) shall consider all evidence (including any submitted by the individual) and mitigation and shall make such disciplinary order (sanction) as it considers appropriate. There is no right of attendance by the individual concerned, or any other party.

5.29 If the individual does not consent for the matter to be dealt with under Summary Procedures, or if they do not respond within 21 days, the matter must be referred back to the Disciplinary sub committee (or case management group for safeguarding matters) for further consideration and determination.

5.30 The Disciplinary Officer shall notify the individual concerned of the decision and sanction as soon as practicable. This will be done in writing.

5.31 There is no right of appeal from Summary Procedures unless new evidence is found that was not available at the time the case was considered at Summary Procedures.

5.32 If new evidence (that was not available at the Summary Procedures process) is available, the individual concerned may appeal against the sanction given. Where this is the case the individual must submit their appeal in writing to the Disciplinary Officer as soon as practicable after they become aware of the new evidence. In their written appeal they must detail why they consider the new evidence (had it been known about at Summary Procedures process) could have materially affected the outcome.

5.33 Upon receipt of the appeal the Disciplinary Officer shall consider whether there is new evidence, and if there is, whether it could have materially affected the outcome of the Summary Procedure. If they decide there is new evidence that could have materially affected the outcome they will (for safeguarding cases) remit the matter to the disciplinary sub committee or the case management group (for safeguarding cases) for them to consider whether the new evidence justifies reviewing, and if appropriate, amending the sanction. In all other cases the Disciplinary Officer will make this determination. The relevant decision maker(s) may confirm the original sanction, replace the sanction with a different sanction they could have provided, or dismiss the case.

5.34 If the Disciplinary Officer considers there is no new evidence they will write to the individual concerned confirming this and no further action will be taken.

5.35 There is no further right of appeal.

6.0 Notice of Hearing

6.1 If the decision is 5.8.2 the County Association or Badminton Wales Disciplinary Officer (as appropriate) will complete and forward a notification of hearing that will include the specific charge together with a copy of the complaint or allegation to the person/s named therein notifying the date, time and place appointed for the hearing at least 21 days before the hearing date.

6.2 The person about whom the complaint has been made will be asked in the notification of hearing whether he/she accepts the facts alleged and whether, if he/she accepts that he/she committed the offence specified, . In determining the penalty, the Disciplinary Panel is entitled to take into account the fact that the person admitted the offence.

6.3 The notice of hearing shall advise the person concerned he/she should have available any evidence he/she wishes to call and that he/she is entitled to be accompanied at any hearing.

6.4 The notice shall be accompanied by a copy of all relevant papers in the possession of the Badminton Wales Disciplinary Officer/County Association Disciplinary Secretary at that stage, subject to issues of confidentiality to be decided by Chair of the Panel.

6.5 The Individual concerned should be advised they should provide a response to the allegations within 14 days, and if they do not, this will not preclude a Disciplinary Hearing Panel hearing the case, and the Disciplinary Hearing Panel may draw an adverse inference from the failure to respond.

6.6 At least 7 days before the Hearing the Individual Concerned must provide details of any witnesses they intend to rely on.

6.7 The hearing should, if possible, take place not earlier than 21days of the notice of hearing being sent out and not later than 28 days of hearing being sent out.

6.8 It shall be the duty of the person facing the complaint to notify and arrange the attendance of any witness he/she may wish to call. Such witnesses will be allowed at the complete discretion of the Chair of the Panel,

7.0 Procedure

7.1 If, before a hearing, it becomes apparent to the Chair of the Panel that the case will involve specialist evidence, or has elements which are unusual or difficult, he/she may, with or without a preliminary hearing, issue an order for directions setting out a timetable for the exchange of information and evidence, witness statements and/or skeleton arguments in order that the hearing of the case itself may be properly and fairly conducted. If appropriate the Chair may make such an order during a hearing prior to granting an adjournment.

7.2 The Individual Concerned is entitled to be represented by no more than one person of his/her choice. The companion must not be someone who may, in the view of the Chair, prejudice the case or have a conflict of interest.

7.3 The accompanying person may be a legal representative of the Individual Concerned's own choice and entirely at their own expense. Badminton Wales accepts no liability whatsoever for any legal or other cost or expense incurred as a result of, or related to, any matters arising from these Regulations.

7.4 If the Individual Concerned and/or complainant is under 18 years then the parent(s) or guardian(s) may also accompany them in additional to any person brought in accordance with clauses 7.2 and 7.3.

7.5 The Individual Concerned (or complainant) is not entitled to any other representative or companion unless the Chair agrees that such additional representative or companion ie beneficial to the Hearing or otherwise necessary.

7.6 All proceedings of a Disciplinary Hearing Panel shall take place in private. The public and media shall have no right of access. Unless otherwise agreed by the Disciplinary Hearing Panel the proceedings of the Panel may not be recorded other than for the purposes of the Panel producing a record of its meeting.

7.7 A Disciplinary Hearing Panel is not a court of law and as such the Panel may admit evidecne as it sees fit and accord such weight to the evidence as it deems appropriate in the circumstances. However, the Panel must at all times observe the rules of natural justice and ensure proceedings are fair to all parties including the Individual Concerned, any complainant and Badminton Wales and its members.

7.8 The standard of proof is the balance of probabilities and not, as in a criminal court, beyond reasonable doubt. The balance of probabilities means that, having heard all the evidecne and using their knowledge and experience, the Panel believes that it is more likely than not that the allegations are proved, or not.

7.9 Where it is necessary during an investigation to obtain information from a Young Person, contact may be made on behalf of Badminton Wales by an appropriately trained child protection specialist. Where deemed appropriate by a Panel, a Young Person may not be required to attend a Hearing to give evidence in person; instead, the Young Person's statement, oir account, provided to a child protection specialist may be read and will constitute their evidence.

7.10 Where a Charge relates to a criminal conviction or caution, or a finding of guilt, or proven conduct, in any other judicial or quasi-judicial proceedings, including that of a sport's national governing body or statutory proceedings, documentary evidence of the conviction/caution/finding of guilt etc is proof of the findings of the court/tribunal etc.

7.11 A Disciplinary Hearing Panel may on its own volition, or upon request from either party, adjourn the proceedings either during the Hearing, or to a rescheduled date.

7.12 For the purposes of these Regulations, any document (including Hearing Notification) is deemed to have been served if there is evidence it has been sent to the Individual Concerned at the address (postal or electronic) at which the individual is registered with Badminton Wales. The date of service will be assumed to be two days after the notice was sent. There is no requirement to show evidence the document was received by the Individual Concerned.

7.13 If the Individual Concerned is not present, or represented, at a Hearing the Panel may proceed to hear the matter in their absence provided that:

7.13.1 The Panel is satisfied that a Hearing Notification has been served on the Individual Concerned within the appropriate timescale; and

7.13.2 Reasonable steps have been taken by Badminton Wales to ensure the Individual Concerned is aware of the Hearing.

7.14 In deciding whether to proceed in the absence of the Individual Concerned the Panel should consider whether they have voluntarily absented themselves, whether they have asked for an adjournment and whether an adjournment would be likely to secure their attendance. Where a Panel determines that an individual has voluntarily absented themselves or would not be likely to attend even if the case is adjourned they may decide to proceed in absence of the individual.

7.15 In deciding whether to proceed in the absence of the Individual Concerned the Panel should consider fairness to the individual, to any other parties (including witnesses who may have attended proceedings) and Badminton Wales and its members.

7.16 The Chair will explain the procedure before the hearing commences:

7.16.1 The details of the conduct alleged, or the complaint will be explained.

7.16.2 The person appearing before the Disciplinary Panel shall be asked whether the allegations being the subject of the enquiry or hearing ('the allegations") are admitted.

7.16.3 If the allegations are not admitted the Disciplinary Panel will hear the evidence in the following sequence:

7.16.3.1 The Disciplinary Officer will be invited to present the case and call any witness or evidence to establish the allegation.

7.16.3.2 The person against whom the allegationhas been made will be entitled to give and to call evidence in rebuttal.

7.16.3.3 Upon the conclusion of his/her evidence, questions may be put to each witness, through the Chair, at the request of either party or by any member of the Disciplinary Panel. The Chair may allow direct questioning of witnesses if he/she considers it to be fair to do so.

7.16.3.4 In all cases the person answering the allegations shall have the right of the last word.

7.16.3.5 The Chair will then invite all persons other than the members of the Disciplinary Panel to retire whilst the Panel considers its decision.

7.16.3.6 Evidence of the person's previous disciplinary record will not be given until after a finding of fact has been made.

7.16.4 If the allegations are admitted or proved to the satisfaction of the majority of the Disciplinary Panel then:

7.16.4.1 The person facing the allegations may call evidence as to character and address the Disciplinary Panel in mitigation. No other person may address the Panel as of right, but the Disciplinary Panel may seek such further information, as it requires from any party.

7.16.4.2 The Chair will again invite all persons other than the members of the Disciplinary Panel to retire whilst the Panel considers the penalty to be imposed under the provisions of paragraph 8 of these Regulations.

7.16.5 Where the person appearing before a Disciplinary Panel is or is likely to be subject to civil or criminal proceedings arising from the circumstances, which are the subject of the case, the Disciplinary Panel will decide whether it is in the interests of the Disciplinary Hearing to proceed. If it does not proceed to hear the case and adjourns the matter until the conclusion of the criminal proceedings, it may impose an interim suspension on the person against whom the allegations are made. Before so doing the Disciplinary Panel must first give the person the opportunity to make representations about temporary suspension.

7.17 Note: The responsibility for determining the date of an adjourned hearing rests solely with the Chair of the Panel whose decision is final.

8.0 The Decision and Sanctions

8.1 Where the allegation is not admitted, the Disciplinary Panel shall first determine whether it has been proved. If the allegation has not been proved, the matter will be concluded.

8.2 Any person or Club who wilfully misleads a Disciplinary Panel will be liable to be made the subject to further disciplinary action by Badminton Wales.

8.3 Where the alleged offence is admitted or proved and after the procedures set out in paragraph 8.1 have been concluded the Disciplinary Panel shall have power to impose the following sanctions on an individual as appropriate, either singly or in combination:

8.3.1 Temporary (not exceeding 12 months) or permanent removal from the register of coaches

8.3.2 Temporary (not exceeding 12 months) or permanent removal from national squad and the benefits that attach thereto including subsistence funding and support for training and competition

8.3.3 Temporary or permanent suspension of the right to play in any matches and to be entered in tournaments (domestic and international) organised or approved by Badminton Wales or any other badminton national governing body, or taking part in the administration of Badminton

8.3.4 For a Parent/Support Team Member, temporary or permanent suspension from the Badminton Arena in which a person of significance to them is playing/training/competing for a period to be set by the Disciplinary Panel. This may also be extended beyond Wales into other jurisdictions as decided by the Disciplinary Panel

8.3.5 A written warning

8.3.6 An order to undertake specified training within a specified timescale

8.3.7 Requirement to complete a satisfactory assessment in respect of an identified area or behaviour within a specified timescale

8.3.8 Temporary suspension of membership of Badminton Wales for a period not exceeding 12 months

8.3.9 Temporary suspension from involvement in badminton in any capacity directly or indirectly under the jurisdiction of Badminton Wales or any other badminton national governing body for a period not exceeding three years

8.3.10 Termination of Badminton Wales membership

8.3.11 Permanent exclusion from involvement in badminton in any capacity directly or indirectly under the jurisdiction of Badminton Wales or any other badminton national governing body

8.3.12 Any other proportionate sanction that the Panel consider appropriate.

8.4 For a Club or County Association, the following sanctions may apply:

8.4.1 A written warning

8.4.2 Temporary suspension of Badminton Wales membership for a period not exceeding 12 months

8.4.3 Termination of Badminton Wales membership

8.4.4 A deduction of league points, relegation or exclusion or disqualification from any competition.

8.5 Where a member organisation (including County Association) hold a Disciplinary Hearing, the following sanctions are available for an individual:

8.5.1 A written warning

8.5.2 An order to undertake specified training within a specific timescale

8.5.3 An order requiring an individual to be monitored or supervised in specific matters for a specific timescale

8.5.4 Temporary suspension from specific member organisation related activity for a period up to 56 days

8.5.5 The expunging of results achieved by the Individual Concerned from member organisation competitions or leagues. The period for which results may be expunged shall be decided by the member organisation.

8.6 All penalties must be seen to be just and fair and in accordance with the circumstances of the individual cases. Whilst no two cases can be identical, and the discretion of Disciplinary Panels should not be restricted, the recommended penalties should be regarded as strongly persuasive of the penalty to be imposed in order to achieve uniformity throughout the country. Guidance from the Disciplinary Officer should ensure such uniformity.

8.7 In assessing a penalty, a Disciplinary Panel is:

8.7.1 Entitled to take into account, and give credit for, the fact that the person admitted the offence.

8.7.2 Entitled to take previous offences of a similar nature into account provided that the offence in relation to which he has appeared before a Disciplinary Panel occurred within the five years prior to the hearing. Any offences committed more than five years prior to the hearing shall be disregarded

8.7.3 Entitled to disregard or take into account the whole or any part of a period of suspension imposed by a player's Club or Association.

8.7.4 Encouraged to take advice from the Disciplinary Officer, Disciplinary subcommittee of Case Management Group

8.8 If a Disciplinary Panel imposes a period of suspension it should:

8.8.1 Make it clear whether the period of suspension is from playing, coaching, spectating or administration or a combination of these.

8.8.2 Specify the exact dates between which the suspension will take place, the commencing and finishing dates to be inclusive of the period of suspension.

8.9 A Panel may impose a temporary suspension together with a requirement that an individual undertake specified training and/or complete a satisfactory assessment in respect of an identified area and/or be monitored or supervised and assessed in specific matters. In this case the Panel will indicate whether the additional required activity must be completed satisfactorily before the suspension can be lifted. In these circumstances a Review must be undertaken before the suspension can be lifted.

8.10 The Chair of the Disciplinary Panel shall at, or within seven days after, the conclusion of the case, deliver a written judgment to the person, the complainant and the Secretary of the County Association or Badminton Wales Disciplinary Officer, as appropriate.

9.0 Junior Badminton

9.1 In Junior Badminton, where players are 19 or under, the procedures and approach laid out in the above will apply subject to any reasonable variances considered appropriate by the Chair of the Disciplinary Panel.

10.0 Reviews of Sanctions

10.1 Several of the available sanctions are conditional and require the Individual Concerned to complete certain activities within a given timescale (e.g. complete specific training). Such sanctions are imposed because the Panel has determined there is an area (or areas) that thenindividual needs to address. In these cases it is important that an independent review is carried out before the end of the sanction timescale to ensure the individual has completed the activity in a satisfactory way.

10.2 Where a review is required, the Disciplinary Officer is responsible for ensuring a suitable review is carried out. The review should be conducted by a person who is entirely independent and who has not been previously involved in the case ("the Reviewer"). They may be a Badminton Wales member or employee.

10.3 In conducting the review the Reviewer should seek observations from the Individual Concerned. These may be either in writing or in person, as decided by the Reviewer. The observations of Badminton Wales and any other relevant parties should also be considered.

10.4 If the Reviewer is satisfied the relevant action(s) have been completed to a satisfactory level they will advise the Individual Concerned and the sanction will end. The Reviewer's rationale should be documented in writing.

10.5 If the Reviewer is not satisfied the relevant action(s) has been completed satisfactorily they may direct that further action is required. Where they are satisfied that the individual has engaged with the process in an appropriate way, but has not been able to make sufficient progress within th given timescale the Reviewer may extend the sanction for a period not exceeding 6 months.

10.6 Where a Panel imposed a temporary suspension and indicated that the additional actions must be undertaken before the suspension may be lifted, the Reviewer may additionally extend the temporary suspension for a period not exceeding six months.

10.7 If the Reviewer is not satisfied the relevant action(s) has been completed to a satisfactory level and there is no justifiable reason for this or if the Reviewer has already extended a sanction or temporary suspension for six months and the relevant action(s) has still not been completed to a satisfactory level, the matter should be referred back to the Disciplinary sub committee for further consideration. The failure to completed actions imposed as a sanction from a Panel without good reason will be considered a breach of the regulations.

11.0 The Procedure on Appeals

11.1 The Individual Concerned may within 14 days after receipt of the written reasons for the Panel decision, submit a notice against the decision (including a decision regarding sanction where the Allegation had been admitted) to the Badminton Wales Disciplinary Officer on the following grounds:

11.1.1 The finding or sanction imposed was unreasonable; and/or

11.1.2 There is evidence that could not reasonably have been considered at the Hearing which could have materially affected the finding or sanction; and/or

11.1.3 There was a serious breach of the Regulations or other unfairness which could have materially affected the finding or sanction.

11.2 The Notice of Appeal must contain a written statement of the grounds upon which the appeal is brought together with the supporting facts and matters including, where applicable, any new evidence upon which the Appellant intends to rely along with an explanation of why such new evidence was previously unavailable.

11.3 The Badminton Wales Disciplinary Officer must, within 14 days of receipt of the Notice of Appeal, convene the Disciplinary subcommittee to determine in their sole discretion whether the grounds for appeal are met. If they are not met the appeal will be rejected. The Disciplinary sub committee's decision to reject the appeal, or to find there are grounds for the appeal to proceed, is final and binding and must be communicated to the Appellant in writing as soon as practicable, and in any event within 7 days of the decision being made.

11.4 The Appellant shall have the right to be present in person at the hearing of his/her Appeal unless he/she elects to invite the Appeal Panel to review his/her sentence in his/her absence as provided in paragraph. Except in cases heard under paragraph, he/she may be represented and the person representing him/her may be present throughout the hearing. The Appellant may be represented by a legally appointed person of their own choice and entirely at their own expense.

12.0 Composition of an Appeal Panel

12.1 An Appeal shall be heard by either:

12.1.1 An Appeal Panel chaired by an independent person, who is not a Member of Badminton Wales, and consisting of 2 others who may be Members of Badminton Wales provided that the members of the Appeal Panel shall not have been members of the original Disciplinary Panel.

12.2 An Appeal from a County Association Disciplinary Panel shall always be to a panel established by Badminton Wales and constituted as outlined in paragraph 12.1.1. Representatives from County Associations involved in the case shall not be appointed to sit on an Appeal panel. No more than one member shall be nominated from the same County Association. There shall be no further right of Appeal from this Appeal.

12.3 The Badminton Wales Disciplinary Officer, County Association Disciplinary Secretary or his/her nominee shall be in attendance and record the decision.

12.4 Where the Allegations relate to safeguarding issues (either entirely, or inpart), at least one member of the Appeal Panel must have a suitable level of safeguarding knowledge and experience.

12.5 An employee, contractor or director of Badminton Wales may sit on an Appeal Panel but will not be considered to be an "independent" member.

12.6 No person may sit on an Appeal Panel where they have had any prior involvement with the case or matter, or have any material financial or other relevant interest in the outcome of the proceedings.

12.7 Decisions of the Appeal Panel will be made on a majority basis.

13.0 The Appeal Hearing

13.1 The hearing date shall be set by the Chair of the Appeal Panel. The Appellant shall be given 28 days' written notice of the date, time and place of the Appeal Hearing.

13.2 The Badminton Wales Disciplinary Officer shall provide the members of the Appeal Panel with:

13.2.1 A copy of the Notice of Appeal

13.2.2 A copy of any relevant documents, which shall include any written statements, submitted to the original Disciplinary Panel and a copy of their judgment.

13.2.3 Any new evidence submitted in accordance with clause xx if the Appeal Panel in its sole discretion deem fit.

13.3 An Appeal Panel should carefully consider the grounds for appeal when deciding whether to hear evidence. Witnesses may be heard where this is necessary in support of decision-making.

13.4 All proceedings of an Appeal Panel shall take place in provate. The public and media shall have no right of access. Unless otherwise agreed by the Appeal Panel the proceedings of the Appeal Panel may not be recorded other than for the purposes of the Appeal Panel producing a record of its meeting.

13.5 The Appeal Panel may uphold, vary or set aside the decision of the Disciplinary Hearing Panel and may substitute any other finding or order as it considers appropriate.

13.6 At least 21 days prior to the date of the Hearing, both the Appellant and Badminton Wales must, if they intend to rely on new evidence, or to seek the agreement of the Appeal Panel to the hearing or re-hearing of any witness called before the Disciplinary Hearing Panel, submit:

13.6.1 Any new evidence that they wish to rely upon

13.6.2 The names and addresses, and any other contact details of the witnesses whom they wish to call in person.

13.7 The Appeal Panel is solely responsible for deciding whether to hear new evidence or to hear, or re-hear any witness.

13.8 Neither party shall, without the consent of the other or the permission of the Appeal Panel, rely on any new evidence or call any witness other than those provided or identified under clause 13.6.

13.9 The Chair of the Appeal Panel may give directions as to the procedure and the evidence to be adduced to limit the issues to be adjudicated upon or for the more efficient determination of the hearing.

14.0 Appeal Procedure

14.1 The Chair shall introduce all parties and explain the procedure.

14.2 the Appellant and any other parties whom the Chair considers appropriate may be present throughout the hearing.

14.3 Where the Appeal is against a finding of fact the evidence against the Appellant shall be called first. The Appeal Panel may question the witnesses and the Appellant through the Chair of the Appeal Panel.

14.4 The Appellant may call witnesses in support of his case who again may be questioned by the Appeal Panel through the Chair of the Appeal Panel. Witnesses who have given evidence may remain in the hearing until the Appeal Panel considers its decision, subject to the approval of the Chair.

14.5 The Appeal Panel shall have discretion to hear any further witnesses and to seek such other evidence as they reasonably consider will be of assistance in reaching a fair and correct decision. The Appeal Panel and all other parties may question any witnesses so called in the same manner as other witnesses referred to above.

14.6 At an Appeal Panel the Disciplinary Officer or a legal representative acting on their behalf may represent Badminton Wales.

14.7 The Individual Concerned is entitled to either:

14.7.1 Bring one companion provided they must not be anyone who may prejudice the case or have a conflict of interest; and/or

14.7.2 Be represented by one legal or other representative provided thisis of their own choice and entirely at their own expense. Badminton Wales accepts no liability whatsoever for any legal or other cost or expense incurred as a result of, or related to, any matters arising from these Regulations.

14.8 If the Individual Concerned is under 18 years then the parent(s) or guardian(s) may also accompany them in addition to any person brought in accordance with clause 14.7.

14.9 The Individual Concerned is not entitled to any other representative or companion unless the Chair agrees that such additional representative or companion is beneficial to the Hearing or otherwise necessary.

14.10 The Appellant shall be given the right of the last word.

14.11 The Chair shall then invite all persons other than the Appeal Panel to retire whilst the Appeal Panel considers its decision. The Appeal Panel shall reach a decision on a majority vote

14.12 All those who have attended or participated in the Hearing will be invited to return when the Chair will announce his decision. There is no Appeal against the finding.

15.0 Appeal Evidence

15.1 As in the original hearing, the Appeal Panel must make decisions on the balance of probabilities.

15.2 At the discretion of the Chair additional evidence may be presented by the Appellant irrespective of whether or not the additional evidence was available to the Appellant or by reasonable enquiry could have been made available to the Appellant at the time of the original hearing.

16.0 Notification

16.1 The Chair or secretary of the Appeal Panel shall at, or as soon as possible after, the conclusion of the hearing, deliver a written judgment to the Badminton Wales Disciplinary Officer.

16.2 Badminton Wales Disciplinary Officer will within 7 days of the conclusion of the Appeal hearing communicate the decision together with a copy of the written judgment to:

16.2.1 The Appellant; and/or

16.2.2 The Secretary of the County Association concerned; and/or

16.2.3 The Chair of Badminton Wales; and/or

16.2.4 The County Association or person making the complaint.

16.2.5 Any complainant, if deemed appropriate by the Disciplinary Officer (with redactions if necessary)

17.0 Time Limits

17.1 In general, failure to observe the time limits specified in these procedures shall not nullify any proceedings,

Enforcement of Disciplinary Orders

17.2 Members of Badminton Wales must take all steps necessary to ensure compliance with any Interim Suspension and any disciplinary order made under these Regulations.

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

Publication of sanction of exclusion

17.4 Where a case is considered by a Badminton Wales Disciplinary Hearing Panel or Appeal Panel and a sanction of exclusion (whether permanent, or time-limited) is imposed, this will be published on the Badminton Wales website unless exceptional circumstances apply. Details to be published are the name of the individual, date of sanction, a dn sanction.

17.5 Exceptional circumstances where publication will not take place will include where publication may lead to the identification of a vulnerable person. Whether exceptional circumstances apply will be determined by the Disciplinary subcommittee.

17.6 Where an Appeal Panel determines that a sanction should be varied or the appeal is upheld and the original outcome quashed, the Badminton Wales website must be amended to reflect this as soon as practicable, and in any event within two working days of the decision being made. Likewise, upon expiry of a sanction, the case must be removed from the Badminton Wales website.

Application to rejoin Badminton Wales

17.7 Where an individual or organisation's membership of Badminton Wales is terminated or where a sanction of permanent exclusion from any badminton activities is imposed on an individual by a Disciplinary Hearing Panel or an Appeal Panel, the individual/organisation cannot reapply for membership, or seek to have the permanent exclusion removed for at least ten years.

17.8 Following this period, an individual/organisation may apply for membership of Badminton Wales or for their permanent exclusion to be removed. The decision to allow Badminton Wales membership or to remove permanent exclusion will be for Badminton Wales alone to approve.

17.9 Any such application must be made in writing by the individual/organisation to the Badminton Wales Disciplinary Officer.

17.10 The Disciplinary Officer is responsible for collating relevant information and evidence and submitting a report to the Disciplinary sub committee who will be responsible for decision-making.

17.11 If the subcommittee reject the application, no further application from the individual/organisation will be considered for at least five years. There is no right of appeal to the sub committee's decision.

Retention of records

17.12 Where a disciplinary sanction has been imposed in accordance with these Regulations, all evidence considered by the sanctioning body must be securely retained for the following periods:

17.12.1 Any sanction of permanent exclusion: Indefinite retention

17.12.2 Any sanction of termination of Badminton Wales membership: 15 years

17.12.3 Any sanction of temporary exclusion: 7 years

17.12.4 All other sanctions: 3 years