

CHIPPING NORTON BOWLS CLUB

DISCIPLINARY RULES IN RELATION TO MISCONDUCT AT CLUB LEVEL AND AT LICENSED TOURNAMENTS – MISCONDUCT

1. **Disciplinary Regulation**

The right of Bowls England to take disciplinary measures.

Any member of Bowls England against whom an allegation of misconduct, as defined below, is alleged, may be subject to disciplinary measures:

- a) Improper interference with the functioning or activities of Bowls England or of any members of Bowls England
- b) Action which otherwise improperly damages Bowls England or any County Association or Club thereof, or any member thereof, or their reputation.

2. **Definitions of Misconduct**

For the purposes of this Regulation, the definition of 'misconduct' shall include, but shall not be restricted to:

- 2.1. breach of Bowls England Safeguarding Policy and/or Safeguarding Adults Policy;
- 2.2. any breach of the Rules and Regulations or of the Laws of Bowls England;
- 2.3. any conduct which is prejudicial to the interests of Bowls England or any County Association or Club thereof, or any member thereof or to the sport of bowls in general;
- 2.4. failure or refusal for a period of one calendar month to pay any fine lawfully imposed by any competent authority under the jurisdiction of Bowls England;
- 2.5. deliberately losing or attempting to lose any match or otherwise be guilty of unfair play;
- 2.6. wilfully altering a bowl after the same has been stamped by a World Bowls Board Licensed Bowls Tester, without submitting the same to such Tester for re-testing and re-stamping;
- 2.7. the use of any profane, indecent, or improper language at any function of Bowls England or of any County Association or Club thereof, or whilst upon the property of any Club;
- 2.8. any violent, indecent, disorderly, threatening, intimidating or offensive behaviour at any time or place towards Bowls England (this includes all employees, any County Association or any Club, or any member thereof, or any official appointed by such body, in respect of the carrying out of any functions or

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duties under the Laws of the Sport or the Rules and Regulations of Bowls England or of such County or Club as applicable);

- 2.9. sexual, religious, disability or racial harassment of any member of Bowls England, Associate Members or any members affiliated through their County;
- 2.10. any breach of Bowls England Equity Policy;
- 2.11. any drug abuse, otherwise known as 'Anti-Doping', in breach of the Anti-Doping Policy Regulations of Bowls England;
- 2.12. disregarding or refusing compliance with or acting in contravention of any decision of Bowls England or its Directors or of any official of Bowls England;
- 2.13. obstructing, disrupting or interfering improperly with the functions, duties or activities of any member or official or visitor of Bowls England;
- 2.14. any conduct which constitutes a criminal offence;
- 2.15. any fraud, deceit, deception or dishonesty in relation to Bowls England or its members or visitors;
- 2.16. behaving fraudulently or cheating at any event held by or connected with Bowls England;
- 2.17. theft or misappropriation or misuse of property of Bowls England or of Clubs or County Associations or property of its members;
- 2.18. failure to comply with a reasonable instruction relating to bowling matters authorised by the Board of Bowls England or the Rules and Regulations of Bowls England;
- 2.19. the unauthorised use or misuse of premises of Bowls England or any Club or County Association

DISCIPLINARY PROCEEDINGS AT CLUB LEVEL

3. Procedure following an allegation of misconduct at Club Level

- 3.1. Any person wishing to make a complaint of misconduct by a member must do so in writing to the Chair or if no Chair the President of the Club. If after preliminary investigation the Chair/President of the Club considers that a case of misconduct exists the Chair/President of the Club will refer the complaint to the Club Disciplinary Committee. If the Chair/President considers that a case cannot be made, no further action will be taken at club level and the complainant shall be advised accordingly of the reason for this decision. Should a County Association consider that a decision to take no further action is perverse and not in the interests of natural justice, the County Association shall deal with the matter in accordance with Regulation 9A 3.1. In the event of an incident considered necessary for disciplinary action by a Club against one or more of its members, the following procedure must be followed:

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- a) The accused member/members involved shall be advised in writing within 21 days of the complaint being received:
- i. That the complaint will be referred to the Club Disciplinary Committee for a Disciplinary Hearing;
 - ii. That they/he/she is/are prohibited from making an application to join another affiliated club until all disciplinary procedures have been completed
- b) In the event of a Disciplinary Hearing taking place the date shall, if possible, be agreed with the accused member/members involved, the Club shall provide three dates of availability which shall be within forty two days of the date of notification to the accused member/members of the complaint or as soon as practical thereafter and in any event the Disciplinary Hearing must be held within 90 days of the date of notification of the complaint to the accused member/members notwithstanding failure to agree such date with the accused member/members. In the event of failure to agree on such date the decision of the Club as to the date of the Disciplinary Hearing shall be final. If after receipt of a complaint under Section 3.1, the Club is or becomes aware of the accused member/members being charged with a criminal offence which does not reach a conclusion within the 90-day period referred to above, any Bowls England Regulation Disciplinary Hearing shall take place within 28 days of the date of the verdict hearing or the charges being withdrawn. The accused member/members must be given the right to be heard and to be accompanied by an advisor.
- c) In the case of serious criminal offences, suspension from Bowls England will normally be imposed and will be imposed if Bowls England's Safeguarding Policy and/or Safeguarding Adults Policy so provides until the matter has been reported to the police and either a prosecution has been completed or a decision not to prosecute has been taken. In the event of acquittal of criminal charges, the Club reserves the right to initiate internal disciplinary proceedings on the basis of improperly damaging Bowls England or any County Association or Club thereof, or any member thereof, of their reputation.
- d) Orders to be made for protection only - Orders of suspension pending a disciplinary hearing or court trial are to be used only where necessary to protect a member or members of Bowls England, or the property of Bowls England or its members, or where necessary to comply with any requirements under the anti-doping rules. Written reasons for the decision will be recorded and made available to the member/members who is/are the subject of the order.

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

3.2. Composition of the Club Disciplinary Committee

- a) The governing body of the Club (in this Regulation "Club Governing Body") will Bowls England Regulation: No 9 Approved: September 2019 5 appoint or delegate THREE persons, none of whom shall have had any previous involvement or material knowledge of the complaint, as the Club Disciplinary Committee (in this Regulation "the Club Disciplinary Committee"), and delegate power to hold a disciplinary hearing (in this Regulation "Disciplinary Hearing"). The members of any such Club Disciplinary Committee need not necessarily be members of the Club. The Club Governing Body shall appoint one of the Club Disciplinary Committee to be the Chair thereof. Each member of the Club Disciplinary Committee must declare any known conflict with the accused member/members or any representative of the parties.
- b) The names of the appointed/delegated members of the Disciplinary Committee shall be forwarded to the accused member/members at least 14 days prior to the hearing. The accused member/members may object to a maximum of two of the appointed delegated members of that committee. Once the new committee has been appointed/delegated, no further objections may be made.

3.3. Written witness statements in advance of the hearing

The Chair of the Club Disciplinary Committee or nominee on behalf of that Committee shall call for written witness statements in support of the complaint and in support of the accused member/members, to be received no later than 28 days prior to the date of the hearing. When all the statements from the parties have been

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received, copies will be immediately forwarded to the opposing parties, as appropriate. The accused member/members shall be required to indicate in writing, no later than 21 days prior to the date of the hearing, those witnesses he/she requires to attend the hearing to give oral evidence and those witnesses he/she is agreeable to the Disciplinary Committee accepting the written evidence. Should the accused member/members indicate that a witness or witnesses is/are not required to give oral evidence or should no reply be received within the time limit, the Chair of the Disciplinary Committee shall have discretion to call a witness or witnesses to give oral evidence.

3.4. Assistance to the Club Disciplinary Committee

The Chair of the Club Disciplinary Committee may appoint a person to act as Clerk to the Club Disciplinary Committee, who may be legally qualified, to give assistance to the Club Disciplinary Committee as it thinks fit. The Chair will also arrange for minutes of the proceedings to be taken. The Chair/President of the Club Governing Body will either present the complaint against the accused member/members himself/herself, or appoint a representative to do so, who may be legally qualified (in either case, in this Regulation, "the Club Case Presenter").

3.5. Representation

The accused member/members shall be present at the disciplinary hearing and may be represented by an advisor, friend or other representative, who may be legally qualified. If the accused member/members is/are so represented, should it become necessary to ensure good order at the hearing, the Chair of the Club Disciplinary Committee may stipulate that the accused member/members may speak only when called upon to give evidence by his or her representative.

3.6. Order of Proceedings

Subject to the provisions of this Regulation, the order of proceedings shall be at the discretion of the Club Disciplinary Committee. Members of the Club Disciplinary Committee may ask questions of any witness. The Club Disciplinary Committee may ask for additional enquiries to be undertaken, and may call for additional witnesses to attend.

3.7. Joint Hearings

If two or more accused members are involved in related misconducts, the Club Disciplinary Committee may, at its discretion, deal with their case together.

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However, the wishes of the accused members concerned must be taken into account.

3.8. Standard and Burden of Proof

The burden of proof shall be with the Club Governing Body and the Club Disciplinary Committee will only find against the accused member/members if, on the evidence before it, it is satisfied on the balance of probabilities that an allegation of misconduct has been proved.

3.9. Evidence

The Club Disciplinary Committee will rely solely on evidence presented at the hearing in accordance with Section 3.3.

3.10. Relevance

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

3.11. Opening and closing addresses

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

3.12. Witnesses in support of allegation

The complaint against the accused member/members will be put first. The Club Case Presenter will ask questions of each witness giving evidence in support of the complaint. These must not be leading questions. The witness may be cross-examined by the accused member/members or his/ her representative. Witnesses may be re-examined by the Club Case Presenter, but concerning only those matters raised in cross-examination, for the purpose of clarification.

3.13. Submission that there is no case to answer

At the conclusion of the evidence in support of the complaint against the accused member/members, the accused member/members or his/her representative may

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submit that no case has been made. The Club Case Presenter has the right to reply. If the Club Disciplinary Committee finds that, on the evidence, there is no case to answer it may dismiss the complaint.

3.14. Witnesses against the allegation

If the case proceeds, the accused member/members may then give evidence. At the conclusion of the accused member/member's evidence, the Club Case Presenter may cross-examine. The accused member/ members may give evidence in reply to clarify matters raised in cross- examination. The accused member/members or his/her representative may then call further witnesses, who may be similarly cross-examined and re-examined.

3.15. Recall of witnesses

A witness may be recalled to give further evidence only with the leave of the Club Disciplinary Committee.

3.16. Time Limits

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

3.17. Adjournment

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

3.18. Chair of the Club Disciplinary Committee's right to stop the proceedings

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

3.19. Absence

Notwithstanding the provisions of Section 3.5. of this Regulation the Club Disciplinary Committee may reach a decision and impose a penalty, if the accused member/members is/are absent from the Disciplinary Hearing, provided that the accused member/members has/have been given notice of the Disciplinary Hearing in accordance with Section 3.1(a)(i) and 3.1(b) of this Regulation.

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3.20. Majority Verdict

If members of the Club Disciplinary Committee cannot agree, the verdict of the Club Disciplinary Committee will be that decided by the majority of its members

3.21. Report of the Club Disciplinary Committee

At the termination of the proceedings, the Chair of the Club Disciplinary Committee will write a short report confirming the outcome. In the event of a finding that the allegation has been proved, the report will set out the misconduct alleged, a brief summary of the evidence received, the grounds for the finding that the allegation has been proved, the penalty imposed, and the factors taken into account in deciding the penalty. A copy of the report will be sent to the accused member/members who will be advised of his/her/their right of appeal, and to the Chair of the Board of Directors of Bowls England and to any other party deemed to have a material interest in the outcome, though in the latter case the report may be censored. Where the misconduct concerns the anti-doping policy, a copy may also be required to be sent to UK Anti-Doping.

4. Penalties

4.1. Imposition of penalties

If an allegation of misconduct is proved against an accused member/members, penalties may be imposed on the accused member/members by the Club Disciplinary Committee. The decision of the Club Disciplinary Committee shall normally be communicated to the accused member/members immediately after the hearing and followed up in writing to the accused member/members. Where in exceptional circumstances this is not possible the decision will be communicated no later than 21 days after the hearing. Examples of the penalties available are set out at Section 4.3 of this Regulation.

4.2. Matters to be considered

When determining penalties, the Club Disciplinary Committee will give consideration to the seriousness of the misconduct, the circumstances of the misconduct, and the general personal circumstances of the accused member/members. Due regard should also be paid to the seriousness with which Bowls England regards proven deliberate cheating and the misuse of drugs in bowling.

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4.3. Types of Penalty

The penalties available for an accused member/members found to have an allegation of misconduct proved against him/her are, but shall not be restricted to:

- a) Caution.

- b) Absolute discharge, which means that although the accused member/members is/are technically found to have had proved against him/her the misconduct alleged, no blame should be attached to his/her/their actions.

- c) Conditional discharge, which means that no penalty is imposed, subject to the accused member/members fulfilling certain stipulated conditions as imposed by the Club Disciplinary Committee, including future good behaviour, over a specified period of time. If the conditions are not met, a penalty may be imposed following a further hearing, which shall concern itself only with whether the conditions have been broken. Such further hearing shall take place in accordance with Sections 3.1(a)(i) and 3.1(b) of this Regulation and the procedure in sections 3.2 to 3.21 shall apply with such amendments as the Club Governing Body shall deem are required for the purpose.

- d) Required to pay a reasonable sum by way of compensation and restitution for an identified and quantified loss.

- e) Excluded from certain activities of his/her Club and/or County Association and/or Bowls England, such as participating in competitive bowls, for a defined period of time.

- f) Suspended from his/her Club and/or County Association and/or Bowls England for a defined period of time.

- g) Expelled from his/her Club and/or County Association and/or Bowls England for an indefinite period of time.

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h) Required to pay any costs in relation to the investigation and proceedings.

With regard to (d) and (h) above, until such time as the monies are paid the accused member/members shall forfeit all rights and entitlements and recognition under the Regulations, and shall be deemed to be suspended. In those cases where suspension or expulsion was imposed prior to the disciplinary hearing, that decision to suspend or expel shall expire at the final decision of the disciplinary hearing and any decision of this Club Disciplinary Committee shall apply from thereon. In the event of the case being proved and suspension or expulsion imposed as part or the whole of any penalty, the Club Disciplinary Committee will decide, in accordance with the provisions of sections 15 and 16 or 17 of this Regulation, either that the suspension or expulsion will take effect immediately or in the event of an appeal to the County Association they may decide that the suspension or expulsion should be held in abeyance until that appeal procedure has been finalised. Where appropriate the provisions of Section 18 of this Regulation, relating to Notification of Expulsion or Suspension, shall also apply.

In the event of an appeal being made, any penalty imposed OTHER than suspension or expulsion, shall be held in abeyance until such time as the right to any appeal has ceased and/or all appeal procedures have been finalised.

Any decision made by the Club Disciplinary Committee regarding suspension or expulsion shall only be overturned by virtue of any appeal procedures.

An accused member/members found to have an allegation of misconduct proved may be cautioned as referred to in (a) above which means that no penalty is imposed but, if the accused member/members is/are found to have had proved against him or her an allegation of misconduct, on a subsequent occasion, within a period of 3 years, the caution may be referred to and taken into account.

APPEAL TO COUNTY ASSOCIATION

5. Appeal from the Club Disciplinary Committee to County Association

5.1.

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a) In the event of an allegation of misconduct having been upheld by the Club Disciplinary Committee the accused member/members of the Club must be advised in writing of his/her right to appeal to the County Association. Such appeal, which can be against the finding that an allegation has been proved and/or against the penalty imposed, must be made on the form provided, which can be downloaded from the Bowls England website, and sent to the County Association, General Secretary/Administrator within fourteen days of receipt of written notification of the result of the Disciplinary Hearing.

b) The notice of appeal must set out the grounds of appeal and the appellant/appellants maybe required by the Chair/President of the County Association to provide a further written submission setting out further details of the grounds of appeal within a specified period.

5.2. County Appeal Hearing

Subject to Section 5.4. of this Regulation the governing body of the County Association (in this Regulation, "County Governing Body") shall arrange for a hearing of such appeal either by way of review hearing or re-hearing (in this Regulation the "County Appeal Hearing"). The date of the County Appeal Hearing shall if possible be agreed with the appellant/appellants. The County Association shall provide three dates of availability, which must be within 42 days of the date of receipt of the written notice of appeal by the general secretary/administrator of the County Governing Body, or, if required, 28 days after further details of the grounds of appeal have been received by the County Governing Body or as soon as practicable thereafter. In any event the County Appeal must take place within 90 days of receipt of the written notice of appeal by the County Governing Body, notwithstanding failure to agree such date with the appellant/appellants. In the event of failure to agree on such date the decision of the County Governing Body as to the date of the County Appeal Hearing shall be final. The appellant/appellants must be given the right to be heard and to be accompanied by an advisor.

5.3. Composition of County Appeal Committee

a) The Chair or if no Chair the President of the County Governing Body will appoint or delegate THREE persons, none of whom shall have had any previous involvement or material knowledge of the complaint, as the Appeal Committee (in this Regulation "the County Appeal Committee"), and delegate power to hear the appeal either by way of review hearing or re-hearing (subject to section 5.4 of this Regulation). The members of any such County Appeal Committee need not necessarily be members of the County Association. The County Governing Body shall appoint one of the County Appeal Committee to be the Chair thereof. Each member of the County

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Appeal Committee must declare any known conflict with appellant/appellants or any representative of the parties.

b) The names of the appointed/delegated members of the County Appeal Committee shall be forwarded to the appellant/appellants at least 14 days prior to the hearing. The appellant/appellants may object to a maximum of two of the appointed delegated members of that committee. Once the new committee has been appointed/delegated, no further objections may be made.

5.4. Nature of appeal

There is no automatic entitlement to a re-hearing of the case. The appeal will be limited to a review hearing, being a review of the decision of the Club Disciplinary Committee (in this Regulation the "County Review Hearing") unless the County Association considers at its discretion that in the circumstances of an individual appeal it would be in the interests of natural justice and/or there has been some procedural impropriety, that the County Association should hold a re-hearing (in this Regulation "the County Re-Hearing") in which case the procedure set out in Sections 7 & 8 of this Regulation shall apply.

5.5. Assistance to the County Appeal Committee

The Chair of the County Appeal Committee may appoint a person to act as Clerk to the County Appeal Committee, who may be legally qualified, to give assistance to the County Appeal Committee as it thinks fit. The Chair will also arrange for minutes of the proceedings to be taken. The Chair/President of the Club Governing Body will either present the case himself or appoint a representative to do so, who may be legally qualified, (in this Regulation, in either case "the Club Case Presenter").

6. Procedure for County Review Hearing (see also Section 8)

6.1

If the matter is to proceed by way of a County Review Hearing the County Appeal Committee shall invite the appellant/appellants and the respondent to give written submissions. The appellant/appellants shall be required to attend the hearing and may be represented by an advisor, friend or other representative who may be legally qualified. The respondent, or their representative, who may be legally qualified, will be given an opportunity to respond.

6.2. Evidence

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The County Appeal Committee shall not hear any new evidence, written or oral, and should limit their consideration to the evidence previously provided by the parties to the Club Disciplinary Committee.

6.3. Standard and Burden of Proof

The burden of proof shall be with the appellant/appellants. The County Appeal Committee will uphold the appeal if, on the evidence before it, it is satisfied, on the balance of probabilities, that the allegation of misconduct has not been proved.

6.4. Findings of the County Appeal Committee in an appeal against a finding that an allegation has been proven

Where the appeal is against a finding that an allegation has been proven, the County Appeal Committee may, after due consideration:

- a) Dismiss the appeal allowing the original decision to stand.
- b) Dismiss the appeal and impose a greater or lesser penalty or alter or amend any conditions imposed by the original penalty.
- c) Grant the appeal in which case the allegation in respect of the appellant/appellants will be recorded as not proven. Where appropriate, the provisions of Sections 15, 16, 17 and 18 of this Regulation, relating to Expulsion and Suspension, shall apply.

6.5. Findings of the County Appeal Committee in an appeal against penalty only

Where the appeal is against penalty only, the County Appeal Committee may, after due consideration:

- a) Dismiss the appeal allowing the original penalty to stand
- b) Dismiss the appeal and impose a greater penalty, or alter or amend any conditions imposed by the original penalty.
- c) Grant the appeal and impose a lesser sentence, or reduce or remove any conditions imposed by the original sentence. Where appropriate, the provisions of Sections 15, 16, 17 and 18 of this Regulation relating to Expulsion and Suspension, shall apply. When determining an appeal against penalty, the County Appeal Committee will give consideration to the seriousness of the misconduct, the circumstances of the misconduct, and the general personal circumstances of the appellant/appellants. Due regard should also be paid to the seriousness with which Bowls England regards proven deliberate cheating and the misuse of drugs in bowling.

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6.6. Imposition of penalties following a County Review Hearing

In those cases where suspension or expulsion was imposed prior to the County Review Hearing that decision to suspend or expel shall expire at the final decision of the County Review hearing and any decision of the County Appeal Committee shall apply from thereon. In the event of the case being proved and suspension or expulsion imposed as part or the whole of any penalty, the County Appeal Committee will decide, in accordance with the provisions of sections 15 and 16 or 17 of this Regulation, either that the suspension or expulsion will take effect immediately or in the event of an appeal to Bowls England they may decide that the suspension or expulsion should be held in abeyance until that appeal procedure has been finalised. Where appropriate the provisions of Section 18 of this Regulation, relating to notification of expulsion and suspension, shall also apply. In the event of an appeal being made, any penalty imposed OTHER than suspension or expulsion, shall be held in abeyance until such time as the right to any appeal has ceased and/or all appeal procedures have been finalised. Any decision made by the County Appeal Committee regarding suspension or expulsion shall only be overturned by virtue of any appeal procedures. An appellant/appellants found to have an allegation of misconduct proved may be cautioned which means that no penalty is imposed but, if the appellant/appellants is/are found to have had proved against him or her an allegation of misconduct, on a subsequent occasion, within a period of 3 years, the caution may be referred to and taken into account.

7. Procedure for a County Re-Hearing (see also Section 8)

7.1. Written witness statements in advance of the hearing

The Chair of the Club Appeal Committee or nominee on behalf of that Committee shall call for written witness statements in support of the appeal and in support of the, appellant/appellants to be received no later than 28 days prior to the date of the hearing. When all the statements from the parties have been received, copies will be immediately forwarded to the opposing parties, as appropriate. The appellant/appellants shall be required to indicate in writing, no later than 21 days prior to the date of the hearing, those witnesses he/she requires to attend the hearing to give oral evidence and those witnesses he/she is agreeable to the Appeal Committee accepting the written evidence. Should the appellant/appellants indicate that a witness or witnesses is/are not required to give oral evidence, or should no reply be received within the time limit, the Chair of the Appeal Committee shall have discretion to call a witness or witnesses to give oral evidence

7.2. Representation

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The appellant/appellants shall be present at the County Re-Hearing, and may be represented by an advisor, friend or other representative, who may be legally qualified. If the appellant/appellants is/are so represented, should it become necessary to ensure good order at the County Re- Hearing, the Chair of the County Appeal Committee may stipulate that the appellant/appellants may speak only when called upon to give evidence by his or her representative.

7.3. Order of Proceedings

Subject to the provisions of this Regulation, the order of proceedings shall be at the discretion of the County Appeal Committee. Members of the County Appeal Committee may ask questions of any witness. The County Appeal Committee may ask for additional enquiries to be undertaken, and may call for additional witnesses to attend.

7.4. Joint Hearings

If two or more appellant/appellants are involved in related misconducts, the County Appeal Committee may, at its discretion, deal with their case together. However, the wishes of the appellant/appellants must be taken into account.

7.5. Standard and Burden of Proof at County Re-Hearing

The burden of proof shall be with the Club Governing Body and the County Appeal Committee will only find against the appellant/appellants if, on the evidence before it, it is satisfied on the balance of probabilities that the allegation of misconduct has been proved.

7.6. Evidence

The County Appeal Committee will rely solely on evidence presented at the County Re- Hearing in accordance with Section 7.1 of this Regulation.

7.7. Relevance

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

7.8. Opening and Closing Addresses

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The Club Case Presenter shall be entitled to address the County Appeal Committee before calling witnesses, and at the conclusion of the evidence called on behalf of the appellant/appellants. The appellant/appellants, or his/her representative, may address the County Appeal Committee before calling witnesses and after the Club Case Presenter's final address.

7.9. Witnesses in support of the allegation

The complaint against the appellant/appellants will be put first. The Club Case Presenter will ask questions of each witness giving evidence in support of the complaint. These must not be leading questions. The witness may be cross examined by the appellant/appellants or his/her representative. Witnesses may be re-examined by the Club Case Presenter, but concerning only those matters raised in cross-examination, for the purpose of clarification.

7.10. Submission of no case to answer

At the conclusion of the evidence in support of the complaint against the appellant/appellants, the appellant/appellants or his/her representative may submit that no case has been made. The Club Case Presenter has the right to reply. If the County Appeal Committee finds that, on the evidence, there is no case to answer it may dismiss the complaint.

7.11. Witnesses against the allegation

If the case proceeds, the appellant/appellants may then give evidence. At the conclusion of the appellant/appellant's evidence, the Club Case Presenter may cross-examine. The appellant/appellants may give evidence in reply to clarify matters raised in cross-examination. The appellant/appellants or his/her representative may then call further witnesses, who may similarly be cross-examined and re-examined.

7.12. Recall of witnesses

A witness may be recalled to give further evidence only with the leave of the County Appeal Committee.

7.13. Imposition of penalties following a County Re-hearing

If the County Appeal Committee considers that the allegation of misconduct has been proved against the appellant/appellants, penalties may be imposed on the appellant/appellants by the County Appeal Committee. Examples of the penalties are, but shall not be restricted to:

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a) Caution.

b) Absolute discharge, which means that although the appellant/appellants is /are technically found to have had proved against him or her the misconduct alleged, no blame should be attached to his/her actions.

c) Conditional discharge, which means that no penalty is imposed, subject to the appellant/appellants fulfilling certain stipulated conditions as imposed by the County Appeal Committee, including future good behaviour, over a specified period of time. If the conditions are not met, a penalty may be imposed following a further hearing, which shall concern itself only with whether the conditions have been broken. Such further hearing shall take place in accordance with Sections 3.1(a)(i) and 3.1(b) of this Regulation and the procedure in sections 3.2 to 3.21 shall apply with such amendments as the County Governing Body shall deem are required for the purpose.

d) Required to pay a reasonable sum by way of compensation and restitution for an identified and quantified loss.

e) Excluded from certain activities of his/her Club and/or County Association and/or Bowls England, such as participating in competitive bowls, for a defined period of time.

f) Suspended from his/her Club and/or County Association and/or Bowls England for a defined period of time.

g) Expelled from his/her Club and/or County Association and/or Bowls England for an indefinite period of time.

h) In the case of an appellant County, expelled from Bowls England, for an indefinite period of time, in the case of an appellant Club, expelled from the County Association and/or Bowls England for an indefinite period of time and in the case of appellant/appellants expelled from the Club, the County Association or Bowls England for an indefinite period of time.

i) Required to pay any costs in relation to the investigation and proceedings.

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With regard to (d) and (h) above, until such time as the monies are paid the appellant/appellants shall forfeit all rights and entitlements and recognition under the Regulations, and shall be deemed to be suspended.

In those cases where suspension or expulsion was imposed prior to the County Re-Hearing that decision to suspend or expel shall expire at the final decision of the County Re- Hearing and any decision of this County Appeal Committee shall apply from thereon.

In the event of the case being proved and suspension or expulsion imposed as part or the whole of any penalty, the County Appeal Committee will decide, in accordance with the provisions of Sections 15 and 16 or 17 of this Regulation, either that the suspension or expulsion will take effect immediately or in the event of an appeal to Bowls England they may decide that the suspension or expulsion should be held in abeyance until that appeal procedure has been finalised. Where appropriate the provisions of Section 18 of this Regulation, relating to notification of expulsion and suspension, shall also apply. In the event of an appeal being made, any penalty imposed OTHER than suspension or expulsion, shall be held in abeyance until such time as the right to any appeal has ceased and/or all appeal procedures have been finalised. Any decision made by the County Appeal Committee regarding suspension or expulsion shall only be overturned by virtue of any appeal procedures. An appellant/appellants found to have an allegation of misconduct proved may be cautioned as referred to in (a) above which means that no penalty is imposed but, if the appellant/appellants is/are found to have had proved against him or her an allegation of misconduct, on a subsequent occasion, within a period of 3 years, the caution may be referred to and taken into account.

7.14. Matters to be considered

When determining penalties, the County Appeal Committee will give consideration to the seriousness of the misconduct, the circumstances of the misconduct, and the general personal circumstances of the appellant/appellants. Due regard should also be paid to the seriousness with which the National Governing Body regards proven deliberate cheating and the misuse of drugs in bowling.

8. Procedures common to County Review Hearings and County Re-Hearings

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8.1. Time limits

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

8.2. Adjournment

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

8.3. Chair of the County Appeal Committee's right to stop the proceedings

The Chair of the County Appeal Committee has the power to suspend the activity of the County Appeal Committee at any time, and to stop the County Appeal Hearing if he or she believes it to be appropriate to do so.

8.4. Absence

Notwithstanding the provisions of Section 6.1 and 7.2. of this Regulation, the County Appeal Committee may reach a decision and impose a penalty, if the appellant/appellants is/are absent from the County Appeal Hearing, provided that the appellant/appellants has/have been given notice of the County Appeal Hearing in accordance with section 5.2, of this Regulation.

8.5. Majority Verdict

If members of the County Appeal Committee cannot agree, the verdict of the County Appeal Committee will be that decided by the majority of its members.

8.6. Notification of Verdict

The decision of the County Appeal Committee shall normally be communicated to the appellant/appellants immediately after the hearing and followed up in writing to the appellant/appellants. Where in exceptional circumstances this is not possible the decision will be communicated no later than 21 days after the hearing.

8.7. Costs of County Appeal Hearing

If any County Appeal Hearing is abandoned within forty-eight hours of a scheduled hearing, or is dismissed after a hearing then the County Appeal

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Committee may, if they think appropriate, make an award of costs and expenses against the appellant/appellants in such sum as the County Appeal Committee consider appropriate. Until such time as the costs and expenses are paid the appellant/appellants shall forfeit all rights, entitlements and recognition under the Regulations and shall be deemed to be suspended.

8.8. County Appeal Committee's findings with regard to suspension or expulsion of a member

In the case of suspension or expulsion, having been imposed by the Club Disciplinary Committee and the findings of the County Appeal Committee either uphold that decision in full or in part, or in the event of a suspension or expulsion being imposed by the County Appeal Committee, should the appellant/appellants appeal against that decision and be seeking to have such suspension or expulsion held in abeyance until that appeal procedure has been finalised, the County Appeal Committee should take into consideration the seriousness of the case in making their decision. Any penalty, other than Suspension or Expulsion shall be held in abeyance until that appeal procedure has been finalised and/or all appeal procedures have been finalised.

8.9. Report following County Appeal Hearing

After the termination of the County Appeal Hearing, the Chair of the County Appeal Committee will write a short report confirming the outcome. If the proceedings were a County Review Hearing and the appeal was dismissed or were a County Re-Hearing and the complaint was upheld the report will set out the grounds for the appeal, a brief summary of any evidence received, and the grounds for the finding. A copy of the report will be sent to the appellant/appellants and to the Chair of the Board of Directors of Bowls England and to any other party deemed to have a material interest in the outcome, though in the latter case the report may be censored. Where the misconduct concerns the anti-doping policy, a copy may also be required to be sent to UK Anti-Doping.

APPEAL TO BOWLS ENGLAND

9. Appeal to Bowls England against decisions made by County Appeal Committee

9.1.

a) If in the case of a County Review Hearing, the appeal is dismissed by the County Appeal Committee or in a County Re-Hearing the complaint is upheld by the County

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Appeal Committee, the appellant/appellants must be advised in writing of his/her right to appeal to Bowls England on the form provided, which can be downloaded from the Bowls England website. Such appeal, which can be against the finding that an allegation has been proved and/or against the penalty imposed, must be made to the Chief Executive of Bowls England by way of a notice of appeal within fourteen days of receipt of written notification of the result of the County Appeal Hearing.

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

9.2. Bowls England Appeal Hearing

Subject to Section 9.4 of this regulation Bowls England shall arrange for a hearing of such appeal either by way of Review Hearing or Re-Hearing (in this Regulation the "Bowls England Appeal Hearing"). The date of the Bowls England Appeal Hearing shall if possible be agreed with the appellant/appellants. Bowls England shall provide THREE DATES OF AVAILABILITY which must be within 28 days of the date of receipt of the written notice of appeal by the Chief Executive of Bowls England, or, if required, 28 days after further details of the grounds of appeal have been received by the Chief Executive of Bowls England, or as soon as practicable thereafter. In any event the Bowls England Appeal Hearing must take place within 90 days of receipt of the written notice of appeal by the Chief Executive of Bowls England, notwithstanding failure to agree such date with the appellant/appellants. In the event of failure to agree on such date the decision of Bowls England as to the date of the Appeal Hearing shall be final. The appellant/appellants must be given the right to be heard and to be accompanied by an advisor.

9.3. Composition of Bowls England Appeal Committee

a) The Chief Executive of Bowls England will appoint or delegate THREE persons, none of whom shall have had any previous involvement or material knowledge of the complaint, as the Appeal Committee (in this Regulation "the Bowls England Appeal Committee"), and delegate power to hear the appeal either by way of review hearing or re-hearing (subject to Section 9.4). The members of any such Bowls England Appeal Committee need not necessarily be members of Bowls England. Bowls England shall appoint one of the Appeal Committee to be the Chair thereof. Each member of the Appeal Committee must declare any known conflict with the appellant/appellants or any representative of the parties.

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b) The names of the appointed/delegated members of the Appeal Committee shall be forwarded to the appellant/appellants at least 14 days prior to the hearing. The appellant/appellants may object to a maximum of two of the appointed delegated members of that committee. Once the new committee has been appointed/delegated, no further objections may be made.

9.4. Nature of appeal

There is no automatic entitlement to a re-hearing of the case. The appeal will be limited to a review hearing, being a review of the decision of the County Appeal Committee (in this Regulation "Bowls England Review Hearing") unless Bowls England considers at its discretion that in the circumstances of an individual appeal it would be in the interests of natural justice and/or there has been some procedural impropriety that Bowls England should hold a re-hearing (in this Regulation "Bowls England Re- Hearing") in which case the procedure set out in Sections 11 & 12 of this Regulation shall apply.

9.5. Assistance to the Bowls England Appeal Committee

The Bowls England Appeal Committee may appoint a person to act as Clerk to the Bowls England Appeal Committee, who may be legally qualified, to give assistance to the Appeal Committee as it thinks fit. The Chair will arrange for minutes of the proceedings to be taken. The Chair/President of the Club Governing Body will either present the case himself or appoint a representative to do so, who may be legally qualified, (in this regulation, in either case "the Club Case Presenter").

10. Procedure for Bowls England Review Hearing (see also section 12)

10.1.

If the matter is to proceed by way of a Bowls England Review Hearing the Bowls England Appeal Committee shall invite the appellant /appellants and the respondent to give written submissions. The appellant/appellants shall be required to attend the hearing and may be represented by an advisor, friend or other representative who may be legally qualified. The respondent will be given an opportunity to respond.

10.2. Evidence

The Bowls England Appeal Committee shall not hear any new evidence, written or oral, and should limit their consideration to the evidence previously considered at either the County Review Hearing or County Re-Hearing.

10.3. Standard and Burden of Proof

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The burden of proof shall be with the appellant/appellants. The Bowls England Appeal Committee will uphold the appeal if, on the evidence before it, it is satisfied, on the balance of probabilities, that the allegation of misconduct has not been proved.

10.4. Findings of the Bowls England Appeal Committee in an appeal against a finding that an allegation has been proven

Where the appeal is against a finding of the County Appeal Committee that an allegation has been proven, the Bowls England Appeal Committee may, after due consideration:

- a) Dismiss the appeal, allowing the decision of the County Appeal Committee to stand
- b) Dismiss the appeal and impose a greater or lesser penalty or alter or amend any conditions imposed by the original penalty.
- c) Grant the appeal in which case the allegation in respect of the appellant/appellants will be recorded as not proven.

Where appropriate the provisions of Sections 15, 16, 17 and 18 of this Regulation relating to Expulsion and Suspension, shall apply.

10.5. Findings of the Bowls England Appeal Committee in an Appeal against the penalty only

Where the appeal is against penalty only, the Bowls England Appeal Committee may, after due consideration:

- a) Dismiss the appeal allowing the penalty imposed by the County Appeal Committee to stand
- b) Dismiss the appeal and impose a greater penalty, or alter or amend any conditions imposed by the penalty. Grant the appeal and impose a lesser sentence, or reduce or remove any conditions imposed by the sentence. Where appropriate the provisions of Sections 15, 16, 17 and 18 of this Regulation relating to Expulsion and Suspension, shall apply. When determining an appeal against the penalty the Bowls England Appeal Committee will give consideration to the seriousness of the misconduct, the circumstances of the misconduct, and the general personal circumstances of the appellant/appellants. Due regard should also be paid to the seriousness with which Bowls England regards proven deliberate cheating and the misuse of drugs in bowling.

10.6. Imposition of penalties following a Bowls England Review Hearing

In those cases where suspension or expulsion was imposed prior to the Bowls England Review Hearing, that decision to suspend or expel shall expire at the final

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decision of the Bowls England Review Hearing and any decision of this Bowls England Appeal Committee shall apply from thereon. An appellant or appellants found to have an allegation of misconduct proved may be cautioned, this means that no penalty is imposed, but if the appellant/appellants is/are found to have had proved against him/her an allegation of misconduct, on a subsequent occasion, within a period of 3 years, the Caution may be referred to and taken into account.

11. Procedure for a Bowls England Re-Hearing (see also section 12)

11.1. Written witness statements in advance of the hearing

The Chair of the Bowls England Appeal Committee or nominee on behalf of that Committee shall call for written witness statements in support of the appeal and in support of the appellant/appellants to be received no later than 28 days prior to the date of the hearing. When all the statements from the parties have been received, copies will be immediately forwarded to the opposing parties, as appropriate. The appellant/appellants shall be required to indicate in writing, no later than 21 days prior to the date of the hearing, those witnesses he/she requires to attend the hearing to give oral evidence and those witnesses he/she is agreeable to the Appeal Committee accepting the written evidence. Should the appellant/appellants indicate that a witness or witnesses is/are not required to give oral evidence or should no reply be received within the time limit, the Chair of the Appeal Committee shall have discretion to call a witness or witnesses to give oral evidence.

11.2. Representation

The appellant/appellants shall be present at the Bowls England Re- Hearing, and may be represented by an advisor, friend or other representative, who may be legally qualified. If the appellant/appellants is/are so represented, should it become necessary to ensure good order at the Bowls England Re-Hearing, the Chair of the Bowls England Appeal Committee may stipulate that the appellant/appellants may speak only when called upon to give evidence by his or her representative.

11.3. Order of Proceedings

Subject to the provisions of this Regulation, the order of proceedings shall be at the discretion of the Bowls England Appeal Committee. Members of the Bowls England Appeal Committee may ask questions of any witness. The Bowls England Appeal Committee may ask for additional enquiries to be undertaken, and may call for additional witnesses to attend.