

# Complaints, Disputes and Disciplinary Policy and Procedure

## Background

Badminton Oceania (BOC) is one of five Continental Confederations endorsed by the Badminton World Federation (BWF), in accordance with the division recognised by the IOC.

Badminton Oceania shall promote, develop and regulate Badminton in the Oceania region, in mutual co-operation with support and encouragement of the process from the BWF.

There are currently fourteen (14) Member Associations (MAs) and three (3) Associate Members of the BWF in the Oceania region, who BOC services.

The BOC Office is located in Ellerslie, Auckland, New Zealand.

BOC is governed by an elected Executive Board and is managed by the Secretary General and other staff.

## 1 PURPOSE

This policy sets out the steps for raising and dealing with complaints, disputes and disciplinary action

- 1.1 In support of harmonisation of disciplinary regulations across international badminton, BOC has adopted the BWF Judicial Procedures (JP) with the aim of ensuring consistency of regulation, enforcement, and fairness for all stakeholders of the sport. As a result of the harmonisation process, most disciplinary cases that arise in international badminton will be handled in accordance with the BWF JP.
- 1.2 These Regulations should be read in conjunction with the BOC Constitution and the BWF JP. Together, these Regulations and the BWF JP have the overall objective to maintain and promote fair play, protect the health and welfare of players (and other stakeholders involved in badminton), ensure that disciplinary matters and disputes are dealt with in a timely manner and fairly by independent means and that the image and reputation of international badminton is not adversely affected.
- 1.3 These Regulations will apply in the following circumstances:
  - a. Where BOC has jurisdiction according to BWF JP or where BWF JP or the BOC Constitution / Policies refer to these Regulations and/or expect BOC action.

- b. Any matter that has initially been under BWF's jurisdiction in accordance with the BWF JP but where either BWF has designated BOC to act on its behalf or where BOC's application to the Referral Officer to take over the responsibility to act as the Investigating Party under the BWF JP, has been successful.
  - c. Any disputes connected to the governance related decisions made by BOC; and
  - d. Any other matter that is not covered by the BWF JP involving a BOC Member, a player, technical official, coach, manager, volunteer or employee of a BOC Member or any other person or organisation that submits to BOC's jurisdiction to discipline them (for avoidance of doubt this includes teams, players and officials from another Continental Confederation playing in Oceania in relation to on and off court matters where there is an agreement that disciplinary matters shall be dealt with by BOC) for any infringement of the BOC Statutes, the BWF Statutes and/or for any conduct which is prejudicial to the interests of BOC or the sport of badminton.
- 1.4 In case of discrepancies between these Regulations and the BWF JP, the following shall apply:
- a. In cases where BOC is acting as a result of powers granted to it by the BWF JP, the BWF JP shall prevail unless the purpose of the relevant clauses of these Regulations is to further describe how BOC shall fulfil its duties under the BWF JP in which case these Regulations shall prevail to the limited extent of that further description; and
  - b. In cases where BOC is acting as a result of powers granted to it by these Regulations, these Regulations shall prevail.

## **2 DEFINITIONS**

BOC means Badminton Oceania Confederation, a BWF Continental Confederation.

BOC CDC means the BOC Complaints and Disputes Committee appointed by the BOC EB

BOC EB means the BOC Executive Board

BOC Nominated Person means, where a matter falls under BOC's jurisdiction, the person(s) appointed by the BOC CDC to ensure that BOC's duties set out in these Regulations are fulfilled.

BOC SG means the BOC's Secretary General.

BOC Statutes mean the BOC Constitution, regulations, policies and decisions issued by BOC.

BOC Staff means any employee at BOC or a person who is under contract with BOC.

BWF means the Badminton World Federation.

BWF JP means the Judicial Procedures adopted by BWF and BOC.

Governance-Related Decisions refer to decisions taken by bodies in their sports governance role, such as those related to membership (suspension, good standing), and to meeting and election procedures (campaigning, voting). This definition does not include disciplinary decisions.

Any terms in masculine or female gender, expressed in these Regulations, shall be interpreted as a neutral form for men and women.

Any defined terms used in these Disciplinary Regulations which are not defined in this Section are terms defined in the BOC Constitution or terms defined in BWF JP.

### **3 BOC POWERS AND DELEGATION**

- 3.1 BOC has powers as defined in BWF JP and, in particular, the Power to Investigate and the Power to refer cases as an Investigating Party. This includes, but is not limited to, the power to refer a case to the Independent Hearing Panel (IHP) despite a decision by the Referral Officer not to do so.
- 3.2 The powers granted to BOC in accordance with these Regulations and the BWF JP may be exercised by the BOC Executive Board (EB). Where such powers are not already delegated within these Regulations, the BOC EB has authority to delegate such powers to the BOC Complaints and Disciplinary Committee (CDC), BOC Secretary General (SG) and/or BOC Executive Board Members as applicable and appropriate to the nature of a particular matter as determined on a case-by-case basis.
- 3.3 The following powers have been delegated by these Regulations:
  - a. To the BOC EB:
    - i. For all matters submitted to BOC, the power to determine jurisdiction of a matter submitted to BOC – see Section 4.
    - ii. For matters under BOC's jurisdiction, the power to review the information relevant to a matter and to determine how such a matter should be conducted – see Section 5; and
    - iii. For matters under BOC's jurisdiction, the power to determine any disputes and/or disciplinary matters falling under BOC's sole jurisdiction – see Sections 7 and 8.
  - b. To the BOC SG:
    - i. For matters under BWF's jurisdiction, the power to fulfil BOC's duties in accordance with these Regulations and the BWF JP – see Section 6.

#### **4. STARTING AND DETERMINING JURISDICTION OF A MATTER**

- 4.1 Any person, including the BOC EB, may ask BOC to investigate or may report a particular matter to BOC. Such a request shall be sent to [report@badmintonoceania.org](mailto:report@badmintonoceania.org). A request may also be communicated orally to BOC SG provided a written follow-up is submitted by the requesting party to the above email address within seven (7) days of the oral communication
- 4.2 After receiving such a request, the matter will be referred to the BOC CDC who shall in the first instance consider these Regulations and the BWF JP to determine whether the matter falls under BOC or BWF jurisdiction.
- 4.3 After determining jurisdiction, the BOC CDC shall:
- a. Where a matter falls under BOC's jurisdiction, name the BOC Nominated Person; or
  - b. Where a matter falls under BWF's jurisdiction:
    - i. Consider whether a recommendation should be made to the BOC EB to apply to the Referral Officer to take over responsibility as the Investigating Party of the matter in accordance with paragraph 6.2 below and the BWF JP; and/or
    - ii. Notify the BOC SG who shall be responsible for ensuring that BOC's duties set out in these Regulations and the BWF JP are fulfilled; and
    - iii. Refer the case to the BWF in accordance with the process set out in the BWF JP.
    - iv. In either case, within seven (7) calendar days of receipt of the request, notify the requesting party and BWF (where applicable) in writing of their decision concerning jurisdiction.
- 4.4 Any person appointed by BOC to act on its behalf in accordance with these Regulations and/or the BWF JP must not be a witness or required to give evidence in a particular case and must not have a conflict of interest that might harm his or her impartiality towards a matter. Prior to accepting any appointment, each person shall be asked by BOC to consider and declare any such conflict of interest.
- 4.5 In any matter, BOC may at any time change the name of the person(s) acting on behalf of BOC. Such a change does not influence the collected information provided the reason for the change could not be reasonably considered to have affected the integrity of the investigation carried out or the information collected prior to the change. In such circumstances, BOC shall notify the relevant parties that such a change has been made.
- 4.6 Notifications to BOC are deemed to have been sent, and received following an acknowledgement of the email being received within 24 hours, if they are sent to [report@badmintonoceania.org](mailto:report@badmintonoceania.org) or any such other email address the person leading the investigation shall notify to the parties involved.

## **5 CASES UNDER BOC JURISDICTION**

- 5.1 The BOC CDC shall instruct the BOC Nominated Person to carry out the necessary steps to ensure that the following information (where applicable to the facts of the matter) is submitted to the BOC CDC in a timely manner:
- a. Allegations against the Covered Person(s) and, where possible, their contact details.
  - b. A copy of all evidence in support of the allegation.
  - c. A statement of the facts and legal arguments.
  - d. Any requests for a hearing and for interviewing of witness(es)
  - e. Any material which has been obtained during the investigation which might reasonably assist the alleged person in defending the charge.
  - f. If any such application is made, an application for a Provisional Suspension.
  - g. The request for relief; and
  - h. The name of the complainant and their contact details including a valid email address.
- 5.2 The BOC CDC shall, upon consideration of the information provided to it in paragraph 5.1:
- a. Determine whether the matter concerns a dispute or disciplinary proceedings in accordance with these Regulations; and
  - b. Decide whether a matter shall be determined 'on the papers' (in such circumstances, the matter will be determined based on written materials filed by parties only, without verbal evidence or oral submissions) or at a hearing; and/or
  - c. Reject the matter as manifestly frivolous or irrelevant, in which case the requesting party shall be notified of the BOC CDC's decision in writing and no further steps shall be taken by the BOC CDC. Details of how to appeal the decision will, where applicable, be included in the notification.

## **6 CASES UNDER BWF JURISDICTION**

- 6.1 For matters falling under BWF's jurisdiction and as set out in paragraph 4.3(b)(ii) above, the BOC SG shall normally be responsible for ensuring that BOC fulfils its duties set out in these Regulations and the BWF JP, in cooperation with BWF. If the BOC SG is unable or unwilling to act (as a result of a conflict of interest or any other circumstance), the BOC SG shall notify the BOC EB and the BOC EB will be responsible for ensuring BOC fulfils its duties. The BOC EB may delegate this responsibility to the BOC CDC or a BOC EB member/s.

- 6.2 As set out in the BWF JP, there are certain matters under BWF's jurisdiction where BOC may make an application to the Referral Officer to take over the responsibility to act as Investigating Party (without possibility for BWF to take jurisdiction for the investigation back). The decision to make such an application to the Referral Officer shall be taken by the BOC EB upon consideration of a recommendation by the BOC CDC.
- 6.3 Where the BWF has jurisdiction of a matter, the BOC SG shall consult with BWF and ensure that the relevant information set out in paragraph 5.1 above (together with any additional information requested by BWF) is submitted to the BWF in accordance with the BWF JP.
- 6.4 Where the BOC Statutes specifies a particular sanction (or range of sanctions) for an offence or where there is relevant precedent to consider, the BOC SG is responsible for ensuring that this information is also submitted to BWF.
- 6.5 At the time of submitting the relevant information to BWF, the BOC SG will also make a request that payments of any fines defined in (and originating from) regulatory breaches of the BOC Statutes shall be made payable to BOC.

## **7 DISPUTE RESOLUTION**

- 7.1 BOC Members acknowledge and agree that they renounce the right to take a dispute with the Confederation or with another BOC Member before any Court of Justice.
- 7.2 Where the BOC CDC determines that a matter represents a dispute it must be determined in accordance with this Section. This includes, in particular, any disputes connected to the governance-related decisions made by BOC.
- 7.3 BOC will, at the same time as communicating to the party requesting the dispute resolution ('Requesting Party') BOC's jurisdiction in accordance with paragraph 4.3 above;
- a. Send the information gathered in paragraph 5.1 to the other party or parties concerned by the dispute ('Opposing Party') via his/her Member so that the Opposing Party may reply within a reasonable set time limit, as specified in writing by the BOC CDC; and
  - b. Communicate to the Requesting Party and the Opposing Party the BOC EB's decision as to whether the matter shall be dealt with at a BOC hearing or on the papers i.e. using only written reports and evidence; and
  - c. Communicate to the Requesting Party and the Opposing Party, where applicable, a date and venue for the hearing. A BOC EB hearing shall be convened as quickly as is practical, but not later than one (1) calendar month following BOC's receipt of the Opposing Party's submission.
- 7.4 If the Opposing Party is BOC, the reply shall be prepared by BOC SG who may consult with the BOC EB excluding the members of the BOC CDC (or any other person conflicted in the matter).

- 7.5 Where the matter is to be determined on the papers, the BOC CDC's decision may be taken outside a formal meeting, using any means of communication considered to be satisfactory by BOC CDC provided such a process allows all members of the BOC CDC to review the relevant reports and evidence and to communicate their decision to the other members.
- 7.6 Where the matter is to be determined in person via a BOC hearing, the Parties are entitled to be accompanied by an adviser or representative, together with an interpreter as all meetings will be conducted in English, the official language of BOC.
- 7.7 A hearing can be with physical presence at a meeting venue, it can also be a meeting conducted on-line ie. Skype call, MS Teams, Zoom meeting or similar communication method provided the method selected allows all participants to hear, be heard and submit and receive evidence.
- 7.8 At a BOC CDC hearing, any expenses of the Parties, any adviser, representative or interpreter, together with the expenses of any witnesses called by a particular Party, must be met by the corresponding Parties. BOC CDC may decide differently from the above regarding the costs and expenses if the nature of the case requires it.
- 7.9 Expenses of the meeting room, administration, travel, and subsistence of the BOC CDC and any persons requested to attend by BOC shall be met by BOC.
- 7.10 BOC CDC may fix an advance on costs (and may adjust the same in the course of the proceedings) to be paid in equal shares by both parties (unless decided otherwise by the BOC CDC). In fixing the amount of an advance on costs, BOC CDC shall take into account, among other things, the monetary value of the dispute and the complexity of the case. If a party fails to pay its share, the other party may substitute for it. The Dispute resolution shall not proceed until there is an agreement of payment of the costs.
- 7.11 A BOC CDC hearing shall be conducted adhering to the following general principles:
- a. The Chair of the BOC CDC is in charge of the meeting and any procedural rulings from the Chair are binding. The Chair shall be appointed in accordance with the procedure set out in Section 9 below.
  - b. The Chair may close the meeting to general public. A particular witness or expert may only be present when giving a testimony or expert opinion.
  - c. The Chair shall start the meeting by introducing those present and explaining each person's role.
  - d. The Requesting Party shall first of all summarise the case against the Opposing Party and shall then introduce the evidence available.
  - e. For each piece of evidence and for any witness or expert called, any Party or BOC CDC may ask questions.

- f. Witnesses must tell the truth and must be advised of this requirement by the Chair before their evidence is given.
  - g. After the evidence has been presented, additional evidence may be presented, or additional witnesses or experts called; and
  - h. After presentation of all evidence, each party, ending with the Opposing Party, will be given an opportunity to summarise its case.
- 7.12 BOC CDC shall consider its decision with no other person present save for any person that is required to take notes by the BOC CDC. The decision shall be announced to both Parties immediately after it is taken.
- 7.13 The decision shall be confirmed in writing as soon as possible, but not later than one (1) calendar month after the meeting. The written decision shall be communicated to both Parties. The decision shall include information on how to make an appeal.
- 7.14 The decision shall be communicated via e-mail to the address as stated in the contact details. It shall be considered that the decision is received on the same day as the day it was sent by BOC CDC, unless proven otherwise by the party concerned.
- 7.15 The decision shall be published on the BOC website but may be redacted to protect the privacy or security of the Parties or BOC.
- 7.16 The BOC CDC decision may be appealed to the BWF Independent Hearing Panel (IHP), following the rules on Appeal Submission, as set out in the BWF JP.

## **8 BOC DISCIPLINARY MATTERS**

- 8.1 As set out in Section 1 above, most disciplinary matters in international badminton will now be handled in accordance with the BWF JP. Where, in the unlikely event that the BOC CDC determines (upon consultation with the BWF) that, a disciplinary matter falls outside the scope of the BWF JP but within BOC's jurisdiction, it must be determined in accordance with this Section.
- 8.2 Subject to paragraph 8.3 below, in such circumstances, the BOC CDC shall determine the matter using the procedural steps set out in the BWF JP approved by the BWF Annual General Meeting and in force and in Section 7 of these Regulations as guidance.
- 8.3 Subject to paragraph 9.5 below, the BOC CDC may impose a sanction on a Covered Person in accordance with the sanctions set out in the BWF JP.
- 8.4 Where a BOC rule or regulation specifies a particular sanction (or range of sanctions for an offence), the BOC CDC must take this into consideration before issuing its decision but may not issue a sanction in excess of the maximum sanction set out in the BWF JP.



- 8.5 Any sanction imposed must be notified to the Covered Person's Member who will be responsible for making or procuring any payment within thirty (30) calendar days of notification.
- 8.6 Any fine defined in NZD must be paid in NZD.
- 8.7 The Member has the power to procure reimbursement of any payment due from the Covered Person.
- 8.8 BOC shall make all relevant notifications immediately after a particular decision is final.
- 8.9 A decision issued in accordance with this Section may be appealed only to the Court of Arbitration for Sport

## **9 BOC COMPLAINTS AND DISCIPLINARY COMMITTEE (CDC)**

The BOC CDC shall comprise 3 people from the following:

- a. The BOC President or Deputy President
  - b. Minimum of one BOC Executive Board Member
  - c. Independent person(s) who may have relevant legal experience.
- 9.1 BOC CDC Chair shall be appointed by the BOC EB and shall chair any meetings or hearings of the BOC CDC. In the event that the Chair is absent and/or unable to participate as a result of a conflict of interest, the BOC CDC shall select a day chair from the non-conflicted members who shall be known as the 'Chair' for the purpose of these Regulations
  - 9.2 The BOC SG shall be an ex-officio member of the CDC and shall be entitled to attend all meetings provided the SG is not conflicted in the matters being considered by the BOC CDC. In such a case where the SG is conflicted or unable to attend, another BOC staff member may be appointed to attend the CDC meetings to provide administrative support to the CDC. Where staff members are also conflicted or unable to attend, the CDC shall carry out their own administration.
  - 9.3 A member of the BOC CDC may not be a witness or give evidence in a particular case and must not have been an Official at an event where an alleged offence took place, or a witness to the alleged offence. A member of the BOC CDC shall have no other conflict of interest that might harm his impartiality towards a matter. Prior to consideration of each matter, each BOC CDC member shall be asked to consider and declare any such conflict of interest. The conflicts of interest shall be recorded in writing.
  - 9.4 If a conflict of interest is declared, the relevant BOC CDC member must be excused from any further involvement in the matter.

- 9.5 The BOC CDC quorum is three (3) and all BOC CDC decisions shall be taken by simple majority of those present. If it is not possible to achieve a BOC CDC quorum (as a result of conflict of interest or otherwise), the Chair shall refer the matter to BWF in accordance with the referral process set out in the BWF JP.

## **10 DECISIONS AND APPEALS**

- 10.1 All decisions of BOC shall be issued in writing in accordance with the relevant Section of these Regulations.
- 10.2 Failure to respect any final decision made by BWF or BOC or failure to fulfil such a decision within a set time limit shall constitute a further offence, punishable by any sanction set out in these Regulations or the BWF JP and may also render a BOC Member to be declared not in Good Standing with BOC.
- 10.3 Any valid appeal submitted in accordance with these Regulations or the BWF JP shall not prevent a sanction from taking effect, except where such sanction is a fine or where the BWF or the Court of Arbitration for Sport so orders.
- 10.4 BOC shall keep records of all decisions, issued sanctions and penalties (including fines) as determined by BOC or involving BOC or BOC Members together with the date(s) when particular decisions became final. Such records shall be stored by BOC.

## **11 MISCELLANEOUS**

- 11.1 The BOC EB has the power to interpret these Regulations. During a particular matter, these Regulations may be interpreted by the Chair of the BOC CDC and such interpretations are binding for the pending case. The BOC CDC Chair may ask the BOC EB for clarification
- 11.2 These Regulations may only be amended by BOC EB and amendments will not have any effect on matters that are already in progress at the time of the amendment.
- 11.3 These Regulations and any future amendments will take effect on the day following the day of the adoption.