

WDCU DISCIPLINARY & APPEALS POLICY & PROCEDURES

1. INTRODUCTION

1.1. Overview

The WDCU Constitution provides for all disciplinary matters and appeals against decisions of other WDCU Committees and Sub Committees to be referred to and heard by the WDCU Disciplinary & Appeals Sub Committee (“the Committee”). This document summarizes the policy and procedures under which this Committee will operate. Such matters are fully delegated by the WDCU Executive Committee to the Committee. The Committee has three appointed standing members, including a Chair. A Discipline & Appeals Panel (“the Panel”) has been established from which members shall be selected to hear cases.

The Committee delegates to the Panel the functions of hearing and determining all complaints that a person subject to these Rules has been guilty of cricket related misconduct in the jurisdiction of the WDCU, as well as all appeals as noted above, including appeals against decisions made on disciplinary matters, provided always that in any such appeals against disciplinary decisions the Panel shall comprise of different members to those involved in the original decision. In the case of appeals against decisions of other WDCU Committees, the Panel shall also comprise members not involved in the original decision.

The WDCU Administrator (“the Administrator”), whom failing an alternative appointed by the Committee shall be responsible for the management of these procedures in conjunction with the Committee and Panel.

1.2 Cricketing misconduct

For the purposes of these Rules, “cricket related misconduct” means—

- (a) an offence under the Code of Conduct;
- (b) any other conduct connected with the game of cricket that is detrimental to its best interests.

1.3 Persons subject to the Code

The following persons are subject to these Rules—

- (a) Clubs or associations which are members of, or affiliated to WDCU
- (b) an individual who is a member of a club or association that is itself a member of WDCU

1.4 Objective of the Policy

The objective of this Policy is to ensure that the hearing and determination of all complaints in relation to which the Committee and Panel has functions under these Rules is achieved in a manner that is

- (c) Fair, which is defined as meeting basic principles of natural justice
- (d) consistent with the manner in which other relevant cases are dealt with,
- (e) efficient, and
- (f) speedy.

NOTE: Whenever any action or decision is taken under this policy, the person taking it must do so with a view to giving effect to the objective set out in this paragraph (1).

2. THE COMMITTEE AND PANEL

2.1 Membership of the Committee and the Panel

The WDCU Executive Committee are responsible for appointing the Chairman and at least two other members of the Committee for the purposes of dealing with complaints of misconduct and appeals of decisions of WDCU Sub Committees.

- (1) The Committee, in conjunction with the Administrator, shall in turn appoint members to the Panel. The Committee members themselves shall be members of the Panel. There shall be no specific number of members appointed to the Panel, and additional members may be appointed in the course of the season as required.
- (2) Each member of the Panel must be an eligible individual as defined below.
- (3) It is recommended that there is a qualified lawyer on the Committee, and that the Panel should have representation from member clubs as well as the umpires' organization.
- (4) For the purpose of paragraph (3), an individual is an "eligible individual" if he has, in the opinion of the Committee, an appropriate level of experience and knowledge of the game of cricket.
- (5) If a vacancy in the membership of the Committee arises (by reason of resignation, death or any other cause) the WDCU Executive Committee must appoint an eligible individual to fill the vacancy as soon as practicable. Vacancies in the Panel may be filled as appropriate, but there is no obligation to do so.
- (6) The Panel must in ordinary circumstances be chaired by a member of the Committee, although the Chair may vary from time to time. Should a situation arise where none of the Committee are eligible or available to sit on the Panel for a particular hearing, the Committee may appoint a member of the Panel to act as Chair in these circumstances

only. The Chairman of the Committee may appoint an *ad hoc* member or members to determine any complaint (or appeal, as the case may be) if it is impractical for any reason to constitute a Panel from those appointed in accordance with this rule provided that (a) the person so appointed is an eligible individual, and (b) the *ad hoc* member shall not be entitled to sit as chairman of the Panel.

2.2 Remuneration and expenses

The WDCU may make such provision as it thinks fit for a member of the Committee, the Panel, or the Administrator to be reimbursed for out-of-pocket expenses.

2.3 Regulation of procedure under the Code

- (1) The Committee (including the Panel in relation to a particular complaint)—
 - (a) has power to regulate its own procedure;
 - (b) may waive any procedural requirement under these Rules.

3 INITIAL PROCEDURE -DISCIPLINARY

3.1 Right of complaint

Any person, whether or not a member of WDCU, may make a complaint that a person subject to these Rules has been guilty of cricketing misconduct in the WDCU jurisdiction.

3.2 Formal requirements of a complaint

1) WDCU Appointed Umpires

Appointed umpires must submit details to the Administrator on the Umpires Discipline Report form in line with the protocols outlined on that form for any incident that has occurred during the match or while they were present at the ground.

2) Club/player umpires & captains

In circumstances where there are no WDCU appointed umpires, club/player umpires/captains must provide details via their Club Secretary or President in written form addressed to the Administrator (email is preferred). The report should include:

- (a) Details of the match in question
- (b) The name(s) of the parties involved
- (c) Brief details of the incident(s) leading to the report being made

NOTE: It should be remembered that this is for details of alleged cricketing misconduct under the code of conduct, and not alleged poor player umpiring or ground conditions etc., which are not matters for the Disciplinary Committee., and should be advised separately to the WDCU Administrator.

3) All other Complaints

Any other person wishing to submit a complaint must provide details in writing to the Administrator including:

- (a) the date and place of the alleged cricketing misconduct;
- (b) the name of the respondent;
- (c) the name of any club of which the complainer believes the respondent is a member;
- (d) the basis on which it is alleged that the respondent is subject to these Rules in accordance with Rule 1.3;
- (e) Full details of the alleged cricketing misconduct.

NOTE: Where the complainer is a member of a WDCU club, this should be submitted via the Club Secretary.

The complainer must provide the Administrator with contact details including an email address.

3.3 Time-limit for complaints

A complaint must be made to the Administrator on the basis outlined above within 7 days of the alleged cricketing misconduct

The Administrator may exceptionally refer a complaint made outwith this time period to the Committee where he considers that the circumstances may warrant it.

3.4 Investigation of complaints

(1) Club responsibilities

Clubs are required to carry out their own internal investigation into incidents involving their players/members following receipt of the communication from the Administrator. This should be done promptly, and a written report of the outcome submitted to the WDCU via the Administrator prior to any WDCU disciplinary hearing or Panel review. Failure to do so without good reason may result in further action being taken against the club.

(2) WDCU responsibilities

On receipt of valid communication of complaint the Administrator must:

- (a) Contact the Secretary or another senior official of the Club whose player(s) or team have been reported and inform them of the details, providing a copy of the relevant umpires' report form or other formal complaint.
- (b) Request a response from the Club within 5 days. This may be extended by exception, but an initial response should be able to be provided in most circumstances.
- (c) Draft a summary report and circulate to the Committee with a recommendation for what course of action should be taken, including reasons. This may include:
 - a charge or charges being made
 - Further information being sought
 - No formal action being taken

This summary report should normally be provided within 48 hours of the response from the respondent's Club. Should he consider that a charge is not appropriate he should summarize the reasons to the Committee.

The Committee must advise the Administrator within 7 days if they are in agreement with the proposed course of action, or, if not, communicate their decision as to the course of action to be taken instead.

In investigating a complaint, the Administrator and the Committee may—

- (a) seek to obtain reports or statements from any person that they consider appropriate, and
- (b) consider any other matter of fact that they consider to be relevant.

The Administrator and Committee must complete their investigation into a complaint within a reasonable time after receiving the complaint.

The complaint may be rejected if it is deemed to be unfounded in fact or law, frivolous or vexatious. The Administrator must obtain agreement of the Committee before rejecting a complaint.

A charge may be amended by the Committee, and in this case, the amended charge should be notified to the respondent.

When rejecting a complaint or amending a charge, all relevant information, and a summary of the reasons for doing so should be supplied to the Committee.

Where the Committee consider it appropriate that a charge or charge(s) are made, full details should be provided by the Administrator to the respondent(s) via their club(s).

- i) notifying him that a complaint has been made against him;
- ii) enclosing a copy of the charge, a copy of the Rules, and, where appropriate, a copy of the decision by the member of the Committee to allow the complaint to proceed out of time;

The Committee and Administrator will appoint a Panel to deal with the case, and agree a date for any hearing should this be required. The respondent will be given at least 7 days' notice of the date and venue for a hearing.

Should the Committee consider that the actions taken by a player's Club as outlined above are sufficient in themselves, they may at their discretion ratify the actions and penalties imposed by the Club and these will then be adopted as the penalties imposed by the WDCU. If they do not consider that a club has dealt with the matter adequately, the hearing process will apply.

NOTE 1: Level 1 or Level 2 charges will generally be dealt with by email or telephone where the respondent has accepted the charge(s) and where they have waived their right to a hearing, and where the Panel do not deem a hearing to be required.

NOTE 2: More serious charges will, in almost all circumstances, result in a hearing, and this should usually be held within 14 days of the intimation of the charges.

4. DISCIPLINARY HEARING

4.1 The hearing will be conducted by the appointed Panel, which shall be constituted on the basis outlined above. The names of the Panel should be provided to the respondent.

4.2 At least 7 days' notice shall be provided for the hearing, and any supporting witness statements should be provided to the Panel no less than 24 hours before the date of the Hearing.

4.3 The Hearing may be adjourned at the sole discretion of the Chairman.

4.4 The relevant player(s) (or in the case of charges against a club, the club officials), will be required to attend the hearing unless otherwise agreed and state their case, and are entitled to be supported by a representative and call witnesses.

5. CONDUCT OF DISCIPLINARY HEARING

The following key points define the conduct of the hearing:

- 1) Documentary evidence must be put before the Panel prior to or at the hearing, and oral evidence may in addition be presented to the hearing sufficient to establish that the respondent has been guilty of cricketing misconduct. The standard of proof is the balance of probabilities rather than beyond reasonable doubt.
- 2) The Panel may at any time before the oral hearing in its discretion hold a procedural hearing for the discussion of any procedural or other issues that it considers relevant.
- 3) A hearing is not a court of law and the decision of the Chairman of the Panel on its procedure shall

be final.

4) The respondent is entitled to be supported by a colleague. There is no right to legal representation but the Panel would normally permit the accused person to be legally represented provided the attendance or otherwise of the legal representative is not used as a 'delaying tactic' and that their attendance is notified to the Administrator and Chair of the Hearing at least 48 hours before the hearing.

5) In the case of a minor it is recommended that he should be supported by the club's Child Welfare Officer or other appropriate adult.

6) If the complaint has been made by the umpires, they should be available to give evidence at the hearing if required. This may be done by telephone or social media as noted below.

7) The Panel shall agree the general procedure prior to the commencement of the hearing and the Chairman shall explain that procedure prior to the start of proceedings to all parties.

8) The Panel will speak through its Chairman only, unless he invites others to speak.

9) The Panel may allow the evidence of witnesses to be led over the telephone or by other social media or in any other way.

10) The members of the Panel may ask a witness any question that they think appropriate.

11) A witness whose evidence is presented in support of the charge may be cross-examined only—
(a) if the respondent is represented at the hearing, by the representative;
(b) if the respondent is not represented, through or with the permission of the Chair of the Panel.

The Administrator or an appointed alternative is to act as clerk to the Panel at the hearing.

PANEL DECISION MAKING

1. The Panel will conduct deliberations in private
2. All decisions must be taken by a majority vote.
3. No member may abstain from voting.
4. The Chairman has a deliberative and not a casting vote.

6. PENALTIES

(1) If the Panel determines that the respondent has been guilty of cricketing misconduct which is an offence under the Code of Conduct, it may impose on him any penalty provided for that offence in the Code of Conduct.

(2) If the Panel determines that the respondent has been guilty of any other cricketing misconduct, it may impose the following penalties on him—

- (a) an oral caution as to future conduct;
- (b) a written reprimand;
- (c) suspension from membership of WDCU, or of the club, league or association of which the respondent is a member, for a specific time period or number of matches;
- (d) expulsion from WDCU or the club, league or association of which the respondent is a member;
- (e) any combination of the above.

(3) If the Panel imposes a penalty under paragraph (2)(c) or (d) in respect of a respondent who is not a member of WDCU—

- (a) the Panel must issue a direction to the relevant member requiring it to take such steps as may be necessary to enforce the relevant suspension or expulsion, and
- (b) the relevant member must comply with that direction.²

(4) In paragraph (3), “the relevant member” means the club, league or association—

- (a) of which the respondent is a member, and
- (b) which is itself a member of WDCU.

7 NOTIFICATION OF DECISION AND PENALTY

(1) Where there is an oral hearing, at the close of the hearing the Panel may, as it thinks appropriate—

- (a) reserve its decision to be provided in writing; or
- (b) advise the parties orally of its decision.

- (5) In all cases, the Panel must, as soon as reasonably practicable and in any event not more than 14 days after the date of the close of the hearing, give notice of its determination of the complaint via the Administrator to—
- (a) the respondent,
 - (b) The Discipline & Appeals Committee
 - (c) the complainer.
 - (d) Cricket Scotland, in order that the penalty may be notified to all other relevant governing bodies.
- (6) The notice of the Panel's determination of the complaint must give its reasons which must include a note of the facts which it found to be proved (and the reasons for so finding) and a note of the reasons for the final disposal of the complaint.
- (7) If the Panel determines that the respondent has been guilty of cricketing misconduct, the Panel may publish, in such manner as it thinks appropriate—
- (a) details of the cricketing misconduct,
 - (b) details of the penalty imposed, and
 - (c) the identity of the respondent.

8 APPEALS

8.1 APPEALS AGAINST A DECISION OF THE PANEL

Any Respondent who is dissatisfied with the decision of the Panel or the penalty imposed of a complaint and who wishes to subject that disposal to review, may do so by appealing to WDCU in accordance with the following provisions:

- (a) An appeal against the decision of the Panel is to be on a point of law only.
- (b) An appeal against the penalty imposed by the Panel is permitted
- (c) Appeals will be subject to a financial bond of £100 which will be forfeit if the appeal is rejected, or returned if the appeal is upheld
- (d) The appeal must be made in writing to the Administrator within 7 days of the Panel decision, including reasons, being notified to the respondent in writing.
- (e) The appeal must include sufficient information to identify the decision appealed against, and shall consist of brief, specific, propositions stating the grounds on which it is submitted that the appeal should be allowed. A party who has lodged an appeal shall not be allowed to argue any ground which is not mentioned in this appeal unless it is given leave to do so. The grounds for appeal must be clearly stated. Failure to state grounds for appeal, or invalid grounds for appeal will result in the appeal being rejected.

8.2 APPEALS AGAINST A DECISION OF WDCU EXECUTIVE OR SUB COMMITTEES

As provided for in the WDCU Constitution, there is a right of appeal in respect of any decision by a WDCU Sub Committee or WDCU Executive Committee to the Committee. The Provisions outlined in 5.1 above apply, except that the word "Sub Committee" or "Executive Committee" replaces "Panel" where relevant.

A Panel will be convened in the same manner as outlined in 2 above.

The Panel may request such additional information from the relevant Committee or the party lodging the appeal as they may reasonably require to make their determination.

The Panel may conduct their discussions in person, or by email or other media as required at their discretion unless the appellant specifically requests a hearing to be convened.

The appeal should be heard within a reasonable time period of its submission, taking account of any additional evidence required, and whether a physical hearing is convened.

Where a hearing is convened, the conduct of the hearing will be in accordance with the relevant clauses of 5 above.

The Panel will conduct its deliberations and provide notification of decision and penalty in line with in accordance with the procedure outlined for disciplinary hearings in 7 above.

9.SUSPENSION OF PROCEEDINGS

9.1 This provision applies if, at any time before the final determination of a complaint, the Administrator or any member of the Committee or Panel becomes aware that—

(a) a criminal investigation has been instituted in Scotland with regard to an offence arising from the circumstances that are the subject of the complaint, or

(b) proceedings for such an offence have been instituted in Scotland and not concluded.

The Administrator must immediately—

(c) suspend the complaint, and

(d) give notice to the persons set out in paragraph (7).

9.2 During the period of a suspension, neither the Administrator, the Committee nor the Panel has any power to take any action in relation to the complaint.

9.3 The Administrator must request the police force investigating the matter or the procurator fiscal, as the case may be, to keep him advised of the progress of the investigation or the proceedings.

9.4 If the Administrator or any member of the Committee

(a) receives formal notification from the police force investigating the matter or the procurator fiscal of the conclusion of the investigation or proceedings, or

(b) learns from any other reliable source of the conclusion of the investigation or proceedings then,

The Administrator must immediately—

- (e) lift the suspension of the complaint, and
- (f) give notice to the persons set out in paragraph 6.6 below.

6.6 The persons are—

- (g) the respondent;
- (h) the complainer;
- (i) if the complaint has been appointed to a hearing in accordance with Rule 3.7, the
C o m m i t t e e a n d P a n e l

10. CONFLICTS

For the purposes of these Rules, a person has a “conflict” in relation to a complaint if he has any interest in it such that his involvement in proceedings relating to it would be, or might appear to be, unfair.

11 MULTIPLE INCIDENTS

If a complaint is made against more than one respondent as the result of an incident or related incidents, the Chairman of the Committee may decide that the complaints are to be determined together.

But the Chairman may not make such a decision if it would result in manifest prejudice to any respondent.

12. EXPENSES

In general, the WDCU and the respondent must each bear their own expenses in relation to a complaint (including in relation to any appeal under Chapters 5 and 6).

But if there is an oral hearing, the Panel may, if it thinks appropriate, make an award of expenses against either the WDCU or the respondent.

13. PUBLICATION OF MATERIALS

The Administrator must ensure that the following documents are available on the website of WDCU

- (a) this policy;
- (b) a copy of the Code of Conduct;
- (c) an up-to-date list of the names of members of the Committee and the Administrator;

14. ENFORCEMENT OF PENALTIES IMPOSED BY OTHER BODIES

This applies where another recognized governing body including, but not limited to Cricket Scotland, the ECB, the ICC and cricketing leagues under their respective jurisdictions, has taken and concluded disciplinary proceedings in relation to a person subject to this Policy.

The Committee may impose on the person any penalty that the body requests, provided that it is a penalty which a Panel would have the power to impose under Rule 6.

For the purposes of any such penalty, the Committee has the same power to make a direction as a Panel has under paragraphs Rule 6

15. NOTICES AND TIMINGS

Any notice required or authorized under these Rules must be in writing and may be given by email or at the specific request of the relevant party only by first class post. Unless it is proved otherwise, a notice is deemed to be received—

if sent by first-class post, at the time at which it would be delivered in the ordinary course of post;

if sent by e-mail, when it is sent.

16 INTERPRETATION

(1) In these Rules—

“the Administrator, in relation to a complaint, means the individual designated in accordance with 1.1 above

“the Code of Conduct” means the WDCU/Cricket Scotland’s Rules of Conduct;

“the complainer”, in relation to a complaint, means the person making the complaint;

“conduct” includes any act, gesture, statement or utterance;

“Panel” means the committee of members of the Panel designated for the hearing of any complaint or appeal

“person” includes a body of persons, corporate or unincorporated, including a voluntary association and the Panel or a Panel Committee;

“a member of WDCU means a member of WDCU or any successor of WDCU

; a “qualified lawyer” means—

- (i) a Senator or retired Senator of the College of Justice,
- (ii) a sheriff or retired sheriff,
- (iii) a member or retired member of the Faculty of Advocates,
- (iv) a solicitor or retired solicitor, or
- (v) any other individual who the Board considers is appropriately qualified by virtue of his legal knowledge and experience, including experience as an academic;

“the respondent”, in relation to a complaint, means the person who is alleged to have been guilty of cricketing misconduct;

(1) In these Rules—

- (a) words importing the masculine gender include the feminine;
- (b) unless the contrary intention appears, words in the singular include the plural and words in the plural include the singular.