

BADMINTON ENGLAND CHILD PROTECTION DISCIPLINARY PROCEDURES

1. Introduction

1.1 BADMINTON England is committed to ensuring that all Young People involved in badminton are able to enjoy the game in an inclusive, safe and welcoming environment. All adults involved in the game must abide by the 'Safeguarding and Protecting Young People in Badminton Policy' ('the Policy') and challenge conduct that does not comply with the Policy or that is or may be harmful to Young People.

The Child Protection Disciplinary Procedures ('the Procedures') provide a framework for BADMINTON England to investigate and decide upon any matters that may affect the welfare of Young People in badminton. Such matters will be taken seriously and responded to in relation to the Procedures, which also serve to outline disciplinary actions that may be taken.

1.2 The Procedures were approved for adoption by the Board of BADMINTON England on 30th October 2013.

1.3 Where any conflict arises with other BADMINTON England regulations, rules or procedures relating to child protection / safeguarding young people and / or discipline, the terms of the Procedures set out below will take precedence.

1.4 It is important that all those who work in and around badminton at any level are aware of the Procedures and show commitment to driving up the standards in the sport for the enjoyment of all who are involved with our game.

1.5 All Members of BADMINTON England are required to ensure that all persons referred to at paragraph 2.2 below are expressly bound by, and that their attention is drawn to:

1.5.1 these Procedures;

1.5.2 BADMINTON England's Safeguarding and Protecting Young People Policy including BADMINTON England's reporting procedures; and

1.5.3 BADMINTON England's Codes of Ethics and Conduct.

2. Jurisdiction

2.1 The Procedures encompass anyone who plays or is otherwise involved in the playing of badminton, this includes (but is not limited to): players, coaches and officials who are members of clubs, leagues, County Badminton Associations

and other bodies affiliated to BADMINTON England or who participate in events sanctioned by BADMINTON England.

2.2 BADMINTON England has disciplinary jurisdiction under the Procedures over the following:

2.2.1 All Members of BADMINTON England and all volunteers, workers and self-employed individuals;

2.2.2 All persons (including players, coaches, officials, referees, umpires and officers) who are members of a club or other organisation which is a Member of BADMINTON England;

2.2.3 All persons (including players, coaches, officials, referees, umpires and officers) who take part in badminton in any capacity directly or indirectly under the jurisdiction of BADMINTON England or any club, County Badminton Association or other organisation which is a Member of BADMINTON England;

2.2.4 All persons (including players, coaches, officials, referees, umpires and officers) who have, whether by enjoying any form of licence, accreditation or any other status from BADMINTON England, or otherwise, consented (expressly or impliedly) to be bound by the Procedures; and

2.2.5 All employees, volunteers and officers of BADMINTON England.

3. Definitions

3.1 'Appellant' – the individual or organisation who has submitted a Notice of Appeal under paragraph 13 below.

3.2 'Board' - the Board of Directors for the time being of BADMINTON England.

3.3 'Case Management Group' - the Group appointed under paragraph 10 below.

3.4 'Charge' - an allegation of grounds for disciplinary action under paragraph 6 below.

3.5 'Designated Officer' - the individual who has been appointed as such by the Chief Executive Officer of BADMINTON England, this is usually the Lead Child Protection Officer.

3.6 'Interim Suspension' - a suspension imposed under paragraph 8 below pending the conclusion of relevant investigations and proceedings.

3.7 'Child Protection Disciplinary Panel' – A Panel appointed under paragraph 12.4 below.

3.8 'Child Protection Disciplinary Appeals Panel' - a Panel appointed under paragraph 13 below.

3.9 'Suspension' - a disciplinary order that may be made under the Procedures by the Case Management Group (under paragraph 10 below) or by the Child Protection Disciplinary or Appeals Panels (under paragraph 14 below).

3.10 'Young Person' or 'Young People' – anyone under the age of 18.

4. Delegation

4.1 The powers of the Board to investigate and adjudicate upon complaints and to impose sanctions under the Procedures shall be delegated to the Chief Executive, Designated Officer or other representative of BADMINTON England; the Case Management Group; the Child Protection Disciplinary Panel and the Child Protection Appeal Panel in accordance with the terms of the Procedures.

5. Confidentiality

5.1 Save to the extent that disclosure and/or publication is provided for in the Procedures, or is otherwise in accordance with the law, all matters considered under the Procedures will, so far as practicable, be regarded as confidential and used only for the purposes of the Procedures.

5.2 All persons considering complaints under the Procedures will be expected to sign an appropriate confidentiality agreement.

5.3 Disclosure of Disclosure and Barring Service (DBS) information obtained under the Procedures will be subject to the DBS Code of Practice.

6. What is a Child Protection Disciplinary Issue?

6.1 It shall be a ground for disciplinary action to be taken under the Procedures where an organisation/person over whom BADMINTON England has jurisdiction is found to have harmed the safety and/or welfare of a Young Person or Young People in badminton, or whose conduct (whether in badminton or not) is deemed to pose an actual or potential risk of harm to the safety and/or welfare of a Young Person or Young People in badminton.

6.2 In reaching a decision as to whether there are grounds for disciplinary action in accordance with paragraph 6.1 above, account will be taken of any failure to comply with:

6.2.1 BADMINTON England's Safeguarding and Protecting Young People Policy including BADMINTON England's reporting procedures; and

6.2.2 BADMINTON England's Codes of Ethics and Conduct.

6.3 Relevant Convictions and Barred List Status

6.3.1 Where a person:

6.3.2 has an unspent criminal conviction or recorded caution for an offence against or concerning a Young Person or Young People; or

6.3.3 is included on any statutory list barring, or restricting, their working with children or young persons the unspent criminal conviction, recorded caution and/or inclusion on any statutory list shall be grounds for disciplinary action under the Procedures.

6.4 Complaints and allegations

A complaint, allegation or matter relating to the safety and/or welfare of a Young Person or Young People in badminton may be made to, or drawn to the attention of, BADMINTON England by any person or organisation within or outside the badminton network.

7. Action following receipt of a complaint or allegation

7.1 Upon receipt of, or upon becoming aware of, a complaint, allegation or matter under paragraphs 6.1, 6.2, 6.3 or 6.4 above, BADMINTON England's Designated Officer shall decide (in consultation with the Case Management Group if they consider appropriate), whether to:

7.1.1 Refer the matter to the relevant statutory agency(ies) for further consideration (and/or to review the matter following consideration by a relevant statutory agency); or

7.1.2 Instigate an investigation under the Procedures; or

7.1.3 Refer the matter for resolution at local level by a club, County Badminton Association or other organisation.

7.2 External Agency investigation

7.2.1 Where an individual has been charged with a criminal offence or is the subject of an investigation by the Police, Social Services or any other public or other investigatory authority, in respect of conduct which is or may be grounds for disciplinary action under paragraph 6 above, the Designated Officer shall seek advice from the relevant agency as to whether or not BADMINTON England shall postpone consideration of the matter under the Procedures pending the outcome of any such proceedings/investigation, and as to whether or not in the meantime, an interim suspension should be imposed under the Procedures.

7.2.2 Where an investigation is commenced under paragraph 7.1.2 above, the Designated Officer may at any stage decide (in consultation with the Case

Management Group if they consider it appropriate), to cease or postpone the investigation pending consideration under paragraphs 7.1.1 and 7.1.3.

7.2.3 It will be at the sole and absolute discretion of BADMINTON England whether or not to commence or proceed with an investigation under the Procedures where the complainant does not consent to their identity being disclosed to the subject of the complaint.

8. Interim Suspension

8.1 In the circumstances set out at paragraphs 7.1.1 to 7.1.3 above, the Designated Officer has the power to impose an immediate interim suspension if he/she considers by reference to the factors at paragraph 8.2 below that it is appropriate to exclude an individual concerned from any involvement in badminton under the jurisdiction of BADMINTON England which might involve access to young people, until the conclusion of all proceedings/investigations mentioned at paragraph 7.2.1 above or under the Procedures.

8.2 The factors to be taken into consideration are:

8.2.1 Whether the safety and/or welfare of a Young Person/Young People is / are, or may be, at risk of harm;

8.2.2 the level of seriousness of the alleged offence; or

8.2.3 whether a suspension is necessary or desirable to facilitate the conduct of any investigation or proceedings by BADMINTON England or any other authority or body, having regard in all cases to the need for any action to be proportionate.

8.3 The Designated Officer shall as soon as reasonably practicable, notify the individual concerned of the interim suspension, and shall otherwise communicate the decision in accordance with paragraph 15 below.

8.4 BADMINTON England shall use reasonable endeavours to ensure that an interim suspension is brought before the Case Management Group for ratification within 15 working days.

8.5 If ratified, an interim suspension shall be reviewed by the Case Management Group thereafter at appropriate regular intervals, not less than 8 weeks, taking into particular consideration the factors outlined at paragraph 8.2 above and whether the circumstances or facts surrounding a case justify the continuation of the interim suspension.

8.6 When an individual is under interim suspension, BADMINTON England shall endeavour to bring and conclude any proceedings under the Procedures as soon as reasonably practicable.

8.7 Any breach of an interim suspension shall constitute grounds for disciplinary action under the Procedures.

8.8 This suspension procedure is without prejudice to BADMINTON England's general powers of suspension under the Disciplinary Procedures.

9. Investigation

9.1 Where BADMINTON England instigates or continues with an investigation under the Procedures, the Designated Officer (or other person on their behalf) shall make all (or any further) enquiries considered necessary to establish the facts and circumstances of the complaint, allegation or matter.

9.2 BADMINTON England shall give the individual or organisation concerned written notification of the complaint, allegation or matter, informing them that their response is required within a specified period of time and in connection with possible proceedings under these Procedures.

9.3 The Designated Officer (or other person acting on their behalf) may interview any person that he/she deems may assist the general aims of the investigation – this includes, but is not limited to, the person about whom the complaint, allegation or matter relates, relevant witnesses to the circumstances of the complaint, allegation or matter, and/or, the complainant.

9.4 The Designated Officer (or other person acting on their behalf) may require any person subject to the Procedures to disclose documentation or information to him/her that is relevant to the general aims of the investigation. Any person subject to the Procedures agrees to assist the Designated Officer (or other person acting on their behalf) by disclosing relevant documentation or information when requested. The Designated Officer is entitled, where appropriate, to draw adverse inferences from any failure by a person subject to the Procedures to disclose documentation or information when requested.

9.5 A request for documentation or information in accordance with paragraph 9.4 above will be made by way of a formal notice by the Designated Officer, in writing, and be served on the relevant person by post, email, fax or by hand.

9.6 A request for documentation or information made in accordance with paragraph 9.5 above must be responded to within 14 days of the notice being served on the relevant person, however, the Designated Officer has the discretion to extend this period. Any request to extend the 14 day period for disclosure must be made in writing to the Designated Officer and must be received by the Designated Officer within the original 14 day period.

9.7 The identity of the complainant shall be made known to the individual or organisation concerned unless the Designated Officer determines that there are compelling reasons not to.

9.8 BADMINTON England's enquiries may include contacting and obtaining information from the following:

- 9.8.1 the Police;
- 9.8.2 Children's Social Care;
- 9.8.3 any other authority involved in the protection and welfare of young people; and/or
- 9.8.4 any other person or party as deemed appropriate by BADMINTON England.

9.9 Where it is considered necessary to obtain information from a Young Person, contact will be made on behalf of BADMINTON England by an appropriately trained Child Protection specialist.

9.10 In carrying out its function under the Procedures, BADMINTON England shall have the power to require:

9.10.1 the attendance, upon reasonable notice, of any individual or representative of any organisation mentioned in paragraph 9.8 above, to answer and provide information;

9.10.2 the production, upon reasonable notice, by any individual or organisation mentioned in paragraph 9.8 above, of documents, information or other material in whatever form held;

9.10.3 where considered appropriate, that an individual against whom a complaint or allegation has been made, or to whom the matter relates, undertakes an Enhanced Disclosure check;

9.10.4 any individual against whom a complaint or allegation has been made, or to whom the matter relates, undertakes a risk assessment by a suitably qualified person appointed by BADMINTON England.

9.11 Where BADMINTON England requests the individual or organisation against whom a complaint or allegation is made, or such other individual or organisation mentioned at paragraph 9.8, to comply with a reasonable request or requirement as part of the investigation under these Procedures, any failure to do so may amount to grounds for disciplinary action under the Procedures to the extent that the said individual or organisations falls within the jurisdiction of BADMINTON England as set out at paragraph 2.2 above.

9.12 At the conclusion of an investigation, the Designated Officer shall report to the Case Management Group who shall decide the appropriate course of action in accordance with paragraph 10 directly below.

10. Case Management Group Decision

10.1.1 Upon receipt of a report in accordance with paragraph 9.12 above, the Case Management Group shall decide on the following:

- 10.1.2 If the individual or organisation concerned admits the complaint, allegation or matter and the Case Management Group is satisfied that there are grounds for disciplinary action as defined at paragraph 6 above and that it is a 'Summary Offence' (as defined at paragraph 11.1 below), then the Summary Procedure shall be invoked (see paragraph 11 below); or
- 10.1.3 If the individual or organisation concerned does not admit the complaint, allegation or matter; or if the Case Management Group considers there may be grounds for disciplinary action but is not satisfied that the case is appropriate for the Summary Procedure, then the Child Protection Disciplinary Procedure shall be invoked (see paragraph 12 below); or
- 10.1.4 If satisfied that the investigation has established that there is no case to answer, the case shall be dismissed.
- 10.2 Prior to reaching a decision under paragraph 10.1, the Case Management Group may direct that further enquiries be undertaken.

11. Summary Procedures

- 11.1 A Summary Offence is one where the Case Management Group believes that the appropriate disciplinary order should be no more than:
- 11.1.1 a warning; and / or
 - 11.1.2 an order specifying certain training to be undertaken; and/or
 - 11.1.3 an order requiring an individual to be monitored in specific matters; and/or
 - 11.1.4 a suspension for a period not exceeding 28 days; and / or
 - 11.1.5 that no action be taken.
- 11.2 Upon a decision by the Case Management Group under paragraph 10.1.1 above, the Designated Officer shall send written notice to the individual or organisation concerned:
- 11.2.1 Informing them of the decision;
 - 11.2.2 confirming the charge formally, setting out a summary of the supporting facts and evidence;
 - 11.2.3 requesting their consent within 15 working days to the matter being dealt with under the Summary Procedure, and
 - 11.2.4 requesting (if they consent to the Summary Procedure), any additional evidence or mitigation in relation to the appropriate disciplinary order to be submitted in writing to the Designated Officer within 15 working days.

- 11.3 When an individual against whom a charge is made was under the age of 14 years when the alleged matter occurred, correspondence will be addressed to his/her parent or guardian.
- 11.4 When an individual is between the age of 14 and 18 years of age all correspondence will, if reasonably possible, be copied to the parent or guardian as well as to the individual.
- 11.5 If within the period permitted, the individual or organisation concerned consents to the summary procedure, the Case Management Group shall consider all further evidence and mitigation submitted under paragraph 11.2.4 above and shall then make such disciplinary order (as referred to at paragraph 11.1 above) as it considers appropriate.
- 11.6 The Designated Officer shall as soon as reasonably practicable notify the individual or organisation concerned of the decision and the disciplinary order, and shall otherwise communicate the matter in accordance with paragraph 15 below.
- 11.7 There shall be no automatic right of appeal against the decision and/or disciplinary order under the Summary Procedure. In extreme cases where the person against whom the sanction is applied disagrees with an aspect of the decision or the sanction, they may make an application for an appeal in writing to the Designated Officer setting out reasons within 7 days of the decision being notified to them. If the Designated Officer agrees that the appeal raises important points then the appeal will be dealt with on paper by the Designated Officer who will consider the points raised and reconsider the decision and/or disciplinary order. Upon reconsideration, the Designated Officer shall have the right to revoke, partially revoke or uphold the original decision and revoke, uphold, vary or increase the level of sanction in accordance with the Designated Officer's consideration of the merits of the appeal. The Designated Officer shall inform the person about whom the complaint has been made in writing of the final decision. There is no right of appeal from the decision of the Designated Officer under the Summary Appeal Procedure.

12. Child Protection Disciplinary Procedure Notification

- 12.1 Upon a decision by the Case Management Group in accordance with paragraph 10.1.2 above, or if the individual or organisation concerned does not within the period permitted at paragraph 11.2.3 above consent to the summary procedure being followed, the Designated Officer shall send written notice to the individual or organisation concerned:
- 12.1.1 informing them that the matter will be dealt with under the Child Protection Disciplinary Procedure,
- 12.1.2 confirming the charge formally, setting out a summary of the supporting facts and evidence, and

12.1.3 requiring their written response to the charge within 15 working days.

12.2 When an individual against whom a charge is made was under the age of 14 years when the matter alleged occurred, correspondence will be addressed to his/her parent or guardian.

12.3 When an individual is between the age of 14 and 18 years of age all correspondence will, if reasonably possible, be copied to the parent or guardian as well as to the individual.

12.4 BADMINTON England reserves the right to commence disciplinary proceedings under this procedure and then transfer proceedings to another procedure, when appropriate. The person about whom the complaint has been made will be notified in writing about any change to the procedures under which his or her case will proceed.

Pre-hearing procedures

12.5 Once the reply to the charge has been received, or if no reply is received within the prescribed period under paragraph 12.1.3 above, the matter shall be referred to the Designated Officer who will appoint a Child Protection Disciplinary Panel to hear the matter (in accordance with paragraph 19.1 and 19.2 below).

12.6 the individual or organisation concerned shall be given at least 30 working days' written notice of the date, place and time of the hearing.

12.7 At least 20 working days before the hearing the individual or organisation concerned must provide details of any witnesses and/or further evidence that he/she/it intends to bring before the Child Protection Disciplinary Panel. If without good reason such evidence is not furnished to BADMINTON England at least ten working days before the hearing, the individual or organisation concerned may not be permitted to rely upon that evidence at the hearing without permission from the Chair of the Child Protection Disciplinary Panel.

Presenting the case

12.8 The Designated Officer (or legal or other representative on their behalf) shall present the case to the Child Protection Disciplinary Panel on behalf of BADMINTON England.

Representation

12.9 The individual or organisation charged, appearing before the Child Protection Disciplinary Panel shall have the right to be represented by a legal or other representative of their choice at their own expense.

- 12.10 If a charge against an individual under 18 years of age results in a hearing, the parents or guardian shall also be entitled to be present and make such representations as he/she thinks fit on the young person's behalf.

Hearing procedures

- 12.11 The Child Protection Disciplinary Panel shall have the power to regulate its own procedures. Subject to that power, the hearing shall generally be conducted in accordance with the following regulations.
- 12.12 A breach of the process stated within the Procedures shall not invalidate the proceedings unless, in the opinion of the BADMINTON England Case Management Group, such breach seriously prejudices the position of the person or organisation charged.

Private Hearing

- 12.13 All proceedings of the Child Protection Disciplinary Panel shall take place in private. The public and press shall have no right of access. The Child Protection Disciplinary Panel shall not issue any press statement or conduct any press conferences. All press/media announcements in relation to any decision of the Child Protection Disciplinary Panel shall be approved by the Chief Executive of BADMINTON England prior to publication.

Proof and Evidence

- 12.14 The burden of proving the charge, on the balance of probability, rests with BADMINTON England.
- 12.15 The Child Protection Disciplinary Panel shall not be obliged to follow strict rules of evidence and may admit evidence as it sees fit and accord such weight to the evidence as it thinks appropriate in all the circumstances.
- 12.16 Where the charge relates to:
- 12.16.1 a criminal conviction or caution not falling within paragraph 6 above, or
- 12.16.2 a previous finding of guilt in any other judicial or quasi-judicial proceedings, including that of another sport's national governing body or statutory agency proceedings

it shall be presumed that the individual was guilty of the offence for which he was convicted or cautioned, or of the charge for which he was found guilty, and/or that the facts and matters upon which the conviction/caution/finding of guilt was made were correct.

- 12.17 Where deemed appropriate by the Child Protection Disciplinary Panel, a young person may not be required to attend a hearing before the Child Protection Disciplinary Panel to give evidence in person. In such

circumstances, a young person's statement obtained under 9.9 above may be read to the Child Protection Disciplinary Panel to constitute their evidence.

Adjournment

12.18 The Child Protection Disciplinary Panel may, on request or on its own volition, adjourn the proceedings; whether prior to a scheduled hearing date or during the hearing, if it considers it just to do so.

The absence of the individual/organisation charged

12.19 If, at the hearing, the individual or organisation charged is not present or represented, the Child Protection Disciplinary Panel may proceed to hear the matter in their absence if satisfied that, following receipt of notification of the matter under 9.2 above, all reasonable steps have been taken to give notice of the hearing to the individual or organisation concerned.

Order of proceedings

12.20 The order of proceedings, unless the Chair otherwise directs, shall be as follows:

12.20.1 submissions by BADMINTON England

12.20.2 hearing of witnesses called by BADMINTON England, followed by cross examination, provided that if a young person is called by BADMINTON England they may only be cross examined on behalf of the individual or organisation charged, by a qualified solicitor or barrister. If the individual or organisation charged is not legally represented, the Child Protection Disciplinary Panel will, at their sole discretion, ask questions relevant to the issues in the case, requested by the individual or organisation charged.

12.20.3 submissions by the individual or organisation charged

12.20.4 hearing of any witnesses called by the individual or organisation charged, followed by their cross examination by BADMINTON England

12.20.5 closing submissions by BADMINTON England

12.20.6 closing submissions by the individual or organisation concerned

12.20.7 Members of the Child Protection Disciplinary Panel may themselves at any time question witnesses, parties or their Panel representatives

12.20.8 The Child Protection Disciplinary Panel shall then retire to consider in private whether it finds the charge proved and shall return to announce its decision.

Order of proceedings following a finding that the charge is proven

12.21 If the Child Protection Disciplinary Panel finds the charge proved, it shall seek recommendations as to the appropriate disciplinary order from BADMINTON England's representative. For the avoidance of doubt, the Child Protection Disciplinary Panel is not, at this stage, required to provide a written report on finding the case proven.

12.22 The individual or organisation against whom the charge has been found proved may make any mitigation to the Child Protection Disciplinary Panel. Once the Child Protection Disciplinary Panel has heard the mitigation they shall then retire in private to consider the appropriate disciplinary order.

Order of proceedings where charge is admitted

12.23 Where the individual or organisation appearing before the Child Protection Disciplinary Panel admits the charge, BADMINTON England will outline the case and then the individual or organisation admitting the charge shall make any mitigation to the Child Protection Disciplinary Panel. Once the mitigation has been given, BADMINTON England shall then have the opportunity to present to the Child Protection Disciplinary Panel its recommendations for the appropriate disciplinary order.

Risk assessment

12.24 The Child Protection Disciplinary Panel may adjourn prior to reaching a decision on the appropriate disciplinary order, in order to obtain a risk assessment on the individual or organisation concerned.

Decision on disciplinary order

12.25 The Child Protection Disciplinary Panel may make any one or more disciplinary orders in accordance with paragraph 14 below.

Notification of decision

12.26 The Child Protection Disciplinary Panel having decided on the disciplinary order shall communicate its decision to the individual or organisation charged either at the time of the hearing or in writing as soon as reasonably practicable thereafter. In all cases the Child Protection Disciplinary Panel shall produce a summary of written reasons for its decision. This shall be conveyed to the individual or organisation charged (and, where deemed appropriate by BADMINTON England, to the complainant) as soon as possible, and the Child Protection Disciplinary Panel shall use reasonable endeavours to provide a summary of written reasons within 10 working days of the date of notification of the decision.

12.27 BADMINTON England shall otherwise record the matter in accordance with paragraph 15 below.

13. Appeals

Right of Appeal

- 13.1 An individual or organisation may submit a Notice of Appeal against a finding of guilt and/or a disciplinary order by the Child Protection Disciplinary Panel on the following grounds:
- 13.1.1 that the Child Protection Disciplinary Panel misdirected itself in its conduct of the matter; or
- 13.1.2 that the Child Protection Disciplinary Panel's finding was based on error of fact; or
- 13.1.3 that the Child Protection Disciplinary Panel exercised its discretion wrongly in reaching its decision.
- 13.2 BADMINTON England has a full right of appeal in the same terms as the individual or organisation.

Notice of Appeal

- 13.3 The individual or organisation submitting a Notice of Appeal shall be known as the "Appellant", and shall have 10 working days from the date of notification of the Child Protection Disciplinary Panel's decision to submit the Notice of Appeal to BADMINTON England. The other party shall be known as the "Respondent".
- 13.4 The Notice of Appeal must contain a written statement of the grounds upon which the appeal is brought and the supporting facts and matters including where applicable any new evidence upon which the Appellant intends to rely with an explanation of why it was previously unavailable.

Appeals Panel

- 13.5 Having received the Notice of Appeal, a Child Protection Appeals Panel shall be appointed to consider the matter in accordance with paragraph 20 below.

Powers of the Appeals Panel

- 13.6 The Child Protection Appeals Panel will consider all of the documents and evidence submitted to the hearing before the Child Protection Disciplinary Panel and, subject to any explanation given pursuant to paragraph 13.4, shall receive fresh evidence and may, at its discretion, re-hear any witness called before the Child Protection Disciplinary Panel.
- 13.7 The Child Protection Appeals Panel may uphold vary or set aside the decision of the Child Protection Disciplinary Panel and may substitute any other finding or order (on such terms and conditions if any) as it considers appropriate in accordance with paragraph 14 below.

Notification of hearing and exchange of information

13.8 Following the formation of a Child Protection Appeals Panel, the Appellant and Respondent shall be given at least 20 working days' written notice of the date, time and place of the appeal hearing.

13.9 At least 15 working days prior to the date of the hearing, both the Appellant and the Respondent must if they intend to rely on fresh evidence, or to seek the agreement of the Child Protection Appeals Panel to the re-hearing of any witness called before the Disciplinary Panel, submit:

13.9.1 any such fresh evidence that they wish to rely upon; and

13.9.2 the names and addresses of any witnesses whom they wish to call in person.

13.10 Neither party shall without the consent of the other or the permission of the Child Protection Appeal Panel rely on any fresh evidence or call any witness other than those provided or identified under paragraphs 13.9.1 and 13.9.2 above.

Presenting, or responding to, the appeal

13.11 The Designated Officer (or legal or other representative on his/her behalf) shall present, or respond to, the appeal (as appropriate) on behalf of BADMINTON England.

Representation

13.12 The individual or organisation appealing or responding to an appeal, shall have the right to be represented before the Child Protection Appeals Panel by a legal or other representative of their choice at their own expense.

13.13 If the individual concerned is under 18 years of age, the parents or guardian shall also be entitled to be present and make such representations as they think fit on the young person's behalf.

Hearing Procedures

13.14 The Child Protection Appeals Panel shall have the power to regulate its own procedures. Subject to that power, the hearing of an appeal shall generally be conducted in accordance with the following regulations.

13.15 A breach of procedure under these Child Protection Disciplinary Procedures shall not invalidate the proceedings unless, in the opinion of the Child Protection Appeals Panel, such breach seriously prejudices the position of the person or organisation appealing, or responding to an appeal.

Private hearing

13.16 All proceedings of the Child Protection Appeals Panel shall take place in private. The public and press shall have no right of access. The Child Protection Appeal Panel shall not issue any press statement or conduct any press conferences. All press/media announcements in relation to any decision of the Child Protection Appeal Panel shall be approved by the Chief Executive of BADMINTON England prior to publication.

Adjournment

13.17 The Child Protection Appeal Panel may, on request or on its own volition, adjourn the appeals hearing if it considers it just to do so.

The absence of the individual or organisation

13.18 If, at the appeals hearing, the individual or organisation appealing is not present or represented, the Child Protection Appeals Panel may proceed to consider the matter in their absence if it is satisfied that all reasonable steps have been taken to give notice of the hearing to the individual or organisation concerned.

Order of proceedings

13.19 The order of proceedings for the appeals hearing, unless the Chair otherwise directs, shall be as follows:

13.19.1 Submissions by the Appellant;

13.19.2 Hearing of any witnesses called by the Appellant, followed by cross examination (subject to the proviso stated at paragraph 12.19.2 above);

13.19.3 Submissions by the Respondent;

13.19.4 Hearing of any witnesses called by the Respondent, followed by cross examination (subject to the proviso stated at paragraph 12.19.2 above);

13.19.5

13.19.6 Closing submissions by the Appellant.

13.20 If the appeal is against the disciplinary order only, the procedure shall be as set out at paragraph 12.22 above.

13.21 The Child Protection Appeal Panel may adjourn for a risk assessment as set out at paragraph 12.23 above.

Decision of Child Protection Appeal Panel

13.22 The decision of the Child Protection Appeal Panel shall be notified to the individual or organisation concerned as soon as practicable after the conclusion of the hearing, and shall be otherwise communicated in accordance with 15 below.

13.23 The decision by the Child Protection Appeal Panel is final and shall be deemed to be the final decision of BADMINTON England.

14. Disciplinary Orders

14.1 If the Child Protection Disciplinary Panel or Child Protection Appeal Panel finds a charge to have been proved or admitted, it may make any one of, or a combination of, the following disciplinary orders and on such terms and conditions as it considers appropriate having regard to the nature and seriousness of the charge, the individual's character, the individual's/organisation's past record and any other relevant circumstances:

Individuals

14.1.1 a warning;

14.1.2 an order to undertake specified training;

14.1.3 an order requiring an individual to be monitored in specific matters;

14.1.4 suspension for a specific period of time from involvement in badminton in any capacity directly or indirectly under the jurisdiction of BADMINTON England which might involve access to Young People;

14.1.5 permanent exclusion from involvement in badminton in any capacity directly or indirectly under the jurisdiction of BADMINTON England which might involve access to Young People;

14.1.6 suspension for a specific period of time from involvement in badminton in any capacity directly or indirectly under the jurisdiction of England Badminton;

14.1.7 permanent exclusion from involvement in badminton in any capacity directly or indirectly under the jurisdiction of BADMINTON England;

14.1.8 termination of BADMINTON England membership and / or BADMINTON England coach license or registration and/or

14.1.9 where the appropriate criteria are met, referral to the Disclosure and Barring Service.

Organisations

14.1.10 a warning; or

14.1.11 termination of BADMINTON England membership.

14.2 Where the Child Protection Disciplinary Panel imposes any period of suspension, that period shall run from the date of the decision, notwithstanding that any Notice of Appeal is submitted.

14.3 In imposing or reviewing a suspension, the Child Protection Disciplinary Panel or Child Protection Appeal Panel shall take into account the length of suspension (whether interim or otherwise) served by the individual in deciding the appropriate period of any further suspension.

15. Recording and Communicating of decisions

15.1 BADMINTON England shall communicate interim suspensions (under paragraph 8 above) and disciplinary decisions and orders made under these Procedures, (whether under the Summary Procedure or under the Child Protection Disciplinary Procedure) on a 'need to know' basis, in such form and manner, and to such extent, as it deems necessary for the purposes of enforcement of/compliance with such decisions and orders.

15.2 For the avoidance of doubt, in addition to providing notice to the individual or organisation concerned as provided for above in these regulations, BADMINTON England will, at its discretion, communicate interim suspensions and disciplinary decisions and orders as follows:

15.2.1 to the Welfare Officer (or other relevant senior official) of any club, association or other organisation within the Badminton network through which the individual is known, or reasonably believed to have access to Young People in badminton.

15.2.2 to the Welfare Officer (or other relevant senior official) of the County Badminton Association and/or County (or equivalent) Schools Association within whose district(s) the individual is known or reasonably believed to have access to young people in badminton.

15.2.3 to the Welfare Officer (or other relevant senior official) of any other organisation through which the individual is known or reasonably believed to have access to Young People.

15.3 BADMINTON England will also inform the Complainant of an interim suspension and / or disciplinary decision and order where it deems appropriate.

16. Enforcement of Disciplinary Orders

16.1 Members of BADMINTON England must take all steps necessary to ensure compliance with any interim suspension (under paragraph 8 above) and any disciplinary order made under the Procedures, whether ordered under the Summary Procedure or under the Child Protection Disciplinary Procedure.

16.2 If a Member of BADMINTON England fails to comply with their obligations under paragraph 16.1 above, such conduct shall be grounds for disciplinary action against the member under the Procedures.

17. Panels

17.1 The Designated Officer shall appoint the panels set out at paragraphs 19 and 20 below.

17.2 Each panel shall have at least one member who is not, and who has never been, employees or directors of BADMINTON England, and who has child protection or other relevant knowledge and experience (the "independent panel member").

17.3 The remaining members of the panel, if employees, contractors or directors of BADMINTON England, shall be known as the "BADMINTON England panel members".

18. Case Management Group

18.1 The Case Management Group shall consist of between 3 and 5 people, including the Designated Officer who shall act as the Chair of the Group. The full Terms of Reference of the Group are provided as a separate document.

18.2 The functions of the Case Management Group shall be to:

18.2.1 decide, in consultation with (and where consulted by) the Designated Officer, action to be taken in accordance with paragraph 7 above following receipt of, or upon becoming aware of a complaint or allegation or matter relating to the safety and/or welfare of a Young Person or Young People in badminton;

18.2.2 ratify and review Interim Suspensions applied in accordance with paragraph 8 above;

18.2.3 decide whether the Summary Procedure should be invoked in accordance with paragraph 11 above and, if so, to apply the summary procedure (with the consent of the individual or organisation concerned);

18.2.4 monitor and review progress on all cases and to identify any trends or actions which may require a review/revision of existing policies/procedures; and/or

18.2.5 decide on the appropriate course of action following DBS disclosures.

18.3 The Case Management Group will meet as and when necessary, dependent on cases but not less than 4 times a year.

18.4 The quorum for all meetings of the Case Management Group shall be three. For cases requiring immediate action, for example an interim

suspension in accordance with paragraph 8 above, the Designated Officer may consult with a minimum of one other member of the Case Management Group.

- 18.5 No Case Management Group member may be involved in a case where they have any material financial or other relevant interest in the outcome of the proceedings.

19. Child Protection Disciplinary Panel

- 19.1 Where a matter is referred to a Child Protection Disciplinary Panel in accordance with paragraph 12.4 above, the Designated Officer shall appoint a Child Protection Disciplinary Panel consisting of 3 members at least one of whom will be independent.

- 19.2 For the purposes of paragraph 19.1 above, "independent" means an independent person as defined at paragraph 17.2 above, and also excluding any person who is a member of BADMINTON England or a player, coach, umpire, referee or other officer within the badminton network.

- 19.3 No Child Protection Disciplinary Panel member may sit on a Child Protection Disciplinary Panel where they have had any prior involvement with the case or matter, or have any material financial or other relevant interest in the outcome of the proceedings.

- 19.4 Decisions may be made by a majority of the members of the Child Protection Disciplinary Panel.

- 19.5 The function of the Child Protection Disciplinary Panel shall be to hear and decide upon disciplinary cases and, where appropriate, to make disciplinary orders as provided in accordance with the Procedures, save for when a matter is dealt with under Summary Procedures in which case the provisions of paragraph 11 will specifically apply.

- 19.6 The Child Protection Disciplinary Panel shall meet as and when necessary, dependent on cases.

- 19.7 The Chair of the Child Protection Disciplinary Panel may, where they consider appropriate, appoint an external independent legal or other expert to advise, but not sit upon, a Child Protection Disciplinary Panel in any individual case. Such independent adviser shall advise the Child Protection Disciplinary Panel but shall not count as part of the panel and shall not be entitled to exercise any decision-making functions in relation to the panel.

20. Child Protection Disciplinary Appeal Panel

- 20.1 Where an appeal is received in relation to paragraph 13 above, a Child Protection Appeal Panel comprising at least 3 members shall be appointed by the Designated Officer of BADMINTON England as follows:

20.1.1 an independent person with specialist experience in Child Protection matters (who shall Chair the Child Protection Appeal Panel); and

20.1.2 at least 2 further people, one of whom must be a BADMINTON England panel member

20.2 For the purposes of paragraph 20.1 above, “independent” means an independent person as defined at paragraph 17.2 above, and also excluding any person who is a member of BADMINTON England or a player, coach, umpire, referee or other officer within the badminton network.

20.3 No Child Protection Disciplinary Panel member may sit on a Child Protection Appeal Panel where they have had any prior involvement with the case or matter, or has any material financial or other relevant interest in the outcome of the proceedings.

20.4 Decisions may be made by a majority of the members of the Child Protection Appeal Panel.

20.5 The function of the Child Protection Appeal Panel is to consider and decide upon appeals submitted to it and, where appropriate, to make disciplinary orders, as provided at paragraphs 11 and 14 above.

21. Exclusion of liability

21.1 BADMINTON England shall not be liable to any individual or organisation for any loss arising out of action taken under the Procedures.

22. Record Keeping

21.2 All records kept of proceedings under these procedures shall be kept by BADMINTON England for a period of 10 years upon which they will be destroyed.

23. Service of notices

23.1 Any notice or other documents required by the Procedures to be given to an individual or organisation who is the subject of an allegation or charge may be delivered either personally or by post (save that any notice required to be given under paragraphs 8.3, 9.2, 11.2, 11.6, 12.1, 12.5, 12.25, 13.8 and 13.23 shall, if sent by post, be sent by recorded delivery).

23.2 Where any such notice or any document is served by post or recorded delivery, it shall be sent to the last known address of the individual or organisation concerned which is recorded by them with BADMINTON England or with a member of BADMINTON England or as notified by the police or social services to BADMINTON England, and (unless returned to BADMINTON England), it shall be deemed that wherever that address may

be, to have been served on the second day following that on which it was posted.

FINAL