

## Guidance for Disciplinary/Appeal Hearings

This guidance is designed to assist the Club Disciplinary/Appeal Panel to conduct hearings appropriately and to provide guidance to the possible outcomes and panel decisions.

### Process of the Hearing

1. Chair of Panel introduces fellow Panel members and confirms identity and status of all other persons present.
2. Chair reminds all parties of the confidentiality of the Hearing and that it will be held in private.
3. Chair informs all parties that a Hearing conducted under these procedures is not a judicial Hearing and so evidence given will not be delivered under oath. The Panel adjudicating the hearing will, however, apply the rules of Natural Justice. For example, the duty to give a fair hearing to everyone with a concern in the case, the duty to explain the reasoning behind any decision and the obligation for any decision makers to be impartial.
4. Chair informs the parties that the Panel will make its decisions on whether the accused is guilty of misconduct, based on a balance of probabilities. This means that it must be demonstrated that it is "more probable than not" that the accused is guilty of misconduct. The panel will consider whether or not on the balance of probabilities the allegations are substantiated by the facts of the case.
5. Chair confirms that all parties and Panel members have previously received copies of all relevant documentation. In the event that documents have not been exchanged as required, the Chair may consider an adjournment.
6. The Panel must consider any written and or oral submission made by the accused and any written and or oral evidence provided by witnesses called on his or her behalf.
7. The Panel will then consider their decision in private. The Panel shall decide any matter based on a simple majority and may reject the complaint or may partially or fully uphold the complaint.
8. If the Panel upholds the complaint they must then consider the most appropriate manner to resolve the case and in so doing may take account of all relevant information disclosed during the Hearing, including any submission made by or on behalf of the Accused.
9. In consideration of what sanction to impose the Panel should consider the following criteria:
  - a. the nature and seriousness of the misconduct including whether the misconduct involved dishonesty, culpable or reckless neglect;
  - b. the accused conduct record and, in particular, whether any misconduct of a similar kind has occurred before and the period of time which has elapsed since any previous misconduct.
  - c. where relevant, the length of time over which the misconduct occurred;
  - d. the number of breaches;
  - e. any steps taken by the accused to avoid a recurrence of the misconduct;
  - f. whether any admission, and regret is expressed by the accused;
  - g. the extent to which the accused has derived benefit, or stood to derive benefit, from the misconduct;
  - h. any steps taken by the accused to compensate or provide restitution to the Complainant;
  - i. the degree of co-operation with the Investigation;
  - j. any penalties previously imposed by the Club in similar cases;
  - k. the need to deter the accused and other Members from future misconduct;
  - l. the need to demonstrate to the athletics community and society in general, that England Athletics (EA) takes firm action intended to promote the standards of conduct and behavior required of all athletes and volunteers and others engaged in athletics.
10. The Chair of the Panel may vary this procedure in his or her absolute discretion if, after discussion with the other parties he or she is of the opinion that such change would assist the Hearing process in a fair and impartial way.
11. Any Notice of Appeal against the decision of the Disciplinary Panel must state the grounds on which the verdict of the Disciplinary Panel is challenged. It would be reasonable to grant an Appeal if new evidence is available or the correct process had not been followed during the investigation or hearing.