



POLICY TITLE: DISCIPLINARY POLICY

RELATED POLICIES: Constitution

RESPONSIBLE OFFICERS: Audit, Risk and Policy Committee

AUTHORITY: Bowls Australia Board

APPLICABLE FORMS: Request for Disciplinary Hearing form
Submission to the Judiciary Committee form
Request for an Appeals Hearing form
Submission to the Appeals Committee

APPROVED: March, 2015

NEXT REVIEW DATE: March, 2017

1. INTRODUCTION

- 1.1 This policy should be read in conjunction with the Bowls Australia constitution (**Constitution**), accessible via www.bowlsaustralia.com.au.

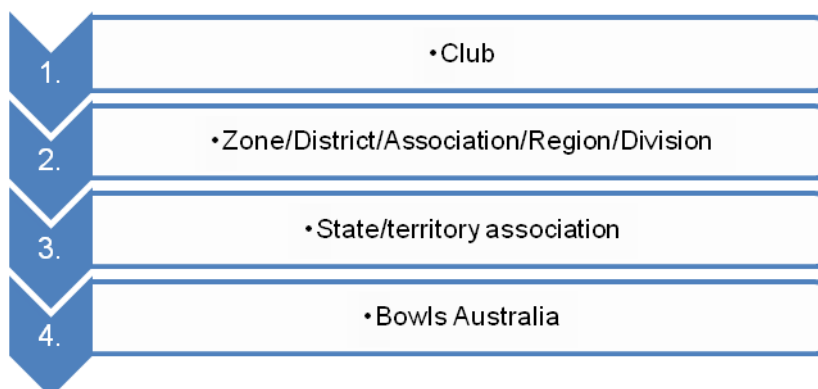
2. DEFINITIONS AND INTERPRETATION

- 2.1 Terminology used within this policy is consistent with the Constitution.
- 2.2 For clarity, Controlling Body has the same meaning in this policy as in Law 1.1 of the "Laws of the Sport of Bowls - Crystal Mark Third Edition" (**Laws of Sport**).
- 2.3 All other defined terms and expressions shall have the same meaning as in the Constitution and the Laws of the Sport. In the event of any conflict, the definition in the Constitution shall prevail.

3. APPLICATION OF POLICY

- 3.1 This policy will apply to the following parties or circumstances:
- 3.1.1 To any member of a Controlling Body which has no disciplinary provisions in place, or;
- 3.1.2 To any Individual Member who:
- 3.1.2.1 has otherwise exercised all disciplinary procedures available through a Controlling body (and specifically with such disciplinary procedure being exhausted in accordance with the order that is set out a figure 1); and
- 3.1.2.1.1. Such Individual Member retains a right to appeal any such decision of the Controlling Body under the respective disciplinary procedure. For the avoidance of doubt, where a disciplinary procedure under a Controlling Body stipulates that there is no right to appeal the decision of such Controlling Body, an appeal under this Policy is not available.

Figure 1:



- 3.1.3 To Individual Members participating in events, teams or squads which are subject to the authority of BA;

- 3.1.4 In respect of any disciplinary matter involving an Individual Member or Official which is referred from a subordinate Controlling Body and which in the opinion of the BA Board is an appropriate matter for Bowls Australia to determine.
- 3.1.5 Any dispute between Member States.
- 3.1.6 A match fixing matter which the Board determines requires review by the Judiciary Committee, following receipt of the results of an investigation in accordance with the Match Fixing Policy.

4. DISCIPLINE OF MEMBERS

4.1 Matters which may be referred to Judiciary Committee (JC)

- 4.1.1 An allegation referred to BA that a Controlling Body or person referred to in clause 3.1 above has:
 - 4.1.1.1 breached, failed, refused or neglected to comply with the Constitution, any BA policy or any resolution or determination of the Board or other entity exercising delegated authority of BA (except as provided for in the Laws of the Sport);
 - 4.1.1.2 Acted in a manner unbecoming of a Member or prejudicial to the objects and interests of BA, a Controlling Body and/or the sport of bowls;
 - 4.1.1.3 Brought themselves, another member, BA, a Controlling Body or the sport of bowls into disrepute.
- 4.1.2 A match fixing matter that the Board considers should be determined by the JC.
- 4.1.3 Allegations must be received on the prescribed form, *Request for Disciplinary Hearing form*, attached to this policy. The referral shall be clear and unambiguous, stating precisely the matter to be determined.

4.2 Verification of documentation

- 4.2.1 Following receipt of a request for a JC to be convened, the Board shall determine that:
 - 4.2.1.1 The allegation is not vexatious, ambiguous, trifling or frivolous;
 - 4.2.1.2 BA has received copies of any hearings held at levels below BA (if applicable);
 - 4.2.1.3 Any rules relating to hearings held at levels below BA allow for an appeal of that decision (if applicable);
 - 4.2.1.4 The documentation provides sufficient information to outline the complaint;
 - 4.2.1.5 Continued participation in the sport during investigation or disciplinary procedures, including Appeal, is in accordance with the Constitution (in particular, see Clause 7.3.2).

4.2.2 Following confirmation that all requirements under 4.2.1 are met, the Board is to refer the matter to a JC.

4.3 **Membership of the JC**

4.3.1 The JC shall be comprised of three persons appointed by the Board from time to time, being:

4.3.1.1 A member of the Board;

4.3.1.2 A member of a BA committee (i.e. National Officiating Advisory Group, National Coaching Advisory Group, National Selectors) as determined by the Board from time to time;

4.3.1.3 One other member as determined by the Board.

4.3.2 The Board will appoint a Chair and a Secretary from those listed in 4.3.1.

4.3.3 No person shall accept a position on the JC should they hold a conflict of interest in the alleged matter.

4.4 **Convening a JC**

4.4.1 On receipt of the documentation from the Board, the Secretary of the JC shall, in consultation with the remaining committee members, determine an appropriate date, time and place for the hearing. The meeting shall take place no less than 14 days and no more than 28 days from the receipt of the referral.

4.4.2 If the matter is deemed by the Board or JC to require urgent attention, the JC may agree on a variation of the time frame set having regard to matters such as, but not limited to, the availability of key witnesses and timing of relevant competitions.

4.4.3 The Secretary of the JC shall then serve on the Controlling Body or person referred to in clause 3.1 who is the subject of any allegation referred to in clause 4.1 a notice in writing:

4.4.3.1 Setting out the alleged breach and the grounds on which it is based;

4.4.3.2 Stating that the Controlling Body or person may address the JC at a hearing;

4.4.3.3 Stating the date, place and time of that hearing;

4.4.3.4 Informing the Controlling Body or person that it, he or she may do one or more of the following:

4.4.3.1.1 Attend that hearing;

4.4.3.1.2 Give the JC, before the date of that hearing a written statement regarding the alleged breach.

4.4.4 The Secretary of the JC shall also notify the other members of the JC and the following parties (if appropriate)4.4. of the date, time and place of the hearing:

4,4,4,1 The complainant;

4.4.4.2 Relevant Controlling Body;

4.4.4.3 Member State of the defendant and complainant.

4.4.5 The parties listed in 4.4.3, 4.4.4.1, 4.4.4.2 and 4.4.4.3 are:

4.4.5.1 Permitted to provide a written submission to be received on the prescribed form, *Submission to the Judiciary Committee*, to the JC to be received not less than five days prior to the date of the hearing – subject to the provisions in 4.4.2;

4.4.5.2 Permitted to appear at the hearing and/or be represented by a person. This person is not permitted to be legally qualified. In The case of minors, it is mandatory that they are accompanied by an adult who can assist in representing their interests.

4.4.5.3 Permitted to have a support person accompany them to the proceedings, who cannot speak during the hearing – unless permitted by the chair of the JC;

4.4.5.4 Required to notify the JC Secretary of those appearing before the JC no less than five days prior to the hearing – subject to the provisions in 4.4.2.

4.5 Meeting of the JC

4.5.1 The JC shall hear and determine the alleged breach in whatever manner it considers appropriate in the circumstances (including by way of teleconference, video conference or otherwise) provided that it does so in accordance with the principles of natural justice. The purpose of the hearing shall be to determine whether the alleged breach occurred. For the avoidance of doubt, the JC will not be bound by rules of evidence, or unnecessary formality.

- 4.5.2 At a hearing of the JC the JC shall:
- 4.5.2.1 Give to the Controlling Body or person who is the subject of allegation the opportunity to be heard;
 - 4.5.2.2 Give due consideration to evidence submitted to the JC whether in the form of a written statement or by way of oral evidence; and
 - 4.5.2.3 By resolution determine whether the alleged breach occurred.
- 4.5.3 The JC will determine the order of verbal submissions at the hearing and conduct the hearing as it sees fit. The JC shall be entitled to call such witnesses and evidence as it thinks fit and all Members, Individual Member, officials or other parties subject to these regulations shall be required to provide evidence as they are able.
- 4.5.4 All interested parties must be advised of the order of verbal submissions prior to the commencement of the proceedings.
- 4.5.5 The JC may adjourn the hearing should the need arise.
- 4.5.6 Should the JC find that the allegations are proven; the JC is empowered to impose penalties on the person/parties based on clause 4.7.
- 4.5.7 Should the JC find the allegations unproven the referral shall be dismissed.
- 4.5.8 All parties shall bear their own costs.
- 4.5.9 The JC has no power to award costs.

4.6 Decision

- 4.6.1 The decision will be by majority decision.
- 4.6.2 The Secretary is to provide the remaining JC members with the minutes of the meeting for ratification within three days of the hearing.
- 4.6.3 The Secretary is to provide the ratified minutes to the Chief Executive Officer for distribution to the Board within six days of the hearing.
- 4.6.4 The Chief Executive Officer is to circulate the decision of the JC to the parties listed in clause 4.4.3 within seven days of receiving the documentation.
- 4.6.5 The Chief Executive Officer is to ensure that the penalties are enacted.

4.7 Penalties

- 4.7.1 Penalties which may be determined, subject always to any limitations in the relevant legislation or the Laws of the Sport include:
- 4.7.1.1 A reprimand(s);
 - 4.7.1.2 A fine(s);

4.7.1.3 Suspension(s), from all bowls activities, on such terms and for such period as is considered fit;

4.7.1.4 Exclusion(s) from a particular activity, event or events;

4.7.1.5 Disqualification(s), for such period as is considered fit, including life bans;

4.7.1.6 Termination of membership – with the exception of Member States (refer to Constitution clause 8);

4.7.1.7 Any other penalty considered appropriate, including education programs.

4.8 Consequences of Penalty

4.8.1 Where a Member State (as a member) is suspended under this policy and the Constitution, its membership of, and representation rights and privileges in, BA shall be forfeited during the period of such suspension.

4.8.2 Where a Member State (as a member) is expelled under this policy and the Constitution, its membership of, and representation rights and privileges in, BA shall be forfeited immediately and membership shall cease.

4.8.3 The controlling bodies, individual members and other relevant parties having rights, privileges and obligations in respect of BA through the Member State (as a member) which has been expelled or suspended under these regulations shall not automatically cease to exercise all such rights and privileges or be subject to all such obligations, but shall continue to exercise the rights, privileges and obligations until a contrary determination is made by the Board.

4.8.4 Where a controlling body, official or individual member is suspended under these regulations, all privileges in BA and any other relevant controlling body shall be forfeited during the currency of the suspension.

4.8.5 Where a controlling body, official or individual member is expelled under these regulations its privileges in BA and any other relevant controlling body shall be forfeited immediately.

4.8.6 Notice of any penalty, suspension or disqualification imposed shall be given by the chief executive officer to all Member States, and shall be mutually recognised by all Member States immediately upon receipt of such notice.

4.8.6.1 The Member States will immediately forward such notice on to controlling bodies within its jurisdiction, and on receipt of the notice, the relevant penalty, suspension or disqualification shall be mutually recognised by the controlling bodies.

4.8.6.2 Reinstatement of any member, individual member, official or other party subject to these regulations by BA shall be recognised by the Member States immediately upon receipt of notice to this effect.

4.8.6.3 The Member States will immediately forward such notice on to the controlling bodies within its jurisdiction, and reinstatement of any member, individual member official or other party subject to these regulations shall be recognised by the controlling bodies immediately upon receipt of notice to this effect by the relevant controlling body.

5. MATTERS REFERRED TO APPEALS COMMITTEE (AC)

5.1 Matters which may be referred to Appeals Committee

5.1.1 A party listed in 4.4.3.1, 4.4.3.2, 4.4.3.3 and 4.4.3.4 can lodge an appeal to the decision of the JC based on the following grounds:

5.1.1.1 That a decision is wrong having regard to the application of the relevant rule, regulation, policy or law of the sport;

5.1.1.2 Where new evidence becomes available;

5.1.1.3 That natural justice has been denied; or

5.1.1.4 That the penalty is inconsistent with 4.7.

5.1.2 Applications to convene an AC must be received on the prescribed form, *Request for an Appeals Hearing form*, attached to this policy accompanied by the sum of \$2,000 in clear funds to BA as a bond.

5.1.3 Applications must be received within 14 days of circulation of the minutes of the findings of the JC.

5.2 Verification of documentation

5.2.1 Following receipt of a request for an AC to be convened the Board shall confirm that the submission fulfils the criteria of 5.1.

5.2.2 Following confirmation that all requirements under 5.2.1 are met, the Board are to commence the process of referral to an AC.

5.3 Membership of the AC

5.3.1 The AC shall be comprised of three persons appointed by the Board, being:

5.3.1.1 A legally qualified person, recommended by the chief executive officer;

5.3.1.2 Two members of the Board or State Consultative Body nominated by the Board. In the event of a match fixing or anti-doping related appeal, two persons with appropriate skills to hear the matter.

5.3.1.2.1 Clause 5.3.1.2 must not include any members from the initial JC hearing.

5.3.2 The Board will appoint a Chair and Secretary from those listed in 5.3.1.

5.3.3 No person shall accept a position on the AC should they hold a conflict of interest in the matter.

5.4 **Convening a AC**

5.4.1 On receipt of the documentation from the Board, the Secretary of the AC shall, in consultation with the remaining committee members, determine an appropriate date, time and place for the hearing. The meeting shall take place no less than 14 days and no more than 28 days from the receipt of the referral.

5.4.2 If the matter is deemed by the Board or AC to require urgent attention, the AC may agree on a variation of the time frame set having regard to matters such as, but not limited to, the availability of key witnesses and timing of relevant competitions.

5.4.3 The Secretary of the AC shall notify the other members of the AC and following parties (if appropriate) of the date, time and place of the hearing:

5.4.3.1 The defendant;

5.4.3.2 The complainant;

5.4.3.3 Relevant Controlling Body;

5.4.3.4 Member State of the defendant and complainant.

5.4.4 The parties listed in 5.4.3.1, 5.4.3.2, 5.4.3.3 and 5.4.3.4 are:

5.4.4.1 Permitted to provide a written submission to be received on the prescribed form, *Submission to the Appeals Committee*, to the AC to be received not less than five days prior to the date of the hearing;

5.4.4.2 Permitted to appear at the hearing and/or be represented by a person, however shall not be permitted to be represented by a person who is legally qualified. In the case of minors, it is mandatory that they are accompanied by an adult who can assist in representing their interests;

5.4.4.3 Permitted to have a support person accompany them to the proceedings, who is permitted to speak at the hearing;

5.4.4.4 Required to notify the AC Secretary of those appearing before the AC no less than five days prior to the hearing – subject to the provisions in 5.4.4.1.

5.5 Meeting of the Appeals Committee

- 5.5.1 The AC shall hear and determine the alleged breach in whatever manner it considers appropriate in the circumstances (including by way of teleconference, video conference or otherwise) provided that it does so in accordance with the principles of natural justice. The purpose of the hearing shall be to determine whether the alleged breach occurred. For the avoidance of doubt, the AC will not be bound by the rules of evidence, or unnecessary formality.
- 5.5.2 At a hearing of the AC the AC shall:
 - 5.5.2.1 Give to the Controlling Body or person who is the subject of allegation the opportunity to be heard;
 - 5.5.2.2 Give due consideration to evidence submitted to the AC whether in the form of a written statement or by way of oral evidence; and
 - 5.5.2.3 By resolution determine whether the alleged breach occurred.
- 5.5.3 Will determine the order of verbal submissions at the hearing and conduct the hearing as it sees fit.
- 5.5.4 The AC will determine the order of verbal submissions. All interested parties must be advised of the order of verbal submissions prior to the commencement of the proceedings.
- 5.5.5 The AC may adjourn the hearing should the need arise.
- 5.5.6 The hearing of the appeals committee is not a rehearing of the matter, but a hearing of the issue under appeal only.

5.6 Decision

- 5.6.1 The decision will be a majority decision.
- 5.6.2 The AC may make a decision based on the items detailed in 5.1.1.
- 5.6.3 The AC may in its discretion confirm the penalty of the JC or may decide not to confirm such penalty but instead impose an alternate penalty available under 4.7.1.
- 5.6.4 Should the AC find the allegations unproven the referral shall be dismissed.
- 5.6.5 If the AC revokes the penalty or finding of the JC the bond shall be refunded in full to the party appealing within 14 days of the determination of the AC.
- 5.6.6 The AC may in its complete discretion determine that a portion or the entire bond shall be refunded to the party appealing within 14 days of the decision of the AC if it is satisfied that the appeal was not frivolous.
- 5.6.7 The Secretary is to provide the remaining AC members with the minutes of the meeting for ratification within three days of the hearing.

- 5.6.8 The Secretary is to provide the ratified minutes to the Chief Executive Officer for distribution to the Board within six days of the hearing.
- 5.6.9 The Chief Executive Officer is to circulate the decision of the AC to the parties listed in 5.4.3 within seven days of receiving the documentation.
- 5.6.10 The Chief Executive Officer is to ensure that all penalties are enacted.
- 5.6.11 Decisions of the AC are final and no further appeals are permitted.
- 5.6.12 All parties shall bear their own costs.
- 5.6.13 The AC has no power to award costs.