

BRITISH CANOEING DISCIPLINARY AND APPEAL REGULATIONS

1. INTRODUCTION

- 1.1. Unfortunately, unacceptable behaviour can occur within any sport. British Canoeing is committed to ensuring that transparent procedures are in place to ensure that where such issues do arise, action is fair and carried out expeditiously and in a consistent manner. These Disciplinary and Appeal Regulations (the “**Regulations**”) provide a framework to enable disciplinary matters to be managed and resolved fairly within British Canoeing.
- 1.2. These Regulations are made in accordance with the powers of British Canoeing to act as the governing body for the sport and recreation of canoeing and paddlesport and to establish rules, regulations, codes and procedures to regulate the sport and those who participate in it.
- 1.3. These Regulations are the means by which British Canoeing exercises disciplinary authority in relation to its rules, policies, codes and procedures and its statement of values established in the furtherance of its objects (including any appeals arising from them) and are binding on all Members (including former Members), Volunteers, Clubs, Centres, Coaches and Participants.

2. SCOPE

- 2.1. These Regulations do not apply to:
 - 2.1.1. any disciplinary matter relating to a member of British Canoeing staff which shall be dealt with under the procedures in the British Canoeing Staff Handbook;
 - 2.1.2. any disciplinary matters involving elite athletes who are members of a World Class Programme, which shall be dealt with under the procedures outlined in the British Canoeing Athlete Complaints Policy for grievances/complaints and the British Canoeing Athlete Disciplinary Policy for disciplinary matters;
 - 2.1.3. safeguarding matters which shall be dealt with under the British Canoeing Safeguarding Procedure;
 - 2.1.4. anti-doping matters falling within the scope of the British Canoeing Anti-Doping Rules which shall be dealt with under those Rules; or
 - 2.1.5. selection disputes and appeals which shall be addressed in accordance with the relevant selection policy.
- 2.2. “On the water” and/or “canoeing specific” disputes which arise at a British Canoeing Tournament shall, wherever possible, be directed at first instance to the relevant tournament Official for immediate resolution in accordance with the tournament rules. If, following a full investigation, such Officials consider the matter is serious and, if it is deemed appropriate, they may refer it as a Complaint in accordance with these Regulations.
- 2.3. Disciplinary matters, including appeals arising from them, shall be dealt with at their most local level, so that club or regional disciplinary matters or disputes shall be dealt with at a club or regional level as appropriate. Club or regional disciplinary and appeal matters are expected to follow rules and procedures consistent with these Regulations. There is no right of appeal from club or regional disciplinary proceedings under these Regulations.
- 2.4. Should there be a complaint arising from the conduct of a disciplinary proceeding at a club or regional level (for example because there are allegations of discrimination) reference should be made to paragraph 4.6 of these Regulations and British Canoeing’s Complaints Policy for guidance on whether

the complaint may be addressed under these Regulations because it amounts to Misconduct. British Canoeing reserves the right to take its own action should it become aware of any case that amounts to Misconduct under these Regulations.

- 2.5. The National Associations in Scotland, Wales and Northern Ireland shall have primary jurisdiction for matters relating to their own members and shall therefore be responsible for resolving disciplinary matters concerning their own members, with the exception of the matters which shall be reserved for British Canoeing to resolve pursuant to the UK Agreement (as amended from time to time).

3. DEFINITIONS AND INTERPRETATION

- 3.1. In these Regulations the following words shall have the meaning set out opposite them:

“Adult at Risk of Harm”	an individual aged 18 or over who: <ul style="list-style-type: none"> • has needs for care and support (whether or not the authority is meeting any of those needs), • is experiencing, or is at risk of, abuse or neglect, and • as a result of those needs is unable to protect himself or herself against the abuse or neglect or the risk of it.
“Appeal”	an appeal from a decision of the Disciplinary Panel or any other Decision Making Body under Regulation 13;
“Appeal Panel”	the panel appointed to hear an Appeal;
“Articles of Association”	the Articles of Association of British Canoeing in force at the relevant time;
“Board”	the Board of British Canoeing in office at the relevant time under the Articles of Association;
“British Canoeing Tournaments”	any tournament, competition or event at any level promoted or administered from time to time by British Canoeing (or on its behalf);
“Chair”	the person appointed from time to time to be the Chair of the Disciplinary Panel or the Appeal Panel under the Regulations;
“Chair of Disciplinary and Appeals”	the person appointed in accordance with Regulation 5;
“Codes of Conduct”	any British Canoeing Codes of Conduct in force from time to time, including but not limited to, Members Code of Conduct, Parents Code of Conduct, and Coaches Code of Conduct;
“Competent Body”	any person or organisation that has the legally delegated or vested authority, capacity, or power to perform a designated decision-making function;
“Complaint”	a complaint of Misconduct or notification of a concern regarding particular circumstances and/or conduct that falls within the jurisdiction of these Regulations;

“Complainant”	the person or body, which may include British Canoeing, from whom a Complaint has been received by the Director of Governance;
“Contractor”	any person or organisation engaged to supply services to British Canoeing in the course of his or its own business undertaking;
“Decision”	the written decision of the Disciplinary Panel, Appeal Panel, or Decision Making Body;
“Decision Making Body”	the body who makes a Decision in a given case, including a Disciplinary Panel, or any other body, panel or committee of British Canoeing which has been empowered pursuant to the Articles of Association and/or the rules of British Canoeing to resolve particular disciplinary matters from time to time;
“Director of Governance”	the Director of Governance (or their designee) so appointed from time to time by British Canoeing;
“Disciplinary Panel”	the Disciplinary Panel appointed to hear a Complaint under these Regulations;
“Disciplinary and Appeal Panel Register”	a register of persons maintained by the Director of Governance of British Canoeing, all of whom are appropriately trained/experienced in the application of British Canoeing regulations, codes, policies and its statement of values and/or have legal or relevant expertise, and who may be appointed at the relevant time to a Disciplinary Panel or to an Appeal Panel under the Regulations. Persons appointed to this register need not be members of British Canoeing;
“Governance Department”	the British Canoeing Governance Department so designated from time to time by British Canoeing;
“Interested Party or Parties”	any person, Member, or body that in the sole opinion of the Governance Department, will or is likely to be, affected by the outcome of any Complaint under the Regulations;
“Member”	a Member of British Canoeing as defined in the Rules and Articles of Association of British Canoeing;
“Misconduct”	as defined in Regulation 4.4;
“National Association”	any of British Canoeing, The Scottish Canoe Association, Canoe Wales or The Canoe Association of Northern Ireland;
“Notice of Complaint”	the notice of the Complaint received from the Complainant by the Director of Governance;
“Official”	any person acting on behalf of British Canoeing in the administration of a British Canoeing Tournament or acting on behalf of British Canoeing in any other manner from time to time, including the administration, coaching and organisation of a British Canoeing team or any promotional or coaching activity ;
“Participant”	any British Canoeing Affiliated Club, Member (including former Member), Official, Spectator, Volunteer or Contractor from time to time participating in any activity promoted or administered by British Canoeing;

“Respondent”	the person who is the subject of the Complaint under the Regulations;
“Spectator”	any person who is admitted at a British Canoeing Event/Tournament other than as a Competitor, Official or Volunteer or who is attending a British Canoeing Event/Tournament as a spectator only;
“Volunteer”	any person providing assistance or support to British Canoeing from time to time otherwise than as an employee or Director and including any person providing assistance at British Canoeing Tournaments;
“Young Person”	any person under 18 years of age.

- 3.2. Any reference to the singular includes the plural (and vice versa), and references to persons includes bodies corporate, unincorporated associations and partnerships (whether or not any of them have a separate legal personality).
- 3.3. Any words following the terms including, include, in particular, for example or any other similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or terms preceding those terms.
- 3.4. Headings are inserted for convenience only and do not affect the construction of the Regulations.
- 3.5. Any reference to “working days” in the Regulations refers to a normal working day in England, i.e. Monday to Friday, excluding public holidays. For further clarification of the interpretation of dates for service of documents please refer to paragraph 3 of Schedule 1.
- 3.6. If any part of the Regulations is held invalid, unenforceable or illegal for any reason, they shall remain in force apart from that part, which shall be treated as if it has been deleted to the extent to which it is invalid, unenforceable or illegal.

4. JURISDICTION

- 4.1. The Regulations are binding on all Participants and relate to all British Canoeing’s rules, policies, codes and procedures and its statement of values as are from time to time established in the furtherance of its objects (other than its anti-doping, selection and safeguarding policies and procedures). The rules, policies, codes and procedures are made available on British Canoeing’s website.
- 4.2. Subsequent resignation from membership or cessation from being a Participant shall not prevent British Canoeing taking disciplinary action in accordance with the Regulations in relation to a Complaint that took place, or partially took place, whilst the Respondent was a Member or Participant.
- 4.3. The Disciplinary Panel and the Appeals Panel are delegated the power under these Regulations to decide whether misconduct has taken place.
- 4.4. For the purposes of these Regulations misconduct is defined as (but is not limited to):
 - 4.4.1. any breach of British Canoeing rules, policies, regulations, codes of conduct and procedures and its values.
 - 4.4.2. any conduct which is incorrect, inappropriate, unlawful, unsporting or that is otherwise unacceptable or detrimental to the general interests of British Canoeing or paddlesports more generally or which brings the sport into disrepute including ; (by way of examples):
 - 4.4.2.1. cheating and / or an act of dishonesty; or

- 4.4.2.2. failure to co-operate with the operation of these Regulations either in so far as it relates to him or her or any other person; or
 - 4.4.2.3. any behaviour, conduct, statement or practice that is discriminatory, abusive, threatening, intimidating, harassing or deliberately provocative or intended to offend, insult, humiliate, ridicule or cause harm or fear; or
 - 4.4.2.4. any failure or refusal to cooperate with an investigation into a potential Anti-Doping rule violation or any act of misconduct relating to anti-doping which do not amount to an Anti-Doping rule violation.
- 4.5. Any person suspended or banned by the International Canoe Federation, European Canoe Association and/or one of the National Canoe Associations within the United Kingdom may be suspended or banned concurrently by British Canoeing. British Canoeing shall not be required to grant the person the opportunity to offer an explanation at a further disciplinary hearing in accordance with these Regulations.
- 4.6. Any person or body which shall include a Member (or a former Member), Club, Region, Official or Volunteer may raise a Complaint or bring an Appeal that falls within the scope of these Regulations.

5. INDEPENDENCE: ROLES AND RESPONSIBILITIES

- 5.1. The British Canoeing Board shall approve the appointment an independent, legally qualified and suitably experienced person to act as the Chair of Disciplinary and Appeals and fulfil the duties set out in these Regulations including to work with the Director of Governance to identify and appoint other suitably qualified persons to form the Disciplinary and Appeal Panel Register.
- 5.2. The Chair of Disciplinary and Appeals may sit on a Disciplinary Panel or on an Appeal Panel, but shall not be permitted to sit on an Appeal Panel if they have previously sat on the Disciplinary Panel of the same matter.
- 5.3. The Director of Governance shall act as the disciplinary officer for British Canoeing and fulfil the responsibilities set out in these Regulations. The Director of Governance may delegate those responsibilities to any member of the Governance Department. No member of the Governance Department shall be permitted to sit on a Disciplinary Panel or an Appeal Panel under these Regulations.
- 5.4. The Disciplinary and Appeal Panels shall be and remain operationally independent of British Canoeing at all times and shall be free to conduct hearings and decision making without interference from British Canoeing or any third party.
- 5.5. The Governance Department may provide administrative support and adequate resources to a Disciplinary or Appeal Panel or the Chair of Disciplinary and Appeals in the discharge of their functions (including members of the Disciplinary and Appeal Panel Register) so as to ensure they are able to fulfil their tasks efficiently and independently and in accordance with these Regulations. In particular the Director of Governance may nominate one or more persons from the Governance Department to act as the secretariat to a Disciplinary or Appeal Panel, providing administrative support to the Chair and the Panel in the performance of their roles (but without involvement in the deliberations of a Panel or in the drafting of any decisions).

6. RAISING A COMPLAINT TO THE DIRECTOR OF GOVERNANCE

- 6.1. Notice of all Complaints shall be forwarded for the attention of the Director of Governance. The Notice of Complaint shall be made in writing as soon as is reasonably practicable following the misconduct in question. It shall set out the nature of the Complaint in sufficient detail to enable the Complaint to be

investigated. British Canoeing shall acknowledge receipt of the Complaint in writing within a reasonable period of receipt of the Notice of Complaint.

- 6.2. The Director of Governance may, having consulted with the Chair of Disciplinary and Appeals, decide, acting reasonably in the exercise of this power, that too long has elapsed since the event giving rise to the Complaint and therefore no action will be taken.
- 6.3. Subject to Regulation 6.2, on receipt of the Notice of Complaint, the Director of Governance having consulted with the Chair of Disciplinary and Appeals, will determine how to proceed and may undertake one or more of the following actions or such additional steps as are prudent:
 - 6.3.1. commence an initial investigation into the matter to source information and evidence as soon as practicable;
 - 6.3.2. where appropriate inform the Respondent of the nature and substance of the Complaint and invite a written response from the Respondent within a specified period;
 - 6.3.3. undertake any further investigation they see fit in order to ascertain the best course of action to resolve the Complaint. Such an investigation may include:
 - 6.3.3.1. appointing an independent investigator to gather further information and if necessary interview a person or persons involved in the matter;
 - 6.3.3.2. a requirement on the Respondent to submit character references;
 - 6.3.3.3. making enquiries with any potentially relevant statutory agencies or Competent Body;
 - 6.3.4. review if the Complaint falls within the jurisdiction of these Regulations or pause the Complaint if it is referred to an external body pursuant to clause 6.4; and/or
 - 6.3.5. commence disciplinary action.
- 6.4. Upon completion of any applicable steps set out in Regulation 6.3 the Director of Governance will take any one or more of the following steps or take such other action as deemed appropriate
 - 6.4.1. decide that no further action is required;
 - 6.4.2. refer the Complaint to:
 - 6.4.2.1. another Decision Making Body because the Complaint falls within the jurisdiction of that Decision Making Body as set out in Regulations 2.3 and 2.4; or
 - 6.4.2.2. an external relevant body that is more appropriate in practice or law to handle it, including other agencies or the police for criminal matters, in which case the handling of the Complaint by British Canoeing shall be paused pending the outcome reached by the external body;
 - 6.4.3. dismiss the Complaint on the grounds that there is not enough evidence to warrant further action being taken or that it does not fall within the scope of these Regulations;
 - 6.4.4. refer the complaint under the British Canoeing Safeguarding Procedure, Anti- Doping Regulations, selection policies, or other applicable policies;
 - 6.4.5. on the agreement of the Complainant and the Respondent, deal with the Complaint by arranging mediation in accordance with Regulation 7 of these Regulations.

- 6.4.6. deal with the Complaint informally by way of advice or information because it is not serious enough to warrant full disciplinary proceedings; or
 - 6.4.7. refer the Complaint to the Disciplinary Panel, to be constituted in accordance with Schedule 1.
- 6.5. British Canoeing shall be entitled to raise its own Complaints and, if it does so, shall follow the steps outlined in clause 6.3 to establish if there is a case of misconduct to answer. Clauses 6.1 – 6.6 shall be interpreted accordingly.
- 6.6. As soon as is practicable, the Director of Governance shall inform the Complainant and the Respondent, if already notified, and any Interested Party or Parties of the course of action taken.
- 6.7. In the event that a Complaint is withdrawn by a Complainant, British Canoeing retains the right, at its absolute discretion, to take any action deemed appropriate against the Respondent under the Regulations.

7. MEDIATION

- 7.1. In accordance with Regulation 6.4.5, where the Director of Governance decides the Complaint may be resolved by mediation without the need for recourse to formal disciplinary proceedings, the matter shall be referred to a qualified mediator or independent mediation service appointed by the Director of Governance to be dealt with in accordance with such mediation procedure as they see fit or the mediation procedure of that organisation (as appropriate). There will usually be a cost to using a mediation service and the mediator shall be entitled to make any decision regarding the payment of costs (if any).
- 7.2. Should mediation fail to settle the matter, the Director of Governance reserves the right to reconsider the matter and elect to proceed with one of the alternative actions outlined in Regulation 6.4.

8. INTERIM SUSPENSION

- 8.1. In the event that the Complaint is deemed to be sufficiently serious, the Director of Governance shall consult with the Chair of Disciplinary and Appeals and, following this consultation, may seek at any time following the receipt of the Notice of Complaint to impose an interim suspension upon the Respondent.
- 8.2. An interim suspension shall be deemed a neutral act without prejudice to the disciplinary procedure and aims to protect all parties from further potential risk and allegations.
- 8.3. Further to Regulation 8.2 an interim suspension shall not be deemed to be a disciplinary sanction until such time as the matter is determined by the Disciplinary Panel, when it may be taken into account in respect of the imposition of any further sanctions.
- 8.4. Interim suspension orders will be made where it is considered by the Director of Governance that such action is appropriate which shall include the following reasons:
- 8.4.1. For the protection of the Respondent or other Participants;
 - 8.4.2. In cases involving allegations of gross misconduct or criminal activity;
 - 8.4.3. Where there is a risk to the reputation of British Canoeing if it fails to suspend; and
 - 8.4.4. Where a failure to suspend may impede internal investigations or prejudice investigation by external organisations.

- 8.5. Suspensions may be imposed for a defined or indefinite period. The nature of the suspension will be communicated to the Respondent in writing. All suspensions will be reviewed on a periodic basis by the Chair of Disciplinary and Appeals who shall have the power to lift the interim suspension should that be appropriate in the circumstances.
- 8.6. The Director of Governance may communicate the fact of the interim suspension to any relevant third parties on a strictly need to know basis.
- 8.7. An interim suspension imposed on a Respondent will apply such conditions that are deemed appropriate, including stating a person will not paddle, coach, spectate or participate in any British Canoeing activities and/or some or all activities of a Member as indicated in the notice of suspension anywhere in England during the period of suspension.
- 8.8. Any suspension under this Part will automatically cease if any of the following occurs (whichever is soonest):
 - 8.8.1. The matter has been determined by the Disciplinary Panel under the Regulations; or
 - 8.8.2. The Complaint is withdrawn and no further action is taken; or
 - 8.8.3. The matter is resolved by way of mediation or alternative dispute resolution.

9. SUMMARY PROCEDURE AND DISCIPLINARY HEARINGS

- 9.1. Where the Director of Governance determines that a Complaint shall be dealt with by way of a disciplinary hearing the Governance Department shall inform the Respondent of the disciplinary charge against them with specific reference to the rules, regulations, codes or procedures alleged to have been breached (the '**Notice of Charge**') and shall be required to state the charge and, and subject to Regulation 15.2 and Regulation 15.3, produce an overview of the evidence in support of the Notice of Charge. The Director of Governance may recommend that the case is suitable to be dealt with summarily pursuant to paragraph 9.3.
- 9.2. The Respondent has 15 working days from receipt of the Notice of Charge to submit a written reply to the Notice of Charge either:
 - 9.2.1. accepting the charge acknowledging that the Disciplinary Panel shall have the powers to impose sanctions as set out in Regulation 14) and (if applicable) consenting to the matter being dealt with summarily; or
 - 9.2.2. denying the charge in which case the matter will be dealt with by a full disciplinary hearing.
- 9.3. Where a Complaint is considered minor due to the likely sanction being no more than a warning, a short suspension (no more than 28 days), a small fine or a suspended penalty, the matter may be dealt with summarily by the Chair of the Panel (acting independently) without the need for a full hearing. The conditions for the imposition of such a sanction shall be that:
 - 9.3.1. the Respondent must have admitted the charge and consented to the matter being dealt with summarily under this paragraph 9.1;
 - 9.3.2. the Disciplinary Panel shall give due consideration to any arguments provided in mitigation by the Respondent; and
 - 9.3.3. there is no appeal against a decision imposed under this provision notwithstanding that a person subject to a summary decision may appeal against the sanction imposed if the Respondent considers it to be disproportionate to the facts of the Complaint.

- 9.4. If the Respondent accepts the charge and it cannot be dealt with summarily pursuant to paragraph 9.3, a Disciplinary Panel shall be appointed in accordance with the procedures set out in Schedule 1 to determine the appropriate sanctions. The Respondent is permitted to make written representations in relation to mitigation within 7 working days from accepting the charge.
- 9.5. If the Respondent does not accept the charge, a Disciplinary Panel shall be appointed in accordance with Schedule 1. This appointment should be made within 15 working days from the response from the Respondent made in accordance with Regulation 9.2.
- 9.6. The Disciplinary Panel shall have jurisdiction to conduct disciplinary hearings and impose sanctions upon those persons / bodies in accordance with these Regulations.

10. THE DISCIPLINARY PANEL'S DECISION

- 10.1. The Disciplinary Panel shall provide the written reasons for the Decision to the Complainant, the Respondent and British Canoeing within 20 working days of the hearing.
- 10.2. Any deviation from these Regulations by a Disciplinary Panel shall not invalidate any finding, procedure or decision unless that deviation raises material doubt as to the reliability of the finding, procedure or decision.
- 10.3. The written reasons of the Decision shall ordinarily include:
 - 10.3.1. The identity and composition of the Disciplinary Panel;
 - 10.3.2. The names of the parties;
 - 10.3.3. A brief summary of the facts;
 - 10.3.4. The Rule/Regulation on which the Decision is based;
 - 10.3.5. The grounds of the Decision;
 - 10.3.6. The sanction (if any) to be imposed on the Respondent in accordance with the Regulations;
 - 10.3.7. Any order for costs; and
 - 10.3.8. The appropriate appeals procedure in accordance with the Regulations.

11. AVAILABLE SANCTIONS

- 11.1. Where the Complaint is upheld, the Disciplinary Panel may impose such sanctions upon the Respondent as it thinks fit including:
 - 11.1.1. A warning or reprimand in respect of the misconduct or rule breach committed;
 - 11.1.2. Suspension from British Canoeing activities including British Canoeing Tournaments, teams, meetings or other events as a Competitor, Official, Spectator or Volunteer for a specified or indefinite period;
 - 11.1.3. Exclusion from British Canoeing activities including British Canoeing Tournaments, teams, meetings or other events as a Competitor, Official, Spectator or Volunteer;
 - 11.1.4. Suspension for a specified period or removal from any office held within British Canoeing, including disaffiliation in the case of Clubs (temporary or permanent);
 - 11.1.5. Exclusion from holding office within British Canoeing for a specified or indefinite period of time;

- 11.1.6. A recommendation that the Respondent should not hold a position of authority within a British Canoeing affiliated Club.
 - 11.1.7. Withdrawal of some or all of any canoeing related financial support or benefits;
 - 11.1.8. A fine not exceeding £1,000;
 - 11.1.9. A requirement to undertake training or be subject to a period of monitoring or (for individuals) mentoring. For Clubs or Regions this may include recommendations for reform or adopting new policies or processes; and
 - 11.1.10. A combination of any of the above or any other disciplinary action as considered appropriate and in accordance with the Rules and Articles of Association of British Canoeing.
- 11.2. The decision taken by the Disciplinary Panel in relation to the sanction to be imposed must be reasonable and proportionate in all circumstances.
- 11.3. The Disciplinary Panel may order that any part of a sanction be suspended for a specified period (not exceeding twelve months). If the person benefiting from a suspended sanction commits another breach of the Rules and regulations of British Canoeing or is the subject of a further Complaint during the period of such suspended sanction which is subsequently upheld, then the suspension of the sanction is automatically revoked and that sanction is added to the sanction pronounced for the new breach.
- 11.4. Any suspension imposed by a Disciplinary Panel may be backdated to take into account any period of suspension already served under any interim suspension that may have been imposed in accordance with Regulation 8.
- 11.5. All fines and financial sanctions should be paid within 28 days from the notice of the fine or the financial sanction being applied or this failure to pay will be classed as a disciplinary matter and action will be taken by British Canoeing in accordance with these Regulations. Interest shall be paid, at a rate to be determined by the Disciplinary Panel, such rate not to exceed the rate applicable to judgment debts in England, from the end of the 28 day period until the actual date of payment.
- 11.6. Further to Regulation 11.5, if the Respondent provides evidence of a genuine inability to pay any fine or financial sanction, an alternative sanction may be imposed instead at the absolute discretion of the Disciplinary Panel.

12. COSTS

- 12.1. A Disciplinary Panel and/or an Appeals Panel may, at their discretion, make an order for the costs relating to the disciplinary action or the Appeal, to be paid in such proportion as they may decide by any of the Complainant, Respondent or British Canoeing. The Disciplinary Panel or the Appeal Panel will not ordinarily make an order for costs without first considering submissions from the relevant parties on the question of costs.
- 12.2. These costs may include travel and accommodation expenses reasonably incurred by the Disciplinary Panel, the Appeal, any witnesses and the Director of Governance in the preparation and holding of the Disciplinary Hearing or the Appeal and any legal costs incurred by the Disciplinary Panel or the Appeal Panel. In calculating the amount, any legal representation or professional charges incurred by the Complainant (unless the Complainant is British Canoeing) or the Respondent or the Appellant will not be included.
- 12.3. Such orders for payments of costs shall not form any part of or influence any fines or other sanctions.

13. APPEALS

- 13.1. Subject to 13.2, under these Regulations an Appeal may be brought against decisions made by:
- 13.1.1. a Disciplinary Panel under these Regulations;
 - 13.1.2. a British Canoeing Discipline Committee where these involve Complaints or disciplinary matters not related to "on the water" matters; and
 - 13.1.3. a Decision Making Body, including the British Canoeing Safeguarding Case Management Group and other Disciplinary Committees within British Canoeing.
- (for the purposes of this Regulation, Decision shall include any Decision as set out above.)
- 13.2. Appeals can only be brought by the following:
- 13.2.1. the Complainant (or the person that initially raised the matter that was subject to the Decision);
 - 13.2.2. the Respondent (or the person sanctioned pursuant to the Decision); and/or
 - 13.2.3. British Canoeing.
- 13.3. Appeals can only be brought against a Decision on one or more of the following grounds:
- 13.3.1. the Decision (including as to sanctions) was based on error of fact or could not have been reasonably reached by a reasonable decision maker when faced with the evidence before it;
 - 13.3.2. serious procedural or other irregularity in the proceedings before the Decision Making Body, which will result in the Appeal Hearing taking the form of a rehearing *de novo* of the issues raised in the proceedings, which means the Appeal Panel shall hear the matter over again, from the beginning, without being bound in any way by the decision being appealed;
 - 13.3.3. significant and relevant new evidence has become available which was not available before the conclusion of the Hearing but, had it been available, may have caused the Disciplinary Panel or the Decision Making Body to reach a materially difference decision.
- 13.4. In accordance with Regulation 9.3 a Respondent whose case was dealt with summarily may only appeal the sanction on the grounds set out in Regulation 13.3.1.
- 13.5. The party seeking leave to appeal (the 'Appellant') shall serve a Notice of Appeal in writing upon the Director of Governance within 10 working days following receipt of the written grounds of the Decision against which the Appeal is being made.
- 13.6. The Notice of Appeal shall:
- 13.6.1. state the date and decision of the Decision Making Body against which the Appeal is lodged;
 - 13.6.2. state the grounds of appeal relied upon in accordance with Regulation 13.3;
 - 13.6.3. set out the statement of facts upon which the Appeal is based, specifying whether the appeal is against finding and sanction or just sanction alone and include any supporting documents upon which the Appellant will rely.
 - 13.6.4. be accompanied by a cheque for £50 to be deposited with British Canoeing ("the Deposit"). This Deposit shall be held by British Canoeing and re-paid to the Appellant in the event that the Appeal Panel so decides.

- 13.7. Upon receipt of the Notice of Appeal, subject to Regulation 13.8 the matter shall be referred to the Appeal Panel following the procedures outlined in Schedule 2.
- 13.8. Where the Director of Governance believes the Appeal to be frivolous or falls outside the scope of these Regulations, a request can be made to the proposed Chair of Appeal Panel who will then review the matter and decide if the Notice of Appeal shows that one or more of the grounds for Appeal as established in Regulation 13.3 have been sufficiently met for the Appeal to be determined under the Regulations. If the Chair is satisfied that there are grounds to do so the matter shall be referred to the Appeal Panel following the procedures outlined in Schedule 2.
- 13.9. A decision as to whether to grant leave to Appeal shall be taken within 10 working days from receipt of the Notice of Appeal. Such decision will be notified to the Appellant and any Interested Parties.
- 13.10. In the case of Appeals the time limits specified in the Regulations must be complied with.

14. POWERS OF AN APPEAL PANEL

- 14.1. An Appeal Panel has the power to:
 - 14.1.1. dismiss the Appeal;
 - 14.1.2. overturn any finding and any sanction imposed by the original Decision Making Body;
 - 14.1.3. substitute an alternative finding;
 - 14.1.4. reduce or increase the original sanction; and/or
 - 14.1.5. make such further order as it considers appropriate.
- 14.2. Sanctions may be increased as well as decreased on appeal.
- 14.3. Any sanction imposed, confirmed or varied by the Appeal Panel shall normally commence on the day following the date of the appeal or with immediate effect.
- 14.4. The Chair of the Appeal Panel shall provide written reasons of its decision to the parties and British Canoeing within 10 working days of the Appeal hearing. Written reasons will be circulated to the parties by the Governance Department.
- 14.5. The decision of an Appeal Panel shall be final and binding upon the parties, and there shall be no further right of appeal from it. All parties waive irrevocably any right to any other form of appeal, review or recourse by or in any court or judicial authority, insofar as such waiver may validly be made.
- 14.6. The decision of the Appeal Panel and sanction imposed, if any, may be made public after it has been notified to all the parties. All parties to an appeal hearing are deemed to have consented to such publication.

15. DISCLOSURE AND CONFIDENTIALTY OF WITNESSES

- 15.1. In the course of disciplinary matters and Complaints considered under these Regulations it will normally be necessary to identify the Complainant(s) and any other applicable witnesses to provide the Respondent with a clear understanding of the allegations against them and ensure procedural fairness.
- 15.2. Notwithstanding Regulation 15.1, in some limited circumstances, it may be deemed necessary and reasonable to keep the details of a complainant(s) or witness confidential. Such circumstances may include if the identity of the complainant or witness is not material to the case, there is a reasonable belief that disclosure would put the complainant or witness at risk, and/or where anonymity is required in accordance with Data Protection Legislation.

- 15.3. Where the Chair of Disciplinary and Appeals, the Chair of the Disciplinary Panel, or the Chair of the Appeal Panel (as is applicable in the circumstances) decides there are legitimate and reasonable reasons to preserve the anonymity of a complainant(s) or witnesses in accordance with Regulation 15.2, then any evidence or documentation provided to the Respondent will be sufficiently redacted to preserve this anonymity. The Respondent must still be provided with sufficient information to allow them to respond to the allegations against them.
- 15.4. A Complainant or witness should be aware that even in circumstances where it is deemed reasonable and necessary to preserve the anonymity of a complainant(s) or witness in accordance with Regulation 15.2, British Canoeing cannot completely guarantee anonymity. Even where British Canoeing has taken all reasonable steps in accordance with Regulation 15.3, the Respondent may be able to ascertain who has submitted a complaint or provided evidence. In addition, if the matter is sufficiently serious as to subsequently result in civil/criminal proceedings then British Canoeing may also be required by law to disclose or provide certain confidential information.

16. DISCIPLINARY MATTERS INVOLVING YOUNG PERSONS OR ADULTS AT RISK OF HARM

- 16.1. Where a disciplinary matter or appeal involves a Young Person or an Adult at Risk of Harm, but does not otherwise fall within the scope of the British Canoeing Safeguarding Procedure, the Governance Department, the Chair of Disciplinary and Appeals, and the Disciplinary Panel and/or Appeal Panel must be mindful of the needs of the person in question and take these into account when deciding upon the format of proceedings or indeed whether any action is taken against such a person.
- 16.2. Where a disciplinary matter or appeal involves a Young Person or Adult at Risk of Harm, the Chair of Disciplinary and Appeals will ordinarily ensure that the Panel will include at least one member who is suitably trained at dealing with matters involving a Young Person or an Adult at Risk of Harm.
- 16.3. Any interviews of a Young Person or Adult at Risk of Harm shall only be conducted by suitably trained and experienced persons nominated by British Canoeing and the Young Person or Adult at Risk of Harm shall be afforded the opportunity to be accompanied by any parent or legal guardian.
- 16.4. Written permission should be obtained from any parent or legal guardian of a Young Person or Adult at Risk of Harm where such person is asked to provide evidence and / or attend a hearing. Where a Young Person or Adult at Risk of Harm is asked to attend a hearing, they shall be afforded the opportunity to do so accompanied by any parent or legal guardian and the Disciplinary Panel and / or Appeal Panel shall make sure that the Young Person or Adult at Risk of Harm fully understands the process taking place. In exceptional circumstances, where written permission is not obtained from a parent or legal guardian, assessment should be made of the ability of the Young Person or Adult at Risk of Harm to understand and make their own decisions.
- 16.5. In all proceedings involving a Young Person or Adult at Risk of Harm the Chair of Disciplinary and Appeals, the Chair of the Disciplinary Panel or the Appeal Panel or the Director of Governance may vary the standard directions set out in the Regulations in order to take into account the needs of such Young Person or Adult at Risk of Harm. This may include conducting any hearing on paper or providing for evidence to be given by video link.
- 16.6. The refusal of the parent, legal guardian, Young Person or Adult at Risk of Harm to co-operate shall not preclude British Canoeing from taking disciplinary action against the Young Person or Adult at Risk of Harm in accordance with the Regulations.

17. RECORD KEEPING AND DATA PROTECTION

- 17.1. All personal data held in connection with a Complaint will be held in accordance with British Canoeing's Data Protection Policy, the retained EU law version of the General Data Protection Regulation ((EU) 2016/679) (UK GDPR) and the Data Protection Act 2018 or any applicable Data

Protection legislation in effect at the time of the dispute or disciplinary matter or coming into effect during the course of the dispute or disciplinary matter.

- 17.2. Save where the Disciplinary Panel provides otherwise in accordance with Schedule 1, Decisions may be published on the British Canoeing website. British Canoeing may notify appropriate third parties of the outcome of any disciplinary matter and will ordinarily inform the other National Associations.
- 17.3. In accordance with British Canoeing Data Protection Policies the Director of Governance will determine how long any offences should be retained on record, including the sanctions imposed and any related documentation.

18. ARBITRATION ACT

These Regulations constitute an agreement to arbitrate, and proceedings under these Regulations shall constitute arbitration proceedings with a seat or legal place in England for the purpose of triggering the Arbitration Act 1996.

19. GOVERNING LAW

These Regulations shall be governed by and interpreted in accordance with English law.

20. AMENDMENTS

These Regulations may be updated at any time by the Board.

Schedule 1

The Disciplinary Panel and Conduct of Disciplinary Proceedings

1. COMPOSITION OF THE DISCIPLINARY PANEL

- 1.1. A Disciplinary Panel will ordinarily consist of three members but may, at the discretion of the Chair of Disciplinary and Appeals, consist of a sole member. The members of the Disciplinary Panel shall be appointed from the individuals listed on the Disciplinary and Appeal Panel Register. The Disciplinary Panel shall be formed by the Chair of Disciplinary and Appeals, the Director of Governance or another suitable member of the Governance Department, with such party also nominating the Chair of the Disciplinary Panel, who shall be legally qualified. The members of the Panel shall be chosen from those individuals on the Disciplinary and Appeal Panel Register who are the most appropriate and qualified to hear the specific Complaint.
- 1.2. Notwithstanding the provisions detailed in paragraph 1.1 (and without prejudice to paragraph 1.4) the Chair of Disciplinary and Appeals, the Director of Governance or the Governance Department shall retain the right to appoint persons not listed on the Disciplinary and Appeal Panel Register where it is appropriate and where the circumstances dictate it necessary and in the interest of fairness and justice.
- 1.3. Upon formation of the Disciplinary Panel, the Governance Department shall inform the Respondent of its composition.
- 1.4. The Respondent may object to the composition of the Disciplinary Panel by notifying the Governance Department in writing of the objections and setting out the reasons for such objections no later than 5 working days from the date of being informed of the composition of the Disciplinary Panel.
- 1.5. The Governance Department shall immediately forward any objection received in accordance with paragraph 1.4 to the Chair of Disciplinary and Appeals who shall consider the objections and determine whether they are valid or that there are no grounds for objection, in which case the Chair of Disciplinary and Appeals shall reject the objection.
- 1.6. Where the objection received in accordance with paragraph 1.4 relates to the Chair of Disciplinary and Appeals this shall be forwarded to the Director of Governance who shall consider the objections and determine whether they are valid or that there are no grounds for objection, in which case the Director of Governance shall reject the objection.
- 1.7. The Governance Department shall notify the Respondent in writing within 5 working days from the date of receipt of any objection to the composition of the Disciplinary Panel that either:
 - 1.7.1. the composition of the Disciplinary Panel has changed (in which case the Governance Department shall provide details of the new Disciplinary Panel); or
 - 1.7.2. the composition of the Disciplinary Panel has not changed (in which case the Governance Department will give reasons why the Respondent's objection has not been sustained).
- 1.8. The decision by the Chair of Disciplinary and Appeals or Director of Governance on the composition of the Disciplinary Panel under this provision shall be final.

2. PRE-HEARING PROCEDURE

- 2.1. Except where otherwise set out in the Regulations, the Chair of the Disciplinary Panel shall have final adjudication of matters relating to the timetable following the appointment of the Disciplinary Panel in accordance with paragraph 1.
- 2.2. All parties must notify the Chair of the Disciplinary Panel of any evidence, including all documents, witness statements and witnesses to be called to give evidence (if any), relating to the Complaint that they wish the Disciplinary Panel to consider in relation to the matter.
- 2.3. The Chair of the Disciplinary Panel (having heard from the parties or not, as the Chair sees fit) shall issue directions in relation to the procedures and timetable to be followed in the proceedings, including any steps to be taken prior to the Hearing such as the exchange of any witness evidence, and fix the date, time, and venue of any oral hearing.
- 2.4. The Chair of the Disciplinary Panel shall have the power to make such further directions relating to the hearing upon application by either party.
- 2.5. If no evidence and/or documentation is received by either party within any time limit imposed, the Disciplinary Panel may consider the Complaint in the absence of such evidence, and upon on the basis of the facts and statements in its possession.
- 2.6. Each party shall inform the Chair of the Disciplinary Panel no less than 5 working days before the hearing if they will be legally represented or accompanied by another third party.
- 2.7. It shall be the duty of the parties at their own cost to notify and arrange the attendance of any legal representation and/or any witnesses they may wish to call.
- 2.8. Time limits referred to in the Regulations can be extended at the discretion of the Chair of Disciplinary and Appeals, or the Director of Governance before the appointment of a Chair of the Disciplinary Panel and, thereafter, only by the Chair of the Disciplinary Panel. Either party may apply in writing to the Chair of the Disciplinary Panel to extend or vary any time limits set out in the Regulations including retrospectively.

3. SERVICE OF DOCUMENTS

- 3.1. Each party must send all communications to the Governance Department who shall distribute copies as appropriate to the Disciplinary Panel and any Interested Parties.
- 3.2. Any notification, correspondence or any other document submitted under the Regulations shall be sent by email with a copy delivered in person, by first class or registered post.
- 3.3. Any document served under the Regulations will be deemed to be received (the “**Date of Receipt**”) by the relevant party:
 - 3.3.1. in person: on that day, if it is delivered on a business day before 17:00 hours, failing which it will be deemed to be served on the next following business day after it is delivered;
 - 3.3.2. by first class post or by registered post: on the second business day after the date of posting; or
 - 3.3.3. by email transmission: on that day, if it is transmitted on a business day before 17:00 hours, failing which it will be deemed to be served on the next following business day after it is transmitted.
- 3.4. Any time periods stipulated in the Regulations are deemed to commence from the Date of Receipt.

- 3.5. All correspondence addressed to the Governance Department shall be sent to: Private and Confidential; For the attention of the Governance Department, British Canoeing, National Water Sports Centre, Holme Pierrepont, Nottingham, NG12 2LU.

4. CONDUCT OF THE DISCIPLINARY HEARING

- 4.1. The conduct of disciplinary proceedings will be in accordance with the principles of natural justice.
- 4.2. Proceedings, findings or decisions of a Disciplinary Panel shall not be invalidated by reason of any minor defect, irregularity, omission or technicality unless such defect, irregularity, omission or technicality amounts to a material irregularity and forms a ground of appeal.
- 4.3. The burden of proof shall be on the party asserting the claim or fact in issue and the standard of proof in all disciplinary cases (including appeals) is the balance of probabilities.
- 4.4. A Disciplinary Panel may be conducted by teleconference or videoconference where appropriate and individual Panel members may join a physical hearing remotely via teleconference or videoconference and be regarded as present.
- 4.5. Any Disciplinary Panel or Appeal Panel will not be obliged to follow strict rules of evidence. They may admit such evidence as they think fit and accord such evidence such weight as they think appropriate in all the circumstances. Where the subject matter of a complaint or matter before the Disciplinary Panel or Appeal Panel has been the subject of previous civil or criminal proceedings, or has been heard previously by any other competent body, the result of such proceedings and the facts and matters upon which such result is based will be presumed to be correct and the facts presumed to be true unless it is shown by clear and convincing evidence that this is not the case.
- 4.6. The Disciplinary Panel shall decide any issue by majority but shall not be required to indicate whether a decision has been taken unanimously or not. No member of the Disciplinary Panel may abstain from voting.
- 4.7. If the Chair of the Disciplinary Panel feels it is necessary, bearing in mind all the circumstances surrounding the case, the Disciplinary Panel may, at its discretion, request an independent expert to act as adviser to the Disciplinary Panel.
- 4.8. The procedure for the hearing shall be flexible and shall be at the discretion of the Chair of the Disciplinary Panel, who may make such directions as are necessary to ensure the orderly and effective conduct of the hearing, subject to the overriding requirement of fairness. The Chair of the Disciplinary Panel will then outline the basic procedure of the Hearing.
- 4.9. Subject to the potential variations outlined in paragraphs 4.10 – 4.18 the basic procedure of the Hearing will be as follows:
- 4.9.1. the case against the Respondent will be presented by the Complainant or British Canoeing, together with relevant evidence, including witness evidence, if appropriate. Such disclosure will be subject to the provisions detailed in Regulation 15.2 and Regulation 15.3. In such cases where it is deemed appropriate to do so, British Canoeing may appoint a third party to present the case against the Respondent;
- 4.9.2. the Respondent or their representative will be asked to admit or deny the misconduct charge and will then have the opportunity to speak, challenge the evidence presented against them, submit their own evidence, call witnesses and make representations to the Disciplinary Panel. The evidence of further witnesses not notified in accordance with the

- Regulations will be admitted only at the absolute discretion of the Chair of the Disciplinary Panel;
- 4.9.3. before being called, witnesses will not be allowed in the room while evidence is being given;
 - 4.9.4. questions may be put by the Disciplinary Panel to the Respondent, the person or body presenting the case against the Respondent in accordance with paragraph 4.9.1 and each witness on conclusion of their evidence;
 - 4.9.5. the Respondent and the person or body presenting the case against the Respondent in accordance with paragraph 4.9.1 may be able to raise questions in cross-examination;
 - 4.9.6. the Respondent and the person or body presenting the case against the Respondent in accordance with paragraph 4.9.1 will be allowed to make a closing statement to the Panel;
 - 4.9.7. those representing a Respondent at a Hearing may present and sum up their case, but they are not permitted to answer questions put to the Respondent.
 - 4.9.8. at the conclusion of the Hearing, the Panel will deliberate and determine whether, on the balance of probabilities, the disciplinary charge has been proved;
 - 4.9.9. if the Disciplinary Panel decides the disciplinary charge has been proved, the Panel will review the Respondent's previous disciplinary record, where relevant, to consider sanctions and costs;
 - 4.9.10. following consideration of the factors in paragraph 4.9.9, the Panel shall determine the appropriate sanction in accordance with the Regulations;
 - 4.9.11. the Decision will be communicated to them in accordance with Regulation 10.
- 4.10. The Chair of the Disciplinary Panel has the authority to adjourn the Hearing to allow additional evidence to be presented only if they consider it important and relevant in reaching a decision.
 - 4.11. The Chair of the Disciplinary Panel may determine that persons other than the parties shall be permitted to attend the hearing where this is in the interests of justice.
 - 4.12. The Chair of the Disciplinary Panel may determine that attendance by the Complainant, Respondent and any witnesses involved may be via conference call, video link or any other suitable method. The Chair of the Disciplinary Panel may also determine that any written evidence may be admitted where giving evidence and being cross examined in person is not reasonably possible or desirable or the evidence is not in dispute by the parties, but the Disciplinary Panel should take the relative weight of such evidence into account when making its determinations.
 - 4.13. If the Respondent does not attend the arranged Hearing, then provided that the Disciplinary Panel is satisfied that notice of the hearing was served properly, it may proceed to hear the evidence in the absence of the Respondent.
 - 4.14. In the light of the evidence presented to it, the Disciplinary Panel may find a Respondent guilty of a different disciplinary charge than originally set out in the Notice of Charge. This charge may be either more or less serious than the original charge.
 - 4.15. If the alleged disciplinary charge has not been proved, the Chair of the Disciplinary Panel shall confirm this and the Disciplinary Panel shall dismiss the Complaint.

- 4.16. The Chair of the Disciplinary Panel has the discretion to adjourn the Hearing if at any time they think the interests of justice require it (for example to secure the attendance of a key witness or other important evidence).
- 4.17. The Disciplinary Panel may limit cross-examination particularly where the witness is a Young Person, Adult at Risk of Harm or is otherwise deemed to be in some way vulnerable.
- 4.18. In circumstances where a person other than the parties is present and it appears to Chair of the Disciplinary Panel that any person giving evidence may expose themselves to unnecessary risk the Chair may require a non-party to withdraw whilst that evidence is given.
- 4.19. The Disciplinary Panel proceedings may be recorded if all parties consent.
- 4.20. The Disciplinary Panel shall not be bound by the rules of a Court of Law (or any legislative provision) governing procedures. All hearings shall be conducted in a fair and orderly manner, with each party having a reasonable opportunity to give and call evidence, address the Disciplinary Panel and present their case.
- 4.21. Except in the case of appeals, a failure to observe the time limits specified in the Regulations shall not nullify any proceedings, but such failure may be a cause for a hearing to be adjourned.

5. PUBLICATION OF DECISIONS

- 5.1. British Canoeing reserves the right to publish details of any disciplinary action taken, including publication of any decision made by the Disciplinary Panel where a Complaint is upheld. Any such publication will only be made following the expiry of the period in which an appeal may be brought by the Respondent.
- 5.2. The Disciplinary Panel in giving a Decision may provide that part of the Decision will be redacted or that details of or the Decision itself may not be published.
- 5.3. British Canoeing may at any time during the disciplinary or dispute resolution process notify any other relevant person(s) or body of any details relating to the Complaint or Dispute in so far as such person(s) or body may need to know for the proper exercise of its functions. This may include, but is not limited to, other Members.
- 5.4. Where it appears that public knowledge of a Complaint exists, prior to its determination, British Canoeing reserves the right to confirm the details of such complaint subject to the consent of the Complainant and the Respondent

Schedule 2

Appeal Panel: Terms of Reference and Conduct of Appeals

1. COMPOSITION AND POWERS OF THE APPEAL PANEL

- 1.1. An Appeal Panel will normally consist of three members but at the discretion of the Chair of Disciplinary and Appeals can comprise of a single individual. The Director of Governance or a member of the Governance Department shall act as the secretary or administrator for the Appeal Panel and shall not be a member of the Appeal Panel. The Appeal Panel shall be formed within 10 working days from notification of the decision to grant leave to appeal in accordance with Regulation 13.9.
- 1.2. The member(s) of the Appeal Panel shall be appointed from the individuals listed on the Disciplinary and Appeal Panel Register. The Appeal Panel shall be formed by the Chair of Disciplinary and Appeals, the Director of Governance or another suitable member of the Governance Department, with such party also nominating the Chair of the Appeal Panel.
- 1.3. No member of the Appeal Panel (including the Chair of the Appeal Panel) shall have been a member of the original Disciplinary Panel or Decision Making Body which considered the case or had any other previous involvement in the case.
- 1.4. British Canoeing may appoint a legal representative to make representations at an Appeal Panel. They shall be permitted to be involved in all stages of the process and shall not be considered to be a member of the Appeal Panel.

2. PRE-APPEAL PANEL PROCEDURES

- 2.1. Where the Appeal Panel has been convened, the Director of Governance shall send a copy of the Notice of Appeal along with confirmation of the composition of the Appeal Panel to the Appellant, the Complainant (or Respondent) and any other Interested Party;
- 2.2. As soon as practicable after the formation of the Appeal Panel, which shall be no longer than 10 working days after the Appeal Panel has been convened, the Chair (having heard from the parties or not, as the Chair sees fit) shall issue directions in relation to the procedures and timetable to be followed in the proceedings. In particular, the directions may address:
 - 2.2.1. the decision of the Chair of the Appeal Panel as to the appropriate course of action for the appeal;
 - 2.2.2. the date, time and place of the hearing ensuring that that all parties are given at least 10 working days' notice of the hearing
 - 2.2.3. whether the Appellant will be represented or accompanied by an advocate or other third party, whether they wish to call witnesses to give evidence, and who they intend to have present at the hearing;
 - 2.2.4. whether Interested Parties will be invited to attend the hearing and make any submissions deemed necessary; and
 - 2.2.5. subject to Regulation 15.2 and Regulation 15.3 supply copies of any evidence and / or information previously provided to the Director of Governance in relation to the case, including the initial Complaint, the Decision Making Body's Decision, and any further evidence and / or information deemed necessary.

- 2.3. The Appellant may object to the composition of the Appeal Panel by notifying the Director of Governance of the objections and setting out the reasons for such objections no later than 5 working days from the date of being informed of the composition of the Appeal Panel.
- 2.4. The Director of Governance shall immediately forward any objection received in relation to the members of the Appeal Panel to the Chair of Disciplinary and Appeals who shall consider the objections and determine whether they are valid or in their opinion, the grounds for objection are frivolous, unfounded or ill informed, in which case the Chair of Disciplinary and Appeals shall reject the objection.
- 2.5. If the objection is made against the Chair of Disciplinary and Appeals then another member of the Disciplinary and Appeal Panel Register must assess the objection.
- 2.6. The Director of Governance shall notify the Appellant in writing within 5 working days from the date of receipt of any objections that either:
 - 2.6.1. The composition of the Appeal Panel has changed (in which case the Director of Governance shall provide details of the new Appeal Panel); or
 - 2.6.2. The composition of the Appeal Panel has not changed (in which case the Director of Governance will give reasons why the Appellant's reasons for objecting have been rejected).
- 2.7. The decision by the Chair of Disciplinary and Appeals or other member of the Disciplinary and Appeal Panel Register on the composition of the Appeal Panel under this provision shall be final.
- 2.8. The Appeal Panel shall have the power to hear evidence from any third party not directly involved in the appeal if the Appeal Panel is of the view that such third party may be materially or adversely affected by any decision it may make.
- 2.9. Where the Appellant wishes to rely upon any new evidence it must notify the Chair of the Appeal Panel at least 72 hours ahead of the hearing. The Chair of the Appeal Panel will then give any other party to the hearing as much notice of the new evidence as is reasonably possible. The Chair of the Appeal Panel shall determine the weight to be given to such evidence.

3. THE CONDUCT OF APPEAL PANEL HEARINGS

- 3.1. All Appeal hearings shall be by way of review only and not a re-hearing unless:
 - 3.1.1. the Appeal is to be heard *de novo* because of a procedural irregularity as set out in Regulation 13.3.2; or
 - 3.1.2. significant and relevant new evidence has become available in accordance with Regulation 13.3.3.
- 3.2. The conduct of Appeal Panel proceedings will be in accordance with the principles of natural justice as determined by and consistent with the laws of England and Wales.
- 3.3. The burden of proof shall be on the party asserting the claim or fact in issue and the standard of proof in all cases before the Appeal Panel is the balance of probabilities.
- 3.4. Proceedings, findings or decisions of an Appeal Panel shall not be invalidated by reason of any minor defect, irregularity, omission or technicality unless such defect, irregularity, omission or technicality amounts to a material irregularity and forms a ground of appeal.
- 3.5. A record shall be kept of Appeal Panel proceedings (either in writing or by audio or audio-visual recording).

- 3.6. If the Appellant does not attend the Appeal Hearing, provided that the Appeal Panel is satisfied that notice of the hearing was served properly, it may proceed to hear the evidence in the absence of the Appellant.
- 3.7. Appeal Panels will not be obliged to follow strict rules of evidence. It may admit such evidence as it deems fit and accord such evidence such weight as they think appropriate in all the circumstances. Where the subject matter of a complaint or matter before the Appeal Panel has been the subject of previous civil or criminal proceedings, or has been heard previously by any other competent body, the result of such proceedings and the facts and matters upon which such result is based will be presumed to be correct and the facts presumed to be true unless it is shown by clear and convincing evidence that this is not the case.
- 3.8. In the case of appeals, a failure to observe the time limits specified in the Regulations may nullify any proceedings where this is considered reasonable in all the circumstances by the Chair of Disciplinary and Appeals.
- 3.9. At the hearing the Appeal Panel shall consider all the evidence made available to it by all parties to the appeal, including the written and/or oral testimony of any witnesses supporting that evidence. It may question any relevant party including any witnesses present in relation to the matter. Each party to the appeal may be entitled to question the other's witnesses. The Appeal Panel may call upon a party to the appeal to supply additional evidence and may adjourn the hearing for that or any other purpose.
- 3.10. The Appeal Panel shall decide any issue by majority and no member of the Appeal Panel may abstain from voting.