ESCA Rules & Constitution Review 2019

Summary of Changes

**Rev 0a – 8th April 2019**

**Current Constitution.**

Disciplinary Sub-Committee

12.1The Disciplinary Sub-Committee shall be formed from members of the General Committee, the Competitions Sub-Committee or anyone nominated by the President or Competitions Sub-Committee Convener, for each disciplinary hearing. It will be chaired by the President or anyone else nominated as aforesaid and shall have a minimum of three members. The Disciplinary Sub-Committee will consider all issues which have been raised in relation to the conduct of players, officials and/or clubs, including breaches of the Cricket Scotland Code of Conduct for Players and Team Officials. The Disciplinary Sub-Committee will issue their decision in writing to all parties involved and shall set out reasons for their decision and any penalty that might be imposed.

12.1.1 Any appeal against a decision of the Disciplinary Sub-Committee must be received by the ESCA Hon Secretary within seven days of notification of the decision. Notification will be deemed to have taken place the day after the Hon Secretary has issued the decision. The appeal must detail the grounds of appeal with specific reference to the decision and include a £50 deposit, which will be returned to the appellant if the appeal is successful.

Appeals Sub-Committee

12.2The Appeals Sub-Committee shall be formed from the General Committee, who have not been involved in the decision being appealed, or anyone nominated by the President, to consider appeals arising from action taken by the Competitions Sub-Committee or the Disciplinary Sub-Committee. The Appeals Sub-Committee will be chaired by a person nominated by the President and shall have a minimum of three members. Appeals against decisions of the Appeals Sub Committee

12.2.1There shall be no appeal against a decision of the Appeals Sub-Committee except as provided for in Paragraph 3.1 of this Constitution.

**Proposed Changes.**

Disciplinary Sub-Committee.

12.1 The General Committee shall appoint a Disciplinary Sub-Committee of three people for the purposes of dealing with the process and procedures to deal with disciplinary matters arising from time to time.

 The Chair of the Sub-Committee will be a member of the General Committee.

Their remit will include:-

* Appointing appropriate persons to serve panels to consider disciplinary matters – in writing or in hearings
* Appointing a disciplinary officer and a deputy to deal with the administration of complaints and hearings
* Set out the process for dealing and complaint received
* Setting out the process for dealing with any appeals against disciplinary decisions.

The process will be set out in Appendix to the constitution

12.1.1 Any appeal against a decision of the Disciplinary Sub-Committee must be received by the ESCA Hon Secretary within seven days of notification of the decision. Notification will be deemed to have taken place the day after the Disciplinary Officer has issued the decision. The appeal must detail the grounds of appeal with specific reference to the decision and include a £50 deposit, which will be returned to the appellant if the appeal is successful.

Appeals Sub-Committee

12.2 The Appeals Sub-Committee shall be appointed by the Disciplinary Sub-Committee. The Appeals Sub-Committee shall be appointed by the Disciplinary Sub-Committee and shall consist of three members, one of whom shall be the chair.

Appeals against decisions of the Appeals Sub Committee

12.2.1There shall be no appeal against a decision of the Appeals Sub-Committee except as provided for in Paragraph 3.1 of this Constitution.

**Appendix to Constitution.**

1. Disciplinary Panels will deal with all complaints which will be made under the Cricket Scotland Code of Conduct and categorised in terms of Levels 1 to 4. A Disciplinary Panel will consist of three members appointed by the Disciplinary Sub-Committee, one of whom will act as Chair.
2. All complaints relating to player/official/club misdemeanours will be made to the Competitions Convener who will refer them to the Disciplinary Officer or his depute.
3. Clubs or individuals seeking to make a complaint should complete the form attached at Appendix A. All complaints must be made in writing and the form should be sent to the Competitions Convener within SEVEN days of the event taking place. Those making complaints should note the requirement in Rule 16.2 in terms of two statements being required.

Please note that as much information should be provided as possible; please also note that the form and statements made will be made available to those against whom the complaint is made so that they can respond fully.

1. The Disciplinary Officer will decide at what Level the complaint lies – the types of offences, the levels to be applied are as set out in the Cricket Scotland Code of Conduct to be found at <http://www.cricketscotland.com/media/resources/CSL-Documents/Code%20of%20Conduct%202013.pdf> as are the penalties available in the event a complaint is upheld.
2. The Disciplinary Officer will intimate the complaint to the player(s)/official(s) and the club in writing at the earliest opportunity.
3. If the Disciplinary Officer is of the view that the complaint is such that it might be resolved by the complaining club and club whose player is complained against discussing the matter he will simply intimate the complaint and will ask the two clubs if they are willing to have a dialogue to resolve matters.
4. If they are willing to do so, the clubs will be given fourteen days to carry out that dialogue. If matters are resolved, the complaining club shall intimate that the complaint is withdrawn.
5. If the clubs cannot resolve matters or choose not to try and resolve matters, the matter will proceed with the formal process.
6. If a matter is not capable of resolution or is not resolved, the player(s)/official(s) and the club shall respond in writing normally within seven days. If a club or player/official is not able to do that they should advise the Disciplinary Officer and provide reasons.
7. The Disciplinary Officer will carry out the investigation, seeking such additional evidence as is thought fit.
8. The Disciplinary Officer will provide the evidence collected for the Panel to consider. Normally the matter will be determined on the balance of probabilities using the written evidence provided. If a player(s)/official(s) or club consider they wish a formal hearing, they should make such a request when responding to the complaint. The Panel will consider whether in their view that is necessary or not.
9. In the case of complaints under levels 1 and 2 of the Cricket Scotland Code of Conduct the Disciplinary Officer will offer a penalty with the charge on the basis that the person who is subject to that complaint can accept the penalty offered.
10. If the matter is disputed – either in terms of the charge or the proposed penalty – the appointed panel will in the first instance confirm if they require a hearing or if they consider that they can deal with matters on the basis of written evidence. If a hearing is required the person who is subject to the complaint will be invited to appear on a set date and at a set time. The Panel has the power to invite others to attend any hearing to give evidence in addition to the person who is the subject of the complaint
11. If a hearing is required it will usually be on one of the dates set by the Sub-Committee at the start of the season and those involved will be expected to attend on the allocated date.
12. If the hearing involves a player it is expected that his team captain or a club official will accompany him.
13. In the case of complaints under levels 3 and 4 of said code of conduct, the Disciplinary Officer will seek a response to the complaint, arrange a panel and set a date for a hearing.
14. The Disciplinary Panel will issue their decision in writing to all parties involved and shall set out reasons for their decision and any penalty that imposed
15. Any appeal against a decision of a Disciplinary sub Panel must be received by the ESCA Hon Secretary within seven days of notification of the decision. Notification will be deemed to have taken place the day after the Hon Secretary has issued the decision. The appeal must detail the grounds of appeal with specific reference to the decision and include a £50 deposit, which will be returned to the appellant if the appeal is successful.
16. Any action taken by the Disciplinary Panel may be appealed as follows:

 a) For level 1 and 2 offences – to the ESCA Appeals Sub-Committee.

 b) For level 3 and 4 offences – to Cricket Scotland

ESCA Committee

April 2019