



Affiliated To Bowls England

## BOWLS OXFORDSHIRE

MISCONDUCT & Disciplinary procedures at  
COUNTY level

Draft Policy Paper No: 9a

# MISCONDUCT & Disciplinary procedures at COUNTY level

We are strong advocates for mediation whenever potential conflict arises. If you find yourself in a scenario where there is misconduct, or aware of a scenario where potential conflict could occur, we recommend that your club implements a mediation process in the first instance.

Bowls Oxfordshire fully supports and will apply Bowls England's Regulation: No 9a for DISCIPLINARY RULES IN RELATION TO MISCONDUCT AT COUNTY LEVEL

## 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

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

3.1. Any person wishing to make a complaint of misconduct, by a Club affiliated to Bowls England, or a member whose misconduct is in relation to an issue under the jurisdiction of the Bowls Oxfordshire or a member of an affiliated Club where, in the interests of natural justice, the issue cannot be dealt with by the Club, must do so in writing to the President of Bowls Oxfordshire. If after preliminary Investigation the President of the Bowls Oxfordshire considers that a case of misconduct exists, they will refer the complaint to the County Disciplinary Committee. If the President considers that a case cannot be made, no further action will be taken at county level and the complainant shall be advised accordingly of the reason for this decision. Should Bowls England consider that a decision to take no further action is perverse and not in the interests of natural justice, Bowls England shall deal with the matter in accordance with Regulation 9B 3.1.

In the event of an incident considered necessary for disciplinary action by a County 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 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 County 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 club/member/members involved, the County shall provide three dates of availability which shall be within forty two days of the date of notification to the accused 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 club/member/members notwithstanding failure to agree such date with the accused club/member/members. In the event of failure to agree on such date the decision of the County as to the date of the Disciplinary Hearing shall be final. If after receipt of a complaint under Section 3.1, the County is or becomes aware of the accused club/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 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, the County 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 club/member/members who is/are the subject of the order.

e) Periodic review - A decision to suspend an accused club/ member/ members from Bowls England pending a disciplinary hearing or a court trial shall be subject to a Bowls England periodic review at the request of the accused club/member/members who is the subject of the order. Such a review will not involve a hearing, but the accused club/member/ members either personally or through an advisor, friend or representative will be entitled to make written representations to Bowls England. 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 Board of Directors of Bowls England. In addition to this review, the Chair of the Board of Directors of Bowls England shall review the suspension on receipt of written notification of altered circumstances, which might affect the order to suspend.

### **3.2. Composition of the County Disciplinary Committee**

a) Bowls Oxfordshire will appoint or delegate THREE persons, none of whom shall have had any previous involvement or material knowledge of the complaint, as the County Disciplinary Committee, and delegate power to hold a disciplinary hearing. The members of any such County Disciplinary Committee need not necessarily be members of Bowls Oxfordshire. Bowls Oxfordshire shall appoint one of the County Disciplinary Committee to be the

Chair thereof. Each member of the County Disciplinary Committee must declare any known conflict with the accused 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 club/member/members at least 14 days prior to the hearing. The accused 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 County 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 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 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 he/she/they is/are agreeable to the Disciplinary Committee accepting the written evidence. Should the accused 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 County Disciplinary Committee**

The Chair of the County Disciplinary Committee may appoint a person to act as Clerk to the County Disciplinary Committee, who may be legally qualified, to give assistance to the County Disciplinary Committee as it thinks fit. The Chair will also arrange for minutes of the proceedings to be taken. The President of Bowls Oxfordshire will either present the complaint against the accused club/member/members himself, or appoint a representative to do so, who may be legally qualified.

### **3.5. Representation**

The accused member/members or the delegated member of the accused Club shall be present at the Disciplinary Hearing and may be represented by an advisor, friend or other representative, who may be legally qualified. If the accused club/member/members is/are so represented, should it become necessary to ensure good order at the hearing, the Chair of the County Disciplinary Committee may stipulate that the accused member/members or

the delegated member of the accused 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 County Disciplinary Committee. Members of the County Disciplinary Committee may ask questions of any witness. The County 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 accused clubs/members are involved in related misconducts, the County Disciplinary Committee may, at its discretion, deal with their case together. However, the wishes of the accused clubs/members concerned must be taken into account.

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

The burden of proof shall be with Bowls Oxfordshire and the County Disciplinary Committee will only find against the accused 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 County Disciplinary Committee will rely solely on evidence presented at the hearing in accordance with Section 3.3.

### **3.10. Relevance**

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

### **3.11. Opening and closing addresses**

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

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

The complaint against the accused club/member/members will be put first. The County 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 club or his/ her/their representative. Witnesses may be re-examined by the County 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 club/member/members, the accused member/members or the delegated member of the accused club or their/his/her representative may submit that no case has been made. The County Case Presenter has the right to reply. If the County 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 club may then give evidence. At the conclusion of the accused member/member's or the delegated member of the accused club's evidence, the County Case Presenter may cross-examine. The accused member/members or the delegated member of the accused club may give evidence in reply to clarify matters raised in cross-examination. The accused member/members or the delegated member of the accused club or 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 giving further evidence only with the leave of the County Disciplinary Committee.

### **3.16. Time Limits**

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

### **3.17. Adjournment**

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

### **3.18. Chair of the County Disciplinary Committee's right to stop the proceedings**

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

### **3.19. Absence**



Notwithstanding the provisions of Section 3.5. of this Regulation the County Disciplinary Committee may reach a decision and impose a penalty, if the accused club / member /members is /are absent from the Disciplinary Hearing, provided that the accused 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 County Disciplinary Committee cannot agree, the verdict of the County Disciplinary Committee will be that decided by the majority of its members.

### **3.21. Report of the County Disciplinary Committee**

At the termination of the proceedings, the Chair of the County 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 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 club/member/members, penalties may be imposed on the accused club/member/members by the County Disciplinary Committee. The decision of the County Disciplinary Committee shall normally be communicated to the accused club/member/members immediately after the hearing and followed up in writing to the accused 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 County Disciplinary Committee will give consideration to the seriousness of the misconduct, the circumstances of the misconduct, and the general circumstances of the accused 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 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 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 Club/member/members fulfilling certain stipulated conditions as imposed by the County 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 County 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 Club, excluded from certain activities of Bowls Oxfordshire and/or Bowls England, in the case of member/members excluded from certain activities of his/her Club and/or Bowls Oxfordshire and/or Bowls England, such as participating in competitive bowls, for a defined period of time.
- f) In the case of a Club, suspended from Bowls Oxfordshire and/or Bowls England for a defined period of time, in the case of member/members suspended from his/her Club and/or Bowls Oxfordshire and/or Bowls England for a defined period of time.
- g) In the case of a Club expelled from Bowls Oxfordshire and/or Bowls England for an indefinite period of time, in the case of member/members expelled from his/her Club and/or Bowls Oxfordshire 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 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 disciplinary hearing and any decision of this County 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 County Disciplinary Committee will decide in accordance with the provisions of Sections 10 and 11 or 12 of this Regulation, either that the suspension or expulsion will take effect immediately or in the event of an appeal to Bowls England they may decide that the suspension or expulsion should be held in abeyance until that appeal procedure has been finalised. Where appropriate the provisions of Section 13 of this Regulation, relating to Notification of Expulsion or 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 County Disciplinary Committee regarding suspension or expulsion shall only be overturned by virtue of any appeal procedures. An accused 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 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 BOWLS ENGLAND**

### **5. Appeal from the Bowls Oxfordshire Disciplinary Committee to Bowls England**

5.1. a) In the event of an allegation of misconduct having been upheld by the County Disciplinary Committee the accused Club/member/members must be advised in writing of their/his/her right to appeal to Bowls England. 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 Chief Executive of Bowls England by way of a notice of appeal within fourteen days of receipt of written notification of the result of the County Disciplinary Hearing.

b) The notice of appeal must set out the grounds of appeal and the appellant/appellants may be required by the Chief Executive of Bowls England to provide a further written submission setting out further details of the grounds of appeal within a specified period.

### **5.2. Bowls England Appeal Hearing**

Subject to section 5.4 of this Regulation the governing body of Bowls England shall arrange for a hearing of such appeal either by way of a review hearing or

re-hearing. The date of the Bowls England Appeal Hearing shall if possible be agreed with the appellant/appellants. Bowls England shall provide three dates of availability, which must be within 42 days of the date of receipt of the written notice of appeal by the Chief Executive of Bowls England, or, if required, 28 days after further details of the grounds of appeal have been received by the Chief Executive of Bowls England or as soon as practicable thereafter. In any event the Bowls England Appeal Hearing must take place within 90 days of receipt of the written notice of appeal by the Chief Executive of Bowls England, notwithstanding failure to agree such date with the appellant/appellants. In the event of failure to agree on such date the decision of Bowls England as to the date of the Bowls England 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 Bowls England Appeal 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 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 Bowls England Appeal Committee need not necessarily be members of Bowls England. Bowls England shall appoint one of the Bowls England Appeal Committee to be the Chair thereof. Each member of the Bowls England Appeal Committee must declare any known conflict with the appellant/appellants or any representative of the parties.

b) The names of the appointed/delegated members of the Bowls England Appeal 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 County Disciplinary Committee unless Bowls England considers at its 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 Bowls England should hold a re-hearing in which case the procedure set out in Sections 7 and 8 of this Regulation shall apply.

### **5.5. Assistance to the Bowls England Appeal Committee**

The Chair of the Bowls England Appeal Committee may appoint a person to act as Clerk to the Bowls England Appeal Committee, who may be legally

qualified, to give assistance to the Bowls England Committee as it thinks fit. The Chair will also arrange for minutes of the proceedings to be taken. The President of Bowls Oxfordshire will either present the case himself or appoint a representative to do so, who may be legally qualified.

## **6. Procedure for Bowls England Review Hearing (see also Section 8)**

6.1. If the matter is to proceed by way of a Bowls England Review Hearing the Bowls England 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.

### **a) Evidence**

The Bowls England 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 County Disciplinary Committee.

### **b) Standard and Burden of Proof**

The burden of proof shall be with the appellant/appellants. The Bowls England 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.

### **c) Findings of the Bowls England 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 Bowls England 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 Bowls England Committee in an appeal against penalty only**

Where the appeal is against penalty only, the Bowls England 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 a 13 of this Regulation relating to Expulsion and Suspension, shall apply. When determining an appeal against penalty, the Bowls England 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 Bowls England Review Hearing**

In those cases where suspension or expulsion was imposed prior to the Bowls England Review Hearing, that decision to suspend or expel shall expire at the final decision of the Bowls England Review Hearing and any decision of the Bowls England Appeal Committee shall apply from thereon.

Where appropriate the provisions of Sections 10, 11, 12 and 13 of this Regulations 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 Bowls England Re-Hearing (see also Section 8)**

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

The Chair of the Bowls England Appeal Committee or nominee on behalf of that Committee shall call for written witness statements in support of the appeal 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 they/he/she requires to attend the hearing to give oral evidence and those witnesses they/he/she is agreeable to the Appeal 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 Club shall be present at the Bowls England Re-Hearing and may be represented by an advisor, friend or other representative, who may be legally qualified. If the appellant/appellants or the delegated member of the appellant club is/are so represented, should it become necessary to ensure good order at the Bowls England Re-Hearing, the Chair of the Bowls England Appeal Committee may stipulate that the appellant/appellants or the delegated member of the appellant 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 Bowls England Appeal Committee. Members of the Bowls England Appeal Committee may ask questions of any witness. The Bowls England 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 Bowls England 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 Bowls England Re-Hearing**

The burden of proof shall be with Bowls Oxfordshire and the Bowls England 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 Bowls England Appeal Committee will rely solely on evidence presented at the Bowls England Re-Hearing in accordance with Section 7.1 of this Regulation.

## **7.7. Relevance**

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

## **7.8. Opening and Closing Addresses**

The County Case Presenter shall be entitled to address the Bowls England 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 club or their/his/her representative, may address the Bowls England Appeal Committee before calling witnesses and after the County Case Presenter's final address.

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

The complaint against the appellant/appellants will be put first. The County 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 Club or their/his/her representative. Witnesses may be re-examined by the County 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 Club or their/his/her representative may submit that no case has been made. The County Case Presenter has the right to reply. If the Bowls England 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 Club may then give evidence. At the conclusion of the appellant/appellants or the appellant Club Delegate's evidence, the County Case Presenter may cross examine. The appellant/appellants or the delegated member of the appellant club may give evidence in reply to clarify matters raised in cross examination. The appellant/appellants or the delegated member of the appellant 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 giving further evidence only with the leave of the Bowls England Appeal Committee.

### **7.13. Imposition of penalties following a Bowls England Re-hearing**

If the Bowls England Appeal Committee considers that the allegation of misconduct has been proved against the appellant/appellants or the appellant club, penalties may be imposed on the appellant/appellants or the appellant club by the Bowls England 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 Appellant Club is/are technically found to have had proved against him/her/them 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 Appellant/Appellants or Appellant Club fulfilling certain stipulated conditions as imposed by the Bowls England 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 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 an appellant Club, excluded from certain activities of the County Association and/or Bowls England, in the case of appellant/appellants excluded from certain activities of his/her Club and/or Bowls Oxfordshire and/or Bowls England, such as participating in competitive bowls, for a defined period of time.

f) In the case of an appellant Club, suspended from Bowls Oxfordshire and/or Bowls England for a defined period of time, in the case of appellant/appellants suspended from his/her Club and/or Bowls Oxfordshire and/or Bowls England for a defined period of time.

g) In the case of an appellant Club expelled from Bowls Oxfordshire and/or Bowls England for an indefinite period of time, in the case of appellant/appellants expelled from his/her Club and/or Bowls Oxfordshire 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 Appellant 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 Bowls England Re- Hearing, that decision to suspend or expel shall expire at the final decision of the Bowls England Re-Hearing and any decision of this Bowls England Appeal Committee shall apply from thereon.

Where appropriate the provisions of Sections 10, 11, 12 and 13 of this Regulation shall apply. An appellant club or appellant/appellants 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 club or appellant/appellants is/are found to have had proved against 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

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

When determining penalties, the Bowls England Appeal Committee will give consideration to the seriousness of the misconduct, the circumstances of the misconduct, and the general circumstances of the appellant club or appellant/appellants. 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 Bowls England Review Hearings and Bowls England Re-Hearings**

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

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

#### **8.2. Adjournment**

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

#### **8.3. Chair of the Bowls England Appeal Committee's right to stop the proceedings.**

The Chair of the Bowls England Appeal Committee has the power to suspend the activity of the Bowls England Appeal Committee at any time, and to stop the Bowls England 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 Bowls England Appeal Committee may reach a decision and impose a penalty, if the appellant/appellants is/are absent from the Bowls England 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 Bowls England Appeal Committee cannot agree, the verdict of the Bowls England Appeal Committee will be that decided by the majority of its members.

## **8.6. Notification of Verdict**

The decision of the Bowls England 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 Bowls England Appeal Hearing**

After the termination of the Bowls England Appeal Hearing, the Chair of the Bowls England Appeal Committee will write a short report confirming the outcome. If the proceedings were a Bowls England Review Hearing and the appeal was dismissed or were a Bowls England 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 Bowls England Appeal Committee**

The decision of the Bowls England Appeal Committee shall be final.

## **8.9. Costs of Bowls England Appeal Hearing**

If any Bowls England Appeal Hearing is abandoned within 48 hours of a scheduled hearing or is dismissed after a hearing then the Bowls England Appeal Committee may, if they think appropriate, make an award of costs and expenses against the appellant/appellants in such sum as the Bowls England 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 which are 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 by any Club as the result of disciplinary proceedings or as a result of an appeal to Bowls Oxfordshire or Bowls England 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 case 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 County Disciplinary Hearing shall, if there is no appeal to Bowls England, be immediately reported to the Chair of the National Governing Body. In the event of an appeal to Bowls England no such notification will be made until the result of the appeal is known.

b) Each County shall, as cases arise, send to all Affiliated Clubs within the County 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. In the case of an appeal, the notification will not be made until the result of the appeal is known. Such notification shall not be implemented in those cases where expulsion or suspension, in accordance with Section 11 and Section 12 of this Regulation, has been qualified by a statement that there would be no objection to the member joining another Club.