**HUMAN RESOURCES MANAGEMENT POLICIES**

**SECTION 1: PLAYER POLICIES**

**POLICY 1: MISCONDUCT AND DISCIPLINARY PROCEDURES**

|  |  |
| --- | --- |
| **Policy Rationale** |  |
| **Policy** | **Disciplinary Panel**   1. The Board of Badminton New Zealand shall establish a Disciplinary Panel of 3 members, appointed as required by the Chief Executive. Selection of panel members shall be on the basis of relevant experience and/or professional expertise in relation to the incident to be considered. It is advisable but not mandatory that at least one person on the panel be a lawyer. One of the members shall be appointed as the Chairperson of the panel by the Chief Executive.    1. Where the Chief Executive is the complainant or has an interest in any matter to be considered The Board will select the panel.    2. Any proposed member of the disciplinary panel who has an interest in any matter to be considered by the panel must declare that interest prior to any appointment and be precluded from any participation in any disciplinary process. A replacement shall be appointed by the Chief Executive or The Board.   **Definitions**   * 1. **Misconduct** means any conduct by a competitor, official, club or association that reflects unfavourably on the game or Badminton New Zealand, both on and off the court.   2. **Competitor** means a person who participates as a player in any badminton event or programme at, or sanctioned by, the Badminton World Federation, Oceania Badminton Confederation, Badminton New Zealand, a member association, club or any affiliate of those bodies, or as a member of a club or team, and who is:      + a NZ citizen      + or is present in New Zealand or is competing for NZ   3. **Official** means a Badminton New Zealand Board member, Association or club committee member, a manager, coach, referee or umpire or any other person contributing or associated with badminton in any formal capacity other than only as a competitor or only in the course of business.   4. **Participant** means any competitor or official   5. **Disciplinary Panel** means the three-member Disciplinary Panel appointed by the Chief Executive   **Jurisdiction and Procedures**   * 1. The Disciplinary Panel shall have jurisdiction to hear and determine allegations of misconduct in respect of the following: Where a formal complaint is received from any source, including the Badminton New Zealand Chief Executive, The Board, Association, Club, Official or member of the public   2. Where an allegation of misconduct arises out of or is associated with an event or programme under the control of Badminton New Zealand   3. Where any conduct contravenes the Badminton New Zealand, Harassment Policy or Code of Conduct.   4. Complaints Procedure      1. A written allegation of misconduct shall be received by the Chief Executive within 21 working days of the incident. Upon receipt of a complaint, the Chief Executive shall have the authority to:         1. Reprimand competitors or officials for the first offence or what in the opinion of the Chief Executive constitutes a minor misdemeanour.         2. Appoint a person to investigate the alleged misconduct as deemed appropriate and who will not in any way be part of the disciplinary panel.         3. Refer the issue to mediation but only if both parties agree.         4. Institute formal proceedings as outlined below.         5. Dismiss the complaint      2. The Chief Executive shall notify The Board of the complaint and the procedure to be followed within 7 days of receipt of the complaint.      3. Subject to Clause 3.4.1.1 and 3.4.1.4 the Chief Executive shall, as soon as practicable, determine a time, date and place for hearing of the allegation, which shall not be less than 7 days after the date of the notice to the complainant and the person against whom the allegation is made      4. The Chief Executive shall advise the person, club or association against whom the allegation is made of the following:         + The nature and particulars of the allegation including a copy of the complaint.         + A copy of this policy on Misconduct and Disciplinary Procedure.         + The date, time and place of the hearing.         + Who the members of the Disciplinary Panel will be for that hearing?         + The requirement for the person, or where the allegation is against a club or association, a person who is authorised to represent that club or association, to appear in person at the hearing, or to present a written submission. If the person, club or association chooses to present a written submission they cannot later decide to exercise the right of a hearing in person         + The right to be represented at the hearing.         + The right to bring up to 3 witnesses and/or support persons to the hearing.      5. The Chief Executive shall advise the complainant of the following: * The date, time and place of the hearing. * Who the members of the Disciplinary Panel will be for that hearing? * The requirement for the person, or where the complaint is made by a club or association, a person who is authorised to represent that club or association, to appear in person at the hearing, unless a written defence is being submitted by the defendant. * The right to be represented at the hearing. * The right to bring up to 3 witnesses and/or support persons to the hearing.   + 1. For the purposes of clause 3.4.1.2 the Chief Executive shall specify such time as he thinks reasonable for the conduct of such investigation and shall require the investigator at the conclusion of such time to provide a written report to the Chief Executive as to the information obtained.     2. Where the Chief Executive has appointed a person to investigate the alleged misconduct in accordance with clause 3.4.1.2 upon the reporting back of the investigator the Chief Executive shall then have the authority to take such action as he or she considers appropriate as specified in clause under3.4.1.     3. Where the Chief Executive has dismissed the complaint in accordance with clause 3.4.1.4, he/she shall within 7 days of the decision give written notice to the complainant stating the reasons for dismissal.   1. Procedure of Hearing The procedure prescribed should be directed at ensuring that the hearing will be fair and that it meets the requirements of natural justice, and should normally include the undernoted elements:      1. The procedures to be followed at the hearing should be explained clearly by the Chairperson of the Disciplinary Panel to all present.      2. The Chairperson of the panel shall read the complainant’s statement.      3. Evidence/submissions shall be heard in the following order: * Evidence from witnesses (if any) in support of the complaint * Evidence from the person, or representative of the club or association, against whom the allegation was made. * Evidence from his/her witnesses (if any) * Submissions on his/her behalf (if any) * Submissions on behalf of the complainant (if any)   + 1. Investigative powers can be utilized by the Disciplinary Panel and used to question the complainant and person/s allegation is made against and to cross examine witnesses     2. Those giving evidence shall be subject to questioning from any member of the Disciplinary Panel     3. At the conclusion of the evidence and submission, all person’s present, other than the Disciplinary Panel, shall leave the room while the Disciplinary Panel deliberates on its decision.   1. Evidence admissible at hearing      1. Hearsay evidence (i.e. secondhand accounts of what occurred) should not be admitted and not considered by the Disciplinary Panel      2. Evidence and submissions provided in writing shall be sworn or affirmed in front of a Solicitor of the High Court or a Justice of the Peace.      3. Character evidence shall be admissible only in relation to the penalty to be imposed by the Disciplinary Panel      4. Where a person has previously appeared before the Disciplinary Panel, previous incident evidence shall only be relevant in relation to the penalty to be imposed by the Disciplinary Panel   2. Proceedings not to be invalidated for technical reasons No proceedings heard by any Disciplinary Panel shall be quashed or held invalid by the Disciplinary Panel by reason only of any defect, irregularity, omission or other technicality provided the Disciplinary Panel is satisfied there has not been a miscarriage of justice.   3. Notification of Decision In all cases the person against whom the allegation is made must be told without delay the decision of the Disciplinary Panel which conducted the hearing. The decision initially may be given orally with brief reasons for reaching it should be given and this decision should be communicated in writing as soon as practicable.   4. Penalties The range of disciplinary offences is considerable and therefore guideline penalties are not generally appropriate. It should be clearly understood that the Disciplinary Panel will deal severely with proven cases of: * Abuse of tournament officials * Physical violence or threatening behaviour * Conduct which may constitute a criminal offence * Contravention of the Badminton New Zealand Drug Policy, Harassment Policy and Code of Conduct * Misconduct falling into these categories is likely to result in lengthy suspension and/or financial penalty. In particular the seriousness of a drug or doping infraction is reflected in the mandatory penalties contained in the Badminton New Zealand Drug Policy for the use of banned substances.   + 1. If the complaint is upheld, the Disciplinary Panel shall have the power to impose on the individual, club or association concerned one or more of the following penalties:   Competitors   * Removal from a team or squad, and immediate return to NZ if applicable * Non availability for selection to a team or squad for a specified period * Suspension from participation in any event or programme undertaken by * Badminton New Zealand or any of its members for a finite period * A total ban from the game for a period * A financial penalty * Financial recompense for any damage caused to property * Payment of expenses incurred by the convening of the Disciplinary Panel, including all witness expenses * Other reasonable penalty as deemed appropriate   Officials   * Suspension from office for a period * Removal from office * Termination or suspension of appointment (i.e. manager or coach) * A financial penalty * Financial recompense for any damage caused to property * Payment of expenses incurred by the convening of the Disciplinary Panel, including all witness expenses. * Other reasonable penalty as deemed appropriate.   + 1. Prior to imposing any penalty, the Disciplinary Panel may invite the offending participant to make comment on any penalty proposed.     2. The offending participant shall receive written notification of any penalty imposed within 7 days of the determination.   1. Appeals      1. Decisions made pursuant to this Policy on Misconduct and Disciplinary Procedure by the Badminton NZ Disciplinary Panel may be appealed to the Sports Tribunal of New Zealand in accordance with the application requirements at the time of application.      2. The decision of the Sports Tribunal of New Zealand shall be final.      3. Pending the decision of the Sports Tribunal of New Zealand all penalties imposed by the Badminton NZ Disciplinary Panel will be operative unless the Sports Tribunal of New Zealand decides otherwise.  1. Notice    1. Any notice to be given by the Chief Executive or the Disciplinary Panel must be in writing and may be given to the person, club or association required to be notified:  * Personally, or * by post to the last known address of the person, club or association; or * sent by email to the last known email address of the person, club or association   1. Any such notice shall be deemed to be given: * if given personally, upon delivery. * if posted by post, 7 days after posting. * if by email then the next day after sending by such means of delivery.     **APPENDIX 1**  General Examples of Misconduct (not a finite list)   * Bringing the game into disrepute * Theft * Assault * Abuse; either verbally, text, email, traditional media or social media. * Offensive language: words that are commonly known to be swear words, words that cause offence and words that are discriminatory to any segment of society e.g. ethnicity or religion. Offense is defined as communication that wounds the feelings, arouses anger or resentment or disgust or outrage in the mind of a reasonable person or that is threatening, abusive or insulting. * Abuse of equipment * Throwing a racquet * Breaking a racquet * Abusive use of equipment other than within the intentions of the game * Drunken and disorderly behaviour * Drinking underage or supply of alcohol to any underage person * Discourtesy as a guest of a billet * Ill-mannered behaviour * Inappropriate dress * Entering and then failing to appear at a tournament * Breach of player agreements * Failure to give of one’s best * Failure to follow the reasonable instructions of a manager, coach or referee |
| **Review Protocol** | Policy Owner:  Policy Reviewed By:  Date Reviewed:  Next Review Date: |