


ENGLAND NETBALL		
	Disciplinary Regulations	
	Responsible Officer	Compliance Manager
	Group Owner	Board
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## Introduction

Sporting excellence and enjoyment are achieved by participants and spectators through adherence to the highest moral, ethical and sporting standards. Breaches in standards must always be clearly and fairly handled in accordance with open and transparent regulations. The application of Sanctions must be consistent, relevant and proportionate.

We aim to establish England Netball as a top-performing, financially sustainable National Governing Body that promotes 'Netball for Life' and develops world-class athletes. One of our underlying objectives is to establish a safe, fair and inclusive sporting environment. To achieve this ambition, we must continue to engage individuals in our sport and provide them with an enjoyable, exciting and stimulating experience. The promotion of respect, good sporting behaviour, high standards of behaviour and ethics, by fairly and stringently applying transparent procedures and Sanctions where standards have not been met, are integral to a first-class participant and Member experience.

The EN Misconduct List (published in a separate document and as amended from time to time) details the specific misconduct categories that are addressed through these Disciplinary Regulations. Our Codes of Conduct (published as a separate document) define the broader standards expected of every Member and Connected Participant involved in the delivery of netball and any breach of these that does not constitute an action covered in the EN Misconduct List should be addressed informally at a local level by the relevant Clubs and County or Regional Associations.

England Netball can only enforce standards with Members and Connected Participants. However, it is hoped that by applying the standards to every Member and Connected Participant involved in the delivery of netball under England Netball's auspices, the standards defined will become generally accepted throughout Netball.

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England Netball's Disciplinary Regulations are presented in the following sections:

## SECTION 1: INTRODUCTIONS AND DEFINITIONS

## SECTION 2: REGULATIONS - MAKING AND HANDLING COMPLAINTS

## SECTION 3: ADDITIONAL INFORMATION

The Board of England Netball formally adopted the Disciplinary Regulations on [17/06/2023] and agreed that they should come into effect on [01/09/2023]. Amendments to the Disciplinary Regulations are approved under delegated authority and are valid from the date of issue.

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## SECTION 1 – INTRODUCTIONS AND DEFINITIONS

### 1. Disciplinary Regulations and Procedures

- 1.1 The purpose of these Disciplinary Regulations ('the Disciplinary Regulations') is to provide a framework by which the All England Netball Association Limited ('England Netball') can directly enforce rules, regulations, codes and policies and deal with allegations of breaches and failure to comply with these.
- 1.2 The Disciplinary Regulations are made pursuant to the powers of England Netball to act as the governing body protecting the game of netball in England as set out in its Articles of Association. They apply to all England Netball Members and Connected Participants.
- 1.3 England Netball's Board may add or make changes to the Disciplinary Regulations at any time, provided such changes are reported on England Netball's website and communicated to Members.  
The Disciplinary Regulations apply only to Disciplinary Offences and not to more general dissatisfaction, complaints, grievances and disputes, for which there are alternative procedures.  
<https://www.englandnetball.co.uk/governance/enjoy-ensure-entrust/enjoy-complaints-and-whistleblowing/>
- 1.4 The Disciplinary Regulations do not apply to persons employed or holding any other form of contract with a separate mechanism of recourse linked to that contract when they are acting under that contract. This mechanism will take precedence over these Disciplinary Regulations. Those engaged by England Netball whether on full time, part time or zero hour (e.g. coach assessors) contracts are subject to a separate disciplinary procedure when undertaking these duties. However, if an employee is acting in a voluntary capacity, they must comply with the same Codes of Conduct, policies and procedures as other Volunteers.
- 1.5 The laws of England and Wales apply to the Disciplinary Regulations.

### 2. Definitions and Interpretation

#### 2.1 Definitions

In the Disciplinary Regulations, the following terms shall have the meanings set out below:

**Adult(s) at Risk** means a person aged 18 or over who:

- Has needs for care and support (whether or not the local authority is meeting any of those needs) and;
- Is experiencing, or is at risk of, abuse or neglect; and;
- As a result of those care and support needs is unable to protect themselves from either the risk of, or the experience of, abuse or neglect.

**Advocate** means a person appointed by a Complainant or Respondent to represent them during the entire Disciplinary Action, including, but not limited to, as a Representative at a Hearing.

**Advocate Agreement** means the form to be completed by a Complainant or Respondent when seeking to appoint an Advocate.

**Appeal** means an application by a Respondent or Complainant to have an Appeal Panel consider the processes, deliberations and/or Decisions of a Disciplinary Panel or an appeal against the imposition of an Interim Suspension by an Investigation Officer.

**Appeal Decision Notice** means the notice provided by the Disciplinary Secretary to the Complainant and Respondent to provide notice of the decision of an Appeals Panel.

**Appeal Panel** means a body of three individuals drawn from the Discipline and Appeals Panel Register which hears an Appeal. At least one of the Appeal Panel members shall be a Member of England Netball.

**Appeal Panel Decision** means the documented decision by the Chair of an Appeals Panel as sent to the

Disciplinary Secretary to advise of the Panel's Decision.

**Appellant** means a Member or Connected Participant whom following Disciplinary Action submits an Appeal of the Decision of a Disciplinary Panel.

**Appropriate Authority** means a netball body having jurisdiction over a particular policy, process, rules or regulations.

**Articles of Association** means the articles of association of the All England Netball Association Limited.

**Board** means the Board of Directors of England Netball.

**CAPS** means the England Netball Club Action Plan Scheme for accrediting Clubs.

**Case Management Group** means the Case Management Group(s) which is any group established by the Board from time to time to oversee safeguarding cases in progress at the National Governing Body level.

**Chair** may refer either to the Chair of a Disciplinary Panel or an Appeals Panel depending on the context.

**Child or Young Person (Children or Young People)** means a person under the age of 18.

**Club** means a collection of individuals that come together from time to time in the form of a netball club through which some or all of those individuals become members of England Netball.

**Codes of Conduct** means the set of behavioural standards which England Netball establishes as the expected minimum standards of behaviour.

**Competition** means occasions where a number of Clubs or teams compete together in a formal or informal structure, often with a winning team and/or relegation or promotion aspects. This can be for a social purpose, played for fun or of a more competitive nature. A Competition can be held at a home or away venue, or at a central venue, festival or tournament.

**Complaint** means a formal expression of dissatisfaction with the actions or behaviour of a Member or Connected Participant or with alleged unfair practice in connection with The Sport.

**Complaint Information** means the complaint details sent by the Disciplinary Secretary to the Complainant and Respondent to inform them of the details of the complaint and the disciplinary process.

**Complainant** means person who submits a written Complaint to England Netball. The Complainant may be required or directed to attend a Disciplinary Panel or an Appeal Panel Hearing.

**Compliance Manager** means the England Netball Staff member who oversees the Disciplinary Regulations and often acts as the England Netball Disciplinary Secretary.

**Connected Participant** means any person, entity or collection of persons, whether a Member or non-Member, who from time to time participates in The Sport in any capacity whether directly or indirectly including by way of being a Volunteer. For the avoidance of doubt, the Codes of Conduct and Disciplinary Regulations apply to Connected Participants involved in The Sport, including Directors of England Netball, members of the Regional Management Board and County Association and their technical/sub-groups, and other Volunteers involved in The Sport, regardless of whether they are Members or not.

**Conflict of Interest** means a situation in which an individual has competing interests or loyalties or there may be a perception of or actual bias.

**Confidential Information** means any information supplied or disclosed that is confidential or secret in nature and is supplied in such a way as to impart a duty of confidence.

**Costs** means an order for payment of reasonable costs incurred in all or part of a Disciplinary Proceeding, which may be decided by a Panel and may be payable by either party.

**County Association (County)** means an association of Leagues, Clubs, groups and schools as determined by the Board in accordance with the Memorandum of Association or the Articles of Association or other Membership Regulations.

**Decision** means the result of a Panel or Officer's deliberations, arrived at by a majority or unilaterally.

**Director** means a non-executive director of the England Netball Board.

**Disciplinary and Appeal Panel Register** means the list of individuals maintained by England Netball's Disciplinary Secretary, all of whom are appropriately trained every 2 years and experienced in the application of the Disciplinary Regulations and may be appointed from time to time as a Disciplinary Secretary or to a Panel under the Disciplinary Regulations. For the avoidance of doubt, where individuals on the Disciplinary and Appeal Panel Register are involved in, or connected to, in any capacity at any level, a particular case, they shall not participate in that case, even though they may remain a member of the Disciplinary and Appeals Panel Register. From time to time, and if deemed appropriate by the Compliance Manager, the Disciplinary and Appeals Register can be supplemented by an appropriately qualified Independent Person or in the case of the role of Disciplinary Secretary an appropriately trained member of England Netball Staff.

**Disciplinary Action (Disciplinary Case)** means proceedings, or part thereof, in accordance with the Disciplinary Regulations.

**Disciplinary Charge** means the allegations made against the Respondent which are the subject of investigation and determination by the Disciplinary Panel.

**Disciplinary Hearing** means a consideration of and determination of the evidence relating to a Disciplinary Charge, by a Disciplinary Panel, in accordance with the Disciplinary Regulations.

**Disciplinary Offence** means as set out in the EN Misconduct List, and may include (but is not limited to) inappropriate, incorrect, improper or unlawful conduct, any breach of the Disciplinary Regulations, the rules, regulations, codes, bye-laws, articles, policies or licence schemes imposed by England Netball on any Member or Connected Participant from time to time, or any conduct which is generally detrimental to the interests of The Sport.

**Disciplinary Panel** means a body of three individuals drawn from the Disciplinary and Appeals Panels Register to consider and determine a Disciplinary Charge under the Disciplinary Regulations.

**Disciplinary Procedure** means any action taken in respect of a Complaint made under the Disciplinary Regulations and processed in accordance with them.

**Disciplinary Secretary** means the England Netball Staff Member or person nominated to handle all administration matters concerning the operation of the Disciplinary Regulations, including communicating the Decision(s) of the Panel to all parties and the Compliance Manager. The Disciplinary Secretary must receive England Netball training every two years in order to continue in the role. They may provide procedural advice to Panels and parties in any Disciplinary Case.

**England Netball (EN)** means the All England Netball Association Limited, a private company limited by guarantee and registered in England with the registered number of 1698144.

**England Netball's Disciplinary Secretary** means the person appointed by England Netball to act as Disciplinary Secretary for England Netball and maintain the Disciplinary and Appeal Panel Register and arrange for the training of its members and is also responsible for communicating sanctions to those required to uphold them effectively. This person may be appointed from outside England Netball.

**EN Misconduct List** means the list of offence codes and rules in which England Netball may raise a disciplinary charge against a member individual, organisation or connected participant for a breach.

**GDPR** means UK GDPR.

**Hearing** means a consideration of evidence submitted by the parties to a Complaint by a Panel appointed in accordance with the Disciplinary Regulations.

**Independent Person** means a person with expert knowledge and understanding of a particular field, who has no vested interest in the outcome of a Disciplinary Action, who is called on to provide information to assist a Panel in making its Decision.

**Interim Suspension** means a suspension, restriction or condition placed on any person by an Investigation Officer, pending the conclusion of the Investigation and until a Hearing and the issue of a Decision Notice by the Disciplinary Secretary, or for a period at the discretion of the Compliance Manager.

**Investigation** means the process of conducting all necessary enquiries to establish the facts and relevant evidence of the allegation(s).

**Investigation Officer (Officer)** means an individual drawn from the Disciplinary and Appeals Panel Register to investigate whether a Complaint on first sight of the evidence appears to be legitimate (*a Prima Facie* case) and should be referred on to a Disciplinary Panel under the Disciplinary Regulations.

**Lead Safeguarding Officer** means the person appointed by England Netball to lead on child safeguarding issues.

**League** means registered leagues that support membership to England Netball (by including this in an entry requirement in their regulations) and facilitate versions of the game in accordance with England Netball and World Netball rules and regulations.

**Mediate** means an act between two or more parties to facilitate an agreement, compromise or reconciliation.

**Mediator** means the person appointed to Mediate between the parties. The Mediator's role is to assist and guide parties involved in order for them to reach their own resolution. The Mediator does not decide the outcome.

**Mediation** means a process where a completely neutral Mediator assists or facilitates either two or more parties in resolving a dispute, disagreement or grievance.

**Mediation Agreement** means the agreement signed by the Complainant and Respondent to agree to partake in Mediation.

**Mediation Outcome** means the decision document completed by the Mediator and sent to the Disciplinary Secretary and Compliance Manager to advise of the outcome of Mediation.

**Mediation Outcome Notice** means the form which will be completed by the Disciplinary Secretary and sent to the Complainant and Respondent to confirm the outcome of Mediation.

**Mediation Referral** means the decision document which will be completed by the Disciplinary Secretary and sent to the Compliance Manager to propose Mediation.

**Member** means any individual or organisation appointed as a Personal or Group Member in accordance with England Netball's Articles of Association. Where an organisation is a Member, the leader of the organisation (usually the chair of the management group/committee) will be held to account on behalf of the organisation; Sanctions (including Interim Suspensions) resulting from any Disciplinary Action may be imposed on the organisation.

**Membership Benefits** means a package of benefits offered to Members upon registration as a Member and receipt of the relevant Membership Fee(s).

**Membership Regulations** means the bye laws, codes of conduct, procedures, regulations and standing-orders of England Netball as amended from time to time pursuant to Article 108 of the Articles of Association.

**Memorandum of Association** means the legal document that was filed by England Netball with the registrar of companies at the time of incorporation of the company.

**National Governing Body** means England Netball.

**Notice of Appeal Panel Hearing** means the form completed by the Disciplinary Secretary and sent to the Complainant and Respondent to advise of the Decision of the Appeal Panel.

**Notice of Disciplinary Hearing** means the notice sent by the Disciplinary Secretary to the Complainant and Respondent to advise of the details of the Disciplinary Hearing.

**Notice of Mediation** means notice sent by the Disciplinary Secretary to the Complainant and Respondent to advise of the details of the Mediation.

**Officiating Umpire** means an umpire presiding over the match to which the concern or Complaint is related.

**Panel** may be used to describe a Disciplinary Panel or an Appeal Panel depending on the context.

**Prima Facie** means at first sight, before closer inspection. A Prima Facie Complaint is a legitimate Complaint on first inspection.

**Recognised and Authorised Netball Activity** means recognised versions of the game that have been authorised by England Netball.

**Recommendation** means a suggested action by a Panel that parties may undertake.

**Recorder** means a person appointed by the Disciplinary Secretary to record the proceedings at a Hearing.

**Regional Association (Region)** means an association of County Associations as determined by the Board, in accordance with the Memorandum of Association or the Articles of Association or other Membership Regulations.

**Regional Management Board** means the lead committee under which the Regional Associations are governed.

**Regulations (Disciplinary Regulations)** mean these England Netball Disciplinary Regulations and any amendments or updated versions thereof that may be made from time to time.

**Representative** means a person appointed by a Complainant or Respondent to represent them during a Hearing.

**Respondent** means any Member or Connected Participant against whom Disciplinary Action is brought in accordance with the Disciplinary Regulations.

**Safeguarding Disciplinary Regulations** means the procedures approved by the Board for handling safeguarding Children or Young People and Adult at Risk cases.

**Sanction** means a penalty, restriction or condition imposed on a Respondent by a Disciplinary or Appeals Panel.



**The Sport** means the game of netball or any versions of the game that are Recognised and Authorised Netball Activity and governed by England Netball including the variety of mechanisms, means and structures and operations through which netball is delivered operated and administered.

**Staff** means those employed or holding any other form of contract with England Netball whether on full time, part time or zero hours contracts.

**Suspension of (from) Membership** means removal of England Netball Membership status, either pending compliance with a Sanction or payment of a Costs order. Suspension of Membership constitutes restriction from all Recognised and Authorised Netball Activity and Membership Benefits.

**Volunteer(s)** means any person who gives their time and talents freely to make netball happen and is not paid more than out of pocket expenses. For the avoidance of doubt this means, any person providing assistance or support to England Netball, County or Regional Netball Associations, Leagues or Clubs from time to time otherwise than as Staff and including but not limited to any person providing assistance at Leagues / competitions / tournaments / Clubs.

**Whistleblowing** means the process of anonymously raising a concern.

**Witness(es)** means and individual(s) providing statements or evidence as part of a hearing either in written format prior to a Hearing or verbally in attendance at a Hearing.

**Working Day** means any day other than a Saturday, Sunday or public holiday in England and Wales

**World Netball** means the International Netball Federation.

**World Netball Rules of The Game** means the official rules of netball as determined by World Netball from time to time.

## 2.2 Interpretation

- 2.2.1 Words denoting the singular number include the plural number and vice versa.
- 2.2.2 Headings are inserted for convenience only and do not affect the construction of the Disciplinary Regulations.
- 2.2.3 The word 'shall' is mandatory and the word 'may' is permissive.
- 2.2.4 The word 'place' in relation to a Hearing, Appeal or Mediation can mean either a physical or virtual location.
- 2.2.5 Any Disciplinary Charge, Decision, notice or any other document required to be served or sent for the purposes of the Disciplinary Regulations may be delivered by hand, sent by prepaid post addressed to the last known place of residence, using first-class mail, first-class recorded delivery, special delivery or sent by electronic mail. Care must be taken to ensure that all documentation served should be done in a secure manner compliant with GDPR.
- 2.2.6 Service of a document sent by post shall be deemed to have been effected at the end of the second Working Day following the day of posting and, in proving a document was so sent, it shall be sufficient to prove with a receipt of posting that the envelope containing it was properly addressed to the last known address, prepaid and posted. Service of a document sent by electronic mail shall be deemed to be effected immediately, it shall be sufficient to prove with a copy of the sent mail properly addressed and electronically date stamped to the last known email address.
- 2.2.7 Proceedings, findings or Decisions of a Panel shall not be invalidated by reason of any minor defect, irregularity, omission or technicality unless this raises a material doubt as to the

reliability of the proceedings, findings or Decisions of the Panel.

2.2.8 The Disciplinary Regulations may be amended by the Board from time to time, with such amendments coming into effect on the date specified by England Netball.

2.2.9 If any part of the Disciplinary 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 had been deleted to the extent to which it is invalid, unenforceable or illegal.

### 3. What Constitutes a Disciplinary Offence?

3.1 A Member or Connected Participant shall be liable to Disciplinary Action in accordance with the Disciplinary Regulations if their conduct is inappropriate, incorrect, improper, unlawful or unsporting in line with the **EN Misconduct List** as amended from time to time and/or has the potential to bring the Sport, Members, or Connected Participants into disrepute. There shall be no reprisals for raising a genuine complaint.

3.2 An Officiating Umpire may submit a Complaint if they have ordered a player off the court and they believe the incident was so serious further action is warranted. For the avoidance of doubt, a person may be sanctioned under the Disciplinary Regulations even though the Officiating Umpire has already penalised the Respondent under the World Netball Rules of the Game as amended by England Netball from time to time. There may be sufficient evidence for such a matter to proceed on the match cards completed and returned by the Officiating Umpire.

3.3 Where Members or Connected Participants of a Club are found guilty by Disciplinary Panels on more than three separate occasions in any one year that Club may be investigated on the basis that it has a bad disciplinary record.

3.4 Where the Member or Connected Participant has been convicted of a criminal offence that directly or indirectly relates to the playing, administration or the image of The Sport.

3.5 All Members and Connected Participants have a duty to assist and are obliged to comply with and respond (within a stipulated time scale) to reasonable enquiries, requests or orders for information or evidence by an Investigation Officer, Disciplinary and/or Appeal Panel or the Disciplinary Secretary; failure to do so may constitute a Disciplinary Offence.

3.6 Failure by a Member or Connected Participant to report to an Appropriate Authority all facts, incidents or matters that may constitute; a Disciplinary Offence; a safeguarding matter and/or a reputational issue for The Sport.

3.7 Any improper contact, approach or attempt to influence the outcome of a Disciplinary Case by any means outside of these regulations or intimidate an Investigation Officer or Panel member appointed under the Disciplinary Regulations; the Disciplinary Secretary, Complainant, Respondent, any Witness or Representative either in person, in writing or through an intermediary.

3.8 Any breach of or non-compliance with the Disciplinary Regulations including Sanctions and Interim Suspensions and Costs. For the avoidance of doubt, immediate Suspension from Membership of England Netball will be put in place and does not preclude further Disciplinary Charges.

3.9 For the avoidance of doubt, should any form of Disciplinary Charge be dismissed through the Disciplinary Procedure, this does not mean that the individual or group who raised the Disciplinary Charge are automatically deemed to have brought The Sport, Members or Connected Participants into disrepute unless the circumstances set out in Regulation 4.10 are deemed by the Investigation Officer to apply.

### 4. Jurisdiction and power

4.1 The Board delegates to England Netball, subject to Regulations 4.2, 4.3, 4.4, 4.5, 4.6, 4.7 and 4.9 the full

power and jurisdiction to act in relation to all Complaints and Disciplinary Cases, including the power to hold Investigations and impose Sanctions, and take such action as it sees fit, in accordance with the Disciplinary Regulations.

- 4.2 This power and jurisdiction is delegated by the Board and shall be in respect of and in relation to all current Members and Connected Participants or to Members and Connected Participants who or which were Members or Connected Participants at the time the Disciplinary Offence occurred.
- 4.3 The conduct of any Hearings held under the Disciplinary Regulations shall be determined in the full discretion of the Chair, as appointed by the Disciplinary Secretary.
- 4.4 An Officer or a Panel appointed under the Disciplinary Regulations in relation to an alleged Disciplinary Case shall have the power to request any Member or Connected Participant, upon reasonable notice, to supply any further information required, including providing observations, documents or other material and/or attending one or more interviews, which may be recorded, in order to enable the execution of their role.
- 4.5 Allegations in relation to doping: England Netball has adopted unconditionally the UK Anti-Doping Rules and all matters regarding doping shall be dealt under these Rules. Further information on all matters relating to the Anti-doping Rules may be found at <https://www.englandnetball.co.uk/governance/performance-policies/anti-doping/> or by contacting the Compliance Manager.
- 4.6 Allegations against or involving Children or Young People and Adults at Risk: Allegations in relation to these individuals must be referred to England Netball's Lead Safeguarding Officer for an initial assessment as to whether the matter must be dealt with under England Netball's Safeguarding Regulations. Further information on all matters relating to the welfare of Children or Young People and Adults at Risk may be found at <https://www.englandnetball.co.uk/governance/safeguarding/> or by contacting England Netball's Lead Safeguarding Officer.
- 4.7 Overturning the outcome of a game: outcomes of games will be determined in accordance with the specific Competition rules and regulations.
- 4.8 For the avoidance of doubt, on the request or recommendation by the police any Disciplinary Action may be suspended and stayed until the outcome of any criminal investigation is determined, regardless of the timescales stipulated in these Disciplinary Regulations. All matters involving the police must be immediately referred to the Compliance Manager.
- 4.9 In circumstances where England Netball (or the Board) is the Complainant or Respondent, or there is in any way a Conflict of Interest that may prejudice how England Netball handles any aspect of the Complaint and Disciplinary Action an external Disciplinary Secretary and Panel members may be appointed to administer the Complaint.
- 4.10 An Investigation Officer has the right to impose a Disciplinary Charge for improper conduct on the Complainant should they reasonably consider a Complaint or an appeal to be frivolous, vexatious and/or malicious and may bring further Disciplinary Charges against the individual(s) and, further Sanctions for persistent Complaints which result in no case to answer.
- 4.11 Disciplinary and Appeal Panels may be held via telephone or video conferencing facilities.

## SECTION 2- REGULATIONS MAKING AND HANDLING COMPLAINTS

### 5. Procedure for making a Complaint

#### 5.1 A Complaint may be made by

- 5.1.1 A Member or Connected Participant, any Complaint made by a Child or Young Person or Adult at Risk must be referenced under England Netball's Safeguarding Children in Netball policy to

ensure compliance; or

- 5.1.2 The parent or other person with parental responsibility/guardianship for a Member or Connected Participant who is a Child or Young Person or Adult at Risk on the date of the Complaint. Any Complaint made must be referenced under England Netball's Safeguarding Children in Netball policy or Safeguarding Adults at Risk policy to ensure compliance;
- 5.1.3 In the case of a Club or League, the Complaint must be made by the Chair, Secretary or other Officer acting on its behalf;
- 5.1.4 In the case of a Regional Association or County Association, the Complaint must be made through its chair or other officer acting on its behalf;
- 5.1.5 In the case of a Panel formed under the Disciplinary Regulations, the Complaint must be made by its Chair;
- 5.1.6 Where an issue has been raised under England Netball's Whistleblowing Policy and is judged to be a Disciplinary Matter, the Complaint must be made by the person carrying out the investigation under the Whistleblowing Policy;
- 5.1.7 An employee of England Netball;
- 5.1.8 A member of the public;
- 5.1.9 The Case Management Group, by or through the Chair of the group.

## 5.2 [How to Make a Complaint](#)

- 5.2.1 A Complainant must set out in writing the grounds for the Complaint and full details of the alleged Misconduct or Disciplinary Offence that gives rise to the Complaint. This formal written statement must be sent to the England Netball Compliance Manager.
- 5.2.2 A Complaint should be sent within 28 days of the alleged incident or of the Complainant becoming reasonably aware of the incident, to the Compliance Manager. Complaints relating to an incident outside that timescale may not be considered unless the severity of the Complaint is such that it is in the best interests of The Sport to take it forward. This includes those that would have a significant impact on the reputation of The Sport rather than on those involved in the incident, for example, use of racist or homophobic language. An Investigation Officer will decide whether it is in the best interests of The Sport for a Complaint to proceed where received outside the 28 day period.
- 5.2.3 It is strongly recommended that as much detail as possible is given with the Complaint including, but not limited to, why the Complainant feels the incident was a Disciplinary Offence aligned to the EN Misconduct List, Witnesses, times, dates and location of the incident.
- 5.2.4 If the Complainant feels unable to reveal their identity while making the Complaint, they will be referred through England Netball's Whistleblowing Policy as the allegations cannot proceed under these Regulations without the Respondent knowing the identity of the Complainant.
- 5.2.5 An Investigation Officer has the right to impose a Disciplinary Charge on the Complainant for persistent Complaints resulting in no case to answer, frivolous, vexatious and/or malicious Complaints. This should not be seen as a deterrent to making a genuine Complaint.

## 5.3 [On receipt of a Complaint](#)

- 5.3.1 On receiving a Complaint, the Compliance Manager shall first determine whether England

Netball has the jurisdiction to deal with it under the Disciplinary Regulations and will send an acknowledgement along with the jurisdiction decision to the Complainant within 5 working days of receipt of the Complaint.

- 5.3.2 Where the Compliance Manager has determined there is jurisdiction to deal with the Complaint under the Disciplinary Regulations they will within 5 working days of acknowledging the Complaint appoint a Disciplinary Secretary to handle the Complaint under the Disciplinary Regulations.
- 5.3.3 The Disciplinary Secretary shall, within 10 days of the date of their appointment by England Netball, inform both Complainant and Respondent of the disciplinary procedural process in line with these Disciplinary Regulations and provide details of the Complaint to the Respondent. The Disciplinary Secretary must send the Compliance Manager a copy of the correspondence.
- 5.3.4 Any information lodged as part of the Disciplinary Procedure relating to a Complaint should be communicated through the Disciplinary Secretary and shall normally be acknowledged within 5 working days of receipt by the Disciplinary Secretary.
- 5.3.5 The Disciplinary Secretary will keep the Respondent and Complainant informed of the conduct or progress of any investigation or action in line with these Regulations, unless the circumstances dictate otherwise or it is expressly provided for in the Regulations

## 6. Handling the Complaint – Investigation stage

### 6.1 Investigation

- 6.1.1 An Investigation is required to be conducted by an Investigation Officer to determine whether the allegation(s) or Complaint could be substantiated by the facts and relevant evidence.
- 6.1.2 The Investigation Officer shall make all necessary enquiries to establish the facts and relevant evidence of the allegation(s) or Complaint with the following individuals, but are limited to asking them to provide statements and evidence;
  - 6.1.2.1 The Respondent, either by way of interview or correspondence;
  - 6.1.2.2 The Complainant;
  - 6.1.2.3 Witnesses;
- 6.1.3 The Investigation will give the Respondent the opportunity to provide a response to the allegation(s) against them and seek information from them. The Disciplinary Secretary will inform the Respondent that an Investigation is being carried out and provide the details of the allegations, in accordance with regulation 5.3.3, to enable the Respondent to provide a meaningful response and invite the Respondent to submit information.
- 6.1.4 Where possible, all evidence must be written or typed so that it may be recorded alongside the original allegation. Where relevant, Complainants, Respondents or Witnesses can submit videos, photographs and documents as evidence.
- 6.1.5 The proceedings of an Investigation will be directed by an Investigation Officer and once all relevant evidence has been collated the Investigation Officer will make a final Decision.

### 6.2 Investigation Officer

- 6.2.1 The Investigation Officer's role is to determine whether a Prima Facie case is established. Consideration must be given to all the relevant circumstances.
- 6.2.2 The Investigation Officer shall be appointed by the Disciplinary Secretary within 7 working days of the date of the Complaint Information being sent to the Respondent and Complainant. The

Investigation Officer selected must be, and must be seen to be, independent and impartial and should act in good faith.

- 6.2.3 The Respondent should be informed that enquiries by and meetings of the Investigation Officer do not constitute a Disciplinary Hearing. The outcome of this Investigation will determine whether or not the Complaint or allegation will proceed to a full Disciplinary Hearing, so their co-operation would be to their advantage.
- 6.2.4 There is no right of Appeal against the conclusion reached by the Investigation Officer. The Decision is final.
- 6.2.5 The Investigation Officer shall keep confidential their findings and all related information, save where the law requires disclosure or it is required under the Disciplinary Regulations.
- 6.2.6 On conclusion of the Investigation and within 28 days of the date of Investigation Officers appointment, the Investigation Officer shall deduce from the evidence whether the Complaint(s) which led to its formation should be;
  - 6.2.6.1 Rejected because the Complaint was received more than 28 days after the incident or of the Complainant becoming reasonably aware of the incident and it is not considered serious enough to be in the best interests of The Sport to take it forward as referenced in 5.2.2;
  - 6.2.6.2 Rejected because it does not amount to a Disciplinary Offence under Regulation 3.1;
  - 6.2.6.3 Dismissed because the evidence does not substantiate a Prima Facie case;
  - 6.2.6.4 Dismissed because the information received does not indicate that the Respondent is liable to Disciplinary Action or because it is not the concern of England Netball;
  - 6.2.6.5 Dismissed because the Complaint is trivial, vexatious or malicious;
  - 6.2.6.6 Rejected or dismissed on one of the bases set out in 6.2.6.1. to 6.2.6.5, accompanied with a Recommendation for Mediation in accordance with Regulation 12, on the agreement of all parties.
  - 6.2.6.7 Lodged with another authority deemed more appropriate in practice or in law to handle it, including, but not limited to a Children's Services authority for child protection issues or the police for criminal matters, or under other England Netball procedures for Anti-Doping;
  - 6.2.6.8 Passed to the Lead Safeguarding Officer for consideration under the England Netball Safeguarding Children in Netball or Adults at Risk policies and procedures;
  - 6.2.6.9 Recommendation for Mediation, in accordance with Regulation 12, to seek early resolution, on the agreement of all parties, otherwise the matter will proceed formally to a Disciplinary Hearing in accordance with the Disciplinary Regulations;
  - 6.2.6.10 Dealt with informally by way of advice or information because it is not serious enough to warrant a full Disciplinary Hearing [this does not constitute a finding of guilt hence no Sanction can be imposed];
  - 6.2.6.11 Allowed to proceed formally to a Disciplinary Hearing in accordance with the Disciplinary Regulations.
- 6.2.7 The written Decision of the Investigation Officer must be completed within 5 working days of the Decision and sent to the Disciplinary Secretary along with any order for Costs or disciplinary Sanction for trivial, vexatious or malicious allegations.
- 6.2.8 The Disciplinary Secretary will communicate the Decision of the Investigation Officer to the Respondent and Complainant, within 5 working days of receipt of the Investigation Officer

Decision. Where it is decided that the matter should proceed to a full Disciplinary Hearing, the Disciplinary Secretary shall also advise the Respondent alleged to have committed the misconduct that they are the subject of a Disciplinary Offence and notify them of the intended Disciplinary Action against them and details of the Disciplinary Charge. There is no right of Appeal against the Decision of the Investigation Officer; their Decision on whether or not there is a case to answer is final.

- 6.2.9 Where it is decided that the matter should proceed to a full Disciplinary Hearing the Disciplinary Charge must be clearly stated, detailing the alleged Disciplinary Offence(s).
- 6.2.10 The Disciplinary Secretary must send the Compliance Manager a copy of the Investigation Officer's Decision along with the Investigation Officer's Decision Notice sent to the Complainant and Respondent and where applicable the Disciplinary Charge details along with all investigation documents, information and evidence within 5 working days of the Investigation Officer's Decision.

### 6.3 Interim Suspension

- 6.3.1 In the event that the subject matter of the Complaint or Investigation is deemed to be sufficiently serious, the Investigation Officer may seek at any time following the commencement of the Investigation to impose an Interim Suspension upon the Respondent by making an application via the Disciplinary Secretary to the Compliance Manager.
- 6.3.2 If the Compliance Manager reasonably believes the allegation or Complaint is of sufficient gravity or concern, the Respondent may be suspended from some or all Recognised and Authorised Netball Activities for up to 28 days or until the Disciplinary Action under the Disciplinary Regulations are concluded. Such suspension shall be known as an 'Interim Suspension' and may be subject to extension at the discretion of the Compliance Manager in line with 6.3.9.
- 6.3.3 An Interim Suspension pending Investigation should not be automatic. A decision by the Compliance Manager on an Interim Suspension should be reasonable and proportionate given all the circumstances of the case.
- 6.3.4 In determining an Interim Suspension application, the Compliance Manager should consider the following, without limitation:
  - 6.3.4.1 The safeguarding and protection of the Respondent, Complainant, other participants or those involved in The Sport (whether identifiable or not).
  - 6.3.4.2 If the failing to suspend may impede internal investigations or prejudice investigation by external organisations or is necessary to preserve the integrity of the evidence.
  - 6.3.4.3 Whether the Complaint or matter is of a serious nature;
  - 6.3.4.4 Whether an Interim Suspension is necessary or proportionate to allow the conduct of any Disciplinary Action or Investigation;
  - 6.3.4.5 Whether the reputation of England Netball, a Member, a Connected Participant, any member or members of Staff or The Sport could be harmed if an Interim Suspension was not imposed.
- 6.3.5 An Interim Suspension is not a finding of guilt.
- 6.3.6 Interim Suspensions should only be used in cases where the Compliance Manager is satisfied from reliable information received that it is necessary in the period before an

Investigation Officer makes their final Decision or the Disciplinary Panel can conclude the case. The Compliance Manager will communicate their decision on whether or not an Interim Suspension is to be applied to the Disciplinary Secretary within 5 working days of the Investigation Officers application to impose an Interim Suspension.

- 6.3.7 An Interim Suspension against a Member or Connected Participant may consist of but is not limited to:- suspension from or prohibition on a Member or Connected Participant taking part in any capacity in any or specific Regulated and Authorised Netball Activity; including but not limited to competing, training, officiating, coaching, management, attending meetings, volunteering at Clubs, Leagues or Competitions, or from entering a venue where netball events are being held under England Netball, Regional or County Associations' Regulations.
- 6.3.8 An Interim Suspension against a Club may include but is not limited to competing in County or Regional Associations' Competitions and suspension of CAPS (see Appendix 3).
- 6.3.9 The length of the Interim Suspension is at the discretion of the Compliance Manager, taking into account the application from the Investigation Officer, the gravity of the Complaint and the likely period between the start of the Interim Suspension and the final Decision to be made by the Disciplinary Panel. Where a case duration exceeds 28 days, any Interim Suspension imposed shall be reviewed, periodically and no later than after each 28 day period by the Compliance Manager.
- 6.3.10 Where it is decided by the Compliance Manager that an Interim Suspension is appropriate, the Disciplinary Secretary within 3 days of the Decision by the Compliance Manager shall notify the Member or Connected Participant concerned, advising them of the reason for the Interim Suspension, the terms and conditions of the Interim Suspension and its applicable period. Other relevant Members or Connected Participants and Staff shall also be informed to ensure that the Interim Suspension is adhered to; this may include (but is not limited to) the Club Chair/Secretary and Regional and County Associations.
- 6.3.11 There is no right of Appeal for any individual subject to an Interim Suspension.
- 6.3.12 Any breach of the terms or conditions of an Interim Suspension shall constitute a new Disciplinary Offence pursuant to the Disciplinary Regulations and shall be dealt with accordingly.
- 6.3.13 Any Interim Suspension under these Regulations will automatically cease if either of the following occurs (whichever is soonest):
  - 6.3.13.1 The matter has been determined by the Disciplinary Panel under the Regulations;  
or
  - 6.3.13.2 Following an Investigation, the Investigation Officer concludes no further action is necessary.

## 7. Pre-Disciplinary Hearing

### 7.1 Handling the complaint- Pre-Disciplinary Hearing

- 7.1.1 The Disciplinary Panel selected to hear the Disciplinary Offence must be, and must be seen to be, independent and impartial and should act in good faith.
- 7.1.2 The Disciplinary Panel will be formed by the Disciplinary Secretary, who shall nominate the Chair within 7 working days of the Notice of Disciplinary Charge being sent.
- 7.1.3 The Disciplinary Panel should check that the alleged behaviour constitutes a Disciplinary Offence in accordance with Regulation 3 and should ensure the Disciplinary Charge is properly



set out on the documentation and that it has been sent to the parties concerned.

- 7.1.4 While the needs of the parties will be considered, the primary consideration when deciding the date and venue for the Hearing will be based on operational needs including reasonable adjustments relating to protected characteristics of any individual due to attend in any capacity.
- 7.1.5 Notice of the Disciplinary Hearing must be sent to the Complainant, Respondent and Panel at least 14 days before the date of the Hearing, together with all supporting evidence, copies of Witness statements and findings of the Investigation Officer. The Notice of Disciplinary Hearing shall also name the individuals, specifically identifying the Chair, who will constitute the Disciplinary Panel.
- 7.1.6 The Respondent has 7 days from the date of the Notice of Disciplinary Hearing in which to:
  - 7.1.6.1 lodge with the Disciplinary Secretary, in writing, any objection to any member of the Disciplinary Panel, stating the grounds for the objection;
  - 7.1.6.2 accept or deny the Disciplinary Charge. If the Respondent admits the allegation or accepts they have committed the Disciplinary Charge and requests that the matter is dealt with in their absence, they may provide to the Disciplinary Panel a written statement of mitigation.
  - 7.1.6.3 notify the Disciplinary Secretary whether they wish to attend the Disciplinary Hearing.
  - 7.1.6.4 Procure and submit any witness statements they intend to rely on
- 7.1.7 Regulations 7.1.6.1 and 7.1.6.3 apply to the Complainant too.
- 7.1.8 The Disciplinary Secretary shall immediately forward any objection received in relation to the Disciplinary Panel members to the Chair of the Disciplinary Panel who shall consider the objections and determine whether they are valid or in their reasonable opinion, the grounds for objection are frivolous, unfounded or ill informed, in which case the Chair shall reject the objection. This Decision is final and cannot be Appealed.
- 7.1.9 If the Chair of the Disciplinary Panel is in agreement with the objection, they will instruct the Disciplinary Secretary to make an alternative appointment and the date of the Hearing shall be postponed to a date no more than 14 days after the original date. The Chair's Decision shall be final, albeit they shall identify the grounds for rejection when requested. Wherever possible, this process shall not prolong the timescales outlined. The Disciplinary Secretary will advise the Complaint and Respondent of the amendments via a revised Notice of Disciplinary Hearing to which Regulations 7.1.6 and 7.1.7 would again apply.
- 7.1.10 If the objection is made against the Chair, another member of the Disciplinary Panel must assess the objection.
- 7.1.11 If the allegation is being disputed, the Respondent should be informed in the Notice of Disciplinary Hearing of the need to identify any Witnesses, procure and submit their evidence and arrange for their attendance at the Hearing.
- 7.1.12 It shall be the duty of the Complainant and Respondent to notify and arrange for the attendance of any Witnesses they may wish to call. The number of Witnesses allowed to give evidence will be at the discretion of the Chair, however they should be adequate enough to establish or defend a case without resulting in duplication or time wasting.
- 7.1.13 The Chair of the Disciplinary Panel may issue directions relating to the procedural aspects in the period leading up to the Disciplinary Hearing in order to ensure proper and fair conduct of the Disciplinary Hearing. The Disciplinary Secretary shall notify the Disciplinary Panel members

of any such directions. These may include, but shall not be limited to, the procedure and timetable for the;

- 7.1.13.1 Pre Disciplinary Hearing meetings of the Disciplinary Panel to agree procedural issues;
  - 7.1.13.2 Production, inspection and/or exchange of documents, Witness statements and other evidence;
  - 7.1.13.3 Submission of the names and details of any Witnesses the parties concerned wish to call;
  - 7.1.13.4 Exchange of skeleton (outline) arguments.
- 7.1.14 The Disciplinary Panel may proceed to hear the case in the absence of any of the parties and Witnesses if due notice has been provided.
  - 7.1.15 The parties concerned may rely on written representations made prior to the Disciplinary Hearing and/or appearance in person. Documents will be deemed to be authentic unless advance notice has been served for them to be proved at the Disciplinary Hearing.
  - 7.1.16 Unless the Disciplinary Panel Chair instructs otherwise, at least 7 days in advance of the Hearing, each party to the proceedings must provide the Disciplinary Secretary, via electronic communication, details of all Witnesses they wish to call, together with copies of their written statements and any other documentary evidence they propose to rely on at the Disciplinary Hearing.
  - 7.1.17 Both Parties shall advise the Disciplinary Secretary, at least 7 days before the Disciplinary Hearing, if they will be using the services of any Representative (legal, technical or otherwise) to present their case or advise them. If either party has previously Appointed an Advocate they are still required to advise if this individual will act as a Representative during the hearing. The name and status of any Representative must be provided to the Disciplinary Secretary at the time of notification. The person who represents either party may not also be a Witness.
  - 7.1.18 The Disciplinary Secretary shall notify each of the parties to the proceedings of the names of the other party's Witnesses and the name and status of any Representative who will be presenting a Respondent's case or acting as an adviser at least 3 days before the Disciplinary Hearing.
  - 7.1.19 It should be clearly understood that travel or other expenses or fees will not be paid to any party (Respondent or Complainant) involved in the Hearing, their Representatives or Witnesses in any Disciplinary or Appeal Hearing. This does not preclude the Panel from imposing Costs orders on either party in respect of administrative costs on the rare occasion these are incurred.
  - 7.1.20 The Disciplinary Secretary shall, in advance of the Disciplinary Hearing, contact the Compliance Manager to ascertain if there is a record of any previous offences of the Respondent on record within the relevant retention period. The Compliance Manager will provide the Disciplinary Secretary with the previous number of disciplinary cases and any Sanctions of the Respondent but not the detail of previous cases of the Respondent. This information will only be used by the Disciplinary Panel in the event that they find that the Disciplinary Charge is proven and is considering the appropriate Sanction.
  - 7.1.21 At any point in the process, the Disciplinary Panel has the right to change or add additional Disciplinary Charges. If Disciplinary Charges are changed or added, the Respondent has the right to request an adjournment.

## 7.2 Disciplinary Hearing Adjournment request

- 7.2.1 The Complainant or the Respondent may request in writing an adjournment of the Hearing within 7 days of the date of the Notice of Disciplinary Hearing. A detailed statement of the reasons for the request must be supplied. The request must be sent to the Disciplinary Secretary. The Chair of the Disciplinary Panel will consider the request and make a Decision that they, in their absolute discretion, shall consider fair and reasonable (although if any adjournment is ordered this should, normally, not exceed 14 days).
- 7.2.2 In making any order to adjourn, the Chair of the Disciplinary Panel shall bear in mind not only the interests of the party seeking the adjournment but also the interests of any other parties including Witnesses and the administrative implications.
- 7.2.3 The Chair of the Disciplinary Panel will determine the date, time and place of any adjourned Hearing. The Disciplinary Secretary shall write to the Complainant and/or Respondent informing them of the adjournment and advising of the adjourned Disciplinary Hearing date and requesting a written acknowledgement via email or post.
- 7.2.4 If the Respondent does not attend or is not represented at any adjourned Disciplinary Hearing the Disciplinary Panel will consider the case in their absence. The Chair of the Disciplinary Panel has the discretion to order a further Disciplinary Hearing date if there are compelling reasons for non-attendance by either party.

## 8. Disciplinary Hearing

### 8.1 Procedure at a Disciplinary Panel Hearing

- 8.1.1 The Disciplinary Hearing shall take place in private, with the Decision and any Sanction being treated as confidential by all parties until 8 days after that notification to allow the Respondent and England Netball to seek leave to submit an Appeal if they are eligible.
- 8.1.2 The Disciplinary Panel shall decide any issue by a simple majority and no Member of the Panel may abstain from voting.
- 8.1.3 The standard of proof in Disciplinary Cases is the balance of probabilities.
- 8.1.4 The Disciplinary Secretary may appoint a Recorder to record Disciplinary Panel proceedings. The proceedings may be audio or video recorded; the Chair of the Disciplinary Panel will inform those involved in the Disciplinary Hearing about the recording at the start of the proceedings. All recordings shall be subject to Confidentiality Regulation 16.4.
- 8.1.5 The procedure for the Disciplinary Hearing shall be flexible and shall be at the discretion of the Chair of the Disciplinary Panel, who may make such Decisions as necessary to ensure the orderly and effective conduct of the Hearing and provide for any reasonable adjustments to allow the Complainant, Respondent and Witnesses to properly take part, subject to the overriding requirement of fairness. The Chair of the Disciplinary Panel will outline the basic procedure of the Hearing at the start of the hearing.
- 8.1.6 Usually, this will be;
  - 8.1.6.1 The case against the Member or Connected Participant will be presented, together with relevant evidence and a reasonable number of Witnesses;
  - 8.1.6.2 The Respondent or their Representative will be asked to admit or deny the Disciplinary 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 Panel.

- 8.1.6.3 The attendance of additional Witnesses not previously given by the Respondent or Complainant will be with the prior agreement of the Chair of the Disciplinary Panel.
- 8.1.6.4 Before being called, Witnesses will not be allowed in the room or admitted to the video call while evidence is being given;
- 8.1.6.5 Questions may be put by the Disciplinary Panel to the Respondent and Complainant (or Appropriate Authority if it is a Whistleblowing allegation) and each Witness on conclusion of their evidence;
- 8.1.6.6 The Respondent and Complainant may be able to raise questions in cross-examination through the Chair of the Panel; no direct questioning will be permitted unless agreed by the Chair. If direct questioning is permitted the Chair will monitor and have the right to revert to questioning via the Chair if in their opinion deemed necessary. Under no circumstances, should the Chair allow undue pressure or any form of hostility to take place at the Hearing;
- 8.1.6.7 The Respondent charged will be allowed to make a closing statement to the Disciplinary Panel;
- 8.1.6.8 The room or video call will be cleared and the Disciplinary Panel will deliberate and determine whether, on the balance of probabilities, the Disciplinary Charge is;
  - 8.1.6.8.1 Proved or;
  - 8.1.6.8.2 Unproved;
- 8.1.6.9 The Hearing will reconvene and the Panel Chair will announce whether or not the Disciplinary Charge has been proved;
- 8.1.6.10 If the Respondent admits the Disciplinary Charge or the Panel decides the Disciplinary Charge has been proved, the Panel will look at the Respondent's previous disciplinary record, where relevant, before any move to consider Sanctions, Recommendations, a process of Mediation and or Costs;
- 8.1.6.11 The Panel will invite the Respondent to set out any mitigating circumstances relevant to the Disciplinary Charge;
- 8.1.6.12 The room or video call will again be cleared and the Panel shall make a decision which will be one of the following;
  - 8.1.6.12.1 The Disciplinary Charge has been proved and they recommend a Sanction or Recommendation
  - 8.1.6.12.2 The Disciplinary Charge has not been proved and they advise a Recommendation of Mediation
  - 8.1.6.12.3 The Disciplinary Charge has not been proven but there have been examples of poor practice and they advise a Recommendation of certain appropriate actions
  - 8.1.6.12.4 The Disciplinary Charge has not been proven and the case is dismissed
- 8.1.6.13 The Hearing will reconvene and the Panel Chair will pronounce their Decision and any order for Costs.

- 8.1.7 Those representing either party at a Hearing may present and sum up their case, as well as put questions via the Chair but they are not permitted to answer questions put to the Respondent.
- 8.1.8 If the Disciplinary Panel feels it is necessary, bearing in mind all the circumstances surrounding the Disciplinary Case, the Panel may request England Netball to appoint an Independent Person to act as adviser to the Disciplinary Panel. The cost of this may be taken into consideration in any award of Costs or be borne by England Netball.
- 8.1.9 The Chair of the Disciplinary Panel has the authority to adjourn the Hearing to allow for additional evidence to be presented only if they consider it important and relevant in reaching a Decision.
- 8.1.10 The Disciplinary Panel Chair has the discretion to adjourn the Disciplinary Hearing for a maximum of 14 days if at any time they think the interests of justice require it (e.g. to secure the attendance of a key Witness or other important evidence).
- 8.1.11 If the Respondent does not attend the Disciplinary Hearing arranged as above, provided that the Disciplinary Panel is satisfied that Notice of the Disciplinary Hearing was served properly, it may proceed to hear the evidence in the absence of the Respondent.
- 8.1.12 In the light of the evidence presented to it, the Disciplinary Panel may find a Respondent guilty of a lesser or more serious Disciplinary Charge than the original alleged charge stated.
- 8.1.13 If the alleged Disciplinary Charge has not been proved, the Chair shall so state and the Disciplinary Panel shall dismiss the Complaint.
- 8.1.14 The Disciplinary Panel may limit questioning in order to allow the Disciplinary Hearing to be conducted in a fair and equal manner.
- 8.1.15 After consideration of the evidence presented to it the Panel Chair may:
  - 8.1.15.1 Announce the Decision of the Panel and at the same time announce its findings; or
  - 8.1.15.2 Announce the Decision of the Panel with the grounds of the Decision being given at a later date; or
  - 8.1.15.3 Defer the Panel's Decision to a later date, no longer than 7 working days after the Disciplinary Hearing date.
- 8.1.16 If the Panel feels the Complaint has arisen out of a wider dispute between the Complainant and Respondent and will culminate in a series of retaliatory Complaints, it can recommend the dispute is resolved through Mediation.
- 8.1.17 The Disciplinary Panel shall not be bound by the Rules of Court (or any legislative provision) governing procedures. All Disciplinary 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.

## 8.2 Evidence

- 8.2.1 The Disciplinary Panel may give directions on the;
  - 8.2.1.1 Issues on which it requires evidence;
  - 8.2.1.2 Nature of the evidence which it requires to decide those issues; and

8.2.1.3 Way in which the evidence is to be placed before the Disciplinary Panel.

- 8.2.2 The Disciplinary Panel may admit any evidence it considers fair and relevant, whether or not such evidence would be admissible in a court of law. The Panel may accord such weight to the evidence as they think appropriate in all the circumstances.
- 8.2.3 The Complainant's initial written Complaint will automatically form their evidence for the Hearing and may be supplemented with additional written statements in accordance with Regulation 7.1.15.
- 8.2.4 Subject to the requirements of a fair Hearing, the Panel may exclude evidence that would otherwise be admissible to ensure fairness between the parties.
- 8.2.5 The Disciplinary Panel may decide any issue of fact and draw any inference of fact that it considers to be supported by the evidence.
- 8.2.6 Production of a certificate purporting to be under the hand of a competent officer of a UK or overseas court that a Member or Connected Participant has been convicted of a criminal offence shall be conclusive evidence of the offence committed.
- 8.2.7 Production of a copy of the judgment of any civil court shall be conclusive evidence of the facts found proved in relation to that judgment.

## 9. Sanctions

- 9.1 Where the Disciplinary Charge is admitted or proved (based on the balance of probabilities), the Disciplinary Panel shall have power to determine and pronounce Sanctions. Sanctions must be reasonable and proportionate in all the circumstances. Where a Disciplinary Charge has been proved against or admitted by a Child or Young Person, any Sanction imposed should be proportionate to that Child or Young Person's age.
- 9.2 England Netball's Recommended Sanctions are set out at Appendix 2 of the Disciplinary Regulations. Appendix 2 is for guidance only and provides a non-exhaustive range of Sanctions. Please note that a Sanction imposed against a Club could result in the suspension or removal of CAPS status set out in Appendix 3.
- 9.3 The Disciplinary Panel may order that any part of a Sanction be suspended for a specified period (not exceeding six months). If the Respondent benefiting from a suspended Sanction commits another Disciplinary Offence during the suspension, the suspended Sanction will automatically take full effect. This Sanction will be in addition to any Sanction imposed as a consequence of the additional Disciplinary Offence.
- 9.4 Any period of suspension imposed may be backdated to take into account any Interim Suspension that may have been imposed pursuant to Regulation 6.3.
- 9.5 Sanctions may be held over until the next appropriate playing period of the year/season. Sanctions cannot be held over for more than 12 months unless the Respondent is no longer involved in The Sport or no longer a Member or Connected Participant, in which case the Sanction may be held over for the shorter of 5 years or until the Respondent resumes their involvement in The Sport.
- 9.6 Any Sanction, including a partial or full suspension of participation in Recognised and Authorised Netball Activity by a Disciplinary Panel, shall be binding on all Members and Connected Participants. Any attempt by a Member or Connected Participant to induce a breach of a Sanction imposed by a Disciplinary Panel, or any deliberate attempt to contravene, or facilitate the contravention of, a Sanction will be a Disciplinary Offence.
- 9.7 Failure to comply with a Sanction will be taken seriously and will lead to an immediate Suspension

of Membership pending compliance with the Sanction.

- 9.8 Where the Decision involves a Sanction and an Appeal against that Sanction is lodged in accordance with the Disciplinary Regulations, the Sanction and any order for Costs should be stayed pending the determination of the Appeal. If the Appeal process has not been completed within 28 days of the Appeal being lodged, the Decision to continue with the stay, or to lift the stay and impose the Sanction, will be reviewed by the Appeal Panel.
- 9.9 The Panel may impose Sanctions regardless of whether they have been committed deliberately and with intent, or merely negligently.
- 9.10 Any Sanction which amounts to a permanent removal of England Netball Membership and a permanent exclusion from The Sport must first be reviewed and endorsed by the England Netball Board.

## 10. Costs

- 10.1 In the rare or unlikely event that Costs are incurred in relation to the Disciplinary Action, the Disciplinary Panel may at its discretion, make an order of Costs to be payable in such proportion as it may decide by any of the parties to the Disciplinary Action and the Hearing. The Disciplinary Panel will not ordinarily make an order for Costs without first considering submissions from the relevant parties and England Netball on the question of Costs.
- 10.2 An order in relation to the Costs of the Disciplinary Action may include, but may not be limited to, all reasonably incurred costs preparing for (and the holding of the Hearing) as well the costs involved in the Investigation, including if required the appointment of an Independent Person to support the Panel. Any such order may also include any reasonably incurred travel and accommodation expenses, however wherever possible this will be limited through the use of email correspondence and virtual meeting technology to hold hearings.
- 10.3 In calculating the amount, no legal representation or professional charges will normally be included unless professional clarification is agreed by all parties during the Disciplinary Procedure.
- 10.4 For the avoidance of doubt, the Costs orders referred to above relate to the costs of the proceedings (which may for example include the costs of the Investigation and Hearing stage).
- 10.5 All Costs orders must be paid within 28 days of the date the Costs order made by the Disciplinary Panel was communicated. Please note that failure to comply with a Costs order will be taken seriously and will lead to an immediate Suspension of Membership pending compliance with the Costs order. Interest shall be payable at the rate applicable to judgment debts in England and Wales following the end of the 28 day period until the actual date of payment.
- 10.6 An application for consideration of a payment plan for all Costs ordered can be made to England Netball via the Compliance Manager within 7 working days of the original notification of the Costs. The decision as to whether to agree a payment plan is at the absolute discretion of the Compliance Manager.
- 10.7 Where the Respondent chooses to Appeal the decision of the Disciplinary Panel payment of any Costs orders will be suspended subject to the Appeals Panel decision including the Costs orders.

## 11. Post-Disciplinary Hearing

- 11.1 The written Decision of the Disciplinary Panel must be completed by the Chair of the Disciplinary Panel within 7 working days of the Decision and sent to the Disciplinary Secretary.

- 11.2 The Disciplinary Secretary shall notify the Disciplinary Panel's Decision to the Respondent and Complainant as soon as possible, and no later than 7 working days after receiving the Disciplinary Panel Decision. The Respondent will also be notified of any Sanction imposed and details of the Appeals process.
- 11.3 The Disciplinary Secretary must send the Compliance Manager a copy of the Disciplinary Panel Decision and Disciplinary Decision Notice along with all documents, information, Witness statements and evidence within 7 working days of the Decision.
- 11.4 England Netball will communicate information relating to any Sanction where it is necessary to give that Sanction effect, on a need to know basis to Staff, Members and Connected Participants including Club, County Association, Regional Association and Officiating.
- 11.5 England Netball is entitled to publish the Decision of the Disciplinary Panel in such a manner as it considers appropriate after the Disciplinary Secretary has notified the Respondent and the Appeal period has passed. Parties to a Disciplinary Hearing are deemed to have consented to such publication.

## 12. Mediation

- 12.1 Where a Panel has advised of a Recommendation for Mediation, either via an Investigation Officer Decision or Disciplinary Panel Decision, the Disciplinary Secretary will complete the Mediation Referral and send to the Compliance Manager.
- 12.2 The Compliance Manager, at their full discretion, will determine if England Netball may facilitate Mediation through the England Netball appointed Mediator and advise the Disciplinary Secretary within 7 working days. Where England Netball offer to facilitate Mediation any costs associated with the process will be borne by England Netball.
- 12.3 Notice of the Mediation must be sent to the Complainant and Respondent at least 14 days before the date of the Mediation. The Notice of Mediation shall also name the Mediator.
- 12.4 Both the Complainant and Respondent have 7 days from the date of the Notice of Mediation in which to:
  - 12.4.1 Agree to proceed with Mediation and return the Mediation Agreement;
  - 12.4.2 Request in writing an adjournment of the Mediation with a detailed statement of the reasons for the request; or
  - 12.4.3 Decline to proceed with Mediation
- 12.5 The Disciplinary Secretary shall immediately forward any adjournment request received in relation to the Mediation to the Compliance Manager who will consider the request and make a Decision that they, in their absolute discretion, shall consider fair and reasonable (although if any adjournment is ordered this should, normally, not exceed 14 days).
- 12.6 In making any order to adjourn, the Compliance Manager shall bear in mind not only the interests of the party seeking the adjournment, but also the interests of any other parties and the administrative implications.
- 12.7 The Compliance Manager will determine the date, time and place of any adjourned Mediation. The Disciplinary Secretary shall write to the Complainant and Respondent informing them of the adjournment, advising of the adjourned Mediation date, and requesting a written acknowledgement via email or post.
- 12.8 Where Mediation is not agreed by all parties within 14 days of the initial Notice of Mediation being sent to the Complainant and the Respondent, the Mediation process will be deemed not proceedable and the Disciplinary Procedure will continue in accordance with 12.14.



- 12.9 The Mediation shall take place in private, and all discussions during the Mediation are confidential.
- 12.10 The outcomes of Mediation are:
  - 12.10.1 An agreement reached between the Complainant and Respondent; or
  - 12.10.2 No agreement reached between the Complainant and Respondent
- 12.11 The written outcome of the Mediation must be completed by the Mediator within 5 working days of the Mediation date and sent to the Disciplinary Secretary and Compliance Manager.
- 12.12 The Disciplinary Secretary shall notify the Mediation outcome to the Respondent and Complainant via a Mediation Outcome Notice as soon as possible, and no later than 7 working days after receiving the Mediation Outcome, using the wording contained in the Mediation Outcome, along with details of the status of the Disciplinary Procedure.
- 12.13 There is no right of Appeal against the outcome reached by Mediation as this is a process of reaching an agreement between the parties.
- 12.14 Where all parties did not agree to Mediation or where Mediation did not result in an agreement being reached between the parties the Disciplinary Case will re-enter the Disciplinary Procedure at the point Mediation was recommended and proceed to conclusion.
  - 12.14.1 Where Mediation was recommended in accordance with Regulation 6.2.6.6 the Disciplinary Case will be dismissed
  - 12.14.2 Where Mediation was recommended in accordance with Regulation 6.2.6.9 the Disciplinary Case will progress to the Disciplinary Hearing stage.
  - 12.14.3 Where Mediation was recommended in accordance with 8.1.6.12.2 the Disciplinary Case will be dismissed.

## 13. Appeals

### 13.1 Making an Appeal

- 13.1.1 Only the Respondent, providing they attended, were represented at or made submissions in writing to the Disciplinary Panel Hearing, and England Netball shall have the right to Appeal against the Decision and must mark the intention to Appeal within 7 days. A finalised notice of appeal must be lodged within 14 days of the decision under the grounds set out below. A £50 appeal fee is payable at the time the notice of appeal is lodged unless waived in line with regulation 13.1.6.
- 13.1.2 An Appeal can only be sought against a Decision of the Disciplinary Panel on one or more of the following grounds:
 

That it;

  - 13.1.2.1 Failed to give the appellant a fair hearing
  - 13.1.2.2 Came to a decision that no reasonable body should have reached
  - 13.1.2.3 Failed to comply with the necessary rules and regulations pursuant to the charge
  - 13.1.2.4 Imposed an award or Sanction that was excessive
- 13.1.3 An Appeal should be set out in writing and sent to the Disciplinary Secretary, via electronic mail, within 14 days of the Disciplinary Decision Notice date providing that an intention to

Appeal was marked within 7 days. The Appeal should identify the Decision and reason for Appeal as set out in Regulations 13.1.2.

- 13.1.4 The stated grounds of an Appeal shall not be amended after submission except as agreed by the Appeal Panel Chair appointed to hear the Appeal.
- 13.1.5 The Appeal Panel shall be appointed and administered by the Disciplinary Secretary. One member of the Appeal Panel will act as Chair and the Appeal Panel selected must be, and must be seen to be, independent and impartial and should act in good faith.
- 13.1.6 Upon request from an Appellant with suitable evidence, England Netball may apply special dispensation in adjusting, deferring or waiving the appeal fee.

## 13.2 Notice of Appeal Panel Hearing

- 13.2.1 The Notice of the Appeal Panel Hearing shall state the date, time, place and reason for Appeal and shall be sent by the Disciplinary Secretary to the Appellant, the Appeal Respondent and the Chair of the Appeal Panel no later than 14 days prior to the date of the Appeal Hearing, together with any additional evidence. The Notice of Appeal Hearing shall also name the individuals, specifically identifying the Chair, who will constitute the Appeal Panel.
- 13.2.2 The Appellant or Appeal Respondent shall be entitled, within 7 days of the Notice of Appeal Panel Hearing, to lodge with the Disciplinary Secretary, in writing, any objection to any member of the Appeal Panel, stating the grounds for the objection. The Appellant or Appeal Respondent shall provide appropriate evidence in support of any such claim.
- 13.2.3 The Disciplinary Secretary shall immediately forward any objection received in relation to the Appeal Panel members to the Chair of the Appeal Panel 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 shall reject the objection. This Decision is final and cannot be Appealed.
- 13.2.4 If the Chair of the Appeal Panel is in agreement with the objection, they will instruct the Disciplinary Secretary to make an alternative appointment and the date of the Hearing may be postponed to a date no more than 14 days after the original date. The Disciplinary Secretary will advise the Appellant and Appeal Respondent of the amendments via a revised Notice of the Appeal Panel Hearing to which Regulation 13.2.2 would again apply.
- 13.2.5 If the objection is made against the Chair, another member of the Appeal Panel must assess the objection.
- 13.2.6 The Appellant may request in writing, an adjournment of the Appeal Hearing within 7 days of the date of the Notice of Appeal Hearing. A detailed statement of the reasons for the request must be supplied. The request must be sent to the Disciplinary Secretary. The Chair of the Appeal Panel will consider the request and make a Decision that they, in their absolute discretion, shall consider fair and reasonable (although if any adjournment is ordered this should, normally, not exceed 14 days).
- 13.2.7 In making any order to adjourn, the Chair of the Appeal Panel shall bear in mind not only the interests of the party seeking the adjournment but also the interests of any other parties including Witnesses and the reputation of The Sport.

13.2.8 The Chair of the Appeal Panel will determine the date, time and place of any adjourned Hearing. The Disciplinary Secretary shall write to the Appellant and Appeal Respondent (if required to attend), informing them of the adjournment, advising of the adjourned Appeal Hearing date and requesting a written acknowledgement.

13.2.9 If the Appellant does not attend or is not represented at any adjourned Appeal Hearing the Appeal Panel will consider the case in their absence. The Chair of the Appeal Panel has the discretion to order a further Appeal Hearing date if there are compelling reasons for non-attendance by the Appellant or Appeal Respondent (if required to attend).

### 13.3 Pre Appeal Panel Hearing timetable and procedure

13.3.1 Where the Disciplinary Panel Decision does not contain sufficient information, the Chair of the Disciplinary Panel responsible for the Decision, shall, not less than 7 days before the date of the Appeal Hearing, provide to the Chair of the Appeal Panel via the Disciplinary Secretary a written statement of the Decision and any Sanction and order for Costs, together with any relevant supporting documents, detailing (as appropriate).

13.3.1.1 The circumstances of the alleged breach or misconduct;

13.3.1.2 Any appropriate justification or explanation;

13.3.1.3 The information that was considered in reaching the original Decision (e.g. regulations, reports, correspondence, Witness evidence);

13.3.2 The Disciplinary Secretary shall ensure that all relevant information is provided to the Appellant and the Appeal Respondent, including any statement from the Chair of the Disciplinary Panel and to all members of the Appeal Panel at least 7 days before the Appeal Hearing.

13.3.3 The Appellant may present to the Appeal Panel whatever written submission they consider appropriate. The Appellant shall ensure this information is received by the Disciplinary Secretary no more than 14 days after the Disciplinary Decision Notice.

13.3.4 The Disciplinary Secretary may appoint a Recorder to record Appeal Panel proceedings. Such proceedings may be audio-recorded. All recordings shall be subject to Confidentiality Regulation 16.4.

### 13.4 Procedure at the Appeal Panel Hearing

13.4.1 The Appeal Panel shall give the Appellant the right to be heard and to be represented. Where the Appellant is an individual, they may be accompanied by one Representative of their choice. Where the Appellant is a Club, County or Regional Association, it may have one or two of its officers present or one officer and a Representative.

13.4.2 The Appeal Panel may call the Chair of the Disciplinary Panel, the Respondent or the original Complainant, to provide additional information if they deem it necessary.

13.4.3 The Appeal Panel shall have the power to decide how an Appeal Hearing is to be conducted and shall have the same powers set out in Regulations 9 and 10 in relation to any Sanctions and the Costs of the Appeal Hearing.

13.4.4 The Appeal shall be by way of a review only and not by way of a rehearing.

13.4.5 The Appeal Panel will review whether the Sanction imposed by the Disciplinary Panel was fair, reasonable and proportionate in all the circumstances (without rehearing all the evidence).

- 13.4.6 The Chair of the Appeal Panel should ensure that the Appeal is heard in a manner that allows all parties to state their case fairly, and the Appeal Panel may invite (subject to approval from the Compliance Manager) an Independent Person (e.g. a respected senior official, lawyer or accountant) to be present if it considers this would be of assistance to the Hearing of the Appeal.
  - 13.4.7 In reaching its Decision, the Appeal Panel may take into account any relevant evidence, whether or not such evidence would be admissible in a court of law.
  - 13.4.8 If any of the parties do not attend and are not represented at the Appeal Hearing, the matter may be dealt with by the Appeal Panel in the absence of that party, taking into account any written representations that may have been received and provided that the Appeal Panel is satisfied that appropriate notice has been provided.
  - 13.4.9 Appeal Hearings will be in private, with the Decision and any Sanction made public after the Disciplinary Secretary has notified all relevant parties. All parties to an Appeal Hearing are deemed to have consented to such publication.
- 13.5 **Appeal Panel Decision**
- 13.5.1 Decisions of an Appeal Panel shall be made by a simple majority; no member of the Panel may abstain from voting.
  - 13.5.2 The Decision of an Appeal Panel is final and binding on all parties.
  - 13.5.3 The Appeal Panel shall have the power to:
    - 13.5.3.1 Confirm, vary or revoke the Decision of the Disciplinary Panel;
    - 13.5.3.2 Confirm, increase, reduce or quash any Sanction or order made by the Disciplinary Panel;
    - 13.5.3.3 Substitute any Sanction that would have been available to the Disciplinary Panel or
    - 13.5.3.4 Make any other order or determination it considers right or just.
  - 13.5.4 The Appeal Panel may defer the Panel's Decision to a later date, no longer than 7 working days after the Hearing date.
  - 13.5.5 If the Appeal Panel considers it necessary, in the light of new evidence produced, it may order that the case be reheard by the original or a different Disciplinary Panel.
- 13.6 **Procedure following an Appeal Panel Hearing**
- 13.6.1 The Chair of the Appeal Panel shall report its findings to the Disciplinary Secretary no later than 7 working days after the date of the Decision.
  - 13.6.2 The Disciplinary Secretary shall notify the Appeal Panel's Decision to the Appellant, Appeal Respondent, original Complainant and the Chair of the Disciplinary Panel as soon as possible, and no later than 7 working days after receiving the Appeal Panel Decision, giving brief reasons for the Decision, detailing the accepted facts on which the Decision is based and any Sanction imposed. Following an Appeal the Decision is final and there is no further right to Appeal.
  - 13.6.3 The Disciplinary Secretary must send the Compliance Manager a copy of the Appeal Panel Decision and Appeal Decision Notice within 7 working days of the Decision.

- 13.6.4 England Netball is entitled to publish the Decision of the Disciplinary Panel in such a manner as it considers appropriate after the Disciplinary Secretary has notified the Appellant. Parties to an Appeal Hearing are deemed to have consented to such publication.

### SECTION 3- ADDITIONAL INFORMATION

#### 14. Panels formed under Disciplinary Procedures

- 14.1 No Investigation Officer or member of the Disciplinary or Appeal Panel may be directly or indirectly connected with any named party involved in the specific Disciplinary Case being heard. Each Investigation Officer and Panel member has a duty to declare any potential or actual Conflict of Interest.
- 14.2 Individuals on the England Netball Disciplinary and Appeal Panel Register must receive England Netball training at least once every two years. These individuals will remain on this register until:
- 14.1.1 Receipt of their resignation in writing to the Compliance Manager;
  - 14.1.2 Non-completion of mandatory training; or
  - 14.1.3 The Compliance Manager writes to the individual and notifies them of their removal from this Register. This decision is at the discretion of the Compliance Manager, is final and not subject to any Appeal.
- 14.2 Each Investigation Officer or Panel member must:
- 14.2.1 Have no personal interest in the outcome of proceedings (other than to see that the Decision is fair)
  - 14.2.2 and have no previous knowledge of or involvement with the matter under consideration;
  - 14.2.3 Deal with cases consistently and fairly in accordance with standard procedures;
  - 14.2.4 Be careful and thorough in their consideration of the evidence and procedures at the Hearing;
  - 14.2.5 Give every assistance and latitude to the Respondent in presenting their submissions, in the interest of achieving a just and fair result;
  - 14.2.6 At all times, observe the rules of natural justice relating to the conduct of the Hearing process;
  - 14.2.7 Consider all the evidence before them and arguments made, before arriving at a Decision;
  - 14.2.8 Make their Decision based on evidence relevant to the charge;
  - 14.2.9 Act in a non-discriminatory manner;
  - 14.2.10 Act in accordance with the Disciplinary Regulations at all times.
- 14.3 No Investigation Officer or Panel member must:
- 14.3.1 Be a friend or relation of a party or a Witness in the case, nor be prevented, by personal experience, from bringing an objective judgment to bear on the case. Previous engagement with any party to a Disciplinary Case due to netball roles does not automatically mean a Conflict of Interest.

14.3.2 Allow extraneous considerations to affect the Decision;

- 14.4 Any Investigation Officer or Panel member who is approached improperly is required to notify the Disciplinary Secretary and Chair of that Panel (if applicable) immediately. The Panel Chair or Compliance Manager in the case of an Investigation Officer shall determine whether or not the member shall be required to stand down and be replaced.
- 14.5 At the discretion of the Chair, Panels may come together as and when it is considered appropriate, outside the Disciplinary or Appeal Hearing in order to review and agree documentation or procedure. A record of the meeting must be made and retained by the Disciplinary Secretary with the Disciplinary Case records.

**15 Guidance for cases involving Children or Young People and Adults at Risk**

- 15.1 All matters relating to the protection of Children or Young People and Adults at Risk, including 'poor practice', abuse and bullying, must be referred to England Netball's Lead Safeguarding Officer for initial determination of whether the matter will be dealt with pursuant to the England Netball Safeguarding Disciplinary Regulations.
- 15.2 Children or Young People and Adults at Risk in England Netball have equal rights to justice, fair play and protection. They shall be entitled to the full protection of all England Netball's policies and procedures, and their Complaints shall be dealt with as thoroughly and rigorously as those of any other Members or Connected Participants.
- 15.3 The England Netball Lead Safeguarding Officer must be referred to in every instance where Children or Young People or Adults at Risk are involved in a Complaint and Disciplinary Action, whether as Complainant, Respondent, Witness, or in any other capacity.
- 15.4 It is vital to recognise that some Children or Young People and Adults at Risk may be more vulnerable than others of a similar age; some may, regretfully, encounter additional barriers due to their age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, and sexual orientation. Investigation Officers, Disciplinary and Appeal Panels, particularly the Chair of these Panels, must at all times be mindful of the demands that such vulnerability may impose and adjust the format of proceedings where appropriate.
- 15.5 In appropriate cases where Children or Young People or Adults at Risk are Witnesses, care should be taken regarding the provision of evidence. The Panel must take due care when dealing with Children or Young People or Adults at Risk and be informed by the England Netball Lead Safeguarding Officer. Under no circumstances, should the Panel Chair allow undue pressure or any form of hostility to take place at the Hearing or in the presence of a Child or Young Person or Adult at Risk.
- 15.6 Interviews of Children or Young People and Adults at Risk shall only be conducted by suitably trained and experienced persons nominated by the England Netball Lead Safeguarding Officer. Wherever and whenever possible, the acceptance by the Respondent and/or Complainant of a Child or Young Person or Adult at Risk's evidence via a third party or in written statement form should be sought by the Panel Chair.
- 15.7 In all cases, written permission must be obtained from the parent or guardian before a Child or Young Person or Adult at Risk (who does not have capacity) is asked to provide evidence to and/or attend a Hearing.
- 15.8 Parents, guardians or chaperones must accompany any Child or Young Person or Adult at Risk (who does not have capacity) required to attend a Hearing. The Panel Chair must at all times be patient, understanding and ensure that the Child or Young Person or Adult at Risk fully understands the process taking place at each stage.
- 15.9 Those involved in proceedings must always be mindful that the experience of giving evidence for a Child or Young Person or Adult at Risk can in itself be stressful.

- 15.10 In any proceedings involving a Child or Young Person or Adult at Risk, the Chair of the Panel may instruct that the name of that person be removed from any publicity around the Disciplinary Action except where the Child or Young Person or Adult at Risk is the Respondent and Sanctions are imposed by the Disciplinary Panel for the purposes of compliance with Sanctions and notification.

## 16 Confidentiality

- 16.1 All information provided in relation to the Disciplinary Procedure shall be regarded as Confidential Information and be kept securely by all those involved in the process, including the Complainant, Respondent, Advocates and members of a Panel (including the facts of the case, evidence, Witness statements and contents of their deliberations). Only the contents of those Decisions already notified to the parties involved may be made public as determined by the Disciplinary Panel at the conclusion of the Disciplinary Action. Failure to respect the confidential nature of the Disciplinary Procedure could result in Disciplinary Action against the person breaching confidentiality.
- 16.2 When an individual is dealing with a Complaint, they are doing so not as an individual in their personal capacity but as part of the England Netball Disciplinary Regulations. At times, it may be appropriate to share such information with those involved in the process. This will not be classified as a breach of confidentiality.
- 16.3 Information resulting from the Disciplinary Procedure will be disclosed if required by law or if it is a safeguarding issue. Decisions of Disciplinary Panels and Appeal Panels may be disclosed to relevant parties, on the England Netball website or other England Netball publications.
- 16.4 All audio or video recordings shall be retained only for monitoring, training or minute-taking purposes for a period of up to 5 years and shall not be shared to any party. For the avoidance of doubt, all audio and video recordings shall be exempt from disclosure in the event of a Data Subject Access Request.

## 17 Role of an Advocate

- 17.1 It is recognised that both the Complainant and Respondent may wish to appoint an Advocate to help and support them through the Disciplinary Procedure. This section covers the role and responsibilities of an Advocate.
- 17.2 Before any Advocate appointment is confirmed the Complainant or Respondent appointing the Advocate must return a signed Advocate Agreement to the Disciplinary Secretary. This is to ensure that that all parties understand their responsibilities in relation to their role, conduct and confidentiality.
- 17.3 An Advocate may support or assist the Complainant or Respondent in preparing for a Disciplinary Hearing or Appeal including being copied to correspondence shared with the Complainant or Respondent they are acting as an Advocate for. The Advocate may also act as a Representative during any Hearing and present the case at the Hearing but cannot answer question on their behalf or replace either the Complainant or Respondent at the Hearing.
- 17.4 An Advocate will be bound by the confidentiality clauses outlined under Regulation 16 of the Disciplinary Regulations. Any breach of confidentiality, improper contact, approach or attempt to influence or intimidate a Investigating Officer, Panel member or Witness established under the Disciplinary Regulations could result in further Disciplinary Charges for the Complainant or Respondent who appointed the Advocate and/or the Advocate themselves.
- 17.5 A Complainant or Respondent should immediately inform the Disciplinary Secretary if any of the circumstances of an appointed Advocate change.
- 17.6 If a Complainant or Respondent wish to terminate the appointment of an Advocate or to appoint a different Advocate, they must inform the Disciplinary Secretary immediately and repeat the process outlined in Regulation 17.2.

- 17.7 An individual once appointed as an Advocate cannot be called by the individual who appointed them as an Advocate to also act as a Witness in the same case. Where an individual has previously provided a Witness statement earlier in the case proceedings they cannot be appointed as an Advocate.

## 18 Recording Keeping and Data Retention Policy

- 18.1 England Netball's Data Protection Policy sets out its commitment to protecting personal data; all personal data held with regards to the Disciplinary Action must be held in accordance with England Netball's Data Protection Policy, Privacy Policy and GDPR.
- 18.2 For the purposes of lesson learning, and for consideration in any further relevant Disciplinary Matters, England Netball will retain a summary record of all reported Disciplinary Cases. On completion of the Disciplinary Process, the Disciplinary Secretary must forward all official documentation recorded in the case, to the England Netball's Compliance Team to be held on file. The Disciplinary Secretary, Appointed Officers and Panel members shall securely destroy all personal case notes and documentation as soon as the period for notice of appeal has elapsed.
- 18.3 Offences found shall be retained on record, including Sanctions, correspondence, documents, evidence, Witness statements and records of the Hearing(s) and shall form part of the individual or organisation's offence history for a period of 5 years.
- 18.4 After 5 years from the conclusion of the Disciplinary Action, including any Appeal and completion of any Sanction, the offence shall be expunged from the record of the Member or Connected Participant and no longer form part of their offence history.
- 18.5 In the cases of assaults or where there is a police investigation, the offence history period referenced in Regulation 18.3 shall be increased to 10 years and the offence records shall only be expunged thereafter.
- 18.6 Safeguarding matters shall follow the recording-keeping and data retention measures as set out in the EN Safeguarding Regulations.
- 18.7 Summary records relating to lifetime bans will be kept in perpetuity.

## 19 Miscellaneous

- 19.1 England Netball will, where it is considered to be sufficiently serious, refer the matter to the police, social services or other agencies for investigation, and it should consult with the police, social services or other agency about whether they require or recommend postponing or delaying consideration of the matter, in accordance with the Disciplinary Regulations, until their investigation has been concluded. The same procedure should be followed where the police or Children's Services are already involved with the Complaint before England Netball becomes involved under the Disciplinary Regulations.
- 19.2 No Member or Connected Participant should allow or enable a suspended Member or Connected Participant to take part in any activity associated with netball. Likewise, a suspended Member or Connected Participant shall not take part in Regulated and Authorised Netball Activity with another Member or Connected Participant.
- 19.3 England Netball accepts no liability for any financial or reputational loss arising from the Decision of the Disciplinary Action.
- 19.4 At the discretion of the Compliance Manager two or more parties or Complaints may be dealt with at the same Disciplinary Hearing where the proceedings arise out of the same incident or set of facts, or where there is a clear link between separate incidents. The Chair of the Panel may modify the procedures adopted at the Disciplinary Hearing as appropriate.



- 19.5 The timescales contained in the Disciplinary Procedure set out in the Disciplinary Regulations will be adhered to wherever practically possible. England Netball recognises that a considerable element of The Sport is delivered through Volunteers and therefore some flexibility may be required when applying timescales. If an Investigation Officer, Disciplinary or Appeal Panel fail to adhere to the timescales set out in the Disciplinary Regulations it will not invalidate the Disciplinary Procedure and only unreasonable delays could be used as grounds for Appeal. All parties connected to the Complainant or the Respondent must comply with the timescales set out in these Regulations.