

**Bowls North Harbour
Incorporated (“BNH”)**

Disciplinary Regulation

Commencement Date: 13 April 2018

Bowls North Harbour Incorporated

Disciplinary Regulation

1. Purpose and Status of Regulation

- 1.1 The purpose of this Regulation is to set out the procedure for determining Disputes and Misconduct at BNH Level.
- 1.2 This Regulation was adopted by the BNH Board, in accordance with the Constitution on 13 April 2018.

2. Commencement Date

- 2.1 This Regulation shall come into force on 13 April 2018 ("Commencement Date"). It shall continue in force until such time as it is revoked by the BNH Board.

3. Interpretation

- 3.1 Every reference to the Constitution shall mean the BNH Constitution unless specified otherwise.
- 3.2 The words and phrases used in this Regulation shall have the same meaning as defined in the Constitution of Bowls North Harbour Incorporated, unless otherwise specified in this Regulation.
- 3.3 In addition to clauses 3.1 and 3.2 of this Regulation, the following words and phrases used in this Regulation shall mean as follows:

"BNH Board" means the management committee, board or other committee however described of the BNH that is responsible for the governance of the BNH and includes any sub-committee of the BNH including a judicial committee. Any BNH judicial committee established by the BNH Board shall comprise not less than three persons appointed by the BNH Board who shall have the competencies as set out in the Constitution.

"Proceeding" means any proceeding brought under this Regulation.

4. Application of Regulation and Amendment

- 4.1 **Application:** This Regulation applies to all BNH Board Members, Members, Appointed Personnel and Officers.
- 4.2 **Amendment:** This Regulation may be amended by the BNH Board, in accordance with the Constitution, provided such amendments are not inconsistent with the Constitution.

5. BNH Board

- 5.1 **Disciplinary Functions of the BNH Board:** In accordance with the Constitution, the BNH Board shall:
 - a. hear and determine any allegation of Misconduct made to it under the Constitution;
 - b. hear and determine any Dispute made to it under the Constitution;

- c. follow the procedure to determine any allegation of Misconduct or any Dispute in accordance with clause 8 (Procedure); and
- d. generally take all steps necessary or desirable to achieve the purposes of this Regulation.

5.2 **Conflicts and Confidentiality:** All information received by the BNH Board in accordance with this Regulation, and its deliberations, shall be kept confidential except to the extent required by law. Any BNH Board Member who considers s/he may have a potential conflict of interest in determining a disciplinary matter in accordance with this Regulation shall declare that potential conflict of interest to the Chair and if the Chair considers it appropriate to do so, s/he may require that member to vacate their position on the BNH Board. If the Chair considers s/he may have a potential conflict of interest, he or she shall notify the BNH Board and if the BNH Board considers it appropriate to do so, it may require the Chair to vacate their position on the BNH Board.

5.3 **No Personal Liability:** No BNH Board Member will be liable for any act done or omitted to be done by a BNH Board Member in good faith pursuance or intended pursuance of the functions, duties, powers or authorities as specified in this Regulation.

6. Proceedings

6.1 **Commencement of Proceedings:** An application under this Regulation shall be commenced by a person alleging the Dispute or Misconduct (under clause 5.1a or clause 5.1b) filing the prescribed form (Form 1) and submitting it to the BNH Board as soon as possible but no later than 14 days after the Dispute or alleged Misconduct occurred.

6.2 **Exception:** The BNH Board, in its discretion, may accept an allegation after 14 days if exceptional circumstances, as determined by the BNH Board, exist.

7. Service

7.1 **Service:** Every document which is filed with the BNH Board shall also be served on all other parties in the Proceeding (including Interested Parties) at the address for service notified by that party in its documents in the Proceedings. If an Interested Party has not notified such an address, service shall be at the last known address of that party.

7.2 **Delivery:** Documents to be filed with the BNH Board, or served on another party, shall be sent by post, courier, email, facsimile or delivered in person.

8. Procedure

- 8.1 **Notice of Hearing:** Prior to the commencement of any hearing, the BNH Board shall ensure all parties in the Proceeding are provided with at least 7 days' notice of the hearing, unless the BNH Board considers the matter must be determined urgently in which case it may vary the notice requirements in this clause. The notice of hearing must:
- a. Be in writing.
 - b. State whether the parties are required to appear in person or whether the matter will be determined on the papers.
 - c. State whether the matter is a Dispute or an allegation of Misconduct, the possible penalties and the date, place and time of the hearing.
- 8.2 **Procedure:** Except as provided for in the Constitution or this Regulation, the BNH Board may determine its own practices and procedures for performing the functions specified in this Regulation, and may prescribe or approve forms for the purposes of any Proceeding. The Chair shall explain the procedure to all those present at the hearing.
- 8.3 **Preliminary Matters:** Preliminary matters may be heard and determined by the BNH Board as it thinks fit.
- 8.4 **Interested Party:** The BNH Board may, either on its own motion or on the application of a person whom the BNH Board determines has sufficient interest in the matter, add a further person or persons as parties to a Proceeding, or allow a person or persons to make submissions or provide evidence in any Proceeding. If this occurs, that person(s) will be bound by these Regulations as if that person(s) was a party to the Proceeding.
- 8.5 **Absence:** If any party is absent or fails to make submissions the BNH Board may, in its discretion, make a decision in their absence or grant an adjournment. Before making a decision in the absence of any party, the BNH Board must be satisfied that the person concerned had been notified of the hearing in accordance with this Regulation.
- 8.6 **Hearing:** The hearing shall take place as soon as practicable and may be held in person, telephone or video conference or by consideration of written submissions as determined by the BNH Board. At the hearing all parties, including Interested Parties and witnesses (if any), shall be given an opportunity to be heard.
- 8.7 **Power to Inquire and Direct:** The BNH Board shall have the power to inquire into the subject-matter of any Proceeding in accordance with this Regulation. For the purposes of any inquiry, the BNH Board, or any person authorised in writing by it may:
- a. inspect and examine any papers, documents, records or items;
 - b. require any party or person bound by this Regulation, and request any other person, to produce for examination any papers, documents, records or things in that person's possession or under that person's control and to allow copies of or extracts from any such papers, documents or records to be made;

- c. require any party or person bound by this Regulation, and request any other person, to provide in a form approved by or acceptable to it, any information or particulars that may be required by it, and any copies of or extracts from any such papers, documents or records;
- d. in respect of any Proceeding, hear evidence; and
- e. make such inferences and draw such conclusions as it considers appropriate from the failure by any person or party to comply with any requirement made by the BNH Board under this clause 8.7.

8.8 **Natural Justice:** The BNH Board shall, in all matters, observe the principles of natural justice.

8.9 **Filing Fee:** The BNH Board may, by resolution, set a filing fee for any Proceeding to be heard before the BNH Board. The BNH Board may, in its discretion, waive all or part of any fee if it considers appropriate to do so.

8.10 **Evidence in Proceedings:** The BNH Board may:

- a. receive as evidence any statement, document, information, or matter that may, in its opinion, assist it to deal effectively with the matters before it, whether or not the same would be admissible in a court of law;
- b. take evidence on oath, and for that purpose any BNH Board Member may administer an oath; and
- c. permit a person appearing as a witness before it to give evidence by tendering a written statement and, if the BNH Board thinks fit, verifying it by oath.

8.11 **Representation:** The parties, including any Interested Party, may be represented or assisted in the Proceeding by a person of their choice.

8.12 **Minors:** A person who has not attained the age of 18 years, (referred to in this Regulation as a "Minor") may be a party to, and shall be bound by a Proceeding before the BNH Board as if the Minor were a person of full age and capacity. Where a Minor is a party to any Proceeding, the BNH Board may, if the Minor agrees and it considers it would be in the interests of the Minor to do so, at any time appoint a person to represent the Minor. The Minor shall be responsible for any costs incurred as a result of such representation.

8.13 **Applicable Law:** All Proceedings shall be determined according to the laws of New Zealand.

8.14 **Decisions:**

- a. A decision of the BNH Board in any Proceeding shall be made by majority decision of the BNH Board Members hearing the Proceeding.
- b. In the event there is no majority decision of the BNH Board Members hearing the Proceeding, the Chairperson shall decide the matter.
- c. The BNH Board may, in its discretion, give an oral decision, but shall also issue a written decision with reasons as soon as expedient.

- d. The BNH Board may also make non-binding recommendations to a BNH, a Club, or any other party of any Proceeding.
 - e. Any decision of the BNH Board made under this Regulation shall be enforceable, by any party to the Proceeding in which the order is made, in the courts of New Zealand under the law of contract.
- 8.15 **General:** Where any matter is not otherwise provided for in this Regulation, the BNH Board shall have jurisdiction to make such orders or give such directions as it considers to be consistent with the just, speedy, and inexpensive determination of the Proceeding.
- 8.16 **Mediation:** The BNH Board may, if requested by the parties, or on its own violation, order that the substantive issue in a Proceeding, or any sub-issue, be mediated before an independent person.
- 8.17 **Records:** The BNH Board shall keep records of all Proceedings, including all investigations and decisions.
- 8.18 **Costs:** Unless otherwise determined by the BNH Board, every party and person involved in any Proceeding shall bear their own costs.

9. BNH Board Orders

- 9.1 **Orders:** The BNH Board may make any such orders as it considers appropriate to give effect to its decision, including imposing any of the following sanctions:
- a. a reprimand or warning;
 - b. suspension or termination from such activities of the BNH including events, competitions, tournaments, meetings, and functions, on such terms and for such period as it thinks fit;
 - c. suspension or termination of the Member's membership of the BNH;
 - d. fines, imposed in such manner and in such amount as the BNH Board thinks fit;
 - e. such other penalty as the BNH Board considers commensurate with the offence; and/or
 - f. such combination of any of the above penalties as the BNH Board thinks fit.

10. Appeals

- 10.1 **Appeal to a Regional Judicial Committee:** Any Member who is subject to a decision of the BNH Board under this Regulation, may appeal the decision to a Regional Judicial Committee in accordance with the Bowls NZ Regulations.

Appendices of Forms

Reference	Explanation
Form 1	Application for Proceedings to be Heard by the BNH Board

**APPLICATION FOR PROCEEDINGS
TO BE HEARD BY THE BNH BOARD**

1. Details of Applicant

Name	TITLE	FIRST NAME	SURNAME
Postal Address	STREET		SUBURB
	CITY	POSTCODE	

Contact Person for this Application

Name	TITLE	FIRST NAME	SURNAME
Position			
Telephone	WORK	MOBILE	
Facsimile	WORK		
Email			

2. Details of Representative (if applicable)

Please insert the details of your legal representative or other person, if any, who will be representing you in these Proceedings.

Name of Representative	TITLE	FIRST NAME	SURNAME
Firm/Company			
Postal Address	STREET		SUBURB
	CITY	POSTCODE	

3. Alleged Dispute or Misconduct

(a) Give details of the alleged Dispute or Misconduct.

[Redacted area for details of the alleged Dispute or Misconduct]

(b) Summarise the evidence which will be produced in support of the alleged Dispute or Misconduct (the summary will not prevent further evidence being brought in accordance with any direction given by the BNH Board).

[Redacted area for summary of evidence]

4. Result Sought

Please supply the outcome sought in accordance with the applicable rules/policies.

[Redacted area for result sought]

5. Authority

Name	TITLE	FIRST NAME	SURNAME
Signed			
Position			
Date			

Filing and Service Instructions

1. This application should be signed and filed with the BNH Board at the address given below.
2. Where possible, a summary of the evidence to be brought in support of the allegations and a copy of documents evidencing the allegation should be attached.
4. The Applicant is to personally serve a copy of this application and attachments on the Respondent as soon as practical after the original has been filed with the BNH Board and provide confirmation of this to the BNH Board.

Postal Address: P O Box 82, Orewa, Auckland 0946.

Phone: 09 4759941

C/phone: 027 2359864

Email: bowls@bowlsnorthharbour.co.nz