

Discipline within the EBU

This document is intended to be of assistance to those involved in the English Bridge Union's disciplinary process, as members of a Disciplinary Committee, as members of a Prosecution Panel, or as a Defendant, pro-bono adviser or representative.

It is intended to provide help, guidance and assistance where the EBU Bye laws provide merely an outline of what should happen, and above all-provides a framework of generally accepted standards.

Any individual member accused of a breach of those standards can effectively defend themselves, with a clear understanding of how the process operates, and if found in breach, sanctions and sentences are applied fairly and consistently by the Disciplinary Panel.

This version refers to the Bye Laws amended on 25th November 2020, and applies to cases where the Charge letter was issued on or after 26th November 2020. Cases where the Charge Letter was issued before that date should refer to the earlier Bye Laws.

For the avoidance of doubt the Disciplinary Panel is independent of the L&E Committee and the Board of the EBU. It is charged with ensuring that a defendant is protected from any injustice and receives a full and fair hearing.

Abbreviations used

| | |
|-------|--|
| App A | Appendix A of the Bye Laws of the EBU |
| DC | The Disciplinary Committee (usually three) selected from the DP |
| DP | The Disciplinary Panel |
| EBU | The English Bridge Union Ltd, including its board and sub-committees |
| L&E | The Laws & Ethics Committee of the EBU |
| OEIG | The Online Ethics Investigation Group |
| PBA | The Pro Bono Adviser |
| PP | The Prosecution Panel or its representative |

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Background

In any organisation, there are likely to be a few who spoil things for the many. The Bye laws, and particularly Appendix A was written to ensure that members accused of breaching those standards can fairly be heard, and either be found innocent of the accusations, or suffer an appropriate sanction.

“Justice” should be delivered fairly, promptly, and should be seen to be done. Whilst the Bye laws provide some details of how these objectives are to be delivered, a lot is left to interpretation, and thus inevitably one person’s interpretation will differ from another. This is undesirable if one seeks consistency from one case to another. The object of this document is to encourage consistency and to provide a robust method of governance.

The Bye Laws

The Bye Laws refer to the Bye Laws of the English Bridge Union Ltd., last modified by resolution on November 25th 2020. For ease of reference extracts from the bye laws are printed in italics. It is worthwhile to recap on certain definitions contained therein as follows:

"Association" means an association of individual bridge players which complies with the requirements of, and which has been admitted to Constituent Membership in accordance with, paragraph 2.5.

"Constituent Membership" means affiliation to the Company, and the rights thereby enjoyed, by Associations complying with the requirements of paragraph 2.5 and the other requirements of these Bye Laws.

This defines County Associations as being a constituent part of the EBU. Their governing documents including those relating to disciplinary procedures need to be approved by the EBU for their constituent membership to continue. They are also within the realm of the EBU's disciplinary process, hence a playing member's ban from EBU events which includes County events.

"Player Member" means, an Ordinary Player Member, an Honorary Player Member, a Student Player Member or a Direct Player Member (but who need not, for the avoidance of doubt, be a Member - a shareholder in this context)

This covers most individuals who are likely to be the subject of disciplinary matters.

"Affiliated Club" means a bridge club affiliated to the Company, (either by being affiliated to the Company via its affiliation to an Association or by direct affiliation in accordance with paragraph 2.2).

Clubs are not a constituent member of the EBU, but affiliated to the EBU. Therefore any sanction applied to a member is not automatically reflected at any club.

One of the services that the EBU provides to clubs is a draft club constitution, which includes a disciplinary process, for the protection of clubs and their members. Clubs who have not adopted this draft constitution may wish to assess it as it may contribute to an understanding of the process that the central EBU Disciplinary Panel undertakes when it hears a case, and, if they do adopt it, will provide the framework in which to hear any cases at their own club.

"Open Competition" shall mean any Duplicate Contract Bridge competition other than one held at the premises of a club or other organisation for its members or employees and their bona fide guests only.

Open competitions including simultaneous pairs and similar played in clubs, and are subject to EBU DC sanctions.

Finally, Appendix A to the Bye laws at section 2 states:

2.1 These Disciplinary Rules shall apply to:

(i) all Player Members;

(ii) all bridge associations, clubs, committees and/or persons directly or indirectly affiliated to the Company;

(iii) all tournament directors and other officials at events organised by or sanctioned by the Company or by an Association; and

(iv) any person who participates in an event organised by or sanctioned by the Company or by an Association.

2.3 The Company shall have jurisdiction to consider a matter if a formal complaint is made in writing to the L&E Secretary from any individual (whether or not a Player Member), Association or club (whether or not an Affiliated Club).

2.4 The Laws and Ethics Committee, may, in addition, investigate any other matter which comes to its attention which it may consider constitutes an Offence.

It is obviously important that DC members satisfy themselves that the defendant is a person who is subject to these disciplinary rules at the time of the offence.

The Process

Any complainant whether an individual or organisation has 90 days to raise their complaint.

App A Para 4 details how the L&E (likely to be delegated to the PP) will investigate and if thought appropriate, present as prosecutor before a DC. The method of investigation is not the subject of this manual.

The Chairman of the EBU will appoint a chairman of the DC and between two and four other members who have had no prior involvement with the case, or any relevant interest in the outcome (app A 6.7). Any issue in this regard should be raised with the DC chairman as soon as possible.

The procedure as set out in App A 7 is briefly as follows (for full details of the L&E's process please see the upcoming Prosecution Panel Manual):

After written complaint is received, L&E consider if it is within the Disciplinary rules.

The L&E then instigate any investigations that they deem to be appropriate.

Investigation occurs (this may occur before letter inviting comments to defendant)

L&E secretary writes to the defendant inviting comments.

If L&E decide to pursue, Charge letter is issued in accordance with App A 7.6

Defendant has 14 days to admit or deny the charge.

If the charge is denied, the Chairman of the EBU appoints the DC chair and two other DC members, who will proceed to set out case management and move towards a formal hearing.

If the charge is admitted, the Chairman of the EBU will again appoint a DC chair and two other DC members who will then consider sanctions, having regard to mitigation, past history and the seriousness of the infraction.

If there is any doubt as to whether the defendant admits the charge, the L&E sec, under the direction of the DC should take all reasonable steps to clarify the position. If it is still unclear whether the charge is admitted or denied, the DC should assume that the charge is denied and proceed accordingly, inviting the defendant to produce evidence at a hearing.

The Charge Letter

The Bye Laws are particularly precise in the content of the charge letter and this is set out in App A 7.6. It shall include:

- (i) *a summary of the alleged Offence;*
- (ii) *a short factual summary of the evidence supporting the charge;*
- (iii) *confirmation that is the Laws and Ethics Committee's view that the Defendant should be prosecuted for the Offence;*
- (iv) *a request that the Defendant respond in writing with either an admission or a denial of the charge;*
- (v) *a statement that if the Defendant admits the charge the matter will be referred to the Disciplinary Committee for imposition of a Sanction;*
- (vi) *an invitation to the Defendant, if he admits the charge, to make a plea in mitigation in writing; and*
- (vii) *notification to the Defendant that he may seek advice on the procedure set out in these Disciplinary Rules from the Pro Bono Adviser but that the Pro Bono Adviser may decline to give that advice in his absolute discretion.*
- (viii) *a summary of the provisions of Rule 8 relating to Interim Playing Suspensions.*

The Charge Letter shall state the date by which the defendant's response has to be provided and this should be no sooner than 14 days from the date of the letter (App A 7.7)

The Charge Letter is approved by the Convenor of the PP and the PC assigned to the case (or in the case of a matter where there is no PC by the L&E Chairman). It is important that this is correct and complete as it represents the first part of the formal process. The L&E secretary will normally deal with its issue to the defendant, and in due course will supply the DC with copies.

It is important to note that this defines the offence. Only the offence(s) referred to are the subject of the DC hearing. Any complaints investigated by the PP, but not referred to in the charge letter are effectively dropped.

Equally, any complaints that the defendant might have regarding the investigation (i.e. prior to the date of issue of the charge letter) are not the subject of DC consideration, unless submitted in evidence by either party.

The Timetable

The DC chairman will receive a copy of the Charge Letter and the defendant's response and the L&E secretary will ask him to convene a disciplinary hearing. (App A 9.1). In theory the L&E secretary and DC Chairman liaise to schedule a hearing date.

The L&E (or PP) will notify the defendant (and in practice the DC chairman) of the nature of the evidence, and the names of the witnesses in support of the charge. Similarly, the defendant will notify the L&E (or PP) and again in practice the DC chairman, of the nature of the evidence and the names of the witnesses intended to be submitted in defence of the charge. This is required to occur at least 14 days before the date of the hearing. (App A 9.3) However, the detail of the evidence needs to be considered before a DC Chairman sets out the timetable of the hearing.

In practice the DC Chairman has to set a timetable an example of which might be as follows:

| | |
|------------------------------|-------------------|
| Date of Charge Letter | 1/1/01 |
| Date of defendant's response | 15/1/01 (14 days) |

If charge denied, a hearing will be required, and the following steps will be required:

| | |
|--|-------------------------|
| L&E (or PP) will supply evidence to defendant in the charge letter | 1/1/01 |
| Defendant will supply evidence to L&E (or PP) & DC | 15/2/01 (30 days) |
| Hearing scheduled | 5/3/01 (see App.A.9.2)) |

Each case will vary according to its complexity, the number of witnesses etc., thus the timetabling cannot be definitive for all cases. The PP case will have determined that there is a case to answer before the issue of the charge letter, and evidence should be supplied with the charge letter. The defence could need to take longer, and the DC should strive to accommodate reasonable requests.

It is recommended that witnesses of fact provide statements in writing, which can be accepted by the other party, and hence save them appearing in person at a hearing.

Expert witnesses should comply with Court rules, in that where possible, a Single Joint Expert is appointed who will consider the area of his expertise without favouring either party.

If each side appoints an expert, the DC chairman should insist that they meet before the hearing and agree a memorandum of the points of each other's report that they accept, and the points of dispute in order to minimise the DC's time and both parties' costs on highly technical issues.

(Further information on this subject is available from The Academy of Experts on their website www.academyofexperts.org)

It is in everybody's interests to set a timetable and stick to it. It is also much easier if everyone has had the opportunity to examine the evidence before the hearing. Any attempt by one party to "ambush" the other by producing last minute evidence should be strongly discouraged.

The volume of evidence and the potential number of witnesses will affect the timetable, thus the details need to be known in order to fix a realistic timetable

Directions and Conduct

This is ancillary to the timetabling above. It is unlikely to be necessary to have several witnesses giving verbal evidence of the same facts. It is up to the DC to determine what is needed and what is not needed. One witness who can provide details with perhaps two supporting written statements may be all that is required. The DC should so order if one party suggests that it will call three witnesses in person.

Evidence presented needs to be full and truthful (App A 9.5) The defendant may be represented by any person or legal counsel (App A 9.6). The need for the procedures and processes to be clear and transparent and not open to misinterpretation is paramount so that legal counsel who has no knowledge or understanding of the game of Bridge can understand the pursuit of truth and justice that the DC is working to obtain.

In complex cases it is highly likely that the DC Chairman will organise a case management meeting with the prosecutor and the defendant's representative to determine how the hearing will be managed.

The DC has very wide latitude in how to conduct the Hearing but the following procedure should be adopted:

Ascertain that the defendant or his representative is present to answer the charge (App A 9.7)

Read the Charge Letter and the defendant's response

Introduce the DC, the L&E representative, and the defendant's representative.

Advise the parties that one person only should speak for each party, and that although not under oath, full and truthful evidence is expected. Remind the parties that the DC is NOT required to follow Court procedure.

Online Offences

The two most common cases of unfair play online are:

Self kibitzing - where an individual uses technology to become aware of their partner and opponents hands before making a play or call and;

Collusion where two or more players are aware of each other's hands before making a play or call.

Guidance

The L&E has appointed a group of expert players and analysts as an Online Ethics Investigation Group. Clearly an "expert" reviewing the hands will require to show:

1. unusual actions unsupported by calls or plays previously made in that hand;
2. a number of recurrent unusual actions with different partners across one or several sessions;
3. a number of recurrent unusual actions with the same partner across one or several sessions;
4. an unlikely high success rate for the unusual actions;
5. significantly better **online** results than the player, partnership or Team's Master Point ranking(s) or NGS rating(s) would have suggested before online play started at the end of March 2020 including an unusual rise in the NGS rating since that date;
6. statistical analysis of plays compared to the plays of different standards of player to highlight the unusual nature of the actions taken.

It is the Prosecutor's responsibility to convince the DC that the defendant is guilty but defendants will be asked to explain recurrent, unusual actions that are disproportionately successful.

The current advice to all DC's is that any offender who is found guilty of online cheating should be sanctioned with a suspension from membership.

Comfortable Satisfaction

Many sporting disputes are now settled by the Court of Arbitration for Sport (CAS) and it utilises a standard of proof, namely 'comfortable satisfaction', which is defined as lying in between the 'beyond reasonable doubt' (99%) and the 'balance of probabilities' (51%). This has been adopted by many sporting bodies in cases of cheating, doping, corruption of any kind etc...It was adopted by the EBU in recent years. The standard is not beyond reasonable doubt, but the more serious the allegation, the more persuasive the proof must be. Hence a standard of comfortable satisfaction.

The Hearing

This process is very prescriptive within the Bye Laws at chapter 9, but for completeness it is worthwhile to list the requirements and other guidance shown in square brackets in logical order.

- 9.7 The DC Chairman shall ascertain that the person present to answer the charge is the defendant or their representative. The charge shall be read out or summarised, along with the defendant's response. The DC Chairman shall then state the procedure.

[If the defendant is represented suggest that only the representative or the defendant speak, and that only one person speak on behalf of the PP]

[The DC Chairman should introduce the DC, and also invite the PP representative and any defendant's representative to do likewise]

- 9.21 The DC has the power to admit such evidence as it sees fit, and need not follow the strict rules of evidence
- 9.5 Remind all parties including witnesses that although not under oath, they must give full and truthful evidence.
- 9.8 The PP should present their case and call any witnesses, whilst the defendant may challenge that evidence and cross examine any witnesses.
- 9.10 The defendant should present their case and call any witnesses, whilst the PP may challenge that evidence and cross examine any witnesses.
- 9.11 The PP will make closing submissions followed by the defendant.
- 9.12 The DC will then consider in private whether the charge is proved. Then the DC will reconvene and announce its decision. If the charge is proved, the PP may present details of the defendant's prior disciplinary record, and the defendant may make a plea in mitigation.
- 9.13 The DC will then consider the sanction in private, having regard to all the facts presented.
- 9.14 The hearing may either be reconvened and the decision delivered, or delivered in writing within a reasonable period of time - usually within 2 working days.
- 9.15 The DC need not be unanimous, but no minority opinion shall be produced or disclosed.
- 9.16 A record of the DC decision will be made, as to decision, facts found, charge(s) proved, sanctions, publication of findings, reasons for its decisions.

[It is helpful if the checklist, on page 21, is used as this requires ticks or answers. In the event of appeal or other dispute as to whether procedure has been properly followed, it is important to have contemporaneous evidence. It will also help the L&E secretary to write the required letter to the defendant].

The Sanctions

It is important that sanctions are handed out uniformly across the EBU. The WBF and the EBL have published guidance on sentencing. An analysis of recent sentencing has been considered, and sentencing guidelines have been suggested and we work towards a consistent sentencing procedure.

DC panels are advised to be aware of the difference between membership suspension and competition ban (see below), and to also consider the possibility of a ban on partnering one or more specified individuals. Note that at the present time, removal of master points, suspended sentences, probation, are not permitted sanctions within the bye laws.

Having understood the form of the sanctions and their extent, it is then important to consider the extent or duration of the sanction, and importantly to have regard to the standard sanction and when to apply mitigation, or increase for aggravated offences. The appendix to this document contains advised sentencing guidelines which will provide guidance in this regard. However, a DC can move outside those ranges but are strongly advised to state their reasons on the checklist. This is particularly important if an appeal is lodged

The sanctions that are available are listed in Appendix A Disciplinary Rules of the Bye Laws of the EBU, Section 12. For ease of access, they are listed below. The differences between a membership suspension and competition ban are explained below. We may decide that rather than a complete competition ban we should use a membership suspension and only use the competition ban for specific competitions determined by the DC hearing the case.

12.1 If the Disciplinary Committee or the Appeals Committee find the Offence has been proved it may impose upon the Defendant one or more of the following sanctions:

(i) expulsion from Player Membership of the Company;

(ii) suspension from Player Membership of the Company for a specified period of time, or, in the case of a non-member, a bar on that individual becoming a Player Member of the Company for a specified period of time;

(iii) a ban on participation in one or more specified competitions of the Company for a specified period of time;

(iv) a ban on partnering one or more specified individuals in all competitions for a specified period of time.

(v) a reprimand or censure; and/or

(vi) a fine up to a maximum of £500.

Membership Suspension v Competition ban

| | Suspension | Competition ban |
|--|---|---|
| Master points | | |
| Master Points retained at date of sanction and resumption? | Yes | Yes |
| Can Master Points be earned during period of sanction | No | Yes in respect of competitions not covered by ban |
| Can Master Points earned by a partner or teammate playing with offender during sanction be registered? | N/A but see club policy | Yes in respect of competitions not covered by ban |
| National Grading Scheme (NGS) | | |
| NGS grading retained at date of sanction and resumption? | Yes | Yes |
| Can NGS changes be affected during period of sanction? | No | Yes in respect of competitions not covered by ban |
| Can NGS changes earned by a partner or teammate playing with offender during sanction be registered? | N/A but see club policy | Yes in respect of competitions not covered by ban |
| Competitions | | |
| What does sanction cover? Can offender play in the following: | | |
| EBU events | No | No restriction other than as specified by DC sanction |
| County events | No | |
| Simultaneous pairs | No | |
| Club events | Policy of club applies | |
| Any other Licensed event | No | |
| Any Home Union, NBO and BGB | No | |
| EBL events | No | |
| WBF events | No | |
| Online events (not included above) | Yes - but note effect on MP's & NGS | |
| Office Holders | | |
| Can offenders stand for (or continue on) EBU board or standing cttee.? | No - see EBU Ltd Articles of Association | Yes |
| Can offenders hold office in a County Association? | No - must comply with EBU rules as a constituent member | Yes |
| Can offenders hold office in a Club? | Yes | Yes |

General

| | | |
|------------------------------|-----------------------------------|------------------------------------|
| Is sanction published? | Yes - unless offender is a minor* | Yes - unless offender is a minor * |
| Is offenders County advised? | Yes App A 13.3 | Yes |
| Is offenders Club advised? | Yes App A 13.3 | Yes |
| Are WBF or EBL or advised? | Yes App A 13.4 | No |
| Is BGB advised? | Yes App A 13.5 | Yes |
| Are Home Unions advised? | Yes | Yes |
| Are BBO/BCL advised? | Yes App A 13.5 | Yes |

Note: Sanction commences 2 days after the L&E Secretary has informed the defendant of the DC's verdict. A sanction is reduced by the period of any interim Playing Suspension that has not been stayed. (App A 12.3)

*A sanction will always be published, subject to the offender being a minor, unless the Board of Directors of the EBU specifically rules that there are exceptional circumstances.

Communication and Publishing

The bye laws require that the L&E secretary shall advise the County Association and any affiliated club of which the defendant has been a member during the last two years on the date the sanction takes effect. If the time for Appeal has not elapsed, that fact should be stated. (App A 13.1).

The decision shall be published in English Bridge and on the EBU's website stating the defendant's identity (unless a minor or the Board of the EBU rules otherwise), the nature of the offence, and the sanction. App A 13.1

A register on the EBU website details similar information to enable county associations and affiliated clubs to confirm that members, potential members or competitors, are, or are not "in good standing"

If a member is suspended from membership the L&E Secretary is required to advise the home national bridge organisations including NIBU and CBAI, BBG, the EBL & WBF. The EBL will inform all other national bridge organisations within its zone and the WBF will, in practice, inform the other zonal bodies responsible for NBOs in the rest of the world.

Recording and Appeal Process

It is necessary to record the processes of a hearing or appeal. This does not mean that it is required to have audio or video records of proceedings, or even detailed notes of all questions asked. However with online hearings the proceedings are recorded and this is noted at the beginning of the hearing.

Notes of the hearing, as well as directions as to evidence not considered, or witnesses not heard should be made. There should also be sufficient to enable the L&E sec to implement any sanction imposed and write to the appropriate bodies. The Checklist in the appendix is designed to fulfil these requirements.

This will ensure that in the event of an appeal, or a review of the conduct of the Disciplinary Hearing, the facts will be available. It should be noted that the grounds for appeal by the defendant are that the DC has erred (App A 11.8). If the DC has not erred there are no grounds for appeal. This is not a “second bite of the cherry”

The Notice of Appeal must be submitted in writing (11.8) and set out the decision appealed against, the grounds for the appeal, and (if applicable) the grounds for requesting a de novo hearing.

A deposit of £100 must be made before the Appeal is granted. This may be returned or retained if the appeal is considered frivolous. (11.1)

The appointment of an appeals committee is made by the Chairman of the Board from Vice Presidents, Board members, or DP members. (11.4)

The L&E has the right to appeal against the sanction (but not the decision) of a DC hearing, and may not request a de novo hearing. (11.2)

The Charge Letter

This is a specimen Charge Letter setting out what the defendant first receives when charged. Please note charge letters may not follow the exact format of the letter below but will include the statutory information required in the bye laws.

Our ref: L&E/DIS/

dd Mmm yyyy

Dear xxxxxxxxxxxx

EBU Disciplinary Rules – Charge Letter

Under paragraph 7.3 of the EBU Disciplinary Rules the Laws and Ethics Committee has decided to charge you with a formal disciplinary offence.

This letter is a formal letter setting out a number of matters required by the Rules.

In the remainder of this letter “the Rules” means the EBU Disciplinary Rules, a copy of which has already been sent to you; and “Rule...”, followed by a number, means the appropriate numbered provision of the Rules.

Details of charge

The charge relates to allegations of....

A summary of the alleged offence is as follows:

a.

A Prosecution Committee, comprising members of the EBU Prosecution Panel [or the L&EC Officers, if appropriate], acting on behalf of the Laws & Ethics Committee under the powers to delegate contained in Rule 4.3, judges that the Disciplinary Committee will consider these actions to constitute an offence under [either or both of] the following paragraphs of the Rules:

Rule 3.2 ..., being; and/or

Rule 3.2 ..., being .

A short factual summary of evidence supporting the charge is as follows:

1.

I confirm on behalf of the Laws & Ethics Committee that it is the Committee’s view that you should be prosecuted for the offence.

Response required and consequences

You are requested to respond in writing (by email, please, in current circumstances) to say whether you admit or deny the charge. A response to this letter is requested within fourteen days of the date when you can reasonably be taken to have received this letter, i.e. by [date].

If you admit the charge:

- A. the matter will be referred to the Disciplinary Committee under Rule 10 for it to consider the imposition of a sanction;
- B. you are invited to make a plea in mitigation in writing; and
- C. in considering the imposition of a sanction the Disciplinary Committee will take account of both the fact of the admission and the contents of any plea in mitigation. A reduction of one-third of the standard sentence is normal for a guilty plea at the earliest opportunity, and there may be other factors of mitigation that affect sentence.

If you deny the charge, the matter will be referred to the Chairman of the Disciplinary Committee under Rule 9. The Chairman will require that a hearing be held on a date and at a time and venue to be determined. Under Rule 9.2, the venue may be online, in other words the hearing may be conducted by means of video conferencing software or equivalent. At the hearing you will have the opportunity to defend yourself against the charge. Prior to the hearing you have the right to have disclosed to you all the evidence which the Laws & Ethics Committee has considered which the Disciplinary Committee considers to be relevant or potentially relevant. It will be for the Disciplinary Committee to establish a timetable for the steps which need to be taken in the run-up to the hearing, and you will have the opportunity to make representations concerning this timetable.

The EBU Chairman will now appoint a Disciplinary Committee from the members of the Disciplinary Panel.

Interim Playing Suspension

Under Rule 8 you will now be subject to an Interim Playing Suspension. This suspension will commence two working days after dispatch of this letter, i.e. on [date], and will finish on conclusion of the disciplinary proceedings. In the event of an appeal the suspension will continue until the appeal is determined.

During the period of the suspension you may not play in any Open Competition, nor will you be eligible for selection for international representation. An Open Competition is defined in the EBU Bye-Laws as any Duplicate Contract Bridge competition (including online games) other than one held at the premises of a club or other organisation for its members or employees and their bona fide guests only.

For the avoidance of doubt the suspension includes all EBU competitions, County events, BGB events, online games in affiliated clubs and any events organised by the EBU in clubs (whether affiliated or not) such as simultaneous pairs.

This suspension will not be made public unless there is a breach of it. The policy of the EBU is that breaches will normally be publicised. Any breach may also be the subject of an additional disciplinary charge under Rule 3.2(v). Alternatively, the circumstances of the breach may be referred to the Disciplinary Committee who would treat it as an aggravating factor in considering the sanction for any charge which you admit or of which you are convicted. An increase of up to one-third of the standard sentence is normal for such an aggravating factor.

If you consider that the Interim Playing Suspension is disproportionate, having regard to the factors set out in Rule 8.6, you may make an application for a stay of the Interim Playing Suspension. Any such application should be made in writing to the Secretary of the Laws & Ethics Committee, and will be heard as soon as is practicable by the Disciplinary Committee or a nominated individual under Rule 8.5.

Pro Bono Adviser

Rule 5.1 provides that a Pro Bono Adviser may be appointed whose function is to advise any Defendant charged with an Offence on the procedure set out in the Rules. The person is not specifically appointed to oversee your case – it is a general role. The person appointed by the Chairman of the EBU Board to fulfill the role of Pro Bono Adviser is

XXXXXXXXXX

Tel: XXXXXXXXXXX

Email: XXXXXXXXXXX

If you require her postal address, either she or I will be happy to provide it.

Please note that the Pro Bono Adviser may decline to advise in a particular case in her absolute discretion. However, the Pro Bono Adviser has asked that I make it clear that it would be extremely unusual for her to decline to advise.

Yours sincerely

Secretary to the Laws & Ethics Committee
Direct line

@ebu.co.uk

Disciplinary Procedure Checklist for Disciplinary Committee

Defendant:

Disciplinary Committee Chairman:

Disciplinary Committee members:

Date of Hearing:

Venue:

| |
|--|
| |
| |
| |
| |
| |

| | Bye Law App A ref | | Actioned | Nte | Comment |
|-----|----------------------|---|--------------------------|-----|----------------------|
| 1 | | The Defendant | | | |
| 1.1 | 2.1 | Is the defendant within the EBU jurisdiction? | <input type="checkbox"/> | | ✓ |
| 2 | | The Charge Letter | | | |
| 2.1 | | Has a charge letter been issued? | <input type="checkbox"/> | | (date) |
| 2.2 | 3.2 | Does the Charge letter contain details of offence? | <input type="checkbox"/> | ① | (specify (i) - (vi)) |
| 2.3 | 7.6 (i) | Summary of alleged offence? | <input type="checkbox"/> | | ✓ |
| 2.4 | 7.6 (ii) | Short factual summary of supporting evidence? | <input type="checkbox"/> | | ✓ |
| 2.5 | 7.6 (iii) | Confirmation of L&E view that defendant should be prosecuted? | <input type="checkbox"/> | | ✓ |
| 2.6 | 7.6 (iv) | Request that defendant admit or deny charge? | <input type="checkbox"/> | | ✓ |
| 2.7 | 7.6(v) | Statement that if admitted, DC will consider sanction | <input type="checkbox"/> | | ✓ |
| 2.8 | 7.6 (vi) | If admitted plea in mitigation invited | <input type="checkbox"/> | | ✓ |
| 2.9 | 7.6 (vii) | Existence of pro bono adviser | <input type="checkbox"/> | | ✓ |
| 2.1 | 7.6 (viii) | | <input type="checkbox"/> | | |
| 0 | 7.7 | Summary of Interim Playing Suspensions | | | |
| 2.1 | | Date response required (not less than 14days) | <input type="checkbox"/> | | ✓ |
| 3 | | Appointing the Disciplinary Committee | | | |
| 3.1 | 9.1 | L&E sec writes to DC chairman with charge letter & response | <input type="checkbox"/> | | ✓ |
| 3.2 | 9.2 | DC Chairman suggests timetable and L&E sec communicates it to the parties | <input type="checkbox"/> | | ✓ |
| 3.3 | | DC chairman liaises with other DC members | <input type="checkbox"/> | | ✓ |

3.4 Confirm DC members independence from the issues and parties ✓

| | Bye Law App A ref | | Actioned | Nte | Comment |
|-----|-------------------|--|--------------------------|-----|---------|
| 4 | | The Hearing | | | |
| 4.1 | 9.20 | Case Management rules set out | <input type="checkbox"/> | | ✓ |
| 4.2 | 9.7 | Defendant present- Charge read | <input type="checkbox"/> | | ✓ |
| 4.3 | | Confirm defendant's plea | <input type="checkbox"/> | | ✓ |
| 4.4 | | Introduce DC members | <input type="checkbox"/> | | ✓ |
| 4.5 | 9.7 | State Procedure | <input type="checkbox"/> | | ✓ |
| 4.6 | 9.8 | PP present evidence | <input type="checkbox"/> | | ✓ |
| 4.7 | 9.10 | Defendant to present case | <input type="checkbox"/> | | ✓ |
| 4.8 | 9.11 | Closing submissions PP then Defendant | <input type="checkbox"/> | | ✓ |
| 4.9 | 9.12 | Consideration of verdict (in private): | | | |
| | 9.9 | Dishonesty - "Comfortable Satisfaction" (70%) | <input type="checkbox"/> | | ✓ |
| | 9.9 | Other - "Balance of Probabilities" (51%) | <input type="checkbox"/> | | ✓ |
| 4.1 | 9.12 | Advise parties of verdict | <input type="checkbox"/> | | ✓ |
| | | If proven: | | | |
| 4.1 | | PP to advise of defendants prior disciplinary record | <input type="checkbox"/> | | ✓ |
| 4.1 | | Defendant may make plea in mitigation | <input type="checkbox"/> | | ✓ |
| 4.1 | 9.13 | DC to consider sanction (in private) | <input type="checkbox"/> | | ✓ |
| | 9.16 | Record: | | | |
| 4.1 | 9.16 (i) | Whether charge proved | <input type="checkbox"/> | | Y/N |
| 4.1 | 9.16 (ii) | Findings of fact on which decision was based | <input type="checkbox"/> | ② | ✓ |
| 4.1 | 9.16 (iii) | Sanction imposed | <input type="checkbox"/> | ③ | ✓ |
| 4.1 | 9.16 (iv) | Publication? (normally Yes but see 11.6) | <input type="checkbox"/> | | Y/N |
| 4.1 | 9.16 (v) | Reasons for decision documented | <input type="checkbox"/> | | a |
| 5 | | Following the Hearing | | | |
| 5.1 | 9.17 | L&E sec to write to defendant | | | |
| 5.2 | 11.3 | Defendant has 2 working days +14 days to appeal | | | |

Disciplinary Procedure Checklist for Disciplinary Committee (cont.)

Bye Law
App A ref

① 3.2

For the purpose of these Disciplinary Rules, the following shall amount to an "Offence":

- (i) a breach of the Bye-Laws or Articles of the Company;
- (ii) a breach of the regulations laid down by the Board or any of its Standing or other Committees, or any Conditions of Contest or other tournament regulations; including any breach of the fundamental principle set out in the EBU's "Best Behaviour at Bridge" policy;
- (iii) a breach of the Laws of Duplicate Contract Bridge as in force from time to time;
- (iv) any unfair or dishonest play;
- (v) any other act that the Disciplinary Committee or Appeals Committee considers to be misconduct which may include any conduct or behaviour, whether at or away from the bridge table, which falls below the accepted standards required of Player Members and other persons to whom these Disciplinary Rules apply;
- (vi) a failure to provide full or true information or evidence to the Laws and Ethics Committee (in the course of its functions under these Disciplinary Rules or otherwise), the L&E Secretary, the Disciplinary Committee or the Appeals Committee or to comply with any decision made pursuant to these Disciplinary Rules.

②

Record briefly facts found:

Disciplinary Procedure Checklist for Disciplinary Committee (cont.)

| | | | |
|---|---|--|-------------|
| ③ | Expulsion from membership | | |
| | Membership suspension | | Yrs, Months |
| | Competition ban | | Yrs, Months |
| | Ban on partnership | | Yrs, Months |
| | Fine (max £500) | | £ |
| | Reprimand/Censure | | |
| | Notification: English Bridge/EBU Website | | Y/N |
| | All statutory notifications as set out in the rules | | Y/N |
| | Any non-mandatory organisations (please specify) | | |

The following persons were present during the hearing:

The Defendant

Y/N

Representing the defendant:

Witnesses for the defendant:

For the L&E / PP:

Witnesses for the Prosecution:

Observers / Others:

Signed as a true record:

Chairman Disciplinary Committee

Date:

Appeal lodged:

Y/N

Sentencing guidelines - Approaches

This section aims to provide some clarification on sentencing, with suggested sanctions - an explanation of the differences between a membership suspension and a competition ban is explained in the sanctions section above. The advised sentences shown are a guide for the standard sentence, subject to aggravating or mitigating factors increasing it or reducing it, typically by one third. They have been formulated through review of historic sentencing, review of sentencing guidance from the WBF and consultation with the Disciplinary Panel and the Laws and Ethics committee. Where there is no range and the sentence involves a single figure it is suggested as a minimum.

Any Disciplinary Committee may in its discretion deliver harsher or more lenient sentences, but would be expected to complete the checklist to explain this departure. This will then provide appropriate evidence in the event of an appeal or any review of the case.

Sentencing Council for England and Wales (SCEW)

Those DP members who are currently, or have been, magistrates or have been involved in law court activities will know of the sentencing guidance provided by the SCEW. For those who haven't been involved it is worth going through the 8 points that should be taken into consideration when sentencing:

1. Seriousness
2. Harm to any victim
3. The offender's level of blame (planned or opportunistic)
4. Any previous offences
5. Personal circumstance
6. Remorse
7. Guilty plea (a plea at the earliest possibility results in a reduction in the sentence of 1/3rd reducing to a 10% reduction if guilty plea later in process)
8. A sentence that will change the offender's behaviour

There has been some discussion on sentencing as an example to deter others. The publication of the name of the offender, their offence and their sanction on the website and in English Bridge should, in itself, act as a deterrent to others.

Please see mitigating and aggravating factors below

The offences

The bye laws set out the offences as follows in Appendix A Disciplinary Rules:

3.2 For the purpose of these Disciplinary Rules, the following shall amount to an "Offence":

(i) a breach of the Bye-Laws or Articles of the Company;

(ii) a breach of the regulations laid down by the Board or any of its Standing or other

Committees, or any Conditions of Contest or other tournament regulations; including any

breach of the fundamental principle set out in the EBU's "Best Behaviour at Bridge" policy;

(iii) a breach of the Laws of Duplicate Contract Bridge as in force from time to time;

(iv) any unfair or dishonest play;

(v) any other act that the Disciplinary Committee or Appeals Committee considers to be misconduct which may include any conduct or behaviour, whether at or away from the bridge table, which falls below the accepted standards required of Player Members and other persons to whom these Disciplinary Rules apply; or

(vi) a failure to provide full or true information or evidence to the Laws and Ethics Committee (in the course of its functions under these Disciplinary Rules or otherwise), the L&E Secretary, the Disciplinary Committee or the Appeals Committee or to comply with any decision made pursuant to these Disciplinary Rules.

The types of offences that the DP are likely to hear can be grouped into Behaviour and Ethical. The listing is not exhaustive and there are always cases that are without precedent where it is beholden on the disciplinary committee chairman to explain and give reasons why the sanction has been given.

As you can understand, it is impossible to list every offence under each heading on the attached schedule. As members of a Disciplinary Committee we ask you to use the SCEW guidance above to make your judgements.

As always, the defendant has the opportunity to appeal the sanction.

Behaviour

Physical and non-physical abuse offences

Rudeness, harassment, intimidation, abuse to partner, players and/or officials. Public accusations of cheating or unethical behaviour of others, public criticism of an official ruling/appeal committee judgement.

Contempt offences

Failure to follow instructions or undertake actions expected at a bridge session e.g. failure to appear before an appeals committee if required.

Negligence in any form at a bridge session or at the table.

Criminal offences

Any offence that warrants investigation by the police must be reported to them. We must leave the police to investigate but there are added sanctions for the finance offences listed below.

Financial offences

Theft of monies; misappropriation of funds (club/county/ national level); fraudulent activities with funds (club, county national level); Wilful refusal to pay fees/subscriptions etc..

Ethics

Cheating in every way it manifests itself e.g. manipulation of scores on Bridgemates or any scoring programmes, prior knowledge of hands, misrepresentation of team members, self kibitzing, collusion to cheat (involving two or more players) etc...

The Burden of Proof

Bye Law Appendix A 9.9 states that the L&E (or Prosecution) shall bear the burden of proving the charge. The standard of proof in any offence that involves dishonesty - e.g. online cheating, score alteration, hand viewing, attempts to pervert MP's or NGS, financial offences - the offence should be proven to a level of "comfortable satisfaction" (please see online offences above).

In other cases where there is no dishonesty involved the standard of proof should be at least 51%. - e.g abuse of EBU staff or officers; abuse of non EBU staff or officers; abuse of other players; abuse of others (e.g. hotel staff etc).

It is worth remembering that it is our duty as a disciplinary committee to take into account any mitigating or aggravating factors of which there may be many and a selection is listed below.

Mitigating factors:

Admission of guilt

Provocation

Remorse

Good character

Apology to those offended against

For an apology to qualify as a significant mitigating factor, it must not only be considered sincere but also have been freely offered.

Aggravating factors

Pre-meditation

Experienced player intimidating inexperienced player

Disregard for those directing or organising the event

The excessive use of technology designed to confuse or conceal cheating and its detection

Serial offences

Repeat offender

Experienced player colluding with another experienced player

Monetary gain

Position of authority and/or influence

International player

These sanctions will be reviewed on a regular basis so that they fully reflect the needs of the membership.

NB It is inappropriate for the Sentencer to engage in any element of plea bargaining with the Offender, such as soliciting an apology in return for a reduction in the sentence. In order for any apology to qualify as a significant mitigating factor, it must not only be considered sincere but also have been freely offered.

Sentencing Guidelines – advised standard sentences

| <i>Type of offence</i> | <i>Sentence *</i> |
|--|--|
| Behavioural | |
| Walk out from an event | 3 month + competition ban |
| Failure to attend a bridge session appeal hearing | 3 month + competition ban |
| Non-disclosure of system | 6 month + competition ban |
| Public criticism of TD or other competition official | 6 month + competition ban |
| Public criticism of a TD's or appeal committee decision | 6 month + competition ban |
| Public criticism of an administrative decision | 6 month + suspension |
| Public accusation of cheating (includes the use of social media | 1 year + suspension |
| Gambling in breach of regulatory restrictions | 1 year + suspension |
| Failure to pay EBU fees | Fine of up to £500 (twice amount owed) |
| Theft of funds | 5 years + suspension + £500 fine |
| Fraudulent use of funds | 5 years +suspension + £500 fine |
| <i>Verbal abusive behaviour</i> | |
| One off use of swear word at opponent | Reprimand + |
| Insulting behaviour | 1+ year suspension |
| Intimidating behaviour | 1+ year suspension |
| Threats/abuse to an EBU competition official/TD | 2+ years suspension |
| Threats/abuse to an EBU administrative official | 2+ years suspension |
| Threats/abuse to a member of EBU staff | 2+ years suspension |
| Threats of physical violence | 3+years suspension |
| Threats with reference to race, gender, sexual orientation, religion etc... | 3+ years suspension |
| <i>Physical abusive behaviour</i> | |
| Provoked physical response | 1+ year suspension |
| Unprovoked physical response | 5 + year suspension |
| Ethical | |
| Self kibitzing online | 3 - 5 years suspension** |
| Collusion with another to cheat online or in face to face | 3 - 5 years suspension** |
| Manipulation of bridge mates | 3 - 5 years suspension |
| Manipulation of any scoring methodology | 3 - 5 years suspension |
| Using prior knowledge of the hands | 3 - 5 years suspension |
| Altering NGS playing status | 1+ year suspension |
| Any breach of an EBU policy or any other conduct unbecoming that brings the EBU into disrepute | Reprimand - Expulsion |

*Aggravation/Mitigation is $\frac{1}{3}$ add or subtract ** Cannot represent country for 10 years