

# **Disciplinary Code of British Fencing (BF)**

## **This edition**

This edition of the Disciplinary Code was agreed by the BF Board to be operative for all Offences committed, or alleged to have been committed, on or after 25<sup>th</sup> July 2011.

## **1 To whom the Disciplinary Code applies; Definitions**

1.1 This Code applies to BF Members, Affiliated Clubs, and all Associated Bodies of BF.

1.2 In addition, in relation to any matter to which the Rules for Competitions apply (under rule t81 of those Rules), this Code applies to all persons who took part in or attended the Fencing Activity at which the matter arose, including the spectators.

1.3 This Code also applies to any other person who voluntarily submits to the disciplinary jurisdiction of BF.

1.4 Definitions of expressions used in this Code appear at the end.

## **2 The purpose of the Disciplinary Code**

2.1 This Code governs the powers of the BF Board to deal with Offences committed during or in relation to Fencing Activities.

2.2 BF will consider all Complaints without prejudice and with due regard to the obligation upon BF to ensure natural justice.

## **3 When the Disciplinary Code applies**

3.1 The Rules for Competitions make it clear (Rule t.122.1) that there can be no appeal against the decision of a Referee on a point of fact. Accordingly no Complaint may be made under this Code in relation to a decision made by a Referee on a point of fact.

3.2 The Rules for Competitions provide (Rule t.122.2, .3, .4) limited rights of appeal to the Refereeing Commission delegate (RCD) or the Supervisor against certain other decisions of a Referee. Accordingly, where the aggrieved party could have appealed against the Referee's decision to the RCD or Supervisor but did not do so, no Complaint relating to the matter in question may be brought under this Code by that aggrieved party. If there was no RCD or Supervisor at the competition in question, references to such officials are to be read as references to any other person authorised to perform a similar function in relation to such appeals at the competition in question. However, this paragraph 3.2 does not preclude a Complaint if the Complainant can show to the satisfaction of the DP Chair that there was no person at the competition in question to whom an appeal could have been made.

3.3 No Complaint may be made under this Code in respect of any penalty imposed at a competition which remained in force only during the competition in question.

3.4 Where a Black Card is awarded during a competition, the Code does apply to the imposition of penalties after the competition.

3.5 Notwithstanding the provisions of this Code, the BF Board may delegate specific disciplinary powers to team managers and/or any other officials responsible for fencers, teams and/or training squads under the aegis of BF, in so far as necessary for the proper management and discipline of such fencers, teams and squads, and on such terms and conditions and for such period or periods as the BF Board shall stipulate. The details of any delegation under this power must be published on the BF website prior to the coming into effect of the delegation.

#### 4 Interaction with other BF Rules and Policies

4.1 If and to the extent that a Complaint relates to a matter which is covered by any specific rules or policy of BF, such specific rules or policy shall govern the matter to the exclusion of this Code, provided that this Code shall nevertheless apply where the specific rules or policy in question stipulate that any aspect of the conduct complained of is to be dealt with under this Code.

4.2 Paragraph 4.1 applies, without limitation, to the BF Policies on Anti-Doping, Welfare, and Equality, and to the procedures laid down for appealing against the decisions of selectors. This Code therefore cannot be used as a means of challenging a selection decision.

4.3 Where the circumstances are such that the Complaint may include both matters covered by the Welfare Policy and matters which, by themselves, might not be covered by the Welfare Policy, all aspects of the Complaint shall so far as possible be dealt with under the Welfare Policy.

4.4 Paragraphs 8.3 and 8.4 below provide for the DP Chair to decide which code, procedure, rules or policy should govern any Complaint or any part of any Complaint.

#### 5 What sanctions can be imposed under the Disciplinary Code

5.1 The following sanctions can be imposed under this Code:

5.1.1 **Warning** as to future conduct.

5.1.2 **Reprimand**.

5.1.3 Retrospective **removal** of any title, trophy, medal, prize, points or other benefit received by the Defendant in respect of any Fencing Activity in relation to which the Offence was committed.

5.1.4 **Banning**

5.1.4.1. Banning shall involve withholding the right of the Defendant, for a limited or indefinite term, to participate in or attend all Fencing Activities, or any specified Fencing Activity or category or categories of Fencing Activities. However, banning shall not be extended to cover training (whether fencing training or general fitness training) save in exceptional circumstances.

5.1.4.2. The Disciplinary Tribunal shall specify the date upon which the ban shall take effect, and its duration. The duration of the ban may be made dependent on the fulfilment of conditions.

5.1.4.3. The Disciplinary Tribunal may ban an entity (e.g. Affiliated Club or Associated Body etc). In that event, the ban will affect the participation of that entity, through its members, in the Fencing Activities to which the ban relates, but will not of itself otherwise affect the individual members of the banned entity in their capacity as individual members of BF.

5.1.4.4. Banning may involve the withdrawal of the Defendant's BF and/or FIE licence.

5.1.5 **Expulsion** (ie permanent banning) from all Fencing Activities. Expulsion shall only be imposed for serious Offences (which may include where repetition of less serious Offences amounts cumulatively to a serious Offence).

5.1.6 **Fines** may be imposed. The maximum fine payable shall be determined by the Board from time to time and published on the BF website.

5.1.7 The Defendant may be ordered to make **financial restitution** to any person

injured or affected financially by the Offence. This Regulation does not however extend to legal or other costs or expenses incurred by any such person.

5.1.8 **Ineligibility** to serve on the BF Board or any committee of BF, or to have any involvement in BF affairs.

5.1.9 **Withdrawal or reduction or repayment of any grant** which is within the control of BF, and/or withholding, withdrawing or modifying any recommendation by BF in respect of a grant made by an outside body.

5.1.10 The Defendant may be required to make an **apology**, either in writing or in person, in such terms as the Disciplinary Tribunal may stipulate, to any person(s) in relation to the Offence.

5.1.11 Such additional or specific sanctions as may be adopted under paragraph 18 below.

**PROVIDED** that if and to the extent that another set of BF rules lays down a specific sanction applicable to a particular case which is being heard under this Code, that sanction shall be applied to the exclusion of the sanctions specified above, even though the procedures laid down under this Code are being used to determine whether an Offence has been committed or not, and where appropriate what sanction should be applied (where there is a choice).

*[Note: this is intended to cover, for example, the table of sanctions laid down in the Youth Events Code of Conduct.]*

5.2 All sanctions may be totally or partially suspended for any such period as the Disciplinary Body may determine. A sanction so suspended shall not be enforced if no further Offence is committed by the Defendant during the period of suspension. If a further Offence is committed within such period, then, unless the Disciplinary Tribunal acting on the further Offence decides otherwise, the sanction shall automatically upon conviction for that further Offence cease to be suspended and come into immediate effect, and the whole or part (as applicable) of the sanction originally imposed will be added to the sanction imposed for the new Offence.

5.3 In setting the sanction for an Offence, the Disciplinary Tribunal may take account of any Offences under this Code and/or Grievances under the BF Grievance Code in relation to which the Disciplinary/Grievance Proceedings have been finally determined and of which the Defendant has been found guilty. However, the Disciplinary Tribunal may not take account of any Complaints which may have been made against the Defendant under either Code but in respect of which the Disciplinary/Grievance Proceedings have not yet been finally determined.

## **6 Composition of the Disciplinary Panel and of Disciplinary Tribunals**

6.1.1 The BF Board shall appoint a person to be the Chair of the Disciplinary Panel ("DP Chair"), who must be legally qualified. The DP Chair shall also be the Chair of the BF Grievance Panel.

6.1.2 The BF Board shall also appoint a person to be the Deputy Chair of the Disciplinary Panel ("DP Deputy Chair"), who shall also be legally qualified. The DP Deputy Chair shall fulfil the functions of the DP Chair when the DP Chair is unavailable or unable to act for any reason, including where the DP Chair is not Independent and Impartial in relation to the matter in question. The DP Deputy Chair shall also be the Deputy Chair of the BF Grievance Panel.

6.1.3 In any case where both the DP Chair and the DP Deputy Chair are unavailable or unable to act, and/or neither of them is Independent and Impartial, the members of the Disciplinary Panel who are Independent and Impartial, or as many of them as are available and able to participate at the relevant time, shall confer and appoint one of their number, who is legally qualified, to fulfil the functions of the DP Chair so far as necessary.

6.2 The DP Chair shall establish and maintain a Disciplinary Panel by appointing its members. So far as is possible, the number of members shall be not less than 12. Disciplinary Panel members may be members or non-members of BF. In making these appointments the DP Chair shall bear in mind that people with a suitable range of skills and experience should be appointed to cover all types of Offences. The DP Chair may remove any person from the Disciplinary Panel at any time without giving reasons, subject to the proviso set out in paragraph 6.5 below.

6.3 The members of the Disciplinary Panel may also be members of the BF Grievance Panel.

6.4 When required under paragraph 8.6.2 below, a Disciplinary Tribunal, consisting of at least three members (including a chair) shall be appointed by the DP Chair. The Chair of the Disciplinary Tribunal shall be appointed by the DP Chair. Where possible, at least one member of each Disciplinary Tribunal should be legally qualified. All members of the Disciplinary Tribunal to hear each case shall be drawn from the Disciplinary Panel.

6.5 Drawing from the Disciplinary Panel, the DP Chair may change the composition of a Disciplinary Tribunal at any time (provided that a person may not be removed from a Disciplinary Tribunal which is in the process of dealing with a Complaint unless that person is being removed for conflict of interest, misconduct, or failure to perform his or her duties in a proper and timely manner).

6.6 Disciplinary Tribunal members must be Independent and Impartial. However, for the avoidance of doubt the fact that a member of the Disciplinary Panel was or is a member of a Disciplinary Tribunal which dealt, or is dealing, with any other Disciplinary Procedure against the same Defendant shall not disqualify that Disciplinary Panel member from appointment to a new Disciplinary Tribunal.

6.7 The person who appoints the members of a Disciplinary Tribunal shall not appoint him/herself as a member of that Disciplinary Tribunal.

*[Note: this is because the person making the appointment may be considered to be prejudiced as a result of having made the decision under paragraph 8.3 below that there are sufficient grounds to warrant referring the matter to a Disciplinary Tribunal.]*

## **7 Instigating a Disciplinary Procedure**

7.1 A Disciplinary Procedure can be instigated by a complaint made to BF by any person, whether or not a member of BF. In addition, BF can instigate a Disciplinary Procedure by making a complaint itself. The power to instigate a Disciplinary Procedure on behalf of BF shall be vested in the BF Board, but may be delegated to the Chief Executive.

7.2 Where BF is contemplating making a Complaint itself, the Chief Executive shall have power to appoint a person or persons, who need not be Independent and Impartial, to gather information on behalf of BF in relation to the matter in question in order to establish whether there appear to be sufficient grounds and sufficient evidence to warrant lodging a Complaint and, if required, to prepare the Complaint on its behalf. The person(s) so appointed ("the Investigator") shall have power, for fact-finding purposes only, to interview any persons, including the Complainant, the possible Defendant(s) and any potential witness(es), either in person or in writing, by telephone, or by electronic communication. The Complainant, the Defendant, any proposed witness(es) and all other persons to whom this Code applies have a duty to give reasonable co-operation to the Investigator, and not to mislead him/her (except that no person shall be obliged to incriminate him/herself). The results of the investigation, including the fact that any person did not give the required co-operation, misled the Investigator, or declined to incriminate him/herself, may be produced in evidence in any subsequent stage of the Disciplinary Procedure.

7.3 A Complaint must be made in writing and sent to BF Head Office within 20 Working Days of the date of the alleged Offence. The DP Chair shall

have the power, in his/her absolute discretion, to extend this time period. An application for an extension of time must normally be made before the expiry of the above period of 20 Working Days, but the DP Chair may grant an extension requested outside that period if satisfied, in his/her absolute discretion, that there are exceptional reasons for the delay in applying. Ignorance of the provisions of this rule shall not constitute an exceptional reason. Without limiting the DP Chair's powers under this paragraph, where a Complaint relates to a course of action over a period of time the DP Chair may exercise his/her discretion so as to allow the whole course of action to form part of the Complaint.

7.4 The Complaint must include:

- the full name and address of the Complainant;
- the name of the Defendant(s) and their address, if known;
- a summary of the facts;
- a clear statement of each element of conduct which is alleged to constitute an Offence and the evidence supporting each allegation (including the name(s) of the person(s) who are expected to provide evidence, either written or in person, in support of the allegation(s) and whether they have confirmed their willingness to do so); and
- copies of all relevant documents.

## **8 Determining how the Complaint is to be dealt with**

8.1 BF Head Office shall send a copy of the Complaint to the person who is both DP Chair and Chair of the BF Grievance Panel (in this paragraph 8 called "the DP/GP Chair"). If the DP/GP Chair is not Independent and Impartial in relation to the Complaint, he/she must forthwith refer the matter to be dealt with by the person who is both DP Deputy Chair and Deputy Chair of the BF Grievance Panel ("DP/GP Deputy Chair"), or where necessary by another member of the Disciplinary Panel in accordance with paragraph 6.1.3 (in which case references to the DP/GP Chair in paragraphs 8.2 to 8.7 shall be read as references to the DP/GP Deputy Chair or such other member of the Disciplinary Panel as appropriate).

8.2.1 The DP/GP Chair shall have power to edit the Complaint for the purpose only of removing references to anything which is not relevant to the Disciplinary Procedure in question.

8.2.2 The DP/GP Chair, through BF Head Office, shall (i) send to the Complainant a copy of this Code and – if the DP/GP Chair has edited the Complaint under paragraph 8.2.1 – a copy of the edited Complaint, explaining the reason for any such editing, and at the same time (ii) remind the Complainant that a copy of the Complaint may be sent to the Defendant as part of the Disciplinary Procedure, and ask the Complainant whether the Complainant wishes to revise the terms in which the Complaint is expressed. The Complainant will have 10 Working Days (running from the date on which BF sent the materials specified in this paragraph to the Complainant) in which to send any revised version of the Complaint to the DP/GP Chair care of BF Head Office, and any such revised version received by BF Head Office within that period shall be used in place of the original version. If no such revised version is received by BF Head Office within that period, the original version of the Complaint, as edited (if applicable) by the DP/GP Chair, shall be used. From here on, references to the Complaint mean the Complaint in the form established under this paragraph 8.2.

*[Note: copies of the Complaint may be provided to the selectors – see paragraphs 12.4 to 12.6 below.]*

8.3 The DP/GP Chair shall review the Complaint and decide whether the Complaint:

- 8.3.1 shows sufficient evidence that an Offence has been committed and should be dealt with under this Code, in which case paragraph 8.7 shall apply;
- 8.3.2 does not show sufficient evidence that an Offence has been committed, but does show sufficient evidence to support a Grievance under the BF Grievance Code and should be dealt with under that Code, in which case the matter shall proceed under the BF Grievance Code;

8.3.2 should have been referred under some other specific rules or policy of BF in accordance with paragraph 4 of this Code, in which case the DP/GP Chair shall notify BF Head Office who shall refer it accordingly; or

8.3.4 does not show sufficient evidence to support proceedings under any of the above heads, in which case:

8.3.4.1 The DP/GP Chair shall notify the Complainant, through BF Head Office, of his/her decision, giving the reasons for reaching that decision.

8.3.4.2 If the Complainant does not accept that decision, he/she may, within 5 working days of the day when BF sent out the notification, lodge a written appeal with BF Head Office, including the detailed grounds of the appeal. Any appeal lodged outside the specified time limit is invalid. The appeal shall be heard by the DP/GP Deputy Chair, or where applicable another member of the Disciplinary Panel in accordance with paragraph 6.1.3, in either case not being the person who made the decision which is being appealed against. The appeal decision shall be final and not subject to any further appeal.

8.4 The DP/GP Chair may decide that different parts of a Complaint fall under different sub-paragraphs of paragraph 8.3.

8.5 Save as provided in paragraph 8.3.4, all decisions under paragraphs 8.3 and 8.4 are final and not subject to any appeal.

8.6 Paragraphs 8.1 to 8.5 of this Code, and the corresponding paragraphs of the BF Grievance Code, provide a unified procedure for deciding how a Complaint should be dealt with, and any decision under those paragraphs is binding under both Codes.

8.7 If and to the extent that the DP/GP Chair decides that the Complaint shows sufficient evidence that an Offence has been committed and should be dealt with under this Code:

8.7.1 The DP/GP Chair shall, through BF Head Office, notify the Complainant that a Disciplinary Tribunal is to be appointed.

8.7.2 The DP/GP Chair shall appoint a Disciplinary Tribunal in accordance with paragraph 6.4 and, through BF Head Office, send copies of the Complaint to each member of the Disciplinary Tribunal when appointed.

8.7.3 The Chief Executive shall appoint a BF Representative for the purposes of the Disciplinary Procedure. The BF Representative may be the Complainant (if that is someone other than BF) or any other person. The BF Representative need not be Independent and Impartial. The Chief Executive shall have power to remove and replace the BF Representative at any time.

8.7.4 Once a BF Representative has been appointed:

- (i) If the Complaint was made by some person other than BF, BF shall take over the Disciplinary Procedure from the Complainant, and the Disciplinary Procedure shall be pursued by the BF Representative acting on behalf of BF.
- (ii) The BF Representative has a duty to pursue the Disciplinary Procedure in good faith in the best interests of BF, acting on the instructions of the Chief Executive, and reporting at reasonable intervals and in a reasonable manner to the Chief Executive.

8.7.5 If the Complainant was some person other than BF itself and the Complainant is not appointed to be the BF Representative under paragraph 8.7.3, then:

8.7.5.1 The Complainant has a duty to co-operate with and (if so requested) to render reasonable assistance to the BF Representative in connection with the Disciplinary Procedure.

8.7.5.2 The Complainant has a right to be kept reasonably informed, upon written request to the BF Representative through BF Head Office, of the progress of the Disciplinary Procedure and to attend any disciplinary hearing (but not to speak at the hearing unless called as a witness), but has no right to instruct the BF Representative or to control or interfere with the BF Representative's conduct of the case.

## **9 Powers of Disciplinary Tribunal**

9.1 The BF Board has delegated full authority to the Disciplinary Tribunal to impose any and all disciplinary sanctions, subject as otherwise provided in this Code.

9.2 As soon as possible after the appointment of the Disciplinary Tribunal:

9.2.1 A copy of the Complaint shall be sent to the Defendant by the Chair of the Disciplinary Tribunal, through BF Head Office, together with a copy of this Code, informing the Defendant of his/her right to respond to the Complaint and reminding the Defendant that a copy of any such response will be sent to the Complainant.

9.2.2 The Defendant will have 10 Working Days in which to respond to the Complaint. The Defendant may admit or deny the alleged Offence (as a whole or as to parts), and may make any comments which he/she wishes to make in response to the Complaint. The Chair of the Disciplinary Tribunal shall have power to edit the response for the purpose only of removing references to anything which is not relevant to the Disciplinary Procedure in question.

*[Note: copies of the response may be provided to the selectors – see paragraphs 12.4 to 12.6 below.]*

9.2.3.1 If no response is received by BF Head Office from the Defendant within the specified time limit then the right to make such response shall be forfeited, any such response received after the expiry of the time limit shall be ignored, and the Disciplinary Tribunal shall decide how to proceed under paragraph 9.3 on the basis of the Complaint.

9.2.3.2 If the Disciplinary Tribunal believes that the failure to respond arises from a wilful or reckless disregard for this Code, such failure shall in itself constitute a potential Offence and shall be referred by the Disciplinary Tribunal to BF for further action under this Code.

9.2.4 If the Defendant's response is received by BF Head Office within the specified time limit, then:

9.2.4.1 BF Head Office shall send a copy of the Defendant's response to the Complainant and to the BF Representative, but neither of them shall have any right to reply to the Defendant's response (except if and when the same issues may arise in any disciplinary hearing);

9.2.4.2 BF Head Office shall also send copies of the Defendant's response to the members of the Disciplinary Tribunal;

9.2.4.3 the Disciplinary Tribunal shall decide how to proceed under paragraph 9.3 on the basis of both the Complaint and the Defendant's response.

9.3 Following receipt of the Complaint, and if applicable the Defendant's response, the Disciplinary Tribunal has the following options:

**9.3.1 Appoint an investigator.** Where it deems appropriate, the Disciplinary Tribunal may appoint a person or persons (who may or may not be a member/members of the Disciplinary Tribunal but shall in any event be Independent and Impartial) to carry out investigations on behalf of the Disciplinary Tribunal in relation to the matter in question in order to assist the Disciplinary Tribunal with its deliberations. This must not be the same person as appointed by BF under paragraph 7.2. The person(s) so appointed (“the Investigator”) shall have power, for fact-finding purposes only, to interview any persons, including the Complainant(s), the Defendant(s) and any proposed witness(es), either in person or in writing, by telephone or by electronic communication. The Complainant, the Defendant, any proposed witness(es) and all other persons to whom this Code applies have a duty to give reasonable co-operation to the Investigator, and not to mislead him/her (except that no person shall be obliged to incriminate him/herself). The results of the investigation, including the fact that any person did not give the required co-operation, misled the Investigator, or declined to incriminate him/herself, may be produced in evidence in any subsequent stage of the Disciplinary Procedure. The Disciplinary Tribunal may await the report of the Investigator before deciding what further action to take under this paragraph 9.3.

**9.3.2 Dismiss the matter.** The Disciplinary Tribunal can dismiss the matter where it concludes that the subject matter of the Complaint does not constitute an Offence, the Complaint is for some other reason technically invalid, or the Complaint has been made frivolously, vexatiously or maliciously.

**9.3.3 Make a decision in writing** without a hearing where the Defendant has admitted the Offence in writing or the Offence in question is the receipt of a Black Card. Both the Complainant and the Defendant shall be given one opportunity to make representations as to sanction, which the Disciplinary Tribunal shall consider before making its decision. The Chair of the Disciplinary Tribunal shall set the time limit for delivery of such representations. A decision under this paragraph shall be made as soon as practicable, and shall be final, subject to the right of appeal.

**9.3.4 Arrange a disciplinary hearing.** The Disciplinary Tribunal shall conduct a hearing in relation to any Offence to which neither paragraph 9.3.2 nor paragraph 9.3.3 applies, and may do so in any other case where the Disciplinary Tribunal thinks it appropriate to hold a hearing. Where the Disciplinary Tribunal decides to conduct a hearing, the procedural rules set out in Section 10 below shall apply.

**9.3.5 Temporarily ban the Defendant.** (i) The Disciplinary Tribunal shall have the power at any time after the receipt of a Complaint to temporarily suspend any Defendant where the Disciplinary Tribunal considers that the Offence is serious, that the evidence appears credible and that it is necessary to impose a temporary ban in order to protect the interests of fencing and/or BF and/or any other person(s) pending the final outcome of the Disciplinary Procedure. (ii) If the DP Chair takes the view that it is necessary for a temporary ban to be imposed before a Disciplinary Tribunal can be convened, he/she may impose such a ban. (iii) A person subject to a temporary ban may within 10 Working Days after notice of the ban has been sent to that person appeal in writing against the decision to temporarily ban him/her; such an appeal will be heard by the DP Deputy Chair, or where applicable another member of the Disciplinary Panel appointed under paragraph 6.1.3, whose decision shall be final and not subject to any further appeal. (iv) If a temporary ban has continued in force for more than three months from the date on which it is imposed, the Defendant may apply to the Disciplinary Tribunal for the ban to be reviewed, giving reasons why the Defendant believes that the ban should be lifted, and the Disciplinary Tribunal shall have discretion to lift or continue the ban. If the ban is continued, this provision shall apply again every three months (always counting from the date on which the ban was originally imposed). (v) When a temporary ban is imposed the fact that the ban has been imposed, and its duration, shall be announced on the BF website, and notified in writing to the Chief Executive, the BF Board and, if known, the Home Country, Region, fencing club and (if applicable) school of the Respondent. The announcement and notification shall not normally include any other information concerning the Complaint leading to the temporary ban, but the Disciplinary Body imposing the temporary ban may decide to include any further information if it thinks it appropriate to do so in order to protect the interests of fencing and/or BF and/or any other

person(s). Where the Defendant was a minor at the time of the Offence, any publicity under this paragraph shall be subject to any relevant restrictions applicable in relation to minors. The lifting of a temporary ban shall be similarly announced and notified.

9.4.1 If the Disciplinary Tribunal decides to appoint an investigator under paragraph 9.3.1, then the Chair of the Disciplinary Tribunal, through BF Head Office, shall inform the BF Representative, the Complainant and the Defendant of that appointment, including the name of the investigator and brief details of his/her remit.

9.4.2 If the Disciplinary Tribunal decides to dismiss the Complaint under paragraph 9.3.2, or makes a limited decision in writing under paragraph 9.3.3, or temporarily bans the Defendant under paragraph 9.3.5, then the Chair of the Disciplinary Tribunal, through BF Head Office, shall send a copy of the decision of the Disciplinary Tribunal, including details of any sanction imposed, to the BF Representative, the Complainant and the Defendant, by registered post, drawing attention to the right of appeal.

9.4.3 Where the Disciplinary Tribunal decides to proceed by way of a disciplinary hearing under paragraph 9.3.4, the procedure for notification is dealt with in paragraph 10.1.

9.5 The Chair of the Disciplinary Tribunal shall cause sufficient notes of the deliberations and conclusions of the Disciplinary Tribunal to be made, and retained at BF Head Office, so as to establish a record for any appeal.

9.6 Where more than one Disciplinary Procedure is current and the Disciplinary Tribunals dealing with those procedures conclude that it would be expedient to combine those procedures and deal with them together, either wholly or partially, they shall have power to do so. If the members of the Disciplinary Tribunals concerned are not all the same people, they shall by agreement reduce their number to three to hear the combined complaints, and agree the chair of the combined Tribunal; and in the absence of agreement, the DP Chair shall decide the composition and/or chair of the combined Disciplinary Tribunal.

9.7 The Chair of the Disciplinary Tribunal shall have overall control of the conduct of the Disciplinary Procedure.

## **10 Disciplinary Hearing**

10.1 Where the Disciplinary Tribunal decides or is required to proceed by way of a disciplinary hearing, the Disciplinary Tribunal shall, through BF Head Office:

- (i) notify the Complainant, the BF Representative and the Defendant that a hearing will be required; and
- (ii) arrange a hearing in accordance with the following provisions of this paragraph.

10.2.1 The Chair of the Disciplinary Tribunal shall endeavour to agree the time and place of the hearing with the parties, through BF Head Office. If they cannot be readily agreed, the Chair of the Disciplinary Tribunal has power to determine them. The Chair of the Disciplinary Tribunal also has power to determine all other arrangements for the hearing.

10.2.2 The Chair of the Disciplinary Tribunal shall, through BF Head Office, give notice to the members of the Disciplinary Tribunal, the BF Representative, the Complainant, and the Defendant, of the date, time and place of the hearing at least 20 Working Days before the hearing, unless all the parties involved in the hearing agree to a hearing within less than 20 Working Days of the notice being given.

10.2.3 The Chair of the Disciplinary Tribunal shall have overall control of the conduct of the hearing, including the power to determine the order and manner in which submissions of the parties are heard, to determine the appropriate scope of the

Disciplinary Tribunal's proceedings, and to order further investigation.

10.3 The Defendant can elect to attend the hearing, or not to attend (in which case he/she may send a representative, who may be legally qualified or not). However, the BF Representative must either attend the hearing in person or send a representative to act on his/her behalf. A party who attends the hearing in person may bring a representative or companion (legally qualified or not) to the hearing, who may speak on his/her behalf. If a party neither attends the hearing nor sends a representative, the hearing may proceed in his/her absence.

10.4 Not less than ten Working Days prior to the hearing the BF Representative and the Defendant shall send to BF Head Office and each other copies of all the documents on which they intend to rely at the hearing, the names of the witnesses whom they intend to call, and a summary of their evidence. Materials which are sent outside that time limit shall not be admissible in the proceedings, unless the Chair of the Disciplinary Tribunal in his/her absolute discretion decides that it would be fair and equitable to admit them. The burden of proving that any materials were sent within the time limit is upon the sender.

*[Note: the sender should therefore be careful to obtain proof of posting or other clear evidence of the date of sending.]*

10.5 Evidence at the hearing may be either written or oral. The Disciplinary Tribunal may permit evidence to be given by telephone during the hearing, provided that:

10.5.1 a telephone with a loudspeaker/microphone is used so that all present at the hearing are able to hear the evidence of the person giving it (the "Telephone Witness");

10.5.2 the Telephone Witness clearly identifies him/herself before giving evidence; and

10.5.3 the Chair of the Disciplinary Tribunal (or some other person authorised by the Chair) informs the Telephone Witness, before he/she gives evidence, of the names of those present at the hearing and of such details of the hearing as the Chair of the Disciplinary Tribunal deems appropriate.

10.6 A party may submit written evidence whether or not he/she attends the hearing.

10.7 Each of the Defendant and the BF Representative shall have the right to question the other party and his/her witnesses.

10.8 The Disciplinary Tribunal shall have the right to question both parties and their witnesses.

10.9 The case must be proven on a balance of probabilities.

10.10 The Disciplinary Tribunal shall have the power to decide on the admissibility, relevance and weight of any evidence and shall not be bound by any legal rules in relation to such matters. Facts may be established by any reliable means, including admissions.

10.11 The decision of the Disciplinary Tribunal shall be made at or as soon as practicable after the hearing, ~~is~~ and shall be final, subject to the right of appeal.

10.12 The Chair of the Disciplinary Tribunal, through BF Head Office, shall send a copy of the decision of the Disciplinary Tribunal, including details of any sanction imposed, to the BF Representative, the Complainant and the Defendant, by registered letter, drawing attention to the right of appeal.

10.13 The Chair of the Disciplinary Tribunal shall cause sufficient notes of the hearing to be kept so as to establish a record for any appeal.

## 11 Appeals Procedure

11.1 An appeal may be made against a decision of the Disciplinary Tribunal on any or all of the following three grounds, but on no other grounds:

11.1.1 material new evidence has come to light which could not reasonably have been produced earlier to the Disciplinary Tribunal; or

11.1.2 there has been a failure by the Disciplinary Tribunal to act in accordance with this Code or other relevant rules or regulations of BF, and the position of the appellant has been materially adversely affected thereby; or

11.1.3 any sanction imposed is manifestly excessive or manifestly inappropriate.

11.2 The appeal can be made by the BF Representative or the Defendant.

11.3.1 If a party wishes to appeal he/she must make an application for leave to appeal in writing to BF Head Office within 15 Working Days of the date on which a copy of the decision of the Disciplinary Tribunal is sent out under paragraph 9.4.2 or 10.12 or, in the case of an appeal on the basis of material new evidence, within 15 Working Days of the date on which the appellant became, or could reasonably be expected to have become, aware of such new evidence. The application for leave to appeal must set out the basis on which the appeal is to be made (grounds of appeal).

11.3.2 BF Head Office shall send the application for leave to appeal to the DP Chair, sitting alone, for a decision as to the absence or presence of valid grounds of appeal (as set out in paragraph 11.1). If the DP Chair is not Independent and Impartial in relation to the matter, he/she must refer the matter to be dealt with by the DP Deputy Chair or other member of the Disciplinary Panel in accordance with paragraph 6.1.3.

11.3.3 Where the application for leave to appeal is made on the basis of new evidence, the person hearing the application for leave to appeal is not obliged to grant leave to appeal unless he/she is satisfied that the new evidence is material.

11.3.4 All decisions of the person hearing the application for leave to appeal shall be final, subject to the right to request a review contained in paragraph 11.4.

11.4 If the person hearing the application for leave to appeal concludes that there are no valid grounds of appeal, he/she shall, through BF Head Office, notify the BF Representative, the Complainant and the Defendant in writing that leave to appeal has been refused. If the appellant does not accept that decision, the appellant may, within 5 working days of the day when BF sent out the notification, apply in writing to BF Head Office for the decision to be reviewed by the DP Deputy Chair, or where applicable another member of the Disciplinary Panel appointed under paragraph 6.1.3, whose decision shall be final and not subject to any appeal. If the review confirms that there are no valid grounds of appeal, or if no request for review is received by BF Head Office within the permitted time limit, the decision made by the Disciplinary Tribunal shall become absolute.

11.5 If the person hearing the application for leave to appeal, or where applicable the person conducting the review, concludes that there are valid grounds of appeal he/she shall, through BF Head Office, notify the BF Representative, the Complainant and the Defendant in writing that leave to appeal has been granted. The DP Chair shall then set up a Disciplinary Appeal Tribunal consisting of at least three members, including a Chair. Where possible, the Chair should be legally qualified. The Disciplinary Appeal Tribunal shall be drawn from those members of the Disciplinary Panel who were not members of the Disciplinary Tribunal which heard the case, and did not hear or review the application for leave to appeal.

11.6 The procedural rules set out in paragraph 10 shall apply (with the necessary changes) where an appeal is heard.

11.7 In the event of an appeal against a sanction, the Disciplinary Appeal Tribunal may either cancel, reduce, confirm or increase the sanction.

11.8 In the event of an appeal against conviction, the Disciplinary Appeal Tribunal may either uphold or dismiss the conviction or any part of it.

11.9 An appellant may apply to the Chair of the Disciplinary Appeal Tribunal to suspend a sanction pending the hearing of the appeal, and the Chair's decision in this regard shall be final. Provided that where an appellant has been subject to a temporary banning under this Code the temporary banning shall remain in place until the appeal has been heard (subject to sub-paragraph (iv) of paragraph 9.3.5).

11.10 The decision of the Disciplinary Appeal Tribunal shall be final. The Disciplinary Appeal Tribunal shall, through BF Head Office, notify all parties and the Chief Executive of its decision.

## **12 Publication of information about the Disciplinary Procedure**

### **General**

12.1 BF will keep a record of the final outcome of all Disciplinary Procedures in a secure database. Subject to paragraphs 12.2, 12.7 and 12.8, the final outcome of all Disciplinary Procedures will also be published on the BF website after having been finally determined.

12.2 Where it has been finally determined that no Offence has been committed, the decision shall not be disclosed publicly unless the Defendant requests or consents to the disclosure, such consent not to be unreasonably withheld.

12.3 Where it has been finally determined that an Offence has been committed, BF Head Office shall give written notice of the decision to the Chief Executive, the BF Board and, if known, the Home Country, Region, fencing club and (if applicable) school of the Defendant.

### **Information for selectors**

12.4 Any official BF selectors may at any time ask BF Head Office in writing for the information mentioned in 12.5 below in respect of any current Disciplinary Procedures against named fencers who are under consideration for selection which are being dealt with under this Code pursuant to paragraph 8.7 above.

12.5 On receipt of such request BF Head Office shall obtain from the Chair(s) of any Disciplinary Body/ Bodies dealing with any Disciplinary Procedures which are then current under this Code against any of the named fencers, in each case:

- (i) a copy of the Complaint;
  - (ii) a copy of the Defendant's response (if any) under paragraph 8.2.2; and
  - (iii) a summary of the stage which the Disciplinary Procedure has reached and any decisions taken,
- and forward the information to the selectors.

12.6 The selectors may through BF Head Office seek updates on the progress of specified Disciplinary Procedures from time to time.

### **Restrictions**

12.7 Where the Defendant was a minor at the time of the Offence, any publicity/provision of information under this paragraph 12 shall be subject to any relevant restrictions applicable in relation to minors.

12.8 The Disciplinary Body may prevent or restrict publication/provision of information, in whole or in part, if and for so long as it is necessary to do so in order to avoid contempt of court or prejudice to legal proceedings, or otherwise in the interests of justice.

### **13 Remission of banning and expulsion**

13.1 Where a person has been banned (otherwise than temporarily under paragraph 9.3.5) or expelled from Fencing Activities, he/she may apply in writing to the DP Chair for remission of all or part of the ban or the rescinding of the expulsion, as follows:

13.1.1 in the case of a ban, after the expiry of either two-thirds of the period of the ban or one year from the effective date of the ban, whichever is sooner; or

13.1.2 in the case of expulsion, seven years from the effective date of the expulsion.

13.2 The application must include an account of the applicant's conduct during the period of the ban or expulsion, supported by written evidence from a suitable person such as the applicant's coach or schoolteacher, and must give reasons why the applicant believes that it would be appropriate to remit all or part of the ban or expulsion .

13.3 The DP Chair shall appoint 3 independent and impartial members from the Disciplinary Panel who shall consider the application. The DP Chair shall, through BF Head Office, give the details of the application to the Complainant (if contactable) and the Chief Executive, each of whom may within 10 Working Days of the giving of such notice make representations about the application. If the appointed panel members consider it to be in the interests of the applicant and of the sport of fencing, they may remit all or part (as they think fit) of the ban. They shall notify their decision in writing, through BF Head Office, to the applicant, the Complainant (if contactable), the Chief Executive, and the BF Board.

13.4 If remission is refused, the Defendant may not apply for remission again for at least one year, or such longer period as the appointed panel members may specify at the time of the refusal, from the date of the refusal.

13.5 The decisions of the appointed panel members are final, and not subject to any appeal.

### **14 How the Disciplinary Code applies to minors**

14.1 If the Defendant is a minor, a parent or legal guardian shall receive copies of all communications sent to that minor; shall have the right to act on behalf of that minor; and shall have the same rights as that minor to be present and heard at any disciplinary hearings which involve that minor. If during the course of the process the minor turns 18 then he/she shall be treated as an adult for the remainder of the process.

### **15. Time limits for actions and powers of adjournment**

15.1 Each Disciplinary Body has the power at its discretion to vary the time limits specified in this Code, to impose time limits for action in circumstances where no such limits are specified in this Code, and/or to adjourn the Disciplinary Procedure for such period(s) as it thinks fit, where it deems appropriate to do so.

15.2 Actions for which no time limit is specified in this Code or imposed by a Disciplinary Body shall be carried out as quickly as reasonably possible.

### **16 Costs and Expenses**

16.1 Any Disciplinary Body may make such order as it thinks fit as follows:

16.1.1 requiring BF and/or the Complainant and/or the Defendant to pay all or part of any reasonable and proper legal and other costs and expenses incurred by any other party and any witness(es) who gave evidence on behalf of such other party either in writing, orally or by

telephone. However, no costs order may be made against BF unless the Disciplinary Body determines that that such an order is justified by dishonesty, lack of good faith, or unreasonable behaviour on the part of BF or the BF Representative.

16.1.2 requiring the Defendant, or the Complainant where that is some person other than BF, to pay all or part of any reasonable and proper legal and other costs and expenses incurred by BF in connection with the matter (including under paragraph 16.4).

16.2 In deciding whether to make an order under paragraph 16.1, and if so what order to make, the Disciplinary Body may take account of all relevant factors including the outcome of the case, the merits of the arguments put forward by each party, and the conduct of each party in relation to the Disciplinary Procedure.

16.3 Any sum ordered to be paid as above shall be due and enforceable as a debt.

16.4 BF indemnifies (a) the members of every Disciplinary Body; (b) any investigator appointed by BF under paragraph 7.2 or by a Disciplinary Tribunal under paragraph 9.3.1, and (c) any BF Representative, against all reasonable and proper expenses which such persons incur, with the prior written approval of BF (such approval not to be unreasonably withheld), in the performance of their duties as such. BF shall not be obliged to pay fees to any such person, although the BF Board may, in its absolute discretion, agree to the payment of such fees.

## **17 Majority decisions**

All decisions of any Disciplinary Body may be made by a majority if necessary. In the case of a majority decision, the dissenting member of the Disciplinary Body shall have the right to be named as dissenting, but shall not publish any dissenting judgment.

## **18 Additional or Specific Provisions**

18.1 The BF Board may from time to time adopt, by way of amendment of this Code, any additional or specific disciplinary provisions and/or sanctions, which may be of general application or applicable to specified circumstances. Any such additional or specific provisions and sanctions must be published on the BF website. The BF Board shall specify the date from which such provisions and/or sanctions shall come into effect, but that date must not be earlier than 10 Working Days after publication on the website.

18.2 Provisions or sanctions adopted under paragraph 18.1 shall not have effect retrospectively.

### **Definitions for the Purpose of the Disciplinary Code**

#### *Anti-Doping Rules*

The UK Anti-Doping Rules as adopted by British Fencing in force from time to time

#### *BF*

British Fencing

#### *BF Board*

The Board of BF for the time being

#### *BF Head Office*

The Head Office of BF at 1 Baron's Gate, 33 Rothschild Road, London W4 5HT (or whatever address is the current address of the head office of BF at the time in question)

#### *BF Representative*

Any person appointed under paragraph 7.5 or paragraph 8.6.3 to act on behalf of BF in pursuing a Disciplinary Procedure. If the same person is both the Complainant and the BF

Representative, that person need only receive one copy of any notice etc. required to be sent to them under this Code

*Chief Executive*

The chief executive of BF at the relevant time, or the person performing an equivalent function if there is no chief executive at the time, or their duly appointed deputy

*Competition*

Any fencing competition

*Complainant*

The person or person(s) who made the Complaint. For the avoidance of doubt this means BF where the Complaint was made by BF itself, but not where the Complaint was made by some other person, even though BF has taken over the Complaint pursuant to paragraph 8.7.4(i)

*Complaint*

A complaint made under paragraph 7.1 of this Code

*Defendant*

The person against whom the Complaint has been made

*Disciplinary Appeal Tribunal*

A Disciplinary Appeal Tribunal appointed under paragraph 11.5

*Disciplinary Body*

As applicable, the Disciplinary Tribunal, the Disciplinary Appeal Tribunal, the DP Chair, the DP Deputy Chair, a member of the Disciplinary Panel appointed pursuant to paragraph 6.1.3, or the appointed panel members for the purposes of paragraph 13.3

*Disciplinary Panel*

The Disciplinary Panel established under paragraph 6.2

*Disciplinary Procedure*

A Disciplinary Procedure instigated by the making of a Complaint under paragraph 7.1

*Disciplinary Tribunal*

A Disciplinary Tribunal appointed under paragraphs 6.4 and 8.7.2

*DP Chair*

References to the DP Chair shall where applicable include the DP Deputy Chair or other member of the Disciplinary Panel fulfilling the functions of the DP Chair pursuant to paragraph 6.1.3

*Equality Policy*

The Equality Policy of BF in force from time to time

*Event*

A fencing meet consisting of one or more Competitions

*Fencing Activities*

Fencing and any activity connected with fencing, including<sup>1</sup>: any fencing competition whether domestic or international organised centrally by BF, any fencing competition that appears on the BF competitions calendar or that benefits from BF insurance cover; any training session or camp, whether for fencing or otherwise, organised centrally by BF; activities of BF member clubs; activities of BF members when engaged in fencing related activities or when

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<sup>1</sup> Note the definitions of “include” and “including”, as a result of which the list of rules governing the sport of fencing, and the list of Offences, are *not* exhaustive.

representing BF or the sport of fencing; coaching sessions run by BF registered coaches, or coaches operating under BF insurance or that of an associate body; any BF organised trip whether within the UK or abroad and whether for competitive fencing purposes or otherwise; any public or private meetings organised by BF; and any meetings or activities of any BF committee, subgroup, working group or other similar body tasked by BF to carry out certain functions for BF.

### *FIE*

Federation Internationale D'Esgrime

### *he/she*

includes "it" where the context so requires

### *Independent and Impartial*

A person is not Independent and Impartial if he or she was a party to the Complaint, took part in the organisation of the Competition or Event concerned, was a witness to an incident reported in the Complaint, has a special interest in the outcome of the proceedings, is related to the Complainant, the Defendant or any witness or has a relationship or connection with the Complainant, the Defendant, or any witness, which impairs the appearance of independence. For the purposes of this definition, references to the Complainant exclude BF

### *"include" and "including"*

shall be deemed to be followed by the words "without limitation"

### *Legally qualified*

Being a solicitor, barrister, notary or legal executive of England & Wales or Northern Ireland or a solicitor, advocate or notary of Scotland, or holding an equivalent qualification from some other jurisdiction

### *Offence*

Any act, omission, statement or circumstance which consists of, involves or results in anything which is in any way contrary to the general law or the rules governing the sport of fencing, including<sup>1</sup> BF's Articles of Association, Bye-laws, Rules for Competitions, Equity Statement, Coaches' Code of Conduct or any other rules, regulations or codes promulgated by BF or the FIE

Examples of an Offence include<sup>1</sup> the following:

- Brutal behaviour
- Aggressive behaviour
- Verbal or physical or sexual abuse
- Corruption
- False declaration eg when entering a Competition or Event or as a candidate for an election
- Receipt of a Black Card during a competition
- Attack on sporting morals or ethics
- Provocation or disorder
- Bringing BF or the sport of fencing into disrepute
- Making false accusations or misleading a Disciplinary Body or a Grievance Body (as defined in the BF Grievance Code), including providing false or misleading information to a person appointed to carry out investigations under paragraph 7.2 or 9.3.1
- Breach of a ban imposed by a Disciplinary Body
- Non-payment of any fine imposed or costs or expenses awarded by a Disciplinary Body or by a Grievance Body under the BF Grievance Code
- Failure to comply with any sanction imposed by a Disciplinary Body or any Requirement imposed by a Grievance Body under the BF Grievance Code
- Misleading, or failing to give reasonable co-operation to, any Investigator appointed under paragraph 7.2 or 9.3.1 of this Code or 7.2 or 9.2.1 of the BF Grievance Code

- Failing to respond to a Complaint or Grievance in wilful or reckless disregard of this Code or the BF Grievance Code
- Failure to comply with a request for information or clarification under paragraph 10.6 of the BF Grievance Code
- Failure by a BF Representative to comply with his/her duties under paragraph 8.7.4(ii)
- Failure by a Complainant to comply with his/her duties under paragraph 8.6.5.1
- Failure to comply with a reasonable request for information or clarification made under paragraph 10.4 of the BF Grievance Code

*Person*

Any individual, club, association or other body or entity, whether incorporated or not

*Referee*

Any person refereeing at a Competition or Event

*Rules for Competitions*

The edition of BF's Rules for Competitions current at the time of the Offence or alleged Offence, provided that where this Code refers to a specific rule of the Rules for Competitions, and the numbering of the Rules for Competitions has changed since this Code was published, the reference shall be deemed to be to the rule as renumbered in the Rules for Competitions, or the nearest equivalent rule, if applicable

*Welfare Policy*

The Welfare Policy of BF (dealing with the welfare of children and vulnerable adults) in force from time to time

*Working Day*

Any day other than a Saturday, a Sunday, Christmas Day, Good Friday, or a day which is a bank holiday in any part of England and Wales under or by virtue of the Banking and Financial Dealings Act 1971 or any subsequent amendment or replacement thereof

*"written" and "in writing"*

include e-mail, but not text message, social media, or publication on a website