

Annex 'D' Appeals Procedure

- D1. This procedure may be activated by an appeal made against disciplinary action taken at a lower level or by the disciplinary committee of the E.S.M.B.A. In all cases the relevant documents pertaining to the original hearing shall be retained and made available to the appeals body.
- D2. With a minimum of delay, the General Secretary or designated official of the Association shall convene a meeting of the appropriate body to undertake an appeal hearing.
- D3. No person involved in hearing the complaint/alleged offence or with direct connections with the complainant/alleged offender shall sit on this body.
- D4. Both the complainant and the alleged offender shall be afforded the opportunity to attend the appeal hearing personally and/or submit a written statement. This should be made in writing, sent by Recorded Delivery and allow for receipt to be made at least 14 days prior to the appeal being heard.
- D5. A representative of the disciplinary body who made the judgement at the lower level or from the disciplinary committee of the E.S.M.B.A. may be afforded the opportunity to attend and/or submit a written statement.
- D6. Both the complainant and the alleged offender shall be offered the opportunity to submit evidence and call witnesses to support their case or character. The body hearing the case also has the right to call independent witnesses should they consider this appropriate. In the case of an appeal, new witnesses may be called upon or fresh evidence submitted at any point in the chain of the appeal.
- D7. Prior to the hearing, copies of all pertinent documents and signed statement should be supplied to every member of the appointed appeals body.
- D8. The hearing shall proceed as follows:
 - a. Members of the appeals body to meet in closed session in order to review the main points of the case placed before them, familiarise themselves with the witnesses who are to appear and to determine the order in which these witnesses are to be called.
 - b. Witnesses will be called, usually individually, before the appeals body. They should be informed that they might be subject to cross-examination and recall members to note down any points considered to be significant.
 - c. A short period to be allowed between witnesses in order to allow members to interchange notes and views.
 - d. After all witnesses have been heard, any written statements which have been submitted should be read and accepted as evidence.
 - e. All evidence given to be reviewed. In order to resolve anomalies it may be necessary at this point to recall witnesses for further cross-examination.
 - f. A verdict reached, preferably by consensus. If consensus cannot be achieved, the verdict to be decided on a majority vote. The major factors which decided the final decision to be agreed and recorded. This record not to be published, but to be held on file together with all the presented written evidence pending further appeal.
 - g. All relevant antecedents and precedents should then be considered.
 - h. The members of the appeals body should then agree the exact wording of the verdict to be delivered.
 - i. Announce the verdict to the complainant and the alleged offender, separately, by reading the statement agreed. Inform the appropriate party of their rights to appeal to a

higher authority.

- j. Within 14 days after the hearing, confirm verdict in writing, sent by Recorded Delivery, to both the complainant and the alleged offender. Inform the appropriate parties of their rights to appeal to a higher authority.
- D9. Both the complainant and the alleged offenders shall have the right to appeal. However, only one appeal may be made to the governing body and their decision shall be final. Notice of the appeal to be made in writing within 21 days after the appeal hearing, unless a further appeal is made to the next higher level of administration.
- D10. If the original verdict involved a term of suspension and the appeal subsequently fails, the term of suspension will commence 21 days after the appeal hearing, unless a further appeal is made to the next higher level of administration.
- D11. Appeals against any decision reached by a disciplinary body must not be heard before any member of that body. Appeals can only be considered by the next level of administration up from the level at which the original decision was made:
e.g. Decision at Team level – appeal to County Association
Decision at County Association level – appeal to E.S.M.B.A.