



Complaints, Grievance and Disciplinary Policy and Process

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1.1 Introduction



Complaints, Grievance and Disciplinary Policy and Process

Policy statement: The England Touch Association (ETA) is committed to good discipline in every aspect of the sport of Touch, based on our core values of being Inclusive, Transparent, Ambitious, United and Respectful.

The objectives of this policy are:

- To establish a culture of respect and discipline across the sport of Touch for all participants
- To ensure fairness and independence in dealing with grievances
- To be transparent in our processes for discipline management

This document outlines the process for;

- 1) Making complaints against people affiliated to the ETA
- 2) Assessing these complaints and determining any resolutions
- 3) Appealing decisions made via this process

This process is not solely to complain about actions taken at an ETA event, or on field matters in general, but all matters that relate to the ETA's role in the sport of Touch. This means it can be used to deal with any misconduct by a participant in touch affiliated with the ETA (e.g. anyone holding ETA membership, any participant in an ETA tournament, or a member of ETA staff) that relates to their involvement with the game.

There is a separate policy for ETA related interpersonal issues which will be outlined elsewhere, and complaints which are more applicable shall be referred to it.

Complaints regarding behaviour at ETA affiliated events, e.g. regional development leagues, or within ETA affiliated organisations can be escalated to this process if required. Organisations must still have their own disciplinary processes to deal with complaints in the first instance. Organisations are expected to be proactive in dealing with behaviour by their own members. Early measures in investigating and addressing disciplinary issues will be taken into account as mitigation for any follow-up action. Equally, if an organisation has shown a lack of willingness to manage or sanction bad behaviour by its members, it may be viewed as an aggravating factor.

The England Touch Code of Conduct should be referred to when appraising whether behaviour should be considered acceptable or not. This process should be applied consistently with the principles of natural justice. These are;

- 1) **The Hearing Rule** - Anyone who will be substantially affected by the decision of a complaints or appeals panel has a right to present their case. This is reflected in the right of all parties to at least make a verbal case to a panel. This may mean being present at a meeting, but may be a phone call where a panel is not co-located.
- 2) **The Bias Rule** - No-one should be in a position to rule on a situation that will directly affect them. This is reflected in panel members being required to avoid conflicts of interest and



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parties to a complaint being permitted to challenge the composition of the panel they are dealing with.

- 3) **The Evidence Rule** - Decisions must be based on logical proof or evidence material, not conjecture. This is reflected in panels being required to log their fact-finding process and attach it to the decision made.

Finally, processes should be thorough but also run with a desire to resolve the issue as promptly as possible.

1.2 Terms

The person making a complaint is termed the **complainant**.

The person the complaint concerns is termed the **subject**.

A complainant, a subject or a third party may appeal a decision and are termed the **appellant**.

Any action determined by a panel to be required for resolution of a complaint is called a **sanction**.

The **administrative panel** is a collection of people who review complaints when they are submitted and are available to support complaints processes in the case of any questions. They should constitute ETA volunteers and/or participants in good standing within the sport.

The **disciplinary group** is a collection of players and referees who have agreed in principle to form complaints or appeals panels during the season.

A **complaints panel** is a group of three members of the disciplinary group composed to review a complaint, or a group of complaints. An **appeals panel** is a group of three members of the disciplinary group composed to review an appeal.

An **organisation** is a club, league, events management company or any other organised body that is involved in the sport of Touch in England, however constituted.

2.1 Roles within complaints

A disciplinary group should be set up early in the year comprising people willing to be involved in this process. It would likely require 2-3 hours of their time once or twice a year. Members of the group should have a record of behaviour consistent with England Touch's values. This is a broad pool of people, from whom complaints panels can be drawn as required.

The group should be appointed by the ETA governance director. The members should be divided into two categories;

Refereeing representatives (anyone for whom refereeing is a primary involvement in the sport, holds at least a level 2 badge, and has attended two or more ETA tournaments in the previous or ongoing season)



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Playing representatives (anyone for whom playing or coaching is a primary involvement in the sport and has attended an ETA Nationals event as either a player or a coach in the last two years)

A complaints panel will be convened by the administrative panel or another ETA representative by delegation to review any complaints. They may consider multiple complaints at once if related, for example if more than one matter has been raised following a tournament. Once the panel has resolved the complaint it shall be dissolved. This panel must include;

A chair who has been briefed on this policy. As well as contributing to the deliberations, the chair's role is to be aware of the requirements of this policy and ensure it is followed by the panel.

Two other members, typically one member taken from the group of playing representatives and one member taken from the group of refereeing representatives, but this can be varied at the discretion of the Governance Director or the panel chair.

While recognising that touch is a small sport and many participants will know each other well, conflicts of interest involving long standing personal relationships should be avoided. Panel members should take the initiative in declaring conflicts of interest which may affect their judgement, or are strongly likely to be perceived to affect their judgments, and rule themselves out of participation in the panel if appropriate.

For most matters the panel does not need to constitute more than three members, but if required for complex or particularly sensitive matters it may be increased to five. An attempt to balance gender and similar social or demographic characteristics should be made.

If there are no members of the disciplinary group available, alternatives may be selected by the administrative group or a member of it.

3.1 Making a complaint

Anyone seeking to raise a complaint must use a complaint form or be aided in completing it. This includes complaints raised using the fast track process. Complaints should be raised within 14 days of either the incident in question, or the end of the training camp or tournament at which it occurred. Complaints can be referred to the fast track process at any point during the tournament in question.

Anything raised beyond this will be reviewed by the administrative group to identify if there is justification for an exception to be made. Examples of this include but are not limited to;

- The complainant was unable to access the complaints process within the 14 day period
- The behaviour that is reported in the complaint is significantly concerning to demand investigation, such as
 - Unwanted intimate contact between participants
 - Violence between participants
 - Racist, sexist, homophobic, transphobic or similar abuse
 - Any other serious or potentially criminal matter



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Complaints can be sent to any member of ETA staff and should immediately be escalated to the governance director in order to convene the complaints panel and pass on the complaint information. If the governance director is unavailable, another ETA staff member should act in their stead to convene a complaints panel.

Complaints about matters which are being pursued via legal means (e.g. a contractual complaint or a criminal complaint) or by a more senior organisation (e.g. FIT) should be paused until these other proceedings are resolved. If a complaint is delayed by waiting for another process such as this to be resolved, the 14-day deadline shall not be applied.

3.2 Reviewing and investigating

As soon as possible after being convened, the panel should have a brief discussion to review the complaint. This may be in person, over the phone, or by any similar method.

A preliminary decision should be made by the panel on whether;

- To dismiss the complaint as unsuitable to follow up
- To recognise if actions taken on the day have already resolved the complaint.
- To identify if further investigation (e.g. taking statements from relevant parties) is required. When interviewing parties to the complaint for the purpose of investigation, the parties should be informed that they are being contacted as part of the complaints process. If the game was on a televised pitch, or other video exists of the incident, the video may be consulted but should be an element of wider investigation.

Complaints about the decisions or ability of match officials are not appropriate for this process and should be dismissed as unsuitable. This does not preclude complaints about match officials conduct or any evidence of serious bias or other unprofessional behaviour.

If a subject was not aware that a complaint was made and the panel elect to dismiss the complaint or deem it resolved by actions on the day, the subject should not be notified of the process. If the subject was already aware that a complaint was made, they should be informed of the panel's decision to dismiss or deemed resolved at the earliest possible opportunity.

The subject should be asked for their version of events as soon as possible after the complaint is made. If the complaints panel decides that the matter should involve a sanction for the subject, they should be informed of this and given another opportunity to give their version of events.

The subject and the complainant should be informed at the earliest opportunity of the composition of their panel. If they have an objection to a panel member, they can request that member be replaced subject to the discretion of the panel chair.



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The subject, the complainant and anyone else interviewed by the panel has a right to have someone attend any interview alongside them for support. This person is there to support the attendee only and is not expected to have a substantial role in the interview.

3.3 Potential resolutions

Once the panel has a full understanding of the details of the complaint, and if it is not dismissed or considered already resolved, the panel should identify a suitable resolution or resolutions. Some options are listed below - the panel may consider other options as appropriate but should prioritise consistency with previous complaints processes.

Resolutions involving a sanction (e.g. a game ban) can be suspended, in whole or in part, in order to act as a deterrent against future behaviour, or if the behaviour in question does not justify an immediate application. If this is chosen, the panel must specify which sanction how long it should be suspended for and what behaviour would trigger the sanction being applied (e.g. a two tournament ban, suspended for two years, triggered by any dismissal for misconduct at an ETA tournament).

For an individual

- Requiring an apology to the complainant
- Requiring mediation between the complainant and the subject. This can only be chosen if both sides are willing to proceed with it.
- Requiring the subject to have a conversation with a relevant senior figure in the sport (e.g. an experienced coach/player or referee/referee coach) for them to reflect on the behaviour in the complaint.
- Sending a written warning from the complaints panel to the participant. This will be retained on file.
- Requiring attendance at a training event (e.g. a referee course, a diversity course) funded at the subject's expense.
- Applying a suspension for a number of games at ETA events (n.b. for onfield incidents that have come to the complaints process outside of a rest of game dismissal, the minimum test to apply a game ban should be "would a typical experienced referee elect to dismiss the participant from the game for this behaviour").
- Applying a suspension for a period of time from ETA events
- Removal from a high performance squad/coaching role (where an option)
- Removal from an international refereeing squad or selection from a refereeing event (where an option)



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- Suspending membership of the ETA for a fixed period or indefinitely
- A monetary contribution to another party. N.B. This should be applied as restitution for a specific loss to a third party e.g. to pay for fixing damage caused, rather than a fine.

For an organisation

Action may be taken against an organisation;

Examples of when this is appropriate include;

- 1) Unacceptable behaviour by a group of participants from the organisation which is too large for individual complaints to be applied (for example, a whole team being engaged in unacceptable behaviour during a tournament)
- 2) A situation where the leadership of an organisation have engaged in unacceptable behaviour (e.g bullying or discriminatory practices)

The potential resolutions that can be applied to a organisation include;

- Requiring an apology from the organisation's leadership, team captain, or similar figure to the complainant
- Requiring the organisation's leadership or a team captain to outline and apply procedures going forward to address similar behaviour to the complaint
- Requiring some or all organisation members to attend training (e.g. referee courses or diversity training)
- Sending a written warning from the complaints panel to the organisation
- A monetary contribution to another party. N.B. This can only be applied as restitution for a specific loss to a third party - e.g. to pay for fixing damage caused, rather than a fine.
- Removing tournament points from the relevant team
- Denying the team entry to a number of future events
- Denying a club entry to a number of future events
- Withdrawing the organisation's affiliation with the ETA temporarily or permanently
- Requiring that specific members are removed from positions of authority or internally suspended

Panel process



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The panel should record and retain any additional information taken in the course of their deliberations (for example accounts from witnesses), the resolution they identified, and a brief summary of their understanding of events with any mitigating or aggravating factors. This is discussed further in the section '**Complaints log**'.

The panel should base their decision on their judgement of 'the balance of probabilities' (i.e. "Is this what likely happened?") this is in contrast to the higher standard of 'beyond reasonable doubt' (i.e. "I am close to certain that this is what happened").

A suspended player or coach must remain outside of the field of play, using the same guidelines as in the FIT playing rules. The panel should specify if a suspension applies to a specific form of participation, or all (e.g. whether a suspended player can still coach or referee). If not stated otherwise, a suspension applies to all forms.

Suspensions can be applied for a specific number of games or tournaments (a game ban) or a specific period of time (a time ban). Game bans are applied in the following way;

- 1) Suspensions following behaviour at an ETA tournament are applied within the same category of series. This means that suspensions following behaviour in the Elite National Touch Series or Elite Mens and Womens National Touch Series are applied within those tournaments. Suspensions following behaviour in the Development National Touch Series or Emerging Mens and Womens National Touch Series are applied within those tournaments.
- 2) Suspensions due to behaviour outside of a tournament series are applied to the tournament series the participant was last involved in.
- 3) Any suspensions that have not been served by the start of the Nationals series are carried into that series.
- 4) If a participant is suspended for the duration of a tournament, they should not attend that tournament at all.

During time bans, a player may not participate in any events.

Bans against players are only considered served during a tournament if;

- A) The participant's club enters a team to the tournament.
- B) The team that is entered is one that the player has been involved in, or would likely be involved in.

If this is impossible (e.g. a club does not have a viable team without the suspended player) this should be flagged to the panel so that the suspension can be considered served without the team playing.

Attempting to circumvent a suspension will be grounds for further review by a complaints panel and is likely to result in the suspension being lengthened or a more severe sanction being applied.



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When deciding on a resolution, the panel should attempt to reach a unanimous decision as a priority. If this is not possible, a panel majority is sufficient but the final resolution should reflect the lack of agreement (e.g. a less severe sanction being applied).

The input, especially on chosen resolutions, of panel members should be considered confidential information by those aware of it and should only be shared outside of the group where necessary. If an appeals panel is formed following, they should be notified if the decision was by majority or unanimous.

3.4 Managing the application of resolutions

Once the panel has selected their resolution, they must specify who is responsible for its enforcement. By default this is the panel chair, but can be delegated or split between multiple people if required.

The responsible person can be member of the panel, or it can be delegated to relevant others (e.g. ETA volunteers where the resolution is relevant to their role),

If a resolution is not completed, the responsible person should remind the subject if appropriate, then reconvene the complaints panel to discuss next steps if it is still not adhered to.

3.4 Amending resolutions following a panel decision

For the complainant and the subject, the appeals process is the only route to amend a resolution.

However relevant third parties can make representations to the complaints panel, to change a resolution via the following route.

- Examples of relevant third parties could be;
 - > A member of the England HP staff if the existing resolution affects the players involvement in an HP squad
 - > A member of the England Touch staff whose area of responsibility would be affected by the resolution.
 - > A person responsible for enforcing/applying a resolution who feels it will be unworkable.
 - > A person selected to have a conversation with the subject of a complaint as part of mediation or reflection on the complaint (e.g. a senior referee who has had a conversation with a player about a dismissal).
- They should send a summary of their suggestion and why they are making it either to the panel chair, or to a member of the ETA voluntary staff to pass onto the panel chair if not possible.

This could be a reduction in a sanction (e.g. if they feel the player has realised and regrets their behaviour) or an increase (e.g. if the player shows no understanding of the issue, or does not engage with the third party at all).



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- The panel should then briefly reconvene to consider the suggestion and decide on whether to apply it. They can do this in whole or in part (e.g. reducing the duration of a suspension, but not to the full degree recommended).

Subjects of a complaint should be discouraged from trying to use this as a backdoor around an appeal (e.g. lobbying a relevant third party to ask for their sanction to be amended).

3.5 Mitigation and aggravation

It is likely that submission to a complaints or appeals panel will cite factors which try to contextualise or excuse behaviour.

Panel members should consider these factors while trying to be consistent with previous decisions that are judged to relate to similar cases.

Provocation and escalation may be considered as a mitigating factor when identifying sanctions for a complaint, but can never be considered to excuse unacceptable behaviour.

3.6 'Both sides' incidents

Panels may consider situations where subject A complains about complainant B and complainant B complains about subject A (i.e. both participants have complained about the other). These situations should be considered in a single complaints process and a resolution may be applied to either and/or both participants.

If investigation into a complaint reveals unacceptable behaviour related to the incident in question by others, the other participants may also be subject to a sanction. These other participants should first be contacted to give their version of events.

3.7 Complaints log

A complaints panel should record the following information for any complaints which are not dismissed.

- A. A brief narrative of their understanding of events.
- B. The resolution they chose to apply
- C. Their justification for that resolution with reference to any aggravating or mitigating factors

A duplicate version of this log should be made available on the ETA website with participant names redacted. This is designed to serve two purposes; first to allow other parties to a complaint to refer to previous incidents if they wish in order to preserve consistency and second to demonstrate the ETA's commitment to applying their process as openly as possible.

This log should also be consulted when a player is subject to a complaint in order to identify if this reflects a pattern of behaviour.



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4.1 Appeals process

Either the complainant and/or the subject may elect to appeal the decision of the panel.

Third parties may not appeal a decision. The only exceptions to this are:

- 1) The parents or carer of an under 18 participant who was the subject or complainant.
- 2) If the original complainant was working on behalf of another participant, that participant may appeal.

If an appeal is made, an appeals panel with the same structure as the complaints panel but different members should be convened. The composition should reflect an escalation of seniority if at all possible - e.g. the Governance Director or another established ETA board member serving as chair. The appellant must provide a compelling reason to revisit the decision – this includes;

- A. A clear, identified and substantial conflict of interest on the part of one of the complaints panel which was not considered at the time.
- B. Provision of evidence not considered by the panel (e.g. new video of the incident, a witness who was not originally spoken to)
- C. Information that the complaints panel did not correctly apply this process (e.g. Did not give the subject a chance to provide an account of events)
- D. The resolution applied is clearly inconsistent with similar situations since the introduction of this policy.
- E. The complaints panel's recorded version of events falls clearly below the balance of probabilities for what happened
- F. The resolution applied is dramatically disproportionate to the severity of the behaviour, or unworkable for the subject.

The appellant must make their appeal in writing and clearly refer to which of the above reasons is being used as grounds for their appeal.

Appeals should be made within seven days of the complaints panel communicating their decision. Appeals made after this date can only be considered if the appeals panel judges there is a compelling reason for the delay. Once the appeal has been received, a panel should be convened with the following timelines;

- 1) If the resolution involves a suspension at a multi-day tournament, a panel should be formed following the end of play on the day the appeal is made. If circumstances make this impossible an ETA board member should be contacted to consider deferring the suspension.
- 2) If the appeal does not involve a suspension at a multi-day tournament, a panel should be formed within seven days of the appeal being made.



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The appellant and the other directly involved parties should be informed at the earliest opportunity of the composition of their panel. If they have an objection to a panel member, they can request that member be replaced subject to the discretion of the panel chair.

Multiple appeals of a decision can only be made for the reason listed above as B (i.e. further new information has come forward).

The appeals panel should limit their work to the grounds of appeal, and only revisit the broader incident if they accept the grounds of appeal, and decide re-investigation is needed.

If the resolution identified by a complaints panel involved a match suspension, or withdrawal from a regional or international squad, it remains in place during the appeals process. It can only be lifted in exceptional circumstances with the approval of the ETA Governance Director, or another member of the ETA board.

The appeals panel may re-interview the subject, the complainant and any third parties as required if it relates to the reason for the appeal being made. If they choose not to uphold the original panel's decision, they have the same range of options as the original complaints panel, including dismissing the complaint or deeming that existing sanctions applied are already sufficient. They can both reduce and increase the severity of any originally applied sanction.

If the appeals panel does not uphold the complaints panel's decision, they should add their decision as a supplement to the panel's entry in the complaints log as appropriate.

5.1 Fast track tournament process

Complaints made at a tournament can be dealt with via the fast track process defined here. It may be requested by a participant in the tournament, but using this process is at the discretion of the tournament's lead referee in consultation with the events manager (or event lead if the manager is not present).

Typical appropriate examples would be;

- A player complaining about behaviour towards them by another player during a game where the on field action by the referee is felt to be insufficient.
- A player or coach being involved in behaviour contrary to the code of conduct outside of a game situation (e.g. verbal abuse towards another participant).

The process is administered by one of the following; the lead referee designated to the tournament, or the national referee manager or the events manager if they are present. If other people present have been briefed previously on the fast track process, they may administer it. If the referee who would be responsible has a substantial conflict of interest, all elements of the process should be delegated to a suitable alternative.

The person administering the process must select a second person with whom they will form a fast track complaints panel. This may be any member of the playing representatives of the Disciplinary Group



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present at the tournament, or a senior player or coach if none of them are available. Decisions by this panel must be unanimous - otherwise no action is taken via the fast track process and the complaint is escalated to the standard complaints process.

The panel should review the complaint in order to judge if it is suitable to be dealt with via the fast-track process.

They should then seek further information from the subject of the complaint and if desired, the complainant and any relevant third parties. If they do, some notes on the key elements of this information should be taken and retained.

Following this stage the panel may:

- Apply or extend a suspension to any proportion of the remaining games of the tournament if they judge it to be a proportionate response to the behaviour reported to them.
- Rule that no further action is needed.
- Assign any other resolution
- Defer the complaint or any elements of it to a full complaints panel to be resolved after the tournament day is done.

Their decision and resolution identified should be added to the complaints log in the same way as any other complaint, with a note specifying that it was dealt with via the fast track process.

6.1 Rest of Game Dismissals

Complaints panels and fast track complaints panels can also consider complaints from players who have been sent for a rest of game dismissal which carries further suspension. A referee who sends a player for a rest of game suspension must write a report of what happened as soon as the game is finished, to be prepared for this eventuality.

In that scenario the panel should seek information on what happened in the game from the referee team and the players present. They may then;

- Affirm the on field decision.
OR
- Lift the two-game suspension applied after a rest of game suspension if they believe the on field decision was mistaken or disproportionate in the extreme.
OR
- Rule that no further action is required at the tournament but the incident should be referred to a complaints panel following the event's conclusion.



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In order to overturn an on field decision, the panel must believe beyond a reasonable doubt that the on field decision was factually incorrect in its basis or disproportionate to an extreme degree. Support should be offered to the referee whose decision is being overturned if necessary.

Dismissals cannot be appealed due to the decision being considered 'too harsh' as this is too subjective a measure to consider. The decision must be a long way short of acceptable for dismissal in order to be overturned.

7.1 Complaints involving juniors

Where a complaint involves a participant aged 18 or under (whether as a subject, a complainant or a third party witness), a parent or guardian must be informed alongside the junior. Once the parent or guardian is informed, all information regarding the process should be distributed to both the parent or guardian and the junior participant.

If the parent or guardian chooses, the junior is not required to engage in the process themselves beyond providing a first-hand record of events. The parent or guardian should be discouraged from coaching or guiding this record as much as possible, and it should be noted against the record if they have done so.

Where a complaint has been found to include unacceptable behaviour directed at a junior by an adult, this should always be considered as an aggravating factor when considering a resolution.

8.1 Burden of proof and 'he said, she said'

It is likely that some complaints will be made without any independent verification available. It is important to be clear on what this means for a panel reviewing the complaint.

- The burden of proof being 'the balance of probabilities' means that absent other factors, the account of a complainant should be taken as *prima facie* credible, but subject to challenge on factors including:
 - - Substantial time since the incident being reported.
 - Reasons to suspect possible confusion or misapprehension (e.g. the complaint is about something another participant said, but it was in a noisy environment).
 - A clear reason to believe the complaint could have been made in bad faith.

9.1 Other processes

Where necessary, this process can be adapted for use in other situations including;

- Code of conduct hearings - assessing whether a participant has breached the England Touch code of conduct, in situations where a formal complaint can not or has not been made by an individual
- Any other matter where a participant or organisation's conduct must be formally reviewed for the ETA to discharge its duty as governing body for the sport