

BRITISH WRESTLING DISCIPLINARY CODE

1 INTRODUCTION

- 1.1 This Code applies to and binds all Members of the British Wrestling Association (“BWA”), parents and family members of Members, coaches, those who assist in coaching/training and the administration of competitions, those who are in attendance or otherwise have access to coaching/training sessions or competitions, and volunteers of BWA.
- 1.2 Each such person is deemed, by participating or playing any part in the sport of wrestling in any way, directly or indirectly, on or off the mat, to have agreed to be bound and to comply with this Code.
- 1.3 This Code should be read in conjunction with BWA Policies including [BWA’s Disciplinary Policy, Codes of Conduct, Ethics and Responsibilities, Child Welfare Complaints Procedure and the Protocols for Child Safeguarding Investigations].
- 1.4 The laws of England and Wales shall apply to this Code.
- 1.5 The BWA Board may add to or change the provisions of this Disciplinary Code at any time, provided that such changes are reported to the next Annual General Meeting of BWA.

2 OBJECTIVES

- 2.1 The objective of this Code is to secure an outcome of issues raised in a complaint that is expeditious, just and fair.
- 2.2 Where possible and appropriate, BWA will seek to resolve complaints through informal means such as agreement and/or mediation.
- 2.3 BWA will respect any complainant’s right to and desire for confidentiality wherever possible.

3 WHAT IS A COMPLAINT

- 3.1 A complaint is a written expression of dissatisfaction about the standard of service, actions or lack of action on the part of BWA, nations or regions, affiliated associations, affiliated clubs or any office holder, parents and family members of Members, coaches,

those who assist in coaching/training and the administration of competitions, those who are in attendance or otherwise have access to coaching/training sessions or competitions, and volunteers of BWA or those other organisations.

3.2 Grounds for complaint shall include, but not be restricted to, the following:

- a) that an organisation, club or person has engaged in action, behaviour, conduct or practice which may bring the sport of wrestling into disrepute;
- b) that an organisation, club or person has taken part in a competition, exhibition or demonstration with someone whom they know to be under suspension by a member of UWW (world governing body) or BWA;
- c) breach of any of BWA Policies, Rules or Codes of Ethics and Conduct;
- d) the violation of BWA's Memorandum or Articles of Association.

3.3 A complaint may be made by any person or organisation that is affected or likely to be affected by the actions, conduct or decisions of the aforementioned organisations or persons. For the avoidance of doubt, a complaint may be made by BWA.

3.4 Third parties submitting a complaint on behalf of the complainant may only do so with written permission to represent the complainant and their interests, which must be presented to, and accepted by, the BWA.

3.5 The BWA shall have the right to bring a complaint or be involved in a complaint as an interested party if it considers it to be in the best interests of the sport for it to do so.

4 INVESTIGATION

4.1 BWA delegates its authority and power for its investigation and enforcement functions to the Chief Executive of BWA ("CE").

4.2 Upon receipt, the CE may refer the complaint immediately to the Chair of the Judicial Panel. Where the CE does not do so, he/she may (i) investigate (or appoint a third party to investigate) the complaint as he/she considers necessary for its expeditious, just and fair resolution, and/or (ii) seek agreement between the complainant and any other interested parties for the resolution of the complaint. Where and as soon as the CE is satisfied that investigations are sufficiently complete and there is no likelihood of the complainant and other relevant parties agreeing a resolution, he/she must refer the

matter to the Chair of the Judicial Panel.

5 THE JUDICIAL PANEL

- 5.1 There shall be a Judicial Panel.
- 5.2 BWA delegates power and authority for the determination of cases brought in accordance with this Code to Judicial Tribunals and Appeal Tribunals appointed from the Judicial Panel.
- 5.3 The Chair of the Judicial Panel shall be appointed by the BWA Board and shall hold office for four years, and shall be eligible to stand for two terms, provided that in any event the Chair shall serve in office for no more than eight consecutive years. The Chair shall be independent and legally qualified.
- 5.4 Other members of the Judicial Panel shall be made up of (i) other independent and qualified lawyers, and (ii) nominees, one from each nation or region. Each nominee must have held continued membership of the BWA for a period of not less than five years (with a grace period of up to 3 months for gaps caused by delays in renewals). Each Panel Member will be appointed by the Chair of the Judicial Panel, who will be responsible for the selection process. The appointment of Panel Members must be ratified by the BWA Board, such ratification not to be unreasonably withheld. Panel Member appointments shall be effective from the date of ratification by the BWA Board. Each Panel Member shall hold office for four years, and shall be eligible to stand for two terms, provided that in any event no Panel Member shall serve in office for more than eight consecutive years.
- 5.5 A nominee member of the Judicial Panel may not be part of a Judicial or Appeal Tribunal in respect of any proceedings where the complaint emanates from the same nation/region as the member of the Judicial Panel. However, he/she may act as mediator in any informal dispute resolution including mediation where the complaint emanates from the same nation/region.
- 5.6 The Chair of the Judicial Panel shall have the power exercisable in his/her absolute discretion to co-opt from time-to-time additional persons with specialist skills or experience to a Judicial Tribunal to deal with a specific complaint which in the view of the Chair requires such specialist skills or experience. Any person co-opted to a Judicial Tribunal shall unless otherwise directed by the Chair of the Judicial Panel serve as a full member of the Tribunal for the particular hearing. Any such co-options shall

be reported by the Chair to the Board.

- 5.7 The management of the Judicial Panel and its functions shall be the responsibility of the Chair of the Judicial Panel in consultation with the CE. Administrative support for the judicial system shall be provided by the CE.
- 5.8 Every member of the Judicial Panel shall be required to comply with the provisions of the BWA Conflicts of Interest Policy including the making of any return required for entry in the Conflicts of Interest register. In particular, any Panel Member who believes he/she may have a conflict due to the circumstances of any particular case shall alert the Chair of the Judicial Panel and the CE to his/her concerns.
- 5.9 Members of the Judicial Panel shall be immune from complaint while acting (and only while acting) under the provisions within these Judicial Rules.
- 5.10 Any improper contact, approach or attempt to influence or intimidate any Judicial Panel member, witness, potential witness or representative either in person or through an intermediary must be reported immediately to the Chair of the relevant Tribunal (if during the course of a hearing) or the Chair of the Judicial Panel, who will take such action as he/she deems appropriate.

6 PROCEDURES FOR MAKING A COMPLAINT

- 6.1 In relation to a particular complaint, a complainant must:
- a) forward their complaint in writing to the BWA administration office for the attention of the CE, within 30 days after the events giving rise to the complaint have taken place;
 - b) within that written complaint, explain the events, problem or concern as clearly and as fully as possible, including any action taken to date and any outcome sought or preferred;
 - c) if the appeal is out of time, explain why it is late;
 - d) allow the CE a reasonable time to deal with the matter including making any investigation that is required;
 - e) recognise that some circumstances maybe beyond BWA's control;

- f) prior to any reference to the Chair of the Judicial Panel or appeal, pay any appropriate fee.

6.2 The CE shall:

- a) acknowledge the complaint in writing within 7 working days;
- b) conduct any investigation that he/she considers necessary for the expeditious, just and fair resolution of the complaint;
- c) deal reasonably and sensitively with the complainant;
- d) instigate any discussions or communications, including mediation, he/she considers appropriate with a view to the informal resolution of the complaint;
- e) where the investigations are complete and, in the view of the CE, there is no likelihood of the matter being informally resolved, expeditiously refer the complaint to the Chair of the Judicial Panel.

6.3 BWA reserves the right to refer a matter to the Sport Integrity Service under the Rules of Procedure of that service. This may involve the commission of an independent investigation or disciplinary procedure into alleged grievances, or allegations of misconduct involving: i) wrestlers; ii) wrestler support personnel; or iii) BWA office holders, who are either members of the BWA World Class Programme or funded through the UK Sport grant the following circumstances:

- a) where an individual is deemed a “Relevant Person” under the terms of the Independent Disclosure and Complaints Service Pilot Regulations; and
- b) they are a respondent to allegations of misconduct as defined as a “Relevant Matter” under the same regulations.

In such circumstances they are required to cooperate with any investigation conducted by Sport Integrity, where the investigation is covered by terms of reference agreed by BWA.

7 LATE COMPLAINTS

7.1 If the complaint is received outside the 30 day limitation period, the CE shall consider

the grounds for the delay and if he/she is satisfied that it is in the interests of justice to do so, may give the complainant permission to pursue the complaint.

- 7.2 In the event that the CE rejects the complaint on the grounds that it has not been submitted within the 30 days, the parties to the complaint shall be entitled to appeal against this decision to the Chair of the Judicial Panel providing that the Notice of Appeal setting out the grounds for appeal is lodged with the CE within 14 days of receiving notification of the CE's decision. No fee shall be levied for an appeal under this provision.
- 7.3 The Chair of the Judicial Panel shall consider the matter de novo. The decision of the Chair shall be final.
- 7.4 If the complainant is granted permission to proceed with the complaint, the complaint shall proceed as an intime complaint except that any Tribunal subsequently dealing with it shall have due regard to the lateness of the complaint.

8 PROCEEDINGS BEFORE A JUDICIAL TRIBUNAL

- 8.1 On the reference of a complaint to him/her, the Chair of the Judicial Panel may propose mediation, and should do so when he/she considers that mediation is likely to result in the resolution of the complaint. Mediation is only appropriate with the agreement of both parties.
- 8.2 A member of the Judicial Panel may be appointed to act as mediator.
- 8.3 The mediator shall, normally, have 28 days from the date of his/her appointment to assist in the resolution of the differences between the parties. If the mediator is unable so to assist within that time, he/she shall report that fact to the Chair of the Judicial Panel who shall then direct either that the matter proceed to a formal hearing.
- 8.4 No formal record or transcript of the mediation process shall be made.
- 8.5 Where a complaint is referred to the Chair of the Judicial Panel, and he/she considers that it cannot, for whatever reason, be resolved through negotiation or mediation, the Chair will appoint a Judicial Tribunal. A Judicial Tribunal may consist of one member of the Judicial Panel sitting alone (in which case that member must be legally qualified) or, in appropriate cases raising matters of importance to the sport of wrestling or where in the opinion of the Chair of the Judicial Panel the circumstances otherwise justify it, the

Judicial Tribunal may consist of three members of the Judicial Panel, the Chair of which shall be legally qualified. The Chair of the Judicial Panel may sit on a Judicial Tribunal.

- 8.6 The CE shall notify the parties in writing of the names of members appointed to the Judicial Tribunal in their case, and the parties shall have seven days from the receipt of the notification in which to lodge with the CE any objection to any member(s) of the panel stating the grounds for the objection. The CE shall forward any objection to the Chair of the Judicial Panel who shall consider any such objections in determining the composition of the Tribunal. The decision of the Chair in respect of an objection shall be final.
- 8.7 Upon reference of a complaint to the Chair of the Judicial Panel, he/she (or, if appointed, the Chair of the Judicial Tribunal selected to deal with the complaint) shall give directions.
- 8.8 A complaint may be dealt with on the basis of written evidence and submissions alone, or with an oral hearing which may be face-to-face or remote (or hybrid). The Chair of the Panel (or, if appointed, the Chair of the Judicial Tribunal) shall determine the best mode, after considering any representations of the parties.
- 8.9 Where there is an oral hearing, unless the Chair of the Judicial Tribunal directs otherwise, the CE will provide to the parties, and to the members of the Judicial Tribunal, a bundle of documents for use at the hearing containing copies of the documentation submitted by each of the parties. He/she shall also notify the parties of the name of any representative who will be presenting a party's case.
- 8.10 The Chair of the Judicial Tribunal may, through the CE, require that Members of BWA, and request that other individuals, participate and give evidence at the hearing and/or that further written documents or other evidence be supplied by any or all of them.
- 8.11 The hearing will normally be confidential and take place in private except that the Chair of the Judicial Tribunal may decide to hold a hearing in public provided that, before making the decision, he/she has consulted the parties involved and has taken their wishes into account; and he/she is satisfied that it is in the public interest to do so, having regard to any particular need for confidentiality, the rights of the parties and others, and the need to encourage others to co-operate with judicial proceedings in general.

- 8.12 If any of the parties concerned do not attend the hearing, the matter may be dealt with by the Judicial Tribunal in the absence of that party taking into account any written representations that may have been received from that party.
- 8.13 The procedure at a hearing shall be flexible and shall be at the discretion of the Chair of the Judicial Tribunal. The aim of the Judicial Tribunal shall be to ensure that all parties have a fair hearing and a proper opportunity to be heard.
- 8.14 It shall be for the complainant to prove the complaint on the balance of probabilities.
- 8.15 The Judicial Tribunal of three shall make its decisions on cases before it by majority.
- 8.16 At the end of the hearing, the Chair of the Judicial Tribunal may inform the parties orally of the decision of the Judicial Tribunal. In any event, through the CE, the Chair will communicate the decision in writing to the parties and such other interested persons or bodies as he/she considers appropriate within seven days of the date of the hearing; and, within a reasonable time thereafter, the written reasons for the decision, notification of their entitlement to appeal and the time by which any notice of appeal must be lodged, shall be given to the parties.

9 SANCTIONS

- 9.1 Where a complaint is upheld, the Judicial Tribunal may impose any sanction or (in the case of a matter involving safeguarding issues where the Tribunal has concluded that a person poses a risk to children or vulnerable adults in a wrestling context) risk management measure it considers just and appropriate in all the circumstances of the case including, but not limited to (i) a caution, reprimand and/or warning as to future conduct, (ii) a temporary or permanent suspension for a specified period from all or some specified wrestling activities, (iii) the imposition of conditions on taking part in wrestling activities, (iv) a fine and (v) compensation to any affected person.
- 9.2 Any sanction imposed must be reasonable and proportionate.

10 RIGHTS OF APPEAL

- 10.1 Where this Code grants a right of appeal against a decision of the CE, then that appeal will be to a Judicial Tribunal and will be de novo.
- 10.2 There shall be a right of appeal by any of party to an Appeal Tribunal against any final decision of a Judicial Tribunal. The following provisions apply to such appeals.

10.3 BWA shall have the right to instigate an appeal or to be involved in an appeal as an interested party, if it considers it to be in the best interests of the sport for it to do so.

10.4 An appeal can be made only on one of the following grounds:

- a) the decision was one which could not reasonably have been reached by the Judicial Tribunal on the evidence before it;
- b) a serious procedural or other irregularity causing injustice occurred;
- c) significant new evidence has come to light which was not available and which reasonable steps could not have made available at the time of the hearing before the Judicial Tribunal;
- d) the sanction imposed was grossly disproportionate to the seriousness of the conduct and/or level of risk posed.

10.5 An appeal shall be accompanied by the appropriate fee.

10.6 An appeal will take the form of a review of the Judicial Tribunal's decision regarding the issue(s) being appealed. Parties may apply, at least fourteen days before the hearing date, for the appeal to be by way of re-hearing de novo rather than review, and must give reasons for so doing. A de novo hearing will only be granted in exceptional circumstances. A decision on this issue shall be taken by the Appeal Panel at or prior to the hearing.

11 PROCEDURES RELATING TO APPEALS

11.1 Except where otherwise provided in this Code, a Notice of Appeal, setting out the detailed grounds of appeal, together with supporting documents and appropriate fee, shall be lodged with the CE within 28 days after the date of the written notification of the reasons of the Judicial Tribunal, stating the nature of the appeal and the grounds on which it is to be made.

11.2 If no Notice of Appeal and fee is received by the CE within the requisite 28 days, the decision of the Judicial Tribunal shall stand as final.

11.3 Upon receipt of a Notice of Appeal and fee, the CE shall within 28 days refer the

matter to the Chair of the Judicial Panel.

- 11.4 The Chair of the Judicial Panel (or, if appointed, the Chair of the Appeal Tribunal) may, on application or at their own instigation and at any stage, summarily dismiss an appeal if it stands no realistic chance of success.
- 11.5 Unless summarily dismissed, the Chair of the Judicial Panel will appoint an Appeal Tribunal consisting of three members of the Judicial Panel, the Chair of which shall be legally qualified. The Chair of the Judicial Panel may sit on an Appeal Tribunal. However, none of the Judicial Tribunal whose decision is being appealed in a particular case may sit on an Appeal Tribunal
- 11.6 The CE shall notify the parties in writing of the names of members appointed to the Appeal Tribunal, and the parties shall have seven days from the receipt of the notification in which to lodge with the CE any objection to any member(s) of the panel stating the grounds for the objection. The CE shall forward any objection to the Chair of the Judicial Panel who shall consider any such objections in determining the composition of the Tribunal. The decision of the Chair in respect of an objection shall be final.
- 11.7 Upon reference of an appeal to the Chair of the Judicial Panel, he/she (or, if appointed, the Chair of the Appeal Tribunal selected to deal with the appeal) shall give directions.
- 11.8 Subject to those directions, as soon as is reasonably practicable thereafter, the CE shall arrange the date time and venue of the hearing which shall normally commence within 60 days of the receipt by the CE of the Notice of Appeal. The CE shall give the parties at least 21 days' notice of the arrangements for the hearing.
- 11.9 The Chair of the Judicial Panel (or, if appointed, the Chair of the Appeal Tribunal) may, on receipt of the Notice of Appeal, suspend the decision of and/or penalty imposed by the Judicial Tribunal pending the outcome of the appeal to an Appeal Tribunal.
- 11.10 An appeal to an Appeal Tribunal may only be withdrawn with the consent of the Chair of the Appeal Tribunal on receipt of a letter from the appellant setting out the grounds for the withdrawal of the Notice of Appeal. If a Notice of Appeal is withdrawn the Chair of the Appeal Tribunal shall uphold the decision of the Judicial Tribunal and, if that decision has been suspended, the effect of the suspension shall be taken into account, i.e. the effect of suspending the decision and/or penalty imposed by the

Judicial Tribunal may lead to the imposition of a more significant penalty after suspension.

11.11 The provisions for hearings before a Judicial Tribunal, so far as appropriate to an appeal, will apply to hearings before the Appeal Tribunal.

11.12 An Appeal Tribunal shall have the power to:

- a) alter or vary any decision of a Judicial Tribunal;
- b) quash any penalty and/or substitute for it any other penalty it may think fit or;
- c) make any such other order or determination as it may think right and just.

11.13 The decision of an Appeal Tribunal shall be final.

12 PROVISIONS RELATING TO BOTH JUDICIAL AND APPEAL TRIBUNALS

12.1 The Chair of a Tribunal may make administrative, case management and interlocutory decisions in relation to a matter.

12.2 Proceedings before a Tribunal shall be recorded. In the event of a mechanical recording being made, the only official recording of the proceedings shall be that mechanical recording. After any hearing, any recording (manual and/or mechanical) shall be retained by the CE for six months together with the entire record of the complaint or appeal.

12.3 All proceedings shall remain confidential, subject to express direction by the Tribunal or the provisions of this Rule.

12.4 All decisions of a Tribunal shall be reported to the CE and such other bodies or persons as the Chair of the Tribunal shall direct. BWA, the Judicial Tribunal and the Appeal Tribunal shall be entitled to publish as they think fit reports of proceedings, findings and penalties.

12.5 In addition to any financial penalty which a Tribunal may impose the tribunal may at their discretion make an order for the costs of the hearing to be paid, in such proportions as they may decide by any of the parties to the hearing. These costs shall include expenses necessarily incurred in the preparation for the hearing by the tribunal

and may include the expenses actually and necessarily incurred by a successful party in preparing and presenting his/her case to the Tribunal. In calculating the costs to be paid to a party, nothing shall be included on account of professional representation.

- 12.6 In the event of a complaint being resolved prior to a Tribunal reaching a decision (for instance, by way of mediation, withdrawal of the complaint or other resolution) then, insofar as any costs have been incurred by the parties and/or the BWA in relation to the complaint (including relating to the expense of appointing a Tribunal and/or convening a hearing), it will be open to them to make an application for a decision in relation to such costs. Such an application will go to the Chair of the relevant Tribunal (Judicial or Appeal) if one has been appointed, and will otherwise go to the Chair of the Judicial Panel). All parties concerned by such an application will be provided with an opportunity to state their position in relation to such an application in writing before a decision is taken. The Chair will be entitled to make such an order as he/she considers fit in all the circumstances, including having regard to the conduct of the parties, save that an order will only be made against BWA in exceptional circumstances and no party may recover costs on account of professional representation.
- 12.7 When he/she considers it is impracticable or unjust to award costs, or that the recovery of costs would cause undue hardship, the Chair may in exceptional circumstances recommend that BWA should make a contribution towards the costs of the successful party.
- 12.8 The following fees shall be required for:
- a) Making a complaint - £50
(No fee is required when the complaint is made by an official of BWA, acting in a capacity approved by BWA, arising from an incident or incidents dealt with in pursuance of his/her official duties.)
 - b) An appeal from a final decision of a Judicial Tribunal or (except where otherwise provided in this Code) from a decision by the CE - £250
(No fee is required when the appeal is made by an official of BWA, acting in a capacity approved by BWA, following a complaint made by him/her arising from an incident or incidents dealt with in pursuance of his/her official duties.)
- 12.9 The Chair of a Tribunal may order the return of the fee if, in all the circumstances, it seems to him/her to be reasonable to do so. Alternatively, the return of the fee may be taken into account in an award of costs against an unsuccessful party.

13 SAFEGUARDING CHILDREN

13.1 In this Rule, the expression “Offence” shall mean any one or more of the offences against a child within the meaning of Schedule 4 to the Criminal Justice and Court Services Act 2000 and any other offence which reasonably causes the CE to believe that the person accused of the offence is or maybe a risk or potential risk to children or young persons.

13.2 For the purpose of this Rule, “child” or “young person” shall be construed to include “vulnerable adult” and “children” or “young persons”, shall be construed to include “vulnerable adults”.

13.3 Upon receipt by the CE of:

- a) notification that an individual has been charged with an Offence; or
- b) notification that an individual is the subject of an investigation by the police, children services or any other authority relating to an Offence; or
- c) other evidence which causes the CE reasonably to conclude that an individual may have committed an Offence

then, in any such case, the CE may impose upon the individual a provisional suspension from any event or activity promoted or authorised by the BWA wherever held.

13.4 Upon receipt by the CE of a recommendation from the Lead Safeguarding Officer, including the results of a Disclosure and Barring Service, Protecting Vulnerable Groups (PVG) scheme or Access NI check or other information received, which causes the CE to conclude on reasonable grounds that the individual concerned is unsuitable to work with or have unsupervised access to children within the sport of wrestling, the CE may impose upon the individual a provisional suspension or a suspension for a specified term decided by the CE from any event or activity promoted or authorised by BWA wherever held.

13.5 In reaching his/her determination as to whether a provisional suspension should be imposed the CE shall give consideration, inter alia, to the following factors:

- a) whether a child or children or young person(s) are or maybe at risk, and the degree of any such risk;

- b) whether the seriousness of the allegations;
 - c) whether a suspension is necessary and proportionate given the risk posed to a child or children and young person(s), and/or to allow the conduct of any investigation by the BWA or any other authority or body to proceed unimpeded.
- 13.6 Where an individual has been convicted or has been the subject of a caution in respect of an Offence, the CE shall have power summarily to impose the suspension for a specified term decided by the CE of the individual from any event or activity promoted or authorised by the BW wherever held.
- 13.7 If a Local Authority (“LA”) forms a belief under the formal beliefs system derived from the Children Act 1989, as amended, regarding an individual’s suitability to work with children, the CE shall have the power summarily to suspend that person for a specified term decided by the CE from any or all BWA activities provided that:
- a) the LA has informed BWA that such a belief has been formed;
 - b) the person concerned has been formally made aware by the LA that such a belief has been formed.
- 13.8 There shall be a right of appeal under this Code against a decision of the CE to impose a suspension under this Rule. Any appeal is to a Judicial Tribunal as provided for above, and the decision of that Tribunal will be final.
- 13.9 The suspension of any individual for a specific term decided by the CE imposed under this Rule shall not be lifted unless and until the individual has submitted to a formal risk assessment with regard to his/her suitability to be involved with children in the sport of wrestling. There shall be a right of appeal against a decision of the CE not to lift a suspension in the light of a formal risk assessment received.