



DISCIPLINE / APPEAL PROTOCOL / GUIDELINES

DISCIPLINE GUIDANCE

TWO STAGE PROCESS

1. The procedure to be adopted must be a two stage process. Firstly, the hearing must determine whether The Party did breach the disciplinary rule which he or she is alleged to have done. Prior to and during the hearing of any evidence, the hearing must not hear any evidence of any prior conduct or disciplinary proceedings relating to The Party. Only in the event of a finding that there has been such a breach, should the disciplinary hearing then be permitted to hear of any previous breaches or record of misconduct which might be taken into account when determining the appropriate penalty to be imposed. The second stage of proceedings arises in the event of The Party being found to have acted in breach of a regulation or having committed an offence. The disciplinary body would then move to the second stage of proceedings to consider the appropriate penalty as described later in this Practice Note.
2. With the exception of the private deliberations of the Disciplinary Committee, no part of the disciplinary hearing should take place without the presence of The Party and any representative of The Party.

STAGE ONE OF THE HEARING

CHAIRMAN'S INTRODUCTION

3. At the commencement of the hearing the Chairman should address the following :
 - (i) parties present should identify themselves or be identified by name plate or tag and correct details of all those in attendance should be properly minuted;
 - (ii) the Chairman should explain to parties the role of each person present. In particular, the Chairman should explain to that his or her role is to ensure that the proceedings are conducted fairly. Furthermore, that it is the Chairman's duty to ensure that if, at any stage, any party does not understand the proceedings, the Chairman must explain what is happening. The Chairman must also explain to any party that if that party feels at any stage proceedings are not conducted fairly, such an issue of fairness must be addressed and resolved by the Chairman (to the satisfaction of the Chairman and no other party);
 - (iii) the Chairman should confirm that The Party and any representative have received details of the allegations made against him or her;
 - (iv) the Chairman should ensure that The Party and any representative understands the nature of the allegation made against The Party and knows that the committee can impose a fine or suspension or a combination of both should the Party be in breach of rules.

THE EVIDENCE

1. The assessment of evidence is for the members of the disciplinary body to assess. It is a matter for the members alone which evidence they accept and which evidence they reject. The Chairman must allow for cross examination of any witness by an interested party. The Chairman must ensure that any questioning of a witness, including cross examination, whilst it may be robust, must be conducted politely and in a dignified manner. If any issue arises which requires clarification or explanation, members of the disciplinary body may ask questions for that purpose alone. Members of the disciplinary body must not take over questioning in a manner whereby they adopt the role of any party to these proceedings.

2. With the exception of The Party, no witness should be present during the hearing of another witness's evidence. Measures must be taken to ensure that after a witness has given evidence, he or she is not given any opportunity to speak to or communicate with any witness who still has to give evidence. The Party should hear all the evidence given at a disciplinary hearing. Thereafter The Party can elect whether to give evidence on his or her own behalf or not and thereafter to lead any further witnesses of which he or she has given notice.
3. A member of a disciplinary body must not ask leading questions. The Compliance Officer must not ask leading questions. Leading questions are generally permissible in cross examination. Leading questions are questions which contain the answer or are designed to elicit an answer which the questioner wishes to hear. Leading questions undermine the quality of the evidence heard and may cause a party to proceedings to question the independence or impartiality of the members of the disciplinary body.
4. The Chairman must immediately exclude any evidence of irrelevant issues, in particular evidence led in support of an alleged breach which strays beyond the facts of which The Party has been given notice.
5. The evidence of all witnesses must be given due consideration and the evidence of each witness must be treated by the Disciplinary Committee in exactly the same manner. The fact that a witness is a club official or referee gives that witness no different status to that of any other witness such as a player or The Party against whom allegations are made. Disciplinary body members must consider all of the evidence without prejudices or sympathies and without any preconceived notion that they must support any official in the reporting or account of an alleged offence or breach.
6. The Party can rely upon witness statements of which he or she has previously given notice. If The Party wishes the person who made such a statement to give oral evidence at the hearing, The Party may be permitted to lead the evidence of such a witness with the leave of the Chairman in consultation with the other tribunal members. The Party must satisfy the Disciplinary Committee members of the relevance of the evidence from the witness by reference to the said statement.
7. At the conclusion of the evidence, parties should be allowed to make brief submissions to the disciplinary body about what evidence they should accept and what evidence they should reject or about what weight they should attach to a particular piece of evidence. The Compliance Officer should be allowed to make any submissions first. The Party or any representative for The Party must be allowed to make submissions last.
8. Thereafter, ALL parties should be asked to withdraw from the hearing to enable the disciplinary body to deliberate upon the evidence and reach a decision in private.
9. The Committee must determine only the offence of which The Party has been given notice. In particular, the Committee cannot make any finding that The Party is in breach of any regulation or offence more serious than that of which he or she has been given notice.
10. The Chairman must ensure that the reasoned decision given at this first stage is properly minuted. The Party, and any representative, do not require to be advised if the Committee's decision was reached unanimously or by a majority, nor does that information require to be minuted.

11. After the hearing of any case the Party can write to seek an explanation for the decision which the Committee has reached. The parties are entitled to a brief reasoned summary for the decision. In delivering such brief reasoned summary, the Chairman should explain the issue before the Committee, the evidence which the Committee members have accepted and which evidence the Committee members have rejected.

STAGE TWO OF THE HEARING (if appropriate)

12. It is only in the event that the disciplinary body finds the offence established on the balance of probabilities that the hearing should then move to the second stage of the process, namely determining the appropriate penalty to be imposed.

PREVIOUS CONDUCT AND MITIGATION

13. The Compliance Officer should make relevant submissions to the disciplinary body first. Thereafter, The Party, or any representative, should make relevant submissions in mitigation. The Party, or any representative, must be allowed to make submissions last. If the Compliance Officer is aware of any mitigatory factors of which the Committee has not been made aware, he or she is obliged to bring such mitigatory facts to the Committee's attention. If the Chairman feels that he or she has not been adequately addressed in mitigation, or that there are mitigatory factors of which he or she has not been made aware, he or she should make enquiry of parties of such mitigatory circumstances.
14. Thereafter, ALL parties should be asked to withdraw from the hearing to enable the disciplinary bodies to deliberate upon the appropriate penalty and reach a decision in private.

THE APPROPRIATE PENALTY

15. When considering the appropriate penalty, the Chairman of the disciplinary body must ascertain that members are agreed upon the range of penalties available to them. The disciplinary body CANNOT and MUST NOT impose a penalty beyond its prescribed powers. If the said procedures prescribe a range of penalties, the disciplinary body must determine whether it considers the offence to fall within the lower, middle or upper range of such an offence and if there are particular aggravating factors which make the offence more serious. The Committee must also determine which mitigating factors it is taking into account and to what extent that has mitigated (reduced) a penalty to be imposed.
16. The penalty imposed must not be disproportionate or excessive and must take into account all of the matters.
17. When parties are invited to return to the hearing, the Chairman should explain the decision which the Committee has reached in relation to the imposition of an appropriate penalty and the date of commencement thereof. The parties are entitled to a brief reasoned summary for the decision. In delivering such brief reasoned summary, the Chairman should explain the range of severity of the offence, the extent of any aggravating factors and the mitigating factors and the effect thereof.
18. The Chairman must ensure that the reasoned decision given at this second stage is properly minuted.

NOTIFICATION OF THE CHARGE

The disciplinary procedure commences by the formulation and notification of the charge. The charge should make clear exactly what rule is alleged to have been breached and the facts of the breach.

The charge should allow the party subject to the proceeding to understand the nature of the case against them.

There is an obligation to provide the defendant with a clear identification of the facts and matters to be relied upon by the Region / Association. The aim should always be to ensure that both sides know exactly what evidence the other will be presenting at the hearing. The defendant is entitled to see all evidence that the Region / Association has in relation to the case.

PROCEDURAL FAIRNESS

1. There should be a clear demarcation between the roles of prosecutor and adjudicator.
2. There should be a full disclosure to the defendant of all materials in the possession of the prosecution.
3. The adjudicator should not have access to material potentially prejudicial to the person charged.

DISCIPLINARY GUIDELINES – INVESTIGATIONS

Separation, Disclosure, Representation and Fairness

Separation:

Where an investigation is required, the investigation can be conducted by any number of persons including a single official, however if the investigation decrees that charges are to be applied then any person involved in the investigation cannot participate in the subsequent disciplinary meeting, including the taking of minutes, as the investigator(s) in this instance becomes the Prosecutor and independence must be maintained at all times.

Disclosure:

All paperwork referred to in the investigation must be made available to the appellant and the Disciplinary Committee and, if required, adequate time given for any material received at short notice for the meeting but considered relevant.

Representation:

Where disciplinary action may be taken, all parties must be given the opportunity to be represented at the disciplinary meeting, either in person or by a nominated person (accompanied by written authorisation from the appellant). They must also be afforded the opportunity to submit any defence in writing.

Fairness:

It should be remembered that any disciplinary committee, in dealing with cases of misconduct, must act judicially and without malice. It is also important that, once a decision has been made, the relevant Appeals Form is issued where appropriate.

These guidelines are not exhaustive and presented for use in addition to current procedures.

Disciplinary Committee Hearing Chairmen should use the forms contained in the appropriate schedule appended to this practice note as an aide memoire to provide guidance in the conduct of a disciplinary hearing. By following the form provided, Chairmen will ensure that proceedings are conducted in an appropriate manner.

The Chairman's checklist is intended to assist Chairmen to follow the disciplinary process.

SCHEDULE A

Guidance for Disciplinary Committee Hearings

Chairman's Checklist for hearings before Region / Association Committees.

PRELIMINARY MATTERS

No.	Procedure	Completed (tick)
1	The party in breach is invited to enter the meeting.	
2	Introduce himself / herself. Advise that all committee members are identified by their name plates or if members are not so identified then make the introductions.	
3	<p>Introduce the minute taker/secretary and advise that:</p> <p>(a) The minute taker is only in attendance to record the proceedings and will not take any part in the decision making process; and</p> <p>(b) The Regional Secretary is only in attendance to act as a "Compliance Officer" to ensure that the disciplinary procedures are fully adhered to and will not take any part in the decision making process.</p> <p>The Chairman should explain the role of those present at the hearing.</p>	
4	Inform all present that mobile phones must be switched off and that any recording equipment must not be used;	
5	Ask the party(ies) plus any other parties in attendance to identify themselves for inclusion in the meeting minute.	
6	<p>Advise that the hearing will be a fair hearing and that the members of the Disciplinary Committee will keep an open mind until they have heard all the evidence and anything which the party in breach or his representative wishes to say.</p> <p>Advise that the members of the Disciplinary Committee have not discussed the evidence with anyone, that no part of the hearing has taken place or will take place outwith the presence of the parties.</p> <p>Advise that the only exception to that will be the private deliberations which take place outwith the presence of all parties including the league secretary/compliance officer.</p> <p>Advise that if any party thinks any aspect of the hearing is being conducted unfairly, then that party should raise the matter with the chairman who will address it or rule upon it.</p>	

7	Advise that the hearing of the case and any comments will be restricted to the specific offence listed on the letter of citation or any issue relevant to that offence and will be subject to the terms set out in the SJFA Confidentiality Policy.	
8	Clarify who is going to speak on behalf of the party in breach at the hearing. Clarify with the parties if they are happy to continue and that the case is being dealt with on the paperwork submitted.	
9	<p>Ask the party in breach if they have had sufficient time to prepare for the meeting:</p> <ul style="list-style-type: none"> a. If yes the hearing will be continued; b. If no the chairman will seek a reason, if the party is still unhappy all parties will be asked to retire in order that the committee can make a decision on the status of the hearing <ul style="list-style-type: none"> 1. To continue and hear the case; 2. To re-cite the case at a later time. 	
10	Advise parties that they must conduct themselves in a polite, courteous and proper manner and that if they fail to do so, they can be excluded and the hearing proceeds in their absence.	

STAGE ONE – HEARING OF EVIDENCE

11	<p>Proceed to hear the evidence in the case. The League Secretary acting as Compliance Officer can assist by advising which witnesses (if any in addition to the paperwork) are present.</p> <p>Witnesses should be brought in individually. No witness shall be present during the evidence of another witness and after giving evidence should not have an opportunity to discuss evidence with a witness still to be called.</p> <p>In respect of all witnesses, the procedure laid down in paragraphs 12 to 16 below must be followed.</p>	
12	Witness gives evidence or refers to his report/statement and confirms if he/she has anything to add. The League Secretary acting as Compliance Officer can ask questions to clarify that witnesses evidence which can be done through the Chairman. THE WITNESS MUST NOT BE ASKED LEADING QUESTIONS.	
13	The person elected to speak on behalf of the party should be asked if he/she has any questions to ask or points to put to the witness which can be done through the Chairman.	
14	Ask Members of the Disciplinary Committee should be asked if they have any questions.	
15	The Chairman can ask questions. During the hearing of evidence the Chairman must also have confined parties to the evidence relevant to the charge or ask parties why issues they are raising are relevant.	
16	Ensure that stages 12 – 15 have been carried out in relation to each witness and then tick this box to confirm that has been done.	

17	Once all of the evidence has been heard, the person elected to speak should be asked if he/she then wishes to make a closing statement before the committee members consider if the party is in breach.	
18	Before the parties withdraw, the party in breach should be asked if he/she consider the proceedings to have been conducted fairly or if there has been any aspect of the hearing which has been conducted unfairly.	
19	<p>PRIVATE DELIBERATIONS.</p> <p>Ask all parties including the Compliance Officer to leave the meeting to allow the committee to reach their decision whether or not the party has committed a football offence.</p>	

STAGE TWO

20	Recall all parties back to the hearing.	
21	<p>Advise Parties of the Disciplinary Committee's decision.</p> <p>If found not guilty the party in breach will be advised that the decision will be confirmed in writing.</p> <p>If found guilty the Compliance Officer can only then (and not before) advise the members of the Disciplinary Committee of any relevant previous record of misconduct.</p> <p>NB : The party in breach will be invited by the committee to put forward a plea in mitigation.</p>	
22	If the members of the Disciplinary Committee intends to advise the party in breach of the decision in writing, that party should be thanked for their attendance and advised that the decision will be issued in writing complete with the rights of appeal. The party in breach will be advised that the decision as to penalty will be reached in private and outwith the presence of all parties.	
23	<p>PRIVATE DELIBERATIONS.</p> <p>Ask all parties including the Compliance Officer to leave the meeting to allow the committee to reach their decision as to the appropriate penalty to be imposed. The penalty must be proportionate. If the committee members are aware of mitigatory factors which the party in breach has not advanced, they must also take those into account.</p>	
24	Where the committee members have intended to advise the party in breach at the hearing of the punishment imposed, the party in breach to be called back into the meeting to be advised of the decision and that it will be confirmed in writing complete with the rights of appeal.	
25	Advise parties that the proceedings are concluded and thank all parties for their assistance.	
26	The Chairman will ensure that the minutes are subsequently completed and signed off at the next meeting of the Disciplinary Committee.	

SCHEDULE B

Guidance for Appeal Committee Hearings

Chairman's Checklist for hearings before the Appeals Committee:

No.	Procedure	Completed (tick)
1	Both parties are invited to enter the meeting.	
2	Introduce himself / herself. Advise that all committee members are identified by their name plates or if members are not so identified then make the introductions.	
3	<p>Introduce the minute taker/secretary and advise that:</p> <p>(a) The minute taker is only in attendance to record the proceedings and will not take any part in the decision making process; and</p> <p>(b) The Regional Secretary is only in attendance to act as a "Compliance Officer" to ensure that the disciplinary procedures are fully adhered to and will not take any part in the decision making process.</p> <p>The Chairman should explain the role of those present at the hearing.</p>	
4	Inform all present that mobile phones must be switched off and that any recording equipment must not be used;	
5	Ask both parties plus any other parties in attendance to identify themselves for inclusion in the meeting minute;	
6	<p>Advise that the hearing will be a fair hearing and that the members of the appeals committee will keep an open mind until they have heard all the evidence and anything which the party in breach or his representative wishes to say.</p> <p>Advise that the members of the appeals committee have not discussed the evidence with anyone, that no part of the hearing has taken place or will take place outwith the presence of the parties.</p> <p>Advise that the only exception to that will be the private deliberations which take place outwith the presence of all parties including the chief executive/compliance officer.</p> <p>Advise that if any party thinks any aspect of the hearing is being conducted unfairly, then that party should raise the matter with the chairman who will address it or rule upon it.</p>	
7	Advise that the appeal is not a re-hearing of the original case and comments should be restricted to the actual grounds of appeal.	
8	Clarify who is going to speak on behalf of the party in breach at the hearing. Clarify with the parties if they are happy to continue and that the case is being dealt with on the paperwork submitted.	

9	<p>Ask the party in breach if they have had sufficient time to prepare for the meeting:</p> <ol style="list-style-type: none"> If yes the hearing will be continued; If no the chairman will seek a reason, if the party is still unhappy all parties will be asked to retire in order that the committee can make a decision on the status of the hearing <ol style="list-style-type: none"> To continue and hear the case; To re-cite the case at a later time. 	
10	Advise parties that they must conduct themselves in a polite, courteous and proper manner and that if they fail to do so, they can be excluded and the hearing proceeds in their absence.	

STAGE ONE – HEARING OF THE APPEAL

11	Decide whether any documents or other evidence should be disclosed to the committee and determine the admissibility, relevance, materiality and weight of any evidence.	
12	Confirm with the appellant or the person who will speak that the committee has all of their paperwork and invite them to present their arguments in support of their grounds of appeal.	
13	Ask the appellant or the person speaking if they have any other comments to make relative to the appeal.	
14	Ask the appeals committee members if they have any questions.	
15	To ask the party defending the appeal or the person who will speak if they have any comments to make relative to the appeal;	
16	Ask the appeals committee members if they have any questions.	
17	Before the parties withdraw, the appellant should be asked if he/she considers the appeal proceedings to have been conducted fairly or if there has been any aspect of the appeal hearing which has been conducted unfairly.	
18	<p>PRIVATE DELIBERATIONS.</p> <p>Ask all parties to leave the meeting to allow the committee to make their decision regarding the appeal being dismissed, upheld in full or upheld in part.</p>	

STAGE TWO

19	Recall all parties back to the hearing.	
20	Advise Parties of the appeal committee's decision.	
21	<p>If the appeal is dismissed the parties will be advised that the decision will be confirmed in writing complete with their rights of appeal;</p> <p>Thank all parties for their attendance and wish them a good night.</p>	

22	If the appeal is upheld or upheld in part the appellant will be invited by the committee to put forward a plea in mitigation, in particular to advise the appeal committee of any mitigatory factors which have not been advanced as part of the hearing of the appeal.	
23	If the members of the appeals committee intends to advise the parties of the decision in writing, that parties should be thanked for their attendance and advised that the decision will be issued in writing complete with the rights of appeal. The parties will be advised that the decision as to penalty will be reached in private and outwith the presence of all parties.	
24	Ask all parties to leave the meeting to allow the committee to determine a suitable sanction.	
25	<p>The committee may notify the parties of their decision as follows:</p> <ul style="list-style-type: none"> • The party in breach will be advised that the decision will be issued in writing complete with the rights of appeal; or • The party in breach to be called back into the meeting to be advised of the decision and that it will be confirmed in writing complete with the rights of appeal. 	
26	Advise parties that the proceedings are concluded and thank all parties for their assistance.	

APPEALS COMMITTEE'S POWERS

The Appeals Committee shall have the power to:-

1. affirm the decision of the body whose decision is appealed against;
2. uphold the appeal by setting aside the decision appealed against and quashing any sanction imposed;
3. uphold the appeal in part by setting aside part only of the decision appealed against;
4. substitute for the decision appealed against a decision to find the appellant to have breached an alternative disciplinary rule;
5. order a lesser or an increased sanction to that imposed by the body whose decision is appealed against;
6. refer the case, or any part of it, back to the body whose decision is appealed against or to a freshly constituted Disciplinary Committee;
7. where it conducts a re-hearing, to-determine the case afresh;
8. take any step which, in the exercise of its discretion, the Appeals Committee considers it would be appropriate to take in order to deal justly with the case in question;
9. If the appeal is dismissed the appeal deposit will be retained and the appellant may be held liable in all or part of the expenses of the meeting, subject to the discretion of the Appeals Committee;
10. If the appeal is successful the appeal deposit will be returned to the appellant and the body defending the appeal may be held liable in all or part of the expenses of the meeting, subject to the discretion of the Appeals Committee;
11. If the appeal is partially successful, the return of the appeal deposit shall be at the discretion of the Appeals Committee;
12. An appeal may be withdrawn by an appellant prior to the hearing of the case by notifying the Regional / Association Secretary of such in writing. The appeal will, upon the Regional / Association Secretary's receipt of such notification, be deemed to be abandoned and the original decision, against which the appellant initially took exception, will be regarded as final and binding. Upon the withdrawal of an appeal, the appeal deposit will be automatically forfeited. The appellant may be held liable in all or part for the expenses of the appeal procedure subject to the discretion of the Appeals Committee.