

## RECREATIONAL CONDUCT REGULATIONS

### GUIDANCE NOTES

*N.B. Capitalised terms used in this document have the same meaning as is given to them in the Recreational Conduct Regulations (“Regulations”).*

#### 1. **Scope and Application**

- 1.1. The Regulations apply to recreational cricket leagues under the ECB’s jurisdiction that have not adopted the General Conduct Regulations. The Regulations do not apply to cricket activities carried out by Professional County Clubs, Hundred Teams or National Counties.
- 1.2. If a Recreational Cricket Board or National County arranges or participates in ad hoc or friendly matches that do not form part of a formal competition structure, these Regulations will apply to those fixtures (rather than the General Conduct Regulations).
- 1.3. The ECB GCR will apply to any competitions organised by the ECB, including the Women’s Tier 3 Competitions.

#### 2. **Responsibility for Disciplinary and Appeal Processes (Regulation 1)**

- 2.1. Relevant Cricket Leagues must appoint an individual or group of individuals who will have responsibility for applying the disciplinary and appeal processes set out in the Regulations. The role of Disciplinary Officer, which is responsible for investigating and issuing charges for breaches of the Regulations, should be carried out by someone who is not involved in deciding whether those charges have been proved (or whether an appeal is successful).
- 2.2. Equally the individual(s) involved in deciding whether the charges have been made out should be different to the decision-maker(s) involved at the appeal stage, to help ensure the independence of the appeal process.

#### 3. **Jurisdiction (Definition of “Participant” and Regulation 1)**

- 3.1. Relevant Cricket Leagues are responsible for implementing the disciplinary processes contained in the Regulations in respect of Participants (individuals and clubs) that are under their jurisdiction.
- 3.2. For someone to be “under the jurisdiction” of another body means that the relationship between that person and other body is such that the body has official power to make decisions or judgments in respect of that person. For example, when a cricketer signs up to join and play for a cricket club, they agree to be bound by the rules and regulations of that cricket club and are therefore officially under that cricket club’s jurisdiction.
- 3.3. In the case of Recreational Cricket Leagues, anyone that participates (whether a club, player, coach, match official etc.) in a League’s competitions is likely to be under the League’s jurisdiction. Recreational Cricket Leagues must therefore apply the Regulations to any Participants that commit On-Field Breaches and Off-Field Breaches in any of their competitions.

#### **4. Conduct Obligations (Regulations 3-10)**

##### *On-Field and Off-Field Behaviour*

- 4.1. The on-field behaviour listed in Regulation 3 mirrors the conduct provisions in the Laws of Cricket. Additional conduct provisions have been included in Regulations 4-9, and off-field offences are in Regulations 8-9.
- 4.2. Where an action (or inaction) is determined to be “prejudicial to the interests of cricket” and therefore a breach of the Regulations, this means it is an act (or omission) not covered by any of the breaches listed specifically in Regulations 3, 4(a)-(b), 5(a)-(d), 5(f), 6-7, 8(a)-(f), 8(h)-(i) or 9, but is an act (or omission) that a reasonable person would consider detrimental to the ethos, reputation and/or environment of the game. Examples of this may include 'running a book' on outcomes or having a sponsor that is banned through other advertising policies.

##### *Anti-Discrimination Regulations*

- 4.3. The ECB's Anti-Discrimination Regulations can be found on the following ECB webpage, along with accompanying guidance:  
<https://www.ecb.co.uk/about/policies/regulations/recreational-cricket>.
- 4.4. Although every case should be considered on its facts, the starting position is that all On-Field Offences which involve an alleged breach of the ECB's Anti-Discrimination Regulations should be considered equivalent to a Level 3 breach and charged accordingly. The Disciplinary Officer and/or the decision-maker(s) may consider that an alleged breach of the ECB's Anti-Discrimination Regulations in a particular case is not equivalent to a Level 3 breach, based on the severity of the alleged conduct, and charge and/or sanction on that basis.

##### *Social Media*

- 4.5. Posting, repeating, commenting, or supporting posts or comments by others that breach the Regulations may itself constitute a breach of the Regulations. For example, liking or otherwise promoting or supporting a comment that breaches the ECB's Anti-Discrimination Regulations is likely to result in a breach of the Regulations not only for the person who posted the comment in the first place but also for any Participant who supports that post.
- 4.6. If a Participant is alleged to have breached Regulations 8-9 as a result of having liked or supported a discriminatory comment but claims that someone else logged into their social media account to submit that “like” (or other supportive comment/gesture), this will not necessarily prevent regulatory action being taken but should be taken into account by the decision-maker(s).

#### **5. Reports of Breaches (Regulations 11-13)**

- 5.1. Reports of On-Field or Off-Field Breaches must only be submitted to Relevant Cricket Leagues in good faith, i.e. with honest intentions and containing correct information (to the best of the individual's knowledge). The primary purpose of allowing individuals other than the umpire to report offences is to capture offences that an umpire did not see but

which would constitute an offence if the umpire had seen it, or those which do not occur on or around the field of play.

5.2. Reports should include a description of the alleged breach including:

- a. any relevant background information;
- b. name(s) of any witnesses;
- c. who was involved;
- d. what the Participant(s) is/are alleged to have done;
- e. anything anyone said at the time (including admissions and/or apologies); and
- f. any information regarding any relevant evidence and the context of that evidence (for example, information about a recording of the match, which captured the alleged incident or photographs taken and, if so, whether the parties involved were aware of and consented to this video footage and/or photographs). Please refer to the ECB Live Streaming Guidance, which can be found here:

<https://www.ecb.co.uk/about/policies/regulations/recreational-cricket>.

5.3. A Relevant Cricket League may become aware of a potential or alleged breach of these Regulations by other means than a report from someone in the game, for example by identifying an inappropriate social media post which has not been independently referred to it. Notwithstanding the fact that the Relevant Cricket League has not received a report about such matter, it may consider this conduct in accordance with the process set out in the Regulations.

**6. Responsibilities of a Disciplinary Officer (Regulation 14)**

- 6.1. Following receipt of a report of a potential breach of the Regulations, the Disciplinary Officer may conduct any further investigation they deem necessary to limit the chances of vexatious complaints and ensure there is a full understanding of the circumstances in which the complaint arose.
- 6.2. Once any additional investigation is carried out, if a Disciplinary Officer decides that there is sufficient information to charge the Participant for an alleged breach of the Regulations, and the Disciplinary Officer determines it is right to do so having considered the information and evidence provided, they may proceed to issue charges against the Participant. Charges can be for a different breach to that detailed in the original report to the Relevant Cricket League.

**7. Determining the Charges (Regulation 14)**

- 7.1. The decision-maker(s) appointed by the Disciplinary Officer to consider the charges may decide to decide the case on the basis of written submissions/evidence alone, or at a hearing. It may be appropriate for on-field offences at Level 1 and Level 2, or off-field offences which would constitute a Level 1 or Level 2 offence if they had been carried out on the field (e.g. dissent), to be determined based on written submissions/evidence, rather than at a hearing. However, on-field offences at Level 3 and Level 4 and all other off-field offences should be determined at a hearing. Where the sanction potentially

available is significant, for example a third Level 2 on-field breach within 24 months resulting in a 12-match ban, the case should be determined at a hearing.

- 7.2. Any hearing should be arranged in a timely manner. As the matters brought under the Regulations will likely involve volunteers in most instances, this will likely differ for each matter. However, arranging a hearing in a timely manner means allowing sufficient time for all the parties concerned to prepare adequately, taking account of their availability and other commitments but not scheduling a hearing so far in advance that it causes unreasonable delay.
- 7.3. It may be appropriate for the decision-maker(s) to suspend a Respondent from participating in cricket until the case has concluded where the allegations which have been made are serious, the sanctions imposed (or likely to be imposed) are severe and it would potentially bring the sport into disrepute for the Respondent to participate in cricket whilst the disciplinary process is ongoing.
- 7.4. The decision-maker(s) has the discretion to set a disciplinary timetable as they consider appropriate. They should notify the parties, within a reasonable timescale in advance of the hearing, of their expectations on all parties and provide the parties with the opportunity to:
  - a. share any documentation relevant to the case of either party in the proceedings, such as witness accounts;
  - b. submit any written witness accounts and/or any other evidence that relate to the charge(s) against the Respondent; and/or
  - c. prepare written submissions where the decision-maker(s) considers the proceedings to be sufficiently sensitive or complex to require them.
- 7.5. Although it is a matter for the decision-maker(s) to determine how to run the hearing, it is recommended that hearings should be inquisitorial (taking on a fact-finding approach to get to the bottom of the situation as it is alleged) rather than adversarial and oppositional (which is the approach taken in criminal or civil proceedings). The decision-maker(s) should make clear that the parties will have the opportunity to raise any matters they consider relevant to determining whether the charge(s) can be made out and allow for an appropriate length of hearing to provide sufficient time for this.
- 7.6. All parties should have the opportunity to put forward any observations, question the other party or parties, and/or make any submissions on the matter (including in relation to the other side's evidence).
- 7.7. The decision-maker(s) should:
  - a. seek to ensure that witnesses are not present in the room being used for the hearing until the time that they are required to give their evidence when they should be called into the room on an individual basis; and
  - b. ask each party, as part of their submissions, to outline any factors that the decision-maker(s) should consider in determining an appropriate sanction in the event that the alleged breach is found to be proven, with reference to Appendix 1 of the Regulations.

- 7.8. Decision-maker(s) should seek to ensure that decisions are produced within 7 days of the hearing.

**8. Balance of Probabilities (Regulations 14 and 15)**

- 8.1. Decision-maker(s) will determine matters on the “*balance of probabilities*”. This means that when they are considering whether the alleged breach has been committed or not, they must be satisfied that it is “more likely than not” that the alleged breach took place, taking account of the evidence submitted and heard. Therefore, the decision-maker(s) does not have to be absolutely sure that it took place but satisfied that it is more likely that it did.

**9. Sanctions (Regulations 14-15 and Appendix 1)**

- 9.1. It is important for decisions to be clear about the scope of any ban, including when a specific time period starts and ends. In the interests of clarity, it is therefore suggested that the following template wording is adopted by the decision-maker(s), amended as appropriate for the circumstances:

“The [Disciplinary Panel/Appeal Panel] imposes a [X match ban]. This ban will apply to all cricket, be effective immediately and remain on [the Respondent’s] record for 24 calendar months from the date of the breach. The ban will therefore be served in the next [Match/X Matches] [Respondent] is due to participate in, regardless of whether [that Match/those Matches] [is/are] in the [Recreational Cricket League’s] competition.”

OR

“The [Disciplinary Panel/Appeal Panel] imposes a ban of [X days], which will commence on [Y] and end on [Z] (the “**Period**”). This ban will apply to all cricket, be effective immediately and remain on [the Respondent’s] record for 24 calendar months from the date of the breach. The ban will therefore apply to any matches [the Respondent] is due to participate in during the Period, regardless of whether those matches are in the [Recreational Cricket League’s] competition.”

- 9.2. Where a decision-maker(s) is considering imposing a playing suspension on a Participant under the age of 18, it is recommended that any such suspension should be expressed by reference to the number of matches – rather than weeks – the Participant must miss. This is because a suspension expressed in weeks can have a disproportionately punitive effect on a junior cricketer, who may be playing in multiple cricket environments throughout a given week.
- 9.3. Where a sanctioned individual has multiple roles in cricket, for example they are both a player and a coach/umpire, any suspension imposed should clearly identify whether it relates to just playing in a match, or whether it also covers other activities such as coaching and umpiring. For example a one match ban imposed on a player that also umpires should be expressed in terms that enable that individual to know whether they are just banned from playing in a match or whether they are also prohibited from umpiring in that match.

**10. Publication of Sanctions (Regulations 14-15 and Appendix 1)**

- 10.1. Relevant Cricket Leagues may wish to publish the outcome of disciplinary cases concluded under the Regulations on their websites. However, before doing so, Relevant Cricket Leagues should consider the data protection implications of publishing information about Respondents on a public forum.

## **11. Appeals (Regulation 15)**

- 11.1. All procedural rules and principles that apply to hearings at first instance also apply to appeals (see paragraph 7 above).

## **12. Data Protection**

- 12.1. The UK GDPR and the Data Protection Act 2018 are the primary data protection legislation in the United Kingdom. It is a legal requirement for all Relevant Cricket Leagues (including decision-makers) to comply with data protection law when processing personal data. If Relevant Cricket Leagues do not comply with their obligations under data protection law, the Information Commissioner can impose various sanctions on the Relevant Cricket League including preventing the use of the personal data and/or imposing a significant financial penalty on the Relevant Cricket League. Relevant Cricket Leagues may wish to obtain independent legal advice to ensure they meet their obligations.
- 12.2. The UK GDPR provides that, where personal data is obtained, the person or organisation receiving the personal data must provide transparency information (usually referred to as a 'privacy notice') to each individual whose personal data is received. If the data is not received directly from the individual (as may be the case following receipt of a report of a potential breach of the Regulations), the person or organisation receiving the personal data must provide the privacy notice within a reasonable period following receipt of the data and, in any event, within one month. What amounts to "reasonable" will depend on the circumstances, but as a general principle, the Relevant Cricket League should take all steps to communicate with the data subject (about whom personal data is received in a report) as soon as is reasonably practicable, providing the privacy notice with the communication, to ensure compliance.
- 12.3. All Relevant Cricket Leagues will need to include appropriate references to the Regulations and its provisions in their respective privacy notices to ensure that they comply with transparency obligations in data protection law when collecting, processing and/or sharing personal data as a result of handling disciplinary matters. The UK GDPR provides a list of what information must be included in a privacy notice, but in the context of the Regulations it will be important to explain the collection, processing, disclosure and use of information relating to the particular individual and their activities. In particular, this should address the conduct of any applicable disciplinary procedures and any associated issuing and recognition of penalties. Independent legal advice should be sought on this point where necessary.
- 12.4. A template privacy notice, which can be adopted and amended as appropriate for use by Relevant Cricket Leagues, is appended to this document. The privacy notice should be provided to each person whose personal data is obtained, either at the point that their data is obtained or, if the personal data is not obtained directly from the individual, within a reasonable period (e.g. when the relevant Participant is notified of any allegation made against them).

### **13. Children, Adults at Risk and Reasonable Adjustments**

- 13.1. When handling proceedings involving a child or an adult at risk who is a witness, alleged victim or alleged offender, the processes that are followed must pay due consideration to safeguarding and welfare issues and associated data protection laws. Full guidance from the ECB on disciplinary proceedings that involve under-18s or adults at risk can be found on the ECB's website:

<https://www.ecb.co.uk/about/policies/safeguarding/kit-bag-resources>.

- 13.2. Reasonable adjustments should be made for anyone with a disability. Whilst the reasonable adjustments that may be required will differ depending on the nature of the disability, below are some examples of the ways in which a person's disability may affect the application of the Regulations and practical steps that can be taken to assist when such issues arise:

- a. Officials should be educated on the ways in which a person's disability may affect the application of the Regulations. By way of example, people with certain disabilities may have different coping mechanisms and reactions to certain situations: a player with a learning disability may respond to being called "Out" with profanity which would constitute an offence under the Regulations.
- b. Wherever possible, correspondence and documents should be sent to a person with a disability in a manner which will assist their understanding of the relevant document. This might be in an easy read format, be assisted by sign language or in braille. For example, companies such as Ace Anglia and Language Wire can provide easy read translation services, while companies such as Word360 and Sign Together UK can provide braille and British Sign Language services respectively.
- c. The decision-maker(s) should be educated on the ways in which a person's disability may affect their participation in the disciplinary process and consider:
  - i. Whether to allow a person with learning disabilities more time to respond to any written documents submitted in the proceedings.
  - ii. The use of a sign language interpreter in cases involving people who are deaf or have hearing impairments.
  - iii. The use of appropriate technology in virtual hearings. By way of example, Google Meet is generally considered to be more accessible than Microsoft Teams or Zoom for people with learning disabilities.
  - iv. Whether it is necessary to provide an individual with a learning disability with more detail around the intended process for the hearing at the start of the hearing.
  - v. Whether to involve a coach or a representative of the player's team (with the player's consent) in the disciplinary process for a case involving a person with learning disabilities to provide them with support and assist their understanding of the process.
  - vi. Whether any hearing venue is accessible for a person with a physical disability.

- vii. Whether to allow a reasonable adjournment of the hearing in respect of a person with a mental disability who claims that they are unable to attend a hearing on health grounds. Consideration should be given to whether requesting medical evidence is necessary/appropriate.
- d. Consideration should be given to whether the decision-maker(s) can be diversified to include individuals with experience of disability and its effects, from a personal or professional perspective.