

South Essex District Cricket Board - Guidelines on the Conduct of Hearings and Appeals

Natural Justice

The rules of natural justice are the minimum standards of fair decision-making imposed on persons or bodies acting in a judicial capacity. The standard of proof shall be on the balance of probabilities rather than the criminal standard of beyond reasonable doubt. The rules of natural justice consist of the following elements:

- (i) The right to a fair hearing;
- (ii) The rule against bias.

The Right to a Fair Hearing

The right to a fair hearing requires that an individual shall not be penalised by a decision affecting his or her rights or legitimate expectations unless she/he has been given prior notice of the case against him and a fair opportunity to answer the case against him and to produce his own case.

Prior Notice of the Hearing

The reported person should be given adequate notice of the allegations against him/her and of the procedure to be followed so that he/she may be in a position to make representations on his/her own behalf, to appear at the hearing, to prepare his/her own case and to answer the allegations. The date, time and location of the hearing must also be properly notified to the reported person.

Opportunity to be Heard

The reported person has a right to attend the hearing and be allowed to present his case. If the disciplinary panel is satisfied that the reported person has been given adequate notice of the alleged breach and of the time and location of the hearing, they may allow the hearing to proceed if the reported person fails to attend. However, it may not be justifiable to proceed if the time or location fixed for the hearing is such that the person cannot reasonably be expected to attend.

The Rule Against Bias

A person adjudicating on a dispute must have no pecuniary or proprietary interest in the outcome of the proceedings and not reasonably be suspected, or show a real likelihood, of bias. The rule against bias also provides that a party should not normally be judged by his accuser.

Conduct of Hearing

The accused person/club should be notified of the offence(s) alleged against him/her/them and the date, time and location of the hearing. The notification should be in writing, including all relevant documentation and give at least seven days' prior notice.

The accused person is entitled to be supported by a colleague. There is no right to legal representation but the disciplinary committee would normally permit the accused person to be legally represented. However, the attendance or otherwise of the legal representative should not be used as a 'delaying tactic'. In the case of a minor it is recommended that he/she should be supported by the County Board's Child Welfare Officer or other appropriate adult.

If the complaint has been made by one or both umpires, they should be available to give evidence at the hearing.

Witnesses should not be present in the room at the outset but should be called in individually to give their evidence at the appropriate time. (Ideally, a separate waiting area should be provided for each party). It is recommended that in the case of a minor attending to give evidence on behalf of either party he should be supported by an appropriate adult.

The chairman should open the hearing and introduce all the parties. He should then briefly outline the procedure to be followed, specifying the standard of proof to be adopted. The charges against the accused person/club should be specified.

Witnesses should be called individually and asked to give their evidence. Members of the disciplinary committee may question the witnesses. The accused person (or representative)/club may question the witnesses. The accused person/club should be asked to give his/her/their account and may question the witnesses.

The accused person/club should be asked to give his/their account and may call witnesses. Members of the disciplinary panel may question the witnesses.

Once the witnesses have given their evidence and answered any questions, they should either leave the room or, with the permission of the Chairman, they may remain but should take no further part in the hearing.

Members of the disciplinary panel may question the accused person/club.

The disciplinary panel should deliberate in private. Their decision should be by majority vote; where necessary the Chairman of the disciplinary panel shall have a casting vote.

The accused person/club should be called back in and the chairman of the disciplinary panel should announce the sentence. The accused person/club should be made aware of the appeals process, particularly the time within which an appeal should be lodged.

The decision of the disciplinary panel and if appropriate the penalty should be communicated to the accused person/club in writing within 21 days of the hearing.

Appeals Process

Notice of any appeal against the decision of the disciplinary panel, whether as to verdict or sentence, shall be given to the Hon. Chairman or Hon. Secretary of the SEDCB within seven days of the decision of the disciplinary panel (together with the required deposit). The notice of the appeal should record the decision or part of the decision against which the appeal is made and the grounds and basis of the appeal.

Any penalty imposed by the disciplinary panel should not take effect until the appeal has been heard.

The appeal must be heard by a different panel from those who sat on the original disciplinary panel. The appeals panel must consist of not less than three people, none of whom should be connected with the individual or the club or their opponents, or a club which might directly benefit from any disciplinary action, for example by the deduction of points. The appeals panel shall agree upon a Chairman.

An appeal against the verdict should take the form of a complete re-hearing. The accused person or club shall have the same rights of attendance and representation and the ability to call witnesses as they did at the first hearing.

Decisions of the appeals panel shall be by majority vote with the Chairman having a casting vote where necessary. The decision of the appeals panel is final and binding.

The appeals panel can confirm the disciplinary panel's decision, vary it or reverse it. It has the power to increase the penalty and award costs.

The decision of the appeals panel, and if appropriate the penalty, should be communicated to the accused person/club, in writing, within 21 days of the date of the appeal hearing.