

## Cricket Scotland Conduct in Sport Panel Rules

The object of the Conduct in Sport Panel Rules (the Rules) is to set down rules and procedures with a view to obtaining justice in cricket conduct proceedings and to ensure that decisions are made in a fair, consistent, impartial, independent and expeditious manner.

### Interpretation

In this Code, unless the context requires otherwise, the “Conduct in Sport Manager” (CISM) means the person appointed by Cricket Scotland (CS) to carry out this role, or any person nominated to perform this role on a short term basis should circumstances require, or at any time at the direction of the Board or the CEO. Cricket Scotland shall mean Cricket Scotland Ltd and/or also Cricket Scotland Council Ltd.

### 1. Jurisdiction

1.1 These Rules shall apply to everyone involved in cricket in Scotland:-

1.1.1 all Cricket Bodies:-

*Cricket Scotland, regional associations, associations including the Cricket Scotland Match Officials Association; The Scottish Cricketers Association; clubs;*

1.1.2 all Individuals:-

*employees, directors, officers committee members, contractors and volunteers, in each case of all Cricket Bodies; any cricketer or person taking part in a match under the jurisdiction of Cricket Scotland (or any of its regional associations), any coach, trainer, manager, selector, team owner or official, doctor, physiotherapist or any other person who is employed by, represents or is otherwise affiliated to a team from a member club, or otherwise falls within the jurisdiction of Cricket Scotland; and/or any member of Cricket Scotland; and/or anyone who becomes otherwise bound by this Code;*

1.1.3 all other participants in the sport in any way.

1.2 These Rules shall apply and CS shall continue to have jurisdiction over any person or entity after membership or registration or involvement with CS ends, in the event that an alleged breach or any matter arising further to these Rules is alleged to have occurred during any period of membership or registration or involvement and remains to be dealt with; or in the event that any proceedings are not completed at that time.

1.3 The Board of CSL shall from time to time establish an independent Conduct in Sport Panel (CISP / Panel) which shall have delegated power to act in the name of Cricket Scotland through Conduct Committees and Appeals Committees appointed from the members of the Panel to hear and determine conduct issues arising out of cricket in Scotland or where an individual or individuals or

club or other party subject to these Rules and against whom a complaint is made comes within the jurisdiction of the Panel by virtue of this Conduct in Sport Code or otherwise through their membership of Cricket Scotland.

- 1.4 CS shall from time to time appoint members of the Panel to convene as a Committee and hear any case put before it. Members of the Panel shall be appointed to sit as Conduct Committees or Appeal Committees on a case-by-case basis. Members of the Panel can sit either at first instance (Conduct Committee) or on appeal (Appeal Committee).
- 1.5 No member with an interest in the case to be heard shall be appointed or otherwise sit. Committees shall ordinarily comprise three members but a single person may sit on their own should they be so appointed or otherwise require to sit alone. One member appointed to the Committee shall be appointed as Chair.
- 1.6 No person sitting at first instance in a Conduct Committee shall be appointed to a subsequent appeal in the same matter.
- 1.7 All decisions shall be by majority unless there is an even number on the committee in which case the Chair shall have the casting vote.
- 1.8 Meetings of the Conduct Committee, Appeals Committee and otherwise any business of the Panel may take place, either in one or more places, by letter, telephone, e-mail, webcast or by other or combinations of convenient means.
- 1.9 Any party against whom a complaint is made or any other party to proceedings may request a personal hearing and the Chair of the Conduct Committee (or Appeals Committee as applicable) shall consider the request.
- 1.10 Unless otherwise directed by the Board of CS, all proceedings shall be conducted in private.

## 2 **Misconduct**

- 2.1 The conduct which may be brought before a Conduct Committee is:-
  - 2.1.1 conduct by any person or party subject to these rules which amounts to a breach of these rules;
  - 2.1.2 any alleged breach of the Articles of Association of CSL or CSCL;
  - 2.1.3 any alleged breach of any rules and/or procedures promulgated under the Articles of Association of CSL;
  - 2.1.4 without limitation to 2.1.3, any applicable alleged breach of the CS Code of Conduct;

- 2.1.5 any alleged breach of any other policy of CS and/or any other body or organisation to which Cricket Scotland may be a member of or affiliated to and which the party is expected to comply;
- 2.1.6 any other conduct which is otherwise conduct which may be considered to bring the sport of cricket into disrepute or which is considered to be detrimental to the best interests of the sport of cricket;
- 2.1.7 any matter which designates these rules as applicable.

### **3 Procedure**

- 3.1 CS shall be entitled to put before the Panel any matter that falls within these rules.
- 3.2 The CISM shall present the complaint by sending to (i) the Conduct Committee and (ii) the accused party a notice of complaint containing details of the alleged conduct and the breach(es) together with a request that a hearing be convened.
- 3.3 It shall be open to the CISM to ask, at this same time or at any point in time prior to the determination of proceedings before a first instance Conduct Committee, for the imposition of a provisional suspension and/or any other interim order on any accused party who is subject to the complaint and proceedings.
- 3.4 The CSL CEO or Chair of the Conduct Committee shall be entitled to impose the same without any hearing or further enquiry, but the CSL CEO / Chair of the Conduct Committee may, if they so choose, take steps to question the CISM and/or the accused party as to any matter concerning or connected to the complaint and the possibility of provisional suspension and/or interim order prior to deciding to impose a provisional suspension and/or interim order.
- 3.5 The CSL CEO or Chair of the Conduct Committee to have imposed the provisional suspension and/or interim order shall be entitled to review, vary, extend, revoke or take such further action as they see fit in relation to any provisional suspension and/or interim order imposed whether at the request of the accused party or the CISM or of their own volition.
- 3.6 In the event that any person or club is provisionally suspended or subject to any interim order they shall be notified of the same at this time or as soon as practicable thereafter.
- 3.7 Only the CISM shall be entitled to put a complaint before the CISP. The CISM cannot be compelled to put a complaint before the CISP.

- 3.8 The CISM can put a complaint before the CISP of their own volition or on receipt of a request or information from any source.
- 3.9 Any person who wishes to notify the CISM of any alleged breach or otherwise any grounds for complaint against any person/party to whom these Rules apply should notify the CEO of CS, unless the matter is in respect of the CEO in which event notification should be made to the Chair.
- 3.10 It shall be open to CS (through the DO, CEO or Chair (as applicable)) to direct that either (i) the allegations be investigated by the CISM and for the CISM to thereafter determine whether a complaint should be put before the Panel; or (ii) no further action be taken.
- 3.11 The decision as to whether a matter should be investigated or not and whether or not a complaint should be put before the Panel is final and binding and is not a decision that may be appealed or otherwise challenged.
- 3.12 No person shall be entitled to receive reasons for an investigation being conducted (or not) and for the bringing (or not) of a complaint.
- 3.13 A complaint may be presented notwithstanding that the party against whom the complaint is brought may be separately under investigation by any regulatory authority or in respect of any alleged criminal conduct arising from the same or connected circumstances. Proceedings further to these Rules shall not be automatically stayed if there are criminal proceedings connected to or arising out of the same circumstances as the complaint.
- 3.14 On or following the presentation of a complaint (further to R3.2 above) the CISM or Conduct Committee Chair shall notify the parties of the date time and place of the hearing.
- 3.15 Unless otherwise directed by the Conduct Committee Chair the party against whom the complaint is brought shall set out, in writing, no later than 72 hours prior to the commencement of the hearing (i) whether they have any preliminary matters to raise; (ii) whether or not they accept the complaint in whole or in part (including but not limited to whether the complaint should be upheld); and (iii) who shall attend the hearing and in what capacity. At the same time copies of any documentary or other evidence to be produced and relied on at the hearing must be lodged by the accused party with the Conduct Committee and provided to the DO.
- 3.16 The Conduct Committee shall at all times conduct proceedings in an inquisitorial manner.
- 3.17 Any participation by the CISM shall be to assist the decision-making proceedings and to put forward information, documentation, comment or submission to assist the sport to arrive at a decision in respect of any given matter before the CISP. In doing so the CISM will not be an active

party against the accused party nor will the proceedings become adversarial, even in the event that the CISM adopts a position that is against the accused party or any point made for them.

- 3.18 The Conduct Committee shall have the power to regulate its own procedure and to determine any matter arising under or in connection with these Rules (except in relation to appeals when the Appeal Committee shall be entitled to exercise such powers) and in so doing may waive any requirement of and/or extend any period of time provided for in these Rules. All decisions and procedural directions taken shall have due regard to the requirements of natural justice.
- 3.19 Subject to the foregoing it shall ordinarily be for the CISM to confirm to the Conduct Committee the complaint and the relevant material available. Thereafter and without limitation to the ways in which the CISM may assist the Conduct Committee, the CISM shall be able to answer questions, furnish information, guide generally and highlight matters of policy and/or principle relevant to the matters under consideration.
- 3.20 The CISM shall not be regarded as a party to proceedings but may nonetheless oppose the position of the accused party and even appeal any determination of a Conduct Committee for and on behalf of CS.
- 3.21 It shall be the duty of any accused party wishing to call a witness to request that the same be permitted and if granted to then ensure their attendance. Subject at all times to the direction and control of the Chair of the Conduct Committee, cross-examination of witnesses shall be through the Chair at any hearing. All witnesses must be pre-notified as attending. The Conduct Committee can require an explanation in writing of the anticipated relevance of the witness evidence. The Conduct Committee can decline to allow a witness to attend and give evidence if the Conduct Committee considers the witness to likely be irrelevant to the issue(s) to be considered.
- 3.22 The Conduct Committee shall not be bound by any rule of evidence and shall be entitled to receive and consider such evidence as it considers appropriate, including expert evidence, attaching such weight to evidence put before it as it sees fit.
- 3.23 The Conduct Committee shall have the power to summon witnesses to any hearing or call for any documents or other evidence to be produced at or in advance of any hearing and all persons and parties who are subject to this Conduct Code shall comply and cooperate with the same.
- 3.24 At any hearing the Conduct Committee shall be entitled to ask such questions of any witness as it considers fit and undertake such investigations as it considers appropriate. The Conduct Committee shall also be entitled to require questions of witnesses to be put through the Chair, rather than directly, whether those questions are in "chief" or "cross" examination of the witness.

3.25 Ordinarily a decision shall be taken as to liability (whether or not the complaint is upheld or not) and separately a decision shall be taken as to sanction, albeit both decisions can be taken at the same hearing and without adjournment if the Conduct Committee so prefers.

3.26 The Conduct Committee shall have the power to postpone or adjourn a hearing on the application of any party to the proceedings or on its own motion.

#### **4 Representation before the Conduct Committee or Appeal Committee**

4.1 Any accused party in respect of whom a complaint is made, may be legally represented at any hearing.

4.2 In addition, a person who is a member of a club in membership of Cricket Scotland and who wishes to be accompanied by a club official may request the same.

4.3 Where a club or other body is the subject of proceedings, they should be represented by no more than 2 officials of the club.

4.4 Any individual who is the subject of a complaint or who is a witness and is under the age of 18 years shall be entitled to be accompanied by one of his or her parents or legal guardian.

4.5 The CISM shall be entitled to be legally represented at any hearing.

#### **5 Deliberations**

5.1 The deliberations of the Conduct Committee and the Appeal Committee shall be in private (not in the presence of the accused party, the DO) albeit any clerk or assistant to the Committee may be present for assisting purposes.

#### **6 Notification of decisions**

The decision shall be notified in writing to all interested parties as soon as reasonably practicable after conclusion of the hearing and where practicable no later than ten working days from the date of hearing. When it considers it appropriate the Conduct or Appeal Committee may deliver an oral decision at the conclusion of a hearing. In the event that an Appeal is lodged, the Conduct Committee shall be entitled to supplement its reasons either at its own discretion or at the direction of the Appeal Committee.

#### **7 Disposal**

7.1 In the event that the Conduct Committee determines that a complaint brought before it has been established and is upheld, the Conduct Committee may impose whatever penalty it considers appropriate, exercising its discretion to do so in a judicial manner.

7.2 The Conduct Committee shall have regard to any recommended sanctions for offences published from time to time by CS and any guidelines or direction published from time to time by CS and in force at the time regarding the same.

7.3 Examples of sanctions include, but are not limited to:

- 7.3.1 Admonishment;
- 7.3.2 Caution, reprimand and/or warning as to future conduct;
- 7.3.3 Fine;
- 7.3.4 Compensation payment to be ordered;
- 7.3.5 Probation;
- 7.3.6 Suspension from playing / participating / involvement in the game for a period of time;
- 7.3.7 Ban from attending any match/matches played under the auspices of CS;
- 7.3.8 Requirement to undergo training / education;
- 7.3.9 Facilitated reconciliation;
- 7.3.10 Recommendation as to removal from membership;
- 7.3.11 Such other sanction determined at the discretion of the CISC; and/or
- 7.3.12 Any combination of the above.

7.4 Sanctions shall ordinarily take immediate effect, however they may be delayed in commencing or suspended in whole or in part at the discretion of the Conduct Committee, save that ordinarily, where a period of suspension or restriction is imposed, no more than half of that period can be suspended pending good behaviour.

## 8 Appeals

8.1 The accused party who has been the subject of a decision of the Conduct Committee or the CISM ("the Appellant") shall have the right of appeal against such decision, to be heard by an Appeal Committee, but only if a notice of appeal is lodged in writing with the CEO, within 7 calendar days of the issue of the written decision of the Panel. Such notice shall state the ground(s) of appeal and contain the full reasons and basis on which the ground(s) of appeal are being pursued.

8.2 The grounds on which an appeal can be pursued are:

- 8.2.1 the decision was wholly unreasonable (the Conduct Committee upheld the Complaint when no Conduct Committee acting reasonably would have);
- 8.2.2 the sanction as wholly unreasonable (the sanction imposed is one which no Conduct Committee acting reasonably would have imposed);

- 8.2.3 there has been a major procedural error which has led to an unsafe decision; or
- 8.2.4 the interests of justice require an appeal to be heard.
- 8.3 The CEO shall on receipt of an appeal appoint an Appeal Committee to consider the complaint, however the CEO shall be entitled to refuse to put forward an appeal and shall be entitled to dismiss the appeal without further procedure if in the view of the CEO the appeal, as set out, has either not been properly brought (further to these Rules) or likely has no reasonable prospects of success.
- 8.4 The Appeal Committee shall be entitled to regulate its own procedure in accordance with the principles outlined above for first instance proceedings.
- 8.5 The appeal may be determined by way of written representations and without the need for a personal hearing at the discretion of the Appeal Committee.
- 8.6 Appeals shall ordinarily proceed by way of review. At all times the Appeal Committee shall have regard to and respect the wide margin of discretion that the Conduct Committee has in making determinations at first instance.
- 8.7 A re-hearing (*de novo*) of the case considered at first instance shall not be permitted unless (a) an application is made in writing by the party pursuing the appeal; (b) the Appeal Committee is satisfied that there was an error in the decision of the Conduct Committee and that error requires the case to be re-heard *de novo*; and (c) the circumstances are exceptional and there are compelling reasons to hear the case *de novo*.
- 8.8 Admission of any new evidence not considered at first instance shall only be permitted at the discretion of the Appeal Committee and ordinarily upon cause shown by the person lodging the appeal including a full written explanation as to why the evidence was not produced earlier and placed before the Conduct Committee at first instance. At the appeal hearing the Appellant shall not without the express consent of the Appeal Committee advance any ground of appeal not specified in the original notice of appeal.
- 8.9 Where an appeal hearing is to take place in person the Appellant and any other party to the appeal proceedings shall have the right to be present and be accompanied by their legal representative, if any, at the hearing of the appeal. Cricket Scotland may attend through the CEO, DO, a nominee of either and with the aid of legal representation should they so choose.
- 8.10 In disposing of the appeal the Appeal Committee may decide to:
- (a) affirm the decision of the Panel;



- (b) uphold the appeal by setting aside the decision appealed against and quashing any penalty imposed by the Panel;
- (c) uphold the appeal in part by setting aside part only of the decision appealed against and/or modify, reduce or increase any penalty imposed;
- (d) substitute for the decision appealed against a decision to find the relevant party guilty of a lesser or more serious offence and/or to impose a lesser penalty or penalties;
- (e) uphold the appeal and remit the issue to the Conduct Committee for reconsideration and re-determination by them;
- (f) defer consideration of the appeal pending receipt of information, evidence or clarification from the Conduct Committee or from a person not present at the appeal hearing;
- (g) stay a suspension imposed by the Conduct Committee pending the determination of an appeal; and/or
- (h) take any steps which in the exercise of its discretion the Appeal Committee consider it appropriate to take in order to deal justly with the appeal.

8.11 The decision of the Appeal Committee shall be advised to the Appellant (and other interested parties) as soon as practicable after the conclusion of the hearing. The Appeal Committee may if it chooses deliver an oral decision at the conclusion of a hearing.

8.12 Where an appeal is taken, the determination arrived at and/or the sanction imposed by the Conduct Committee that is being appealed, shall not be automatically stayed pending resolution of the appeal. A party against whom a decision has been made and by whom an appeal has been taken shall be entitled to ask that the imposition of the determination and/or sanction be stayed pending resolution of the appeal and the Appeal Committee shall consider the same as a preliminary matter. The Appeal Committee will, when deciding whether to stay any determination or sanction, have regard to all such matters as it considers appropriate in determining the application including but not limited to the interests of the sport, any prejudice that may arise and the impact that any such stay may have on any other party.

## 9 **Standards and Burden of Proof**

The standard of proof on all matters shall be proof on the balance of probabilities. For the avoidance of doubt no burden rests with the DO. Rather the applicable Committee shall satisfy itself by applying the foregoing standard further to its own inquisition mindful that these are sports tribunal proceedings; not a court of law; and not bound by rules of evidence.

## 10 **Multiple Incidents**

Where Conduct proceedings, however arising, are taken against more than one person or club or party as the result of a related incident or incidents such proceedings may be heard together, provided there is no manifest prejudice to any person against whom such Conduct proceedings are taken.

## 11 **Publicity**

11.1 The Board may publish details of any misconduct or offence together with the sanction imposed or other determination and the identity of the person or club concerned. The Conduct Committee and/or Appeal Committee shall be entitled to recommend that publication takes place.

11.2 The identifies of the persons on the Conduct Committee and/or Appeal Committee shall not be published. The identifies of those persons are to remain confidential, as they are volunteers, and their identities shall only be disclosed with their express written consent.

## 12 **Additional Provisions Procedures**

12.1 Procedures or proceedings under these Rules or any decision of a Conduct Committee or Appeal Committee shall not be quashed or held invalid by reason only of any defect, irregularity, omission or technicality unless such results in a material doubt as to the reliability of the findings or decision of the Conduct Committee or Appeal Committee, or results in a miscarriage of justice.

12.2 In respect of any matter not provided for in these Rules, a decision of the Conduct Committee or, as the case may be, the Appeal Committee shall be taken according to the general principles of fairness and justice.

12.3 As a general rule, all parties shall bear their own costs and expenses but the Conduct Committee and/or the Appeal Committee shall be entitled to make an award of expenses against one or more parties as they see fit. In respect of an appeal, an appellant shall lodge £100 with the notice of appeal (unless waived by the Board) as a contribution towards administrative costs of the appeal. No action shall be taken to register or progress an appeal until Cricket Scotland has received the appeal fee (unless waived by the Board) in cleared funds. Failure to ensure that Cricket Scotland is in receipt of the appeal fee (unless waived by the Board) by no later than 7 days from the date of lodging of the appeal shall lead to the appeal being dismissed.

12.4 CS shall be entitled to co-opt (i) any person from any panel maintained by Sport Resolutions; or (ii) any other person with suitable experience; to the Conduct in Sport Panel on a term or temporary basis for the purposes of appointment to any Conduct Committee or Appeal Committee.

- 12.5 Where any member of a Conduct Committee or Appeal Committee is unable to sit or to continue sitting in any matter the remaining members shall be entitled to continue to sit as a Committee and determine all matters before them, or CS shall be entitled to appoint a further person to the applicable Committee.
- 12.6 In the event of non-attendance by any party to proceedings the Committee may continue and hear any matter and reach a conclusion in the absence of that party, including but not limited to reaching a determination, imposing a sanction or disposing of an appeal in that party's absence.
- 12.7 The decisions of Conduct Committees that are not competently appealed and the decisions of any Appeal Committees shall be final and binding on all parties. No person subject to these proceedings shall take any dispute or seek any intervention to the ordinary courts.