

# APPENDIX 22 BUCS MISCONDUCT APPEALS POLICY AND PROCEDURE

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## Introduction

This document outlines the procedures which individuals, BUCS or a Member Institution/Playing Entity should follow when raising an appeal against a decision that the BUCS Executive has made regarding whether to investigate a misconduct complaint or whether to raise a charge of misconduct, or the decisions of a Disciplinary Panel made at a Hearing.

## Scope

The following can be appealed under this policy:

- A decision made by the BUCS Executive not to investigate a misconduct complaint, or not to raise a charge of misconduct following an investigation.
- A decision made by a Disciplinary Panel at a Hearing making a finding of misconduct and/or imposing any sanction or remedial action in respect of such a finding.

## Purpose

BUCS aims to ensure that organisations and individuals who engage with our activities receive fair and consistent consideration and where this is not achieved, provide a mechanism to rectify any errors that may occur and improve BUCS's policies, procedures, or systems.

This document outlines the grounds for which an appeal can be submitted and the procedure that must be followed when raising an appeal.

## Grounds for submitting an Appeal

Those wishing to submit an appeal to BUCS, must be able to show valid grounds for an appeal with appropriate evidence and/or argument. The appellant shall bear the burden of showing valid grounds for appeal, which shall be judged on the balance of probabilities.

In the case of a decision made by the BUCS Executive not to investigate a complaint, or not to raise a charge of misconduct, a complainant may appeal by showing that BUCS has failed to follow due process or misinterpreted its own regulations.

In the case of a decision by a Disciplinary Panel at a Hearing, BUCS or a Member Institution/Playing Entity may appeal by showing that:

- the Panel came to a decision to which no reasonable Panel could have come;
- the Panel misinterpreted BUCS general or sports specific regulations in reaching its decision;
- the Panel failed to act fairly in terms of the procedure followed;
- the Panel imposed a sanction that was so manifestly excessive, or so unduly lenient, as to be unreasonable;

- the appellant has significant new evidence that could have affected the outcome and which was not reasonably available at the time of the Hearing.

Permission to appeal is required. All appeal submissions will be reviewed and an independent member of the BUCS Judiciary will decide if valid grounds for an appeal have or have not been met in line with this policy.

### **Submitting an Appeal**

To submit an appeal the appellant must complete the online form found [here](#) within five working days of receiving the formal written communication of the decision made by the BUCS Executive or the Disciplinary Panel.

The appeal will capture the following information:

- Your full name
- Your contact details (e.g. telephone, email etc.)
- Member Institution/Playing Entity (if appropriate)
- What the appeal is in relation to
- Grounds for submitting the appeal
- Evidence in support of valid grounds for the appeal including further information that will aid BUCS in their understanding of the appeal.

### **Appeal Review**

BUCS will acknowledge receipt of the appeal within two working days. Following acknowledgement of the appeal receipt, an independent member of the BUCS Judiciary will review the appeal submission and determine if valid grounds for an appeal have been met.

In circumstances where an appeal submission is deemed not to have demonstrated a valid ground of appeal in line with this policy, BUCS will notify the appellant of this within five working days of acknowledging receipt of the appeal and provide reasons for the decision. This decision is final and there shall be no route for escalation following this.

If the appeal demonstrates a valid ground of appeal, the appellant will be notified within five working days from acknowledging receipt of the appeal, and the case will be passed to the BUCS Misconduct Appeal Panel.

### **The Misconduct Appeal Panel**

A Misconduct Appeal Panel shall be convened to hear the appeal.

The Misconduct Appeal Panel shall consist of three persons:

- A Panel Chair, who shall be an Independent Judicial Panel Chair or the Independent Head of Judiciary
- Two Panel Members, who shall be students or sabbatical officers of BUCS Member Institutions

A member of the BUCS Executive shall be present to support with minutes and procedural guidance. They will attend in a non-voting capacity.

BUCS shall ensure that members of a Misconduct Appeal Panel are independent to the case being heard and were not involved in the initial decision making process or Disciplinary Hearing.

Appeals shall involve a review of the decision making by BUCS or a Disciplinary Panel based on the information available to them at the time and will not involve a rehearing.

However, the Misconduct Appeal Panel may invite individuals involved in the initial decision making or disciplinary hearing to provide additional evidence in writing or additional information relevant to the appeal.

### **Appeals Process**

The Misconduct Appeals Panel aims to hear all appeals within 20 working days from the confirmation that valid grounds for appeal had been met. However, to allow thorough investigations and fair and consistent approaches to appeals, in some circumstances this may not be achievable. Should the Misconduct Appeals Panel require longer than 20 working days to convene a hearing, BUCS will communicate this to the appellant at the earliest convenience.

During the Appeal Hearing the appellant shall present the grounds on which they are appealing the decision issued by BUCS or a Disciplinary Panel by reference to the information available to BUCS and/or the Disciplinary Panel at the time and any additional evidence the Panel has permitted. Appeal Hearings will not involve live witness evidence unless there are exceptional circumstances and the Panel requests this.

Where appropriate, individuals involved in the initial decision making will be invited to present their response to the appeal. The Misconduct Appeals Panel will retire to consider its decision, before returning to announce its decision. The formal outcome response issued by the Misconduct Appeals Panel will be communicated to the appellant by email and will include (but is not limited to) the following information:

- Findings from the hearing
- The conclusion reached by the Misconduct Appeals Panel. The conclusion will either be:
  - Appeal partly or fully upheld with acknowledgement of where the grounds for appeal were deemed to be substantiated, and suitable remedial actions. Remedial actions may include but are not limited to: reverting the issue back to the point in the process where the valid grounds for appeal were proven, remitting a case to a new Disciplinary Panel Hearing, overturning or amending sanctions issued by a Disciplinary Panel.
  - Appeal not upheld with acknowledgement of where the grounds for appeal were not deemed to be substantiated, and an explanation of why the original decision will remain.
- Information aimed at aiding the understanding of how the conclusion was reached.

### **Review**

The BUCS Misconduct Appeals Policy and Procedure will be reviewed annually with the next review in August 2027 unless a change in policy, governance or other circumstance requires a review prior to this date. The current copy of the BUCS Misconduct Appeals Policy and Procedure will be made publicly available on BUCS' website.