

## **Complaints and Disciplinary Procedure – 2018/19**

### **1. Introduction**

- 1.1.** The purpose of this Complaints and Disciplinary Procedure (CDP) is to enable the Aylesbury and District Netball League (ADNL) to establish a framework by which the Disciplinary Committee can adjudicate grievances in a fair and timely manner.
- 1.2.** The CDP sets out the process by which the Disciplinary Committee deals with allegations of disciplinary offences committed by any one of the following:
- Players
  - Match Officials (umpires, rota duty, scorers)
  - Club/Team Officials and Supporters
  - Members of ADNL
  - Connected Participants
  - Anyone linked to a Club

### **2. Definitions**

- 2.1.** In the Disciplinary Regulations, the following terms shall have the meanings set out below:
- Appeal means an application by a Respondent or Complainant to have an Appeals Panel consider the processes, deliberations and/or Decisions of a Disciplinary Committee.
  - Codes of Conduct means the set of behavioural standards which England Netball establishes as the expected minimum standards of behaviour.
  - Complaint means a formal expression of dissatisfaction with the actions or behaviour of a Member or Connected Participant or with alleges unfair practice in connection with the sport.
  - Complainant means person who submits a written Complaint to ADNL.
  - Connected Participant means any person, entity or collection of persons, whether a Member or non- Member, who from time to time participates in the Sport in any capacity whether directly or indirectly including by way of being a volunteer serving on the England Netball Board; a Regional Management Board; a County Committee or Regional and County Associations' technical or sub group.
  - Disciplinary Charge means the allegation(s) made against the Respondent which are the subject of investigation and determination by the Disciplinary Committee.
  - Disciplinary Committee made up of all but one of the ADNL Committee Members.
  - Respondent means any Member or Connected Participant against whom Disciplinary Action is brought in accordance with the Disciplinary Procedure.
  - Sanction means a penalty, restriction or condition imposed on a Respondent by a Disciplinary or Appeals Panel.

- Suspension means removal of membership status, either pending compliance with a sanction or payment of a costs order. Suspension of membership constitutes restriction from all recognised netball activity and Membership benefits.
- Working Day means a day not being a Saturday, Sunday or public holiday

### **3. Jurisdiction**

- 3.1.** The Disciplinary Committee has the full power and jurisdiction to act in relation to all Complaints and Disciplinary Cases; including the power to hold investigations and impose Sanctions and take such action as it sees fit in accordance with their Disciplinary Procedure.
- 3.2.** The Disciplinary Committee also have the right to impose a fine of up to £50 on the Complainant where they consider a Complaint to be frivolous, vexatious and/or malicious. They may also bring further Disciplinary Charges against the individual(s) or Club including further charges and/or fines for persistent Complaints which result in no case to answer. This should not be seen as a deterrent to making a genuine Complaint.
- 3.3.** Appeals against a Decision will only be heard by the Appeals Committee in the advent of the Appellant having new and compelling evidence.
- 3.4.** ADNL will advance upwards from League to County, County to Region, and Region to National if they feel that the individual circumstances warrant transfer.
- 3.5.** Any person who wilfully misleads the Disciplinary Committee or Appeals Committee will be liable to disciplinary action.

### **4. What constitutes a Disciplinary Offence?**

- 4.1.** In the main, on-court behaviour is dealt with by the officiating umpire during the game.
- 4.2.** For the avoidance of doubt, a person may be sanctioned under the Disciplinary Procedure even though the Officiating Umpire has already penalised the Respondent under the England Netball Rules.
- 4.3.** An Officiating Umpire may submit a Complaint if they have ordered a player off the court and they believe the incident was so serious further action is warranted.
- 4.4.** Certain on-court offences may also be the subject of action under the CDP where the behaviour is repeated or serious. Misconduct occurs when conduct does not reach the required standard expected by the ADNL
- 4.5.** While it is not possible to set out a definitive list of the types of Misconduct this applies to, each of the following types of behaviour, without limitation, is an example:
- 4.5.1.** Any breach, failure, refusal or neglect to comply with ADNL's Code of Conduct.
- 4.5.2.** A serious breach of ADNL's Constitution, Rules, Equity Policy, Procedures, Regulations, Codes of Practice or other Policies.
- 4.5.3.** The use of violent conduct or the threat of violence against another.
- 4.5.4.** Any act or behaviour that is in any way discriminatory through words or actions concerning but not limited to race, marriage, religion, age, gender, sexual orientation gender identity or disability.

- 4.5.5.** Repeated use of:
  - 4.5.5.1.** Obscene, offensive, insulting or abusive language and/or gestures in a game.
  - 4.5.5.2.** Violation of the principles of fair play/unsporting behaviour in a game.
  - 4.5.5.3.** Dangerous play capable of compromising the safety of another person.
- 4.5.6.** Conduct that is unlawful and has the potential to bring the ADNL, England Netball, Netball South or the North Bucks Netball Association into disrepute.
- 4.5.7.** An umpire or match official suffers any form of abuse or coercion (including intimidation, threats or violence) from anyone; this applies to both on and off-court incidents during a match night.
- 4.5.8.** Acts of:
  - 4.5.8.1.** Dishonesty.
  - 4.5.8.2.** False declarations against another Person or Team
- 4.5.9.** A Player has been suspended under the Constitution, Rules, Equity Policy, Procedures, Regulations, Codes of Practice or other Policies on three occasions in a season.
- 4.5.10.** Failure to provide reasonable assistance in connection with a Disciplinary Case.
- 4.5.11.** Breaching the terms of any suspension imposed under the Disciplinary Procedures.
- 4.5.12.** Where a Player, Match Official, Club Official, Member or Supporter directly or indirectly; agrees, offers, agrees to give, solicits, agrees to accept or accepts any bribe, gift or reward or consideration of any nature that is or could appear to relate in any way to seeking to influence the outcome or conduct of a match in a manner contrary to sporting ethics.
- 4.5.13.** Any other conduct which, in the opinion of the ADNL is disgraceful or prejudicial to the best interests of the Sport of Netball, ADNL, England Netball, Netball South or the North Bucks Netball Association.

## **5. Procedure for making a Complaint<sup>i</sup>**

- 5.1.** A Complaint can only be sent by the Club secretary or in the absence of the Club secretary another Officer (Club Treasurer or Affiliations contact).
- 5.2.** A Complainant must set out in writing the grounds for the Complaint and full details of the Disciplinary Offence or other conduct that gives rise to the Complaint. This formal written statement must be emailed to the League Secretary within 5 working days of the alleged incident.<sup>ii</sup>
- 5.3.** It is strongly recommended that as much detail as possible is given with the Complaint including but not limited to, why the Complainant feels the incident was a Disciplinary Offence (including full details of the rules; procedures; regulations or codes of conduct), witnesses, times, dates and location of the incident.
- 5.4.** Any information lodged with the ADNL relating to a Complaint should only be communicated through the League Secretary by the Club Secretary. This information shall normally be acknowledged by the League Secretary within 5 working days of receipt.

5.5. The Disciplinary Committee will only address complaints received in accordance with this procedure.

## **6. Procedure for dealing with a complaint<sup>1</sup>**

6.1. Upon receipt of a complaint, the Secretary will acknowledge receipt and then inform the Chairman, who will place the matter before the Committee within 10 working days, confirming that a complaint has been received.

6.2. The Committee shall have the power to communicate with any of those involved in the incident to gain further information. At this stage, the Respondent will not be informed of the Complaint or the Identity of the Complainant as it has not been established whether there is a case to answer.

6.3. The Committee shall discuss and deliberate any evidence it considers fair and relevant, whether or not such evidence would be admissible in a court of law. They may accord such weight to the evidence as they think appropriate in all the circumstances. They will decide any issue of fact and draw any inference of fact that it considers to be substantiated by the evidence.

6.4. The Committee's job is to determine whether a clear-cut case is established. Consideration must be given to all the relevant circumstances and where appropriate, the Committee may request information from any relevant person or organisation.

6.5. The Committee will consider the available evidence will decide if the complaint should:

6.5.1. Not be permitted to proceed.

6.5.2. Be dealt with by another authority (i.e. Police or Social Services)

6.5.3. Be allowed to proceed

6.6. The Committee will reach a decision within 15 working days of the Chairman putting the matter before them. The Complainant will be notified by the Chairman via their Club Secretary with a brief reason for the decision.

6.7. There is no right of Appeal against the conclusion reached by the Committee, their Decision is final.

6.8. The Committee shall keep Confidential its findings and all related information, save where the law requires disclosure, or it is required under the Disciplinary Procedure.

6.9. The Committee reserves the right to handle any matters informally that are not in their opinion severe enough.

## **7. When the complaint proceeds to a full investigation**

7.1. The League Secretary will notify the Respondent within 15 Working Days of the Disciplinary Committee's Decision to proceed with formal Disciplinary Action in accordance with the Disciplinary Procedure. If the Respondent is a member or supporter of a Club, it will be via their Club secretary. Where the Respondent is a Connected Participant, they will be notified directly.

7.2. The Disciplinary Charge will be clearly stated, detailing the alleged Disciplinary Offence(s), with specific reference to all the rules, procedures, regulations or codes considered to have been breached.

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<sup>1</sup> The Respondent to whom the alleged complaint is against, will have the right to see the contents of such a complaint in order that they can respond.

- 7.3. The Respondent has 5 Working Days from the date of the Notice of a Disciplinary Investigation in which to accept or deny the Disciplinary Charge.<sup>2</sup>
- 7.4. If the Committee believe the Complaint is of sufficient gravity or concern, the Respondent may be Suspended from playing in/officiating/attending ADNL fixtures. They will also not be permitted to attend or take part in any other events that are organised by ADNL, NBNA, NS or EN. The Respondent will be notified in writing of the duration of the Suspension.
- 7.5. If the charge is accepted by the Respondent, the Committee will decide upon a Sanction. If the charge is denied by the Respondent, the Committee will seek information from the Respondent in answer to the Complainants allegation(s) and provide the Respondent with all evidence that was considered by the Committee when making their decision, including details of any witnesses. Once this information is sent to the Club Secretary; the Respondent will have 10 working days to respond in writing to the Committee with any information or evidence they have.
- 7.6. Once the response has been received, the League Secretary shall notify the Claimant that the Respondent has denied the Disciplinary Charge.
- 7.7. The Committee shall discuss and deliberate over the information/evidence provided by the Respondent within 15 working days of receipt of their response. A decision will then be made on whether to uphold the original Disciplinary Charge. The Chairperson will usually advise the Respondent and Claimant of the outcome of the Disciplinary Investigation within 10 working days of the date the decision was made. If the Respondent or Claimant is a member of the Club, it will be via their Club secretary. Where the Respondent or Claimant is a Connected Participant, they will be notified directly.

## **8. Appeals Process**

- 8.1. A Claimant or Respondent can seek leave to Appeal against a decision reached during the Disciplinary Investigation by the Committee if they can evidence that:
  - 8.1.1. Not all the facts were available at the time the Committee reached their decision.
  - 8.1.2. The Disciplinary Sub Committee did not apply the disciplinary procedure correctly.
- 8.2. To seek leave to Appeal against a decision, an email addressed to the Chairperson should be sent to [adnl@live.org.uk](mailto:adnl@live.org.uk) by the Club Secretary. It should state their reason(s), for the Appeal and the evidence that supports this within 5 working days of the date they were informed of the Committee's decision. The Committee will then consider whether to grant leave to Appeal.
- 8.3. If leave to Appeal is refused, the Chairman shall notify the Club Secretary of the Decision, indicating factors that they have been considered and brief reasons for reaching the Decision. The Decision shall not be subject to any further right to Appeal.

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<sup>2</sup> At this stage, the Respondent does not need to provide any information, they only need to state whether they accept or deny the Disciplinary Charge.

- 8.4.** If the evidence supports an Appeal, a three-person Appeals Committee will be assembled, where possible within 15 working days of the Chairperson receiving notification of the appeal. The Appeals Committee will consist of one person from the ADNL Committee who had no part in the original decision reached and two other persons who are affiliated to EN and registered to ADNL. These persons should not have previous direct knowledge of the incident(s), nor be in any way related to the parties concerned, nor be members of the same club.
- 8.5.** The Appeals Committee shall discuss and deliberate over the information/evidence provided by the Respondent/Claimant within 15 working days of receipt of their response. After the Appeal is investigated, the Appeals Committee will revoke, reduce or uphold the decision reached by the Committee.
- 8.6.** The Appeals Committee's decision will be final. The result of the Appeal will be confirmed in writing, within 5 working days by the Appeals Committee to the ADNL Committee and the Claimant and Respondent's Club Secretary.
- 8.7.** In any Appeal against a decision made by the ADNL Committee, the decision will not take effect until the Appeal has been heard and determined by the Appeal Committee.

## **9. Sanctions**

- 9.1.** Where the Disciplinary Charge is admitted or proved, the Committee have the power to determine and pronounce Sanctions. Sanctions will be reasonable and proportionate in all the circumstances.
  - 9.1.1.** No further action.
  - 9.1.2.** Points deduction.
  - 9.1.3.** A verbal warning.
  - 9.1.4.** A written warning.
  - 9.1.5.** A final written warning (note this action can be taken without a previous verbal or written warning having been issued).
  - 9.1.6.** A monetary fine.
  - 9.1.7.** Suspension:
    - 9.1.7.1.** From playing in/officiating/attending ADNL fixtures.
    - 9.1.7.2.** From attending or taking part in any other events that are organised by ADNL, NBNA, NS or EN.
  - 9.1.8.** Complete ban:
    - 9.1.8.1.** From playing in/officiating/attending ADNL fixtures.
    - 9.1.8.2.** From attending or taking part in any other events that are organised by ADNL, NBNA, NS or EN.
  - 9.1.9.** Their decision will also consider whether the conduct/behaviour is found to constitute misconduct or gross misconduct and whether there are current warnings in existence and the seriousness of the offence being considered. Any warnings being verbal or written will have a date period attached to them.
  - 9.1.10.** Any Sanction, including a partial or full suspension by a Committee, shall be binding on all Members, Officials, Teams, Supporters and Connected Participants. Any attempt to induce a breach of a Sanction imposed by the Committee or any deliberate attempt to contravene or facilitate the contravention of a Sanction will be a Disciplinary Offence.

**9.1.11.** In all cases, including a verbal warning, the Club Secretary or Connected Participant will receive written confirmation from the Chairperson. This will advise of the Disciplinary action and the reason for it. In addition, there will be a warning that any further breach of the same incident/behaviour could result in further disciplinary action.

**9.1.12.** In the case of:

**9.1.12.1.** A suspension, the written confirmation will include the start and end date of the suspension.

**9.1.12.2.** A complete ban, the written confirmation will state the date on which the ban will take effect.

**9.1.13.** Any monetary sanctions (fines) imposed by the Committee must be paid within 28 days of the date the fine was imposed.

**9.1.14.** Failure to comply with a Sanction, including failure to pay a fine will be taken seriously and will lead to an immediate suspension from playing in/officiating/attending ADNL fixtures. They will also not be permitted to attend or take part in any other events that are organised by ADNL, NBNA, NS or EN. Equally, if a suspension is combined with a fine the suspension may be prolonged until the fine has been paid in full.

**9.1.15.** The Committee may impose Sanctions regardless of whether they have been committed deliberately and with intent, or merely negligently.

## **10. Monitoring of the Members Future Conduct and Behaviour**

**10.1.** After 12 months, or any other such period that the Disciplinary Sub Committee deems to be reasonable, the warning will normally be disregarded for disciplinary purposes if sufficient improvement in conduct has occurred. Members, Officials, Teams and Supporters will be advised accordingly in writing via the Club Secretary. Connected Participants will be advised directly in writing.

**10.2.** If a warning is current and sufficient improvement has not occurred, further disciplinary action will normally be implemented.

**10.3.** Where a Club is found guilty by the Committee on more than three separate occasions in any one year, due to the conduct of a Player, Match Official, Club Official, Member or Supporter; that Club may be suspended or expelled on the basis that it has a bad disciplinary record.

**10.4.** Where a Player, Match Official, Club Official, Member or Supporter of a Club has been convicted of a criminal offence that directly or indirectly relates to the playing, officiating or administering the sport of Netball; that Participant may be suspended or expelled on the basis that they are bringing the ADNL into disrepute.

**10.5.** All Players, Match Officials, Club Officials, Members or Supporters of a Club have a duty to assist and are obliged to comply with and respond (within a stipulated time scale) to reasonable enquiries, requests or orders for information or evidence by the Disciplinary Committee; failure to do so will constitute a Disciplinary Offence.

**10.6.** Any improper contact, approach or attempt to influence or intimidate a Committee Member established under the Disciplinary Procedure; the Disciplinary Secretary, Complainant, Respondent, any witness or representative either in person, in writing or through an intermediary will constitute a Disciplinary Offence.

**10.7.** Any breach of/or non-compliance with the Disciplinary Procedures including Sanctions, Interim Suspensions and costs; will result in immediate Suspension from Membership of the ADNL. This does not preclude further Disciplinary Action.

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<sup>i</sup> There is no obligation on the ADNL to keep the Complainant or Respondent informed of the conduct or progress of any investigation or action, unless the circumstances dictate otherwise.

<sup>ii</sup> Incident outside that timescale may not be considered unless the severity of the Complaint is such that it is in the best interests of the Sport to take it forward. This includes those that would have a significant impact on the reputation of the Sport rather than on those involved in the incident. For example, use of racist or homophobic language. The Committee will decide whether it is in the best interests of the Sport for a Complaint to proceed where received outside of the 5 working days period.