



**Great Britain Wheelchair Basketball Association**

## **DISCIPLINARY CODE**

This document was produced in consultation with key representatives from the Executive Committee of the Great Britain Wheelchair Basketball Association (GBWBA), and was derived from the Disciplinary Codes published by the British Weightlifter's Association.

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**CHAPTER 1**  
**Overriding Objectives**

1. This Code has the overriding objective of enabling the Disciplinary Committee to deal with cases justly and efficiently.
2. Dealing with a case justly includes so far as practical:
  - 2.1 Ensuring that the parties are on an equal footing;
  - 2.2 Saving expense;
  - 2.3 Dealing with cases in a way that it proportionate
    - 2.3.1 To the importance of the case both to Wheelchair Basketball and the world in general;
    - 2.3.2 To the complexity of the issues;
    - 2.3.3 To the financial resources of each party;
  - 2.4 Ensuring it is dealt with expeditiously and fairly; and
  - 2.5 Allotting to it an appropriate share of resources while taking into account the need to allocate resources to other matters.
3. The Disciplinary Committee must seek to give effect to the overriding objectives when it exercises any powers given to it under this Code or interprets any paragraph.
4. The parties before a Disciplinary Committee are required to help the Committee to further the overriding objectives.

## CHAPTER 2

### Definitions

5. In this Code the following words and phrases shall (unless the context otherwise requires) have the following meanings:

"Chairman"	Shall mean the chairman of the appropriate Disciplinary Committee.
"Secretary"	Shall mean the Secretary appointed by GBWBA under paragraph 9.
"Defendant"	Shall mean a person against whom an allegation is made which is acted upon by the Secretary.
"Disciplinary Committee"	Shall mean any Disciplinary Committee established under paragraph 16.
"Disciplinary Panel"	Shall mean the Disciplinary Panel established under paragraph 8.
"Independent"	Shall have the meaning given it by paragraph 6.
"GBWBA"	Great Britain Wheelchair Basketball Association.
"Paragraph"	Shall mean a paragraph of the GBWBA Disciplinary Code.
"Prosecutor"	Shall mean a person appointed to prosecute a breach of the Code in accordance with paragraph 13.
"Code"	Shall mean this document.
"Rules"	Shall mean the rules for the time being in force of GBWBA and shall include general and special bye-laws and any other regulation howsoever named for the regulation of the conduct of members of GBWBA.

6. "Independent" shall mean:

- 6.1 not being related to the person concerned or to any person whose position in the competition might be affected as a result of any decision of the Disciplinary Committee or the disciplinary process;
- 6.2 not being a member of the club or team of the person concerned or of any club or team whose position in the competition might be affected as a result of any decision of the Disciplinary Committee or the disciplinary process;
- 6.3 not having taken part in the competition at which the subject matter of the disciplinary process occurred and whether as a competitor or as an official;
- 6.4 not having been involved with the disciplinary process at any earlier stage;
- 6.5 not being the doctor or medical adviser to the person or any other person whose position might be affected as a result of any decision taken;
- 6.6 not being a person who by reason of the facts or circumstances a reasonable minded person might consider to show bias.

7. In this Code unless the context otherwise requires the masculine shall include the feminine and vice versa and the singular the plural and vice versa.

## **CHAPTER 3**

### **Formation of Disciplinary Panel and Appointment of Secretary**

8. GBWBA's Chief Executive shall appoint and maintain a permanent Disciplinary Panel.
9. GBWBA's Chief Executive shall appoint a Secretary to all its Disciplinary Committees. The Secretary shall hold no other office in GBWBA.
10. GBWBA's Chief Executive shall nominate sufficient people of standing to the Disciplinary Panel for which it is responsible to enable the Secretary at all times to be able to appoint a Disciplinary Committee of at least three people all of whom shall be independent as defined in Paragraph 6.
11. If the Secretary to the GBWBA Disciplinary Committee cannot make an appointment of at least three independent people from the GBWBA Disciplinary Panel, he may appoint not more than two people from outside the sport who would meet the definition of independent in Paragraph 6.

## **CHAPTER 4**

### **Initial Work on Allegation**

12. If it shall appear to GBWBA that there is evidence of an offence against the Rules, they shall make such further enquiries (if any) as they think fit to ascertain the position. In making such enquiries they shall be under no obligation to consult the person who may have broken the Rules although they may do so if they wish. They may delegate such enquiries to anyone who they think is able to carry them out. Such person shall report back to GBWBA the result of his investigations.
13. If after making such enquiries, GBWBA consider that there is evidence of a breach of the Rules, they shall forward to the Secretary of the Disciplinary Committee details of the allegations and the name and address of the person(s) alleged to have broken the Rules. They may appoint someone (who need not be a member of GBWBA) to prosecute. If they do, they must notify the Secretary of the name and address of the prosecutor.

## CHAPTER 5

### Duties of Clerk on Receipt of Allegation

14. On receipt of an allegation, the Secretary shall verify that the allegation, if proven, would arguably constitute a breach of at least one of the Rules.
15. If the Secretary is not satisfied that the allegation, if proven, would arguably constitute a breach of at least one of the Rules, he may refuse to take any further action on the allegation. He shall notify the party making the allegation or the Prosecutor of his decision.
16. If the Secretary is satisfied that the allegation, if proved, would arguably constitute a breach of at least one of the Rules, he shall:
  - 16.1 Notify the Defendant in writing of the allegation; and
  - 16.2 Appoint a Disciplinary Committee of at least three independent people from the Disciplinary Panel to hear the allegation. The Disciplinary Committee shall appoint one of their number as Chairman.
17. In carrying out his duties under paragraph 16.1, the Secretary shall supply the Defendant with a full copy of all material submitted to the Secretary in support of the allegation.
18. The Secretary shall ask the Defendant whether the allegation is admitted and whether the Defendant wishes the allegation to be dealt with on written submissions or by a hearing. He shall also specify a date (being not less than 15 days after the date when the Secretary sends the written notification under paragraph 16.1 to the Defendant) by which the Defendant should reply.
19. If the Defendant does not reply within the period specified in paragraph 18, the Disciplinary Committee shall proceed on the basis that the Defendant admits the allegations and does not wish for a hearing.
20. A Disciplinary Committee appointed under Paragraph 16.2 may be asked to decide more than one case.

## CHAPTER 6

### Procedure on Written Submissions

21. If the Defendant indicates that he wishes the allegations to be disposed of by written submissions (or the Disciplinary Committee proceeds on that basis under Paragraph 19), the Secretary shall;
  - 21.1 Inform the Defendant of the date by which the Secretary has to have received the Defendant's written submissions being not less than 14 days after notice to that effect in accordance with this paragraph has been given to the Defendant; and
  - 21.2 Inform the Defendant of any previous findings of a Disciplinary Committee which, in the event of this Committee finding the allegation proved, will be made known to the Committee on the question of penalty.
22. When he receives the Defendant's written submissions, the Secretary shall send a copy to the Prosecutor (or if there is none to the Chief Executive of GBWBA). If the Defendant does not reply within the time specified in paragraph 21.1 the Secretary shall notify the Prosecutor (or if there is none the Chief Executive of GBWBA) and shall then call a meeting of the Disciplinary Committee and proceed in accordance with paragraph 33.
23. If the Defendant wishes to comment on any previous findings which may be disclosed to the Disciplinary Committee in the event of the Defendant being found guilty of any of the charges, he may do so. Such comments will be sent to the Secretary in a sealed envelope bearing on the outside the name of the Defendant and the fact that it contains comments on previous findings. The envelope shall not be opened unless the Disciplinary Committee shall find the Defendant guilty in which case the Disciplinary Committee shall consider what the Defendant says.
24. If the Defendant shall submit material to which paragraph 23 applies otherwise than in a sealed envelope, the Secretary shall on receipt seal such material in an envelope and the envelope shall be deemed to comply with paragraph 23.
25. If the Defendant's written submissions raise a new issue which the Prosecutor (or if there is none the GBWBA Chief Executive) has not previously dealt with and now wishes to deal with, the Prosecutor (or if there is none the GBWBA Chief Executive) may respond on that issue alone within 14 days of the date upon which the Secretary shall send to the Prosecutor (or if there is none the GBWBA Chief Executive) a copy of the Defendant's submissions.
26. When the Secretary receives such additional submissions he will send a copy to the Defendant.
27. If the Defendant wishes to respond to the submission, he may do so within 14 days of receipt of the final submission of the Prosecutor and limited to matters which he has not previously addressed.
28. If such a submission is received, the Secretary will send a copy to the Prosecutor (or if there is none to the body making the allegation).
29. Unless the Chairman gives special permission in exceptional circumstances, there will be no further written submissions.
30. Written submissions may include written statements from witnesses, reports from experts or any other material which is relevant to the matters in issue.
31. If a party shall require longer for any stage of the process set out in this Chapter than is permitted he may apply to the Chairman of the Disciplinary Committee for an extension of time. Such application should be made before the time allowed in this Chapter has expired. The Chairman may extend the time for such period as he thinks reasonable.
32. Written submissions should (so far as possible) be in a form that is capable of being photocopied.
33. When all written submissions have been received, the Secretary shall call a meeting of the Disciplinary Committee. The Disciplinary Committee shall consider the written submissions. They may use their general knowledge of the sport of Wheelchair Basketball, will need information and specialised information.
34. The Disciplinary Committee shall on the basis of the written submissions decide whether the allegations have been made out against the Defendant (unless the rules alleged to have been broken specify some other burden of proof) on the balance of probabilities. Such deliberations shall be in private and only the members of the Disciplinary Committee shall take part. At the request of the Disciplinary Committee, the Secretary or some person appointed by the Secretary may be present solely for the purposes of recording the reasons for the decision.
35. In making their decision, the Disciplinary Committee may use the powers given them in Chapter 9.

36. The Disciplinary Committee shall decide by a majority.
37. The Disciplinary Committee shall give reasons for their decision.
38. If the Disciplinary Committee find the allegations proven,
  - 38.1 they shall then be told of any previous findings of guilt by a Disciplinary Committee against the Defendant and any comments made by the Defendant in respect of those findings;
  - 38.2 they shall then consider any material submitted by the Defendant which goes in mitigation of any penalty;
  - 38.3 they shall in respect of any offence for which there is a mandatory penalty in the Rules, impose such penalty;
  - 38.4 they shall in respect of any other offence impose such penalty from those provided in the Rules as they consider appropriate.
39. The Disciplinary Committee shall inform the Secretary of their decision. The Secretary will write and inform the Defendant and the Prosecutor the decision of the Disciplinary Committee and shall send a copy of the reasons as soon as they have been signed by the members of the Committee who approve them. If the decision was by a majority, then this shall be notified to the parties and any dissenting reasons shall also be sent to the parties when signed by the dissenting member. The Secretary will also keep a record of the decisions.

**CHAPTER 7**  
**Preparation for Hearings**

40. If the Defendant asks for a hearing the provisions of this Chapter shall apply.
41. When the Secretary receives the request for a hearing he will inform the Chairman.
42. The Chairman will consider whether it will help in meeting the overriding objective to have a preliminary review with the Prosecutor and the Defendant present. If he does, the Secretary will fix a convenient time and place for the preliminary review or may arrange one by telephone on a conference call. If the Chairman does not decide to have a preliminary review, either the Prosecutor or the Defendant may ask for one. The Chairman will then reconsider his decision and may call a preliminary review.
43. In place of a preliminary review, in simple cases the Chairman may give directions about any matter that could be dealt with on a preliminary review. If any party objects to these directions they must inform the Secretary in writing. This will be taken as a request for a preliminary review.
44. The purpose of a preliminary review is not to decide whether the allegations are proved but to assist the Disciplinary Committee and the parties in organising the hearing itself.
45. The preliminary review may:
  - 45.1 Decide whether in view of Paragraph 52 the parties are to be allowed to be legally represented;
  - 45.2 Require the Defendant to state what his defence is;
  - 45.3 Require either party to give more information about their case;
  - 45.4 Identify the issues that are in dispute and those that are agreed;
  - 45.5 Decide the order in which the issues are to be dealt with;
  - 45.6 Consider what technical evidence is needed and how it is to be obtained;
  - 45.7 Consider what information either side may reasonably need which the other has and to make arrangements for it to be made available;
  - 45.8 Consider what information either side may reasonably need which the other has and to make arrangements for it to be made available;
  - 45.9 Consider the number of witnesses that may be needed the nature of their evidence and how their evidence may be given;
  - 45.10 Consider whether the names of witnesses need to be exchanged before the hearing and whether the statements of those witnesses should be exchanged and if so at what point;
  - 45.11 Agree that the Office will write to a potential witness asking them;
    - 45.11.1 To attend the hearing; or
    - 45.11.2 To answer such questions as it is agreed the chairman should put to them; or
    - 45.11.3 To give a written account of the events.
  - 45.12 Establish a timetable leading up to the hearing;
  - 45.13 Fix a date, time and place for the hearing (or any other significant event in the preparation or disposal of the case);
  - 45.14 Make any arrangements about the conduct of the hearing that are consistent with Chapter 8 including the order of procedure, the presence of witnesses, preparation and submission of documents (including reports of experts) and any other matter of procedure that could conveniently be decided before the hearing;
  - 45.15 Do anything else which the Chairman considers will assist the hearing of the allegation itself.
46. If a party does not comply with a decision of the Chairman at a preliminary review or with directions given under paragraphs 43 or 47, at the hearing the Disciplinary Committee may draw such conclusions from that as they think fit.
47. Unless the Chairman directs otherwise, if in the preparation of his case, a party wants some direction from the Chairman about the conduct of the case, he may apply for it in writing through the Secretary. The Secretary will send a copy of the request to the other party stating the time allowed for the other party to reply. When the other party replies (or at the end of the period allowed) the Secretary will refer the request to the Chairman who will decide it. The Chairman may decide the request on the basis of the paper submissions or may call a preliminary hearing or a further preliminary hearing under paragraph 42.
48. If no date for the hearing was fixed at a preliminary review, the Chairman (after consultation with the parties) will fix a date time and place for the hearing.

## CHAPTER 8

### The Hearing

49. The Disciplinary Committee in conducting the hearing must apply the following principles:
- 49.1 Each side must have a fair opportunity to put their own case and to challenge that of the other side;
  - 49.2 Each side must be allowed to place before the Committee any relevant evidence that they wish to have considered. The Committee may prevent the introduction of defamatory or irrelevant material or unnecessarily long or repetitious material;
  - 49.3 Where a witness gives evidence orally, the other side must be allowed to test that evidence. The Committee should restrain any cross-examination that is not relevant to the issues or which is designed to humiliate or distress the witness;
  - 49.4 The overriding objectives of this Code should be met.
50. Subject to paragraph 49 and any directions given under Paragraphs 43 or 47 or at the preliminary review, the Disciplinary Committee may adopt any method of proceeding at a hearing that it considers to be fair.
51. Unless the Chairman agrees otherwise the only people who are allowed at the hearing are:
- 51.1 Members of the Disciplinary Committee;
  - 51.2 The Secretary or anyone discharging the functions of the Secretary at that hearing;
  - 51.3 Anyone appointed by the Secretary to take a note of the proceedings;
  - 51.4 The Prosecutor or his representative (or if none has been appointed, a representative of GBWBA) and subject to Paragraph 50 his lawyer;
  - 51.5 The Defendant and a friend and (subject to Paragraph 50) his lawyer;
  - 51.6 Any witnesses who are not asked to remain outside the hearing.
52. Any party may:
- 52.1 At the preliminary review; or
  - 52.2 Not less than seven days before the hearing and in accordance with paragraph 46;
- apply to the Chairman to be allowed to be legally represented. Subject to the overriding objectives (and in particular those on cost and proportionality) such a request from a Defendant shall normally be granted. In the case of the Prosecutor, the Chairman shall decide whether in his absolute discretion he thinks it appropriate. If leave is given to one party, it shall be given as of right to all other parties.
53. The Disciplinary Committee shall on the basis of the evidence and submissions made to it decide whether the allegations have been made out against the Defendant (unless the rules alleged to have been broken specify some other burden of proof) on the balance of probabilities. Such deliberations shall be in private and only the members of the Disciplinary Committee shall normally take part. At the request of the Disciplinary Committee, the Secretary or some person appointed by the Secretary may be present solely for the purposes of recording the reasons for the decision.
54. In making their decision, the Disciplinary Committee may use the powers given them in Chapter 9.
55. The Disciplinary Committee shall decide by a majority.
56. The Disciplinary Committee shall give reasons for their decision.
57. If the Disciplinary Committee find the allegations proven, they shall in respect of any offence for which there is a mandatory penalty in the Rules, impose such penalty and in respect of any other offence impose such penalty from those provided in the Rules as they consider appropriate. Where the Disciplinary Committee have discretion on the penalty they shall receive such relevant evidence as the Defendant may wish to place before them in relation to the exercise of their discretion on penalty. In making such submissions, the Defendant may not call into question the

finding that has just been made against him.

58. The Disciplinary Committee shall inform the Secretary of their decision. The Secretary will write and inform the Defendant and the Prosecutor the decision of the Disciplinary Committee and shall send a copy of the reasons as soon as they have been signed by the members of the Committee who approved them. If the decision was by a majority, that shall be notified to the parties and any dissenting reasons shall also be sent to the parties when signed by the dissenting member. The Secretary will also keep a record of the decisions.

## CHAPTER 9

### Matters Incidental to a Hearing

59. Any party may place before the Disciplinary Committee evidence in any form that is relevant to the matters in issue. The Disciplinary Committee may decide how much weight (if any) may be given to such evidence.
60. The Disciplinary Committee may draw such inference as they consider justified from any absence of evidence which they consider material but shall invite the party whom they consider should have produced such evidence to explain its absence.
61. Where a party requires to prove some fact that may be attested to by a certificate from the appropriate proper authority, the certificate of such authority shall be taken to be true until the contrary is proven on the balance of probabilities.
62. The Disciplinary Committee may draw such inference as they consider justified from any failure of any party to abide by the decisions of the preliminary review but they shall invite that party to explain the failure.
63. Except as provided in paragraph 64, the costs of any party at a hearing shall be borne by himself (including the costs of any lawyer engaged by that party, any witnesses he calls or any expert's report he commissions).
64. Paragraph 63 shall not apply where:
  - 64.1 At a preliminary review the parties agreed that costs (whether generally or of a particular matter) should be dealt with in a particular way; or
  - 64.2 The Disciplinary Committee at the end of the hearing is satisfied that one party has deliberately conducted himself in a manner intended to increase the costs of the other party and with no material advantage to himself in which case the Disciplinary Committee may order the party conducting himself in that way to make such contribution to the costs of the other as the Committee in its absolute discretion thinks appropriate.
65. Members of the Disciplinary Committee may rely on their knowledge of the sports of Wheelchair Basketball and Running Basketball in deciding the allegation referred to them.
66. No objection shall be taken by any party to the fact that the Secretary, the Prosecutor or any member of the Disciplinary Committee is a lawyer.

## CHAPTER 10

### Appeals from GBWBA Disciplinary Committee

67. Any party who is aggrieved by the decision of the GBWBA Disciplinary Committee may appeal to an independent arbitrator. He shall give notice in writing of his desire to appeal to the Secretary to the GBWBA Disciplinary Committee within 14 days of receiving the reasoned decision appealed against. A cheque in favour of GBWBA for £250 shall accompany the notice.
68. Within 21 days of receipt of such an appeal, the Secretary shall contact the appellant or his representative and both parties shall use their best endeavours to agree upon an arbitrator who will be independent within the meaning of paragraph 6. If at the end of 21 days (or such longer period as the Secretary and the appellant shall agree in writing) they shall not have agreed on an arbitrator, the appointment of the arbitrator who will be independent within the meaning of paragraph 6 shall be made by the Chairman for the time being of the British Association for Sport and Law.
69. The arbitration shall be subject to English law and shall exclude the right of appeal to the High Court of England under sections 1 and 2 of the Arbitration Act 1979 and the parties shall before the appointment of the arbitrator is made agree in writing to that effect.
70. The Arbitrator in conducting the hearing must apply the following principles:
- 70.1 Each side must have a fair opportunity to put their own case and to challenge that of the other side;
  - 70.2 Each side must be allowed to place before the Arbitrator any evidence that they consider relevant and wish to have considered. The Arbitrator may prevent the introduction of defamatory or irrelevant material or unnecessarily long or repetitious material;
  - 70.3 Where a witness gives evidence orally, the other side must be allowed to test that evidence. The Arbitrator should restrain any cross-examination that is not relevant to the issues or which is designed to humiliate or distress the witness;
  - 70.4 The overriding objectives of this Code should be met.
71. Subject to paragraph 70, the Arbitrator may adopt any method of proceeding at a hearing that he considers to be fair.
72. The Arbitrator shall have power to:
- 72.1.1 set aside any finding that an offence has been committed; or
  - 72.1.2 remit any penalty or substitute a lesser penalty for any penalty for that imposed by the Disciplinary Committee.
- Provided that the Arbitrator shall have no power to impose a lesser penalty than any minimum penalty provided by the Rules.
73. The decision of the arbitrator shall be final and binding on the parties.
74. The costs of the arbitrator shall be borne as he shall direct.

## **CHAPTER 11**

### **Minor Deviations from Procedure**

75. A departure from the procedures set out in this Code or anything derived from this Code shall not invalidate any finding by any Disciplinary Committee unless that departure was such as to cast a real doubt on the reliability of such decision.

## CHAPTER 12

### Protection of GBWBA, Members of Disciplinary Committees etc

76. Except as provided in paragraph 77 no claim shall be brought against

76.1 GBWBA;

76.2 any member of any Disciplinary Committee; or

76.3 the Secretary; or

76.4 the Prosecutor or anyone acting on his behalf; or

76.5 any person acting on GBWBA'S behalf under this Code; or

76.6 with the authority of GBWBA, purporting to act on its behalf under this Code.

by any athlete in any Court of Law or Equity whether in contract or tort or otherwise howsoever and whether for damages or other relief of any kind whatsoever unless the person alleges actual fraud on the part of the person sued.

77. Paragraph 76 does not apply to any claim for death or bodily injury arising from the negligence of the defendant.

**END**