

## **DISCIPLINARY RULES IN RELATION TO MISCONDUCT AT BOWLS ENGLAND LEVEL – MISCONDUCT**

### **1. Disciplinary Regulation**

#### **The right of Bowls England to take disciplinary measures**

Any member of Bowls England, against whom an allegation of misconduct, as defined below, is alleged, may be subject to disciplinary measures:

- a) Improper interference with the functioning or activities of Bowls England or of any members of Bowls England.
- b) Action which otherwise improperly damages Bowls England or any County Association or Club thereof, or any member thereof, or their reputation.

### **2. Definitions of Misconduct**

For the purposes of this Regulation, the definition of 'misconduct' shall include, but shall not be restricted to:

- 2.1. breach of Bowls England Safeguarding Policy and/or Safeguarding Adults Policy;
- 2.2. any breach of the Rules and Regulations or of the Laws of Bowls England;
- 2.3. any conduct which is prejudicial to the interests of Bowls England or any County Association or Club thereof, or any member thereof or to the sport of bowls in general;
- 2.4. failure or refusal for a period of one calendar month to pay any fine lawfully imposed by any competent authority under the jurisdiction of Bowls England;
- 2.5. deliberately losing or attempting to lose any match or otherwise be guilty of unfair play;
- 2.6. wilfully altering a bowl after the same has been stamped by a World Bowls Board Licensed Bowls Tester, without submitting the same to such Tester for re-testing and re-stamping;
- 2.7. the use of any profane, indecent, or improper language at any function of Bowls England or of any County Association or Club thereof, or whilst upon the property of any Club;
- 2.8. any violent, indecent, disorderly, threatening, intimidating or offensive behaviour at any time or place towards Bowls England (this includes all employees, any County Association or any Club, or any member thereof, or any official appointed by such body, in respect of the carrying out of any functions or duties under the Laws of the Sport or the Rules and Regulations of Bowls England or of such County or Club as applicable);
- 2.9. sexual, religious, disability or racial harassment of any member of Bowls England, Associate Members or any members affiliated through their County;
- 2.10. any breach of Bowls England Equity Policy;
- 2.11. any drug abuse, otherwise known as 'Anti-Doping', in breach of the Anti-Doping Policy Regulations of Bowls England;
- 2.12. disregarding or refusing compliance with or acting in contravention of any decision of Bowls England or its Directors or of any official of Bowls England;
- 2.13. obstructing, disrupting or interfering improperly with the functions, duties or activities of any member or official or visitor of Bowls England;
- 2.14. any conduct which constitutes a criminal offence;
- 2.15. any fraud, deceit, deception or dishonesty in relation to Bowls England or its members or visitors;
- 2.16. behaving fraudulently or cheating at any event held by or connected with Bowls England;
- 2.17. theft or misappropriation or misuse of property of Bowls England or of Clubs or County Associations or property of its members;
- 2.18. failure to comply with a reasonable instruction relating to bowling matters authorised by the Board of Bowls England or the Rules and Regulations of Bowls England;
- 2.19. the unauthorised use or misuse of premises of Bowls England or any Club or County Association.

## **DISCIPLINARY PROCEEDINGS AT BOWLS ENGLAND LEVEL**

### **3. Procedure following an allegation of misconduct at Bowls England Level**

- 3.1. Any person wishing to make a complaint of misconduct, by a County Association, or by a Club affiliated to Bowls England or by a member thereof whose misconduct is in relation to an issue under the jurisdiction of Bowls England or by an affiliated Club or by a member thereof where, in the interests of natural justice, the issue cannot be dealt with by the County Association or the Club, must do so in writing to the Chief Executive of Bowls England. If after preliminary investigation the Chief Executive considers that a case of misconduct exists the Chief Executive will refer the complaint to the Bowls England Disciplinary Committee. If the Chief Executive considers that a case cannot be made, no further action will be taken by Bowls England and the complainant shall be advised accordingly of the reason for this decision. In the event of an incident considered necessary for disciplinary action by Bowls England against a County Association or against an Affiliated Club or in accordance with Section 3.1. of this Regulation one or more of its members, the following procedure must be followed:
- a) The accused county/club/member/members involved shall be advised in writing within 21 days of the complaint being received:
    - i. that the complaint will be referred to the Bowls England Disciplinary Committee for a Disciplinary Hearing;
    - ii. that they/he/she is/are prohibited from making an application to join another affiliated club until all disciplinary procedures have been completed
  - b) In the event of a Disciplinary Hearing taking place the date shall, if possible, be agreed with the accused county/club/member/members involved. Bowls England shall provide three dates of availability which shall be within forty two days of the date of notification to the accused county/club/member/members of the complaint or as soon as practical thereafter and in any event the Disciplinary Hearing must be held within 90 days of the date of notification of the complaint to the accused county/club/member/members notwithstanding failure to agree such date with the accused county/Club/member/members. In the event of failure to agree on such date the decision of Bowls England as to the date of the Disciplinary Hearing shall be final. If after receipt of a complaint under Section 3.1, Bowls England is or becomes aware of the accused County/Club or member/members being charged with a criminal offence which does not reach a conclusion within the 90 day period referred to above, any Disciplinary Hearing shall take place within 28 days of the date of the verdict hearing or the charges being withdrawn. The accused county/club/member/members must be given the right to be heard and to be accompanied by an advisor.
  - c) In the case of serious criminal offences, suspension from Bowls England will normally be imposed and will be imposed if Bowls England's Safeguarding Policy and/or Safeguarding Adults Policy so provides until the matter has been reported to the police and either a prosecution has been completed or a decision not to prosecute has been taken. In the event of acquittal of criminal charges, Bowls England reserves the right to initiate internal disciplinary proceedings on the basis of improperly damaging Bowls England or any County Association or Club thereof, or any member thereof, of their reputation.
  - d) Orders to be made for protection only - Orders of suspension pending a disciplinary hearing or court trial are to be used only where necessary to protect a member or members of Bowls England, or the property of Bowls England or its members, or where necessary to comply with any requirements under the anti-doping rules. Written reasons for the decision will be recorded and made available to the accused County, Club/member/members who is/are the subject of the order.

- e) Periodic review - A decision to suspend an accused county/club/member/members from Bowls England pending a disciplinary hearing or a court trial shall be subject to a periodic review at the request of the accused county/club/member/members who is/are the subject of the order. Such a review will not involve a hearing, but the accused county/club/member/members either personally or through an advisor, friend or representative will be entitled to make written representations to the Chair of the Bowls England Board of Directors. The review will be conducted by any two directors of Bowls England nominated for the purpose who will in turn ensure that a report is forwarded to the Chair of the Bowls England Board of Directors. In addition to this review, the Chair of the Bowls England Board of Directors shall review the suspension on receipt of written notification of altered circumstances, which might affect the order to suspend or exclude.

### **3.2. Composition of the Bowls England Disciplinary Committee**

- a) The Chief Executive of Bowls England will appoint or delegate THREE persons, none of whom shall have had any previous involvement or material knowledge of the complaint, as the Bowls England Disciplinary Committee (in this Regulation “the Bowls England Disciplinary Committee”), and delegate power to hold a disciplinary hearing (in this Regulation “Disciplinary Hearing”). The members of any such Bowls England Disciplinary Committee need not necessarily be members of Bowls England. The Chief Executive of Bowls England shall appoint one of the Bowls England Disciplinary Committee to be the Chair thereof. Each member of the Bowls England Disciplinary Committee must declare any known conflict with the accused county/club/member/members or any representative of the parties.
- b) The names of the appointed/delegated members of the Disciplinary Committee shall be forwarded to the accused county/club/member/members at least 14 days prior to the hearing. The accused county/club/member/members may object to a maximum of two of the appointed/delegated members of that committee. Once the new committee has been appointed/delegated, no further objections may be made.

### **3.3. Written witness statements in advance of the hearing**

The Chair of the Bowls England Disciplinary Committee or nominee on behalf of that Committee shall call for written witness statements in support of the complaint and in support of the accused County/club/member/members, to be received no later than 28 days prior to the date of the hearing. When all the statements from the parties have been received, copies will be immediately forwarded to the opposing parties, as appropriate. The accused county/club/member/members shall be required to indicate in writing, no later than 21 days prior to the date of the hearing, those witnesses he/she/they require to attend the hearing to give oral evidence and those witnesses they/he/she is/are agreeable to the Disciplinary Committee accepting the written evidence. Should the accused county/club/member/members indicate that a witness or witnesses is/are not required to give oral evidence or should no reply be received within the time limit, the Chair of the Disciplinary Committee shall have discretion to call a witness or witnesses to give oral evidence.

### **3.4. Assistance to the Bowls England Disciplinary Committee**

The Chair of the Bowls England Disciplinary Committee may appoint a person to act as Clerk to the Bowls England Disciplinary Committee, who may be legally qualified, to give assistance to the Bowls England Disciplinary Committee as it thinks fit. The Chair will also arrange for minutes of the proceedings to be taken. The Chief Executive of Bowls England will either present the complaint against the accused County/Club/ member/members

himself, or appoint a representative to do so, who may be legally qualified (in this regulation, in either case, "the Bowls England Case Presenter")

**3.5. Representation**

The accused member/members or the delegated member of the accused county/club shall be present at all disciplinary hearings, and may be represented by an advisor, friend or other representative, who may be legally qualified. If the accused member/members or the delegated member of the accused county/club is/are so represented, should it become necessary to ensure good order at the hearing, the Chair of the Bowls England Disciplinary Committee may stipulate that the accused member/members or the delegated member of the accused county/club may speak only when called upon to give evidence by their/his/her representative.

**3.6. Order of Proceedings**

Subject to the provisions of this Regulation, the order of proceedings shall be at the discretion of the Bowls England Disciplinary Committee. Members of the Bowls England Disciplinary Committee may ask questions of any witness. The Bowls England Disciplinary Committee may ask for additional enquiries to be undertaken, and may call for additional witnesses to attend.

**3.7. Joint Hearings**

If two or more appellants are involved in related misconducts, the Bowls England Disciplinary Committee may, at its discretion, deal with their case together. However, the wishes of the appellants must be taken into account.

**3.8. Standard and Burden of Proof**

The burden of proof shall be with the Bowls England Governing Body and the Bowls England Disciplinary Committee will only find against the accused county/club/member/members if, on the evidence before it, it is satisfied on the balance of probabilities that an allegation of misconduct has been proved.

**3.9. Evidence**

The Bowls England Disciplinary Committee will rely solely on evidence presented at the hearing in accordance with Section 3.3 of this Regulation.

**3.10. Relevance**

The Bowls England Disciplinary Committee may refuse to admit evidence that is, in its opinion, irrelevant to the issues raised.

**3.11. Opening and closing addresses**

The Bowls England Case Presenter shall be entitled to address the Bowls England Disciplinary Committee before calling witnesses, and at the conclusion of the evidence called on behalf of the accused county/club/member/members. The accused member/members or the delegated member of the accused county/club or their/his/her representative may address the Bowls England Disciplinary Committee before calling witnesses and after the Bowls England Case Presenter's final address.

**3.12. Witnesses in support of the allegation**

The complaint against the accused county/club/member/members will be put first. The Bowls England Case Presenter will ask questions of each witness giving evidence in support of the complaint. These must not be leading questions. The witness may be cross-

examined by the accused member/members or the delegated member of the accused county/club or their/his/ her representative. Witnesses may be re-examined by the Bowls England Case Presenter, but concerning only those matters raised in cross-examination, for the purpose of clarification.

**3.13. Submission that there is no case to answer**

At the conclusion of the evidence in support of the complaint against the accused county/club/member/members, the accused member/members or the delegated member of the accused county/club or their/his/her representative may submit that no case has been made out. The Bowls England Case Presenter has the right to reply. If the Bowls England Disciplinary Committee finds that, on the evidence, there is no case to answer it may dismiss the complaint.

**3.14. Witnesses against the allegation**

If the case proceeds, the accused member/members or the delegated member of the accused county/club may then give evidence. At the conclusion of the accused member/members or the delegated member of the accused county/club's evidence, the Bowls England Case Presenter may cross-examine. The accused member/members or the delegated member of the accused county/club may give evidence in reply to clarify matters raised in cross-examination. The accused member/members or the delegated member of the accused county/club or their/his/her representative may then call further witnesses, who may be similarly cross-examined and re-examined.

**3.15. Recall of witnesses**

A witness may be recalled to give further evidence only with the leave of the Bowls England Disciplinary Committee.

**3.16. Time Limits**

The Bowls England Disciplinary Committee may impose time limits on oral addresses and submissions.

**3.17. Adjournment**

The Bowls England Disciplinary Committee shall have the power to adjourn a hearing to another date, as it thinks fit.

**3.18. Chair of Bowls England Disciplinary Committee's right to stop the proceedings**

The Chair of the Bowls England Disciplinary Committee has the power to suspend the activity of the Bowls England Disciplinary Committee at any time, and to stop the proceedings against the accused county/club/member/members if he or she believes it to be appropriate to do so.

**3.19. Absence**

Notwithstanding the provisions of Section 3.5 of this Regulation the Bowls England Disciplinary Committee may reach a decision and impose a penalty if the accused member/members or the delegated member of the accused county/club is/are absent from the Disciplinary Hearing, provided that the accused county/club/member/members has/have been given notice of the Disciplinary Hearing in accordance with Section 3.1(a)(i) and 3.1(b) of this Regulation.

### **3.20. Majority Verdict**

If members of the Bowls England Disciplinary Committee cannot agree, the verdict of the Bowls England Disciplinary Committee will be that decided by the majority of its members.

### **3.21. Report of the Bowls England Disciplinary Committee**

At the termination of the proceedings, the Chair of the Bowls England Disciplinary Committee will write a short report confirming the outcome. In the event of a finding that the allegation has been proved, the report will set out the misconduct alleged, a brief summary of the evidence received, the grounds for the finding that the allegation has been proved, the penalty imposed, and the factors taken into account in deciding the penalty. A copy of the report will be sent to the accused county/club/member/members who will be advised of their/his/her right of appeal, and to the Chair of the Board of Directors of Bowls England and to any other party deemed to have a material interest in the outcome, though in the latter case the report may be censored. Where the misconduct concerns the anti-doping policy, a copy may also be required to be sent to UK Anti-Doping.

## **4. Penalties**

### **4.1. Imposition of penalties**

If an allegation of misconduct is proved against an accused county/club/member/members, penalties may be imposed on the accused county/club/member/members by the Bowls England Disciplinary Committee. The decision of the Bowls England Disciplinary Committee shall normally be communicated to the accused county/club/member/members immediately after the hearing and followed up in writing to the accused County/Club/Member/Members. Where in exceptional circumstances this is not possible the decision will be communicated no later than 21 days after the hearing.

Examples of the penalties available are set out at Section 4.3 of this Regulation.

### **4.2. Matters to be considered**

When determining penalties, the Bowls England Disciplinary Committee will give consideration to the seriousness of the misconduct, the circumstances of the misconduct, and the general circumstances of the accused County/Club/member/members. Due regard should also be paid to the seriousness with which the National Governing Body regards proven deliberate cheating and the misuse of drugs in bowling.

### **4.3. Types of Penalty**

The penalties available for an accused county/club/member/members found to have an allegation of misconduct proved against them/him/her are, but shall not be restricted to:

- a) Caution.
- b) Absolute discharge, which means that although the accused county/club/member/members is/are technically found to have had proved against him/her the misconduct alleged, no blame should be attached to his/her/their actions.
- c) Conditional discharge, which means that no penalty is imposed, subject to the accused county/club/member/members fulfilling certain stipulated conditions as imposed by the Bowls England Disciplinary Committee, including future good behaviour, over a specified period of time. If the conditions are not met, a penalty may be imposed following a further hearing, which shall concern itself only with whether the conditions have been broken. Such further hearing shall take place in accordance with Sections 3.1(a)(i) and 3.1(b) of this Regulation and the procedure in sections 3.2 to 3.21 shall apply with such

amendments as the Bowls England Governing Body shall deem are required for the purpose.

- d) Required to pay a reasonable sum by way of compensation and restitution for an identified and quantified loss.
- e) In the case of a County excluded from certain activities of Bowls England, in the case of a Club excluded from certain activities of the County Association and/or Bowls England and in the case of member/members, excluded from certain activities of his/her Club and/or County Association and/or Bowls England, which may include exclusion from participating in competitive bowls, for a defined period of time.
- f) In the case of a County, suspended from Bowls England for a defined period of time. In the case of a Club, suspended from the County Association or Bowls England for a defined period of time. In the case of a member/members, suspended from his/her Club, or County Association or Bowls England for a defined period of time.
- g) In the case of a County, expelled from Bowls England, for an indefinite period of time, in the case of a Club, expelled from the County Association and/or Bowls England for an indefinite period of time and in the case of member/members expelled from his/her Club and/or County Association and/or Bowls England for an indefinite period of time.
- h) Required to pay any costs in relation to the investigation and proceedings.

With regard to (d) and (h) above, until such time as the monies are paid the accused County/Club/member/members shall forfeit all rights and entitlements and recognition under the Regulations, and shall be deemed to be suspended.

In those cases where suspension or expulsion was imposed prior to the Disciplinary Hearing, that decision to suspend or expel shall expire at the final decision of the Bowls England Disciplinary Hearing and any decision of this Bowls England Disciplinary Committee shall apply from thereon. In the event of the case being proved and suspension or expulsion imposed as part or the whole of any penalty, the Bowls England Disciplinary Committee will decide, either that the suspension or expulsion will take effect immediately or in the event of an appeal to the National Governing Body they may decide that the suspension or expulsion should be held in abeyance until that appeal procedure has been finalised. The provisions of Section 10, 11 or 12 of this Regulation, should be noted when considering suspension or expulsion. Where appropriate the provisions of Section 13 of this Regulation relating to expulsion and suspension shall also apply.

In the event of an appeal being made, any penalty imposed OTHER than suspension or expulsion, shall be held in abeyance until such time as the right to any appeal has ceased and/or all appeal procedures have been finalised.

Any decision made by the Bowls England Disciplinary Committee regarding suspension or expulsion shall only be overturned by virtue of any appeal procedures.

An accused county/club/member/members found to have an allegation of misconduct proved may be cautioned as referred to in (a) above which means that no penalty is imposed but, if the accused county/club/member/members is/are found to have had proved against them/him or her an allegation of misconduct, on a subsequent occasion, within a period of 3 years, the caution may be referred to and taken into account.

## **APPEAL TO THE NATIONAL GOVERNING BODY**

### **5. Appeal from the Bowls England Disciplinary Committee to National Governing Body**

#### **5.1.**

- a) In the event of an allegation of misconduct having been upheld by the Bowls England Disciplinary Committee the accused county/club/member/members must be advised in writing of their/his/her right to appeal to the National Governing Body. Such appeal, which can be against the finding that an allegation has been proved and/or against the penalty imposed, must be made, on the form provided which can be downloaded from the Bowls England website, and sent to the Chair of the National Governing Body within fourteen days of receipt of written notification of the result of the Bowls England Disciplinary Hearing.
- b) The notice of appeal must set out the grounds of appeal and the appellant/appellants may be required by the Chair of the National Governing Body to provide a further written submission setting out further details of the grounds of appeal within a specified period.

#### **5.2. National Governing Body Appeal Hearing**

Subject to section 5.4 of this Regulation the National Governing Body (“in this Regulation the National Governing Body”) shall arrange for a hearing of such appeal either by way of a review hearing or re-hearing (in this Regulation the “National Governing Body Appeal Hearing”). The date of the National Governing Body Appeal Hearing shall if possible be agreed with the appellant/appellants. The Chair of the National Governing Body shall provide three dates of availability, which must be within forty two days of the date of receipt of the written notice of appeal by the Chair of the National Governing Body, or, if required, 28 days after further details of the grounds of appeal have been received by the Chair of the National Governing Body or as soon as practicable thereafter. In any event the National Governing Body Appeal Hearing must take place within 90 days of receipt of the written notice of appeal by the Chair of the National Governing Body, notwithstanding failure to agree such date with the appellant/appellants. In the event of failure to agree on such date the decision of the Chair of the National Governing Body as to the date of the National Governing Body Appeal Hearing shall be final. The appellant/appellants must be given the right to be heard and to be accompanied by an advisor.

#### **5.3. Composition of National Governing Body Appeal Committee**

- a. The Chair of the National Governing Body will appoint or delegate THREE persons, none of whom shall have had any previous involvement or material knowledge of the complaint, as the appeal committee (in this Regulation “the National Governing Body Appeal Committee”), and delegate power to hear the appeal either by way of a Review Hearing or Re-Hearing (subject to Section 5.4). The members of any such National Governing Body Appeal Committee need not necessarily be members of Bowls England. The Chair of the National Governing Body shall appoint one of the National Governing Body Appeal Committee to be the Chair thereof.
- b. The names of the appointed/delegated members of the Disciplinary Committee shall be forwarded to the appellant/appellants at least 14 days prior to the hearing. The appellant/appellants may object to a maximum of two of the appointed delegated members of that committee. Once the new committee has been appointed/delegated, no further objections may be made.



#### **5.4. Nature of appeal**

There is no automatic entitlement to a re-hearing of the case. The appeal will be limited to a Review Hearing, being a review of the decision of the Bowls England Disciplinary Committee (in this Regulation the "National Governing Body Review Hearing") unless the Chair of the National Governing Body considers at their discretion that in the circumstances of an individual appeal it would be in the interests of natural justice and/or there has been some procedural impropriety, that the National Governing Body should hold a re-hearing (in this Regulation "the National Governing Body Re-Hearing") in which case the procedure set out in Sections 7 and 8 of this Regulation shall apply.

#### **5.5. Assistance to the National Governing Body Appeal Committee**

The Chair of the National Governing Body Appeal Committee may appoint a person to act as Clerk to the National Governing Body Appeal Committee, who may be legally qualified, to give assistance to the National Governing Body Appeal Committee as it thinks fit. The Chair will also arrange for minutes of the proceedings to be taken. The Chief Executive of Bowls England will either present the case himself or appoint a representative to do so, who may be legally qualified. (in this Regulation, in either case "the Bowls England Case Presenter")

### **6. Procedure for The National Governing Body Review Hearing (see also Section 8)**

#### **6.1.**

If the matter is to proceed by way of a National Governing Body Review Hearing the National Governing Body Appeal Committee shall invite the appellant/appellants and the respondent to give written submissions. The appellant/appellants shall be required to attend the hearing and may be represented by an advisor, friend or other representative who may be legally qualified. The respondent, or their representative, who may be legally qualified, will be given an opportunity to respond.

#### **6.2. Evidence**

The National Governing Body Appeal Committee shall not hear any new evidence, written or oral, and should limit their consideration to the evidence previously provided by the parties to the Bowls England Disciplinary Committee.

#### **6.3. Standard and Burden of Proof**

The burden of proof shall be with the appellant/appellants. The National Governing Body Appeal Committee will uphold the appeal if, on the evidence before it, it is satisfied that, on the balance of probabilities, the allegation of misconduct has not been proved.

#### **6.4. Findings of the National Governing Body Appeal Committee in an appeal against a finding that an allegation has been proven**

Where the appeal is against a finding that an allegation has been proven, the National Governing Body Appeal Committee may, after due consideration:

- a) Dismiss the appeal allowing the original decision to stand.
- b) Dismiss the appeal and impose a greater or lesser penalty or alter or amend any conditions imposed by the original penalty.
- c) Grant the appeal in which case the allegation in respect of the appellant/appellants will be recorded as not proven.

Where appropriate, the provisions of Sections 10, 11, 12 and 13 of this Regulation, relating to Expulsion and Suspension, shall apply.

#### **6.5. Findings of the National Governing Body Appeal Committee in an appeal against penalty only**

Where the appeal is against penalty only, the National Governing Body Appeal Committee may, after due consideration:

- a) Dismiss the appeal allowing the original penalty to stand.
- b) Dismiss the appeal and impose a greater penalty, or alter or amend any conditions imposed by the original penalty.
- c) Grant the appeal and impose a lesser sentence, or reduce or remove any conditions imposed by the original sentence.

Where appropriate, the provisions of Section 10, 11, 12 and 13 of this Regulation relating to expulsion and suspension, shall apply.

When determining an appeal against penalty, the National Governing Body Appeal Committee will give consideration to the seriousness of the misconduct, the circumstances of the misconduct, and the general circumstances of the appellant/appellants. Due regard should also be paid to the seriousness with which Bowls England regards proven deliberate cheating and the misuse of drugs in bowling.

#### **6.6. Imposition of penalties following a National Governing Body Review Hearing**

In those cases where suspension or expulsion was imposed prior to the National Governing Body Review Hearing, that decision to suspend or expel shall expire at the final decision of the National Governing Body Review Hearing and any decision of this National Governing Body Appeal Committee shall apply from thereon. Where appropriate the provisions of Sections 10, 11, 12 and 13 of this Regulation shall apply. An appellant or appellants found to have an allegation of misconduct proved may be cautioned, this means that no penalty is imposed, but if the appellant/appellants is/are found to have had proved against him/her an allegation of misconduct, on a subsequent occasion, within a period of 3 years, the Caution may be referred to and taken into account.

### **7. Procedure for a National Governing Body Re-Hearing (see also Section 8)**

#### **7.1. Written witness statements in advance of the hearing**

The Chair of the National Governing Body Appeal Committee or nominee on behalf of that Committee shall call for written witness statements in support of the complaint and in support of the appellant/appellants, to be received no later than 28 days prior to the date of the hearing. When all the statements from the parties have been received, copies will be immediately forwarded to the opposing parties, as appropriate. The appellant/appellants shall be required to indicate in writing, no later than 21 days prior to the date of the hearing, those witnesses he/she/they require to attend the hearing to give oral evidence and those witnesses he/she/they is/are agreeable to the Disciplinary Committee accepting the written evidence. Should the appellant/appellants indicate that a witness or witnesses is/are not required to give oral evidence, or should no reply be received within the time limit, the Chair of the Appeal Committee shall have discretion to call a witness or witnesses to give oral evidence.

#### **7.2. Representation**

The appellant/appellants or the delegated member of the appellant county/club shall be present at the National Governing Body Re-Hearing, and may be represented by an advisor, friend or other representative, who may be legally qualified. If the appellant/appellants or the appellant county/club is/are so represented, should it become

necessary to ensure good order at the National Governing Body Re-Hearing, the Chair of the National Governing Body Appeal Committee may stipulate that the appellant/appellants or the delegated member of the appellant county/club may speak only when called upon to give evidence by their/his/her representative.

**7.3. Order of Proceedings**

Subject to the provisions of this Regulation, the order of proceedings shall be at the discretion of the National Governing Body Appeal Committee. Members of the National Governing Body Appeal Committee may ask questions of any witness. The National Governing Body Appeal Committee may ask for additional enquiries to be undertaken, and may call for additional witnesses to attend.

**7.4. Joint Hearings**

If two or more appellants are involved in related misconducts, the National Governing Body Appeal Committee may, at its discretion, deal with their case together. However, the wishes of the appellants must be taken into account.

**7.5. Standard and Burden of Proof at National Governing Body Re-Hearing**

The burden of proof shall be with Bowls England and the National Governing Body Appeal Committee will uphold the appeal if, on the evidence before it, it is satisfied, on the balance of probabilities, that the allegation of misconduct has not been proved.

**7.6. Evidence**

The National Governing Body Appeal Committee will rely solely on evidence presented at the National Governing Body Re-Hearing in accordance with Section 7.1 of this Regulation.

**7.7. Relevance**

The National Governing Body Appeal Committee may refuse to admit evidence that is, in its opinion, irrelevant to the issues raised.

**7.8. Opening and Closing Addresses**

The Bowls England Case Presenter shall be entitled to address the National Governing Body Appeal Committee before calling witnesses, and at the conclusion of the evidence called on behalf of the appellant/appellants. The appellant/appellants or the delegated member of the appellant county/club, or their/his/her representative, may address the National Governing Body Appeal Committee before calling witnesses and after the Bowls England Case Presenter's final address.

**7.9. Witnesses in support of the allegation**

The complaint against the appellant/appellants will be put first. The Bowls England Case Presenter will ask questions of each witness giving evidence in support of the complaint. These must not be leading questions. The witness may be cross examined by the appellant/appellants or the delegated member of the appellant county/club or their/his/her representative. Witnesses may be re-examined by the Bowls England Case Presenter, but concerning only those matters raised in cross-examination, for the purpose of clarification.

**7.10. Submission of no case to answer.**

At the conclusion of the evidence in support of the complaint against the appellant/appellants, the appellant/appellants or the delegated member of the appellant county/club or their/his/her representative may submit that no case has been made. The

Bowls England Case Presenter has the right to reply. If the National Governing Body Appeal Committee finds that, on the evidence, there is no case to answer it may dismiss the complaint.

**7.11. Witnesses against the allegation**

If the case proceeds, the appellant/appellants or the delegated member of the appellant county/club may then give evidence. At the conclusion of the appellant/appellants or the appellant county/club delegated member's evidence, the Bowls England Case Presenter may cross examine. The appellant/appellants or the delegated member of the appellant county/club may give evidence in reply to clarify matters raised in cross examination. The appellant/appellants or the delegated member of the appellant county/club or their/his/her representative may then call further witnesses, who may similarly be cross-examined and re-examined.

**7.12. Recall of witnesses**

A witness may be recalled to give further evidence only with the leave of the National Governing Body Appeal Committee.

**7.13. Imposition of penalties following a National Re-hearing**

If the National Governing Body Appeal Committee considers that the allegation of misconduct has been proved against the appellant/appellants or the appellant county/club, penalties may be imposed on the appellant/appellants or the appellant county/club by the National Governing Body Appeal Committee. Examples of the penalties are, but shall not be restricted to:

- a) Caution.
- b) Absolute discharge, which means that although the appellant/appellants or the appellant county/club is/are technically found to have had proved against them/him or her the misconduct alleged, no blame should be attached to their/his/her actions.
- c) Conditional discharge, which means that no penalty is imposed, subject to the appellant/appellants or the appellant county/club fulfilling certain stipulated conditions as imposed by the National Governing Body Appeal Committee, including future good behaviour, over a specified period of time. If the conditions are not met, a penalty may be imposed following a further hearing, which shall concern itself only with whether the conditions have been broken. Such further hearing shall take place in accordance with paragraph 3.1(a)(i) and 3.1(b) of this Regulation and the procedure in sections 3.2 to 3.21 shall apply with such amendments as the National Governing Body shall deem are required for the purpose.
- d) Required to pay a reasonable sum by way of compensation and restitution for an identified and quantified loss.
- e) In the case of an appellant county excluded from certain activities of Bowls England, in the case of an appellant club excluded from certain activities of the County Association and/or Bowls England and in the case of appellant/appellants, excluded from certain activities of his/her club and/or County Association and/or Bowls England, which may include exclusion from participating in competitive bowls, for a fixed period of time.
- f) In the case of an appellant county, suspended from Bowls England for a defined period of time. In the case of an appellant club, suspended from the County Association or Bowls England for a defined period of time. In the case of appellant/appellants, suspended from his/her club, or County Association or Bowls England for a defined period of time.
- g) In the case of an appellant county, expelled from Bowls England, for an indefinite period of time, in the case of an appellant club, expelled from the County Association and/or Bowls England for an indefinite period of time and in the case of appellant/appellants

expelled from his/her club and/or County Association and/or Bowls England for an indefinite period of time.

- h) Required to pay any costs in relation to the investigation and proceedings.

With regard to (d) and (h) above, until such time as the monies are paid the Appellant/Appellants or the Appellant County/Club shall forfeit all rights and entitlements and recognition under the Regulations, and shall be deemed to be suspended.

In those cases where suspension or expulsion was imposed prior to the National Governing Body Re-Hearing, that decision to suspend or expel shall expire at the final decision of the National Governing Body Re-Hearing and any decision of this National Governing Body Appeal Committee shall apply from thereon.

An appellant/appellants or appellant county/club found to have an allegation of misconduct proved may be cautioned as referred to in (a) above which means that no penalty is imposed but, if the appellant/appellants or appellant county/club is/are found to have had proved against him/her/them an allegation of misconduct, on a subsequent occasion, within a period of 3 years, the caution may be referred to and taken into account.

Where appropriate the provisions of Sections 10, 11, 12 and 13 of this Regulation shall apply.

#### **7.14. Matters to be considered**

When determining penalties, the National Governing Body Appeal Committee will give consideration to the seriousness of the misconduct, the circumstances of the misconduct, and the general circumstances of the appellant/appellants or appellant county/club. Due regard should also be paid to the seriousness with which the National Governing Body regards proven deliberate cheating and the misuse of drugs in bowling.

### **8. Procedures common to National Governing Body Review Hearings and National Governing Body Re-Hearings**

#### **8.1. Time limits**

The National Governing Body Appeal Committee may impose time limits on oral addresses and submissions.

#### **8.2. Adjournment**

The National Governing Body Appeal Committee shall have the power to adjourn a hearing to another date, as it thinks fit.

#### **8.3. Chair of the National Governing Body Appeal Committee's right to stop the proceedings**

The Chair of the National Governing Body Appeal Committee has the power to suspend the activity of the National Governing Body Appeal Committee at any time, and to stop the National Governing Body Appeal Hearing if he or she believes it to be appropriate to do so.

#### **8.4. Absence**

Notwithstanding the provisions of Section 6.1. and 7.2. of this Regulation, the National Governing Body Appeal Committee may reach a decision and impose a penalty, if the appellant/appellants is/are absent from the National Governing Body Appeal Hearing, provided that the appellant/appellants has/have been given notice of the Appeal Hearing in accordance with Section 5.2. of this Regulation.

**8.5. Majority Verdict**

If members of the National Governing Body Appeal Committee cannot agree, the verdict of the National Governing Body Appeal Committee will be that decided by the majority of its members.

**8.6. Notification of Verdict**

The decision of the National Governing Body Appeal Committee shall normally be communicated to the appellant/appellants immediately after the hearing and followed up in writing to the Appellant/Appellants. Where in exceptional circumstances this is not possible the decision will be communicated no later than 21 days after the hearing.

**8.7. Report following National Governing Body Appeal Hearing**

After the termination of the National Governing Body Appeal Hearing, the Chair of the National Governing Body Appeal Committee will write a short report confirming the outcome. If the proceedings were a National Governing Body Review Hearing and the appeal was dismissed or were a National Governing Body Re-Hearing and the complaint was upheld the report will set out the grounds for the appeal, a brief summary of any evidence received, and the grounds for the finding. A copy of the report will be sent to the appellant/appellants and to the Chair of the Board of Directors of Bowls England and to any other party deemed to have a material interest in the outcome, though in the latter case the report may be censored. Where the misconduct concerns the anti-doping policy, a copy may also be required to be sent to UK Anti-Doping.

**8.8. Decision of National Governing Body Appeal Committee**

The decision of the National Governing Body Appeal Committee shall be final.

**8.9. Costs of National Governing Body Appeal Hearing**

If any National Governing Body Appeal Hearing is abandoned within 48 hours of a scheduled Hearing, or is dismissed after a Hearing, then the National Governing Body Appeal Committee may, if they think appropriate, make an award of costs and expenses against the appellant/appellants in such sum as the National Governing Body Appeal Committee consider appropriate. Until such time as the costs and expenses are paid the appellant/appellants shall forfeit all rights, entitlements and recognition under the Regulations and shall be deemed to be suspended.

**9. Natural Justice**

The rules of natural justice must apply at all times to all matters the subject of this Regulation. Natural justice is procedural fairness comprising of two basic rules; first that no man is to be a judge in his own cause (*nemo iudex in causa sua*), and second that no man is to be condemned unheard (*audi alteram partem*).

**10. Expulsion and Suspension**

For the purposes of this Regulation, 'expulsion' means the action of expelling a member from membership of a Club, County Association or Bowls England or a Club from the County Association or Bowls England for an indefinite period of time and 'suspension' means the action of suspending a member from membership of a Club, the County Association or Bowls England or a Club from the County Association or Bowls England for a defined period of time. A member who is suspended or expelled from Bowls England is prohibited from entering Bowls England premises and from partaking in any activity organised under the auspices of Bowls England.

Suspension may be subject to qualification, such as permission to undertake particular activities. An order of suspension or expulsion will be notified in writing to the club/member, and may include a requirement that the club/member shall have no contact with a named person or persons.

#### **11. Expulsion**

Unless the terms of the expulsion decision in any particular case otherwise so provide, for example it could be stated that there would be no objection to the member joining another Affiliated Club, no member who has been expelled from his/her Club as a result of a County Disciplinary Hearing or as a result of an appeal to Bowls England shall be admitted to membership of any Affiliated Club or be permitted to play or practice bowls on the green of any Affiliated Club except with the consent of the Board of Directors of Bowls England. If the expulsion does not include a statement that there would be no objection to the member joining another Club, should the member be also a member of one or more other Clubs his/her membership of those Clubs shall also be terminated. For the purpose of this Section and Sections 12 and Section 13 of this regulation, the term "Affiliated Club" shall mean a Club which is affiliated to Bowls England.

#### **12. Suspension**

Unless the terms of the suspension decision in any particular case otherwise so provide, for example it could be stated that there would be no objection to the member joining another Affiliated Club, the following provisions shall apply:

- a) No member, whilst under suspension as a result of a Bowls England Disciplinary Hearing or an appeal to the National Governing Body, shall be admitted to membership of any affiliated Club or be permitted to play or practise bowls on the green of any Affiliated Club except with the consent of the Board of Directors of Bowls England. If the suspension does not include a statement that there would be no objection to the member joining another Club, should the member be also a member of one or more other Clubs, his/her membership of those Clubs shall also be suspended.
- b) In those cases where a member/members has/have been suspended for an alleged serious criminal offence in accordance with Section 3.1(c) or 3.1(d) of this Regulation, pending a disciplinary hearing, the member shall not, whilst under suspension, be admitted to membership of any Affiliated Club or be permitted to play or practice bowls on the green of any Affiliated Club except with the consent of the Board of Directors of Bowls England.
- c) When a member is under suspension from his/her Club in accordance with (a) above, the member does not forfeit his/her membership. If the member wishes to continue his/her membership of the Club he/she should continue to pay his/her membership fee and will return automatically to the privileges of membership after the period of suspension has terminated. An application to re-apply for membership is not required.

#### **13. Notification of Expulsion or Suspension**

- a) Any expulsion or suspension of a member from a Club as a result of the findings of a Bowls England Disciplinary Hearing shall, if there is no appeal to the National Governing Body, be immediately reported to the Chair of the National Governing Body. In the event of an appeal to the National Governing Body no such notification will be made until the result of the appeal is known.

- b) Each County Association shall as cases arise, send to all Affiliated Clubs within the County of the accused member and to the General Secretaries/Administrators of adjacent Counties, notification of the name of any Club members who have been expelled or suspended as a result of the findings of a Disciplinary Hearing. Such notification shall not be implemented in those cases where suspension or expulsion has been qualified, in accordance with Sections 11 and 12 of this Regulation, by a statement that there would be no objection to the member joining another Club.