



APPEALS PROCESS - GUIDANCE FOR PARTICIPANTS

Appeals are used to challenge a decision, and must be heard by an appeal board who are independent from those who made the original decision. In general, appeals are a review of the procedures and decision-making, ensuring the right processes were followed and that the original decision-makers were sound in their judgement. Appeals are not a re-hearing, and an appeal won't be successful just because an appeal board might have come to a different decision.

Before deciding whether to submit an appeal it is worth understanding the scope and limits of an appeal. This document should help, and if any further information is needed please contact integrity@basketballengland.co.uk.

This document is produced for guidance and support, full details of the Appeals Procedure can be found in the [Basketball England Disciplinary Code](#). If there is any discrepancy, the Disciplinary Code takes precedence.

CIRCUMSTANCES WHEN AN APPEAL CAN BE SUBMITTED

Under the provisions of the Basketball England Disciplinary Code, an appeal can be submitted following a decision made by any of the following:

- A Disciplinary Commission
- Basketball England Competitions Committee
- A Safeguarding Panel
- An Affiliated League or Competition, or other relevant organisation
- Any other decision that is considered appropriate by Basketball England, unless the relevant rules properly declare there is no right to appeal.

GROUND OF APPEAL

When submitting an appeal, the 'grounds of appeal' should be stated, this means the reason for the appeal, which are limited to the following:

- Failed to give the appellant a fair hearing
- Came to a decision that no reasonable body should have reached
- Failed to comply with the necessary rules and regulations pursuant to the charge
- Imposed an award or sanction that was excessive

Basketball England also has the right to appeal on the ground that the sanction imposed was so unduly lenient as to be unreasonable.

It is important to understand what each of the grounds mean so a decision can be made about whether it will be worth appealing on that ground. An appeal can be based on more than one of the grounds if appropriate.

Failed to give the appellant a fair hearing relates to the way that the hearing was conducted, and could include anything that seems unfair with the process and conduct of the hearing. For example, it could be unfair not to disclose the evidence for the charge to the person charged ahead of the hearing, because they would not have a chance to enter a defence.

Came to a decision that no reasonable body should have reached means that the decision was 'unreasonable'. This is a high threshold and is based on a legal principle called



the Wednesbury test. There are two strands, first is ensuring that the correct information was considered when making the decision, and second is determining if the outcome was reasonable – this simply means there is sound justification provided for the decision that has been made. Just because a different outcome could have been reached on the same evidence doesn't mean the original decision was unreasonable.

Failed to comply with the necessary rules and regulations. This could be applicable if the process and hearing hasn't been conducted in line with the relevant rules. It is worth remembering that there is a provision in the Disciplinary Code (7.3) stating that a just and fair outcome takes priority over procedural and technical irregularities, so to successfully appeal on this ground it may be necessary to demonstrate the impact of any failure to comply with rules and regulations, rather than simply highlighting them.

Imposed an award or sanction that is excessive simply means the sanction is higher than what would be considered reasonable and proportionate for the offence that has been committed. It is worth referring to the sanction guidelines to understand the range of the sanction that would usually be considered for the relevant offence.

THE APPEAL PROCESS – INCLUDING TIMINGS AND COSTS

An appellant (the person submitting the appeal) has 14 days from the date they are notified of the original decision to submit their 'notice of appeal'. The notice of appeal has to include the following in order to be accepted:

- The precise details being appealed against
- The applicable ground(s) of appeal
- The precise basis of the appeal
- An application to submit new evidence (if applicable)
- The appeal fee

If an application to submit new evidence is made, it will usually only be granted where the appeal board are satisfied there is an exceptional reason that the evidence had not been made available for the original hearing.

For an appeal against a decision of a safeguarding panel the fee is £100, for any other appeal the fee is £250. The relevant fee must be paid within the same 14 day time limit. The appeal board will decide about any refund or partial refund of the appeal fee. It is usual practice for the appeal fee to be retained if the appeal is dismissed.

Once the notice of appeal (including all the requirements listed above) has been submitted, the respondent (the body/organisation who made the initial decision) will provide a response. This will include all the information that was considered by the original panel, and any response to the notice of appeal submitted. The appeal will then proceed as a review of all the papers submitted, however either/both parties are entitled to attend in person (via an online meeting platform such as Teams or Zoom) to support their written submissions.

WHAT HAPPENS AT A BOARD OF APPEAL

If the appeal takes place on the written submissions only, the appeal board will meet online and discuss the submissions made, before coming to a decision that will be notified to both parties.



The appeal board will be assisted by an individual appointed as secretary. This person makes the arrangements for the appeal and will be the point of contact for all parties. They will ensure the correct process is followed and will not have any say in the decision making.

If either or both parties are present at the appeal, the following process will usually apply (the appeal board can amend this process if they need to):

- The appeal board Chair will make introductions, outlining the matter being appealed and may ask the parties to briefly introduce themselves.
- The appellant (person who submitted the appeal) outlines the basis of their appeal, highlighting areas from the written submissions that they think are most relevant.
- The respondent (person representing the organisation/body that made the original decision) will give a response, detailing how and why the decision was reached.
- The appeal board members may ask questions of either party. This may happen throughout the above two points, or they may prefer to ask questions after hearing from both parties. The appellant and respondent cannot ask each other questions.
- After questions have been answered, the respondent sums up their submissions.
- The appellant has the final word, summing up their submissions.
- The appeal board will then deliberate in private. They may recall the parties in person to announce the decision, or they may prefer to notify the parties in writing.

The appeal board have several options when making a decision, including:

- Dismissing the appeal
- Upholding, or partially upholding, the appeal
- Imposing any sanction or order that was open to the original panel
- Ordering a rehearing of the original case
- Imposing costs on either or both parties
- Any other order deemed appropriate

There is no further right of appeal after this, other than challenging the quantum of costs.

FURTHER STEPS

If you remain dissatisfied with the original decision-making process and/or the appeals process, Basketball England have a complaints procedure that can be utilised. Please be aware that this is not a means to further challenge the outcome – it will be a review of the process to identify any shortcomings, with the aim of recognising and acknowledging where improvements can be made in future. Complaints can be submitted through the Basketball England website: [Make a Complaint | Basketball England](#).

It is the intention of Basketball England to introduce a disciplinary review group for the 2022/23 season, who will look at the processes and decisions made. This is important for ongoing progress and development, as well as accountability. To provide feedback to this group about your experience, or to provide any suggestions to improve the service provided by Basketball England, please email integrity@basketballengland.co.uk