

## **Briefing Notes to BKA AGM Agenda Item 7d**

### **Note from the Chairman:**

*This amendment plugs a hole to deal with circumstances we had not experienced before i.e. the need to refer back to disciplinary actions. What we found was that there was no central record of such things and we needed to rely on past Officers recalling information, emails etc. This amendment will help future Officers.*

**I recommend that you vote: Yes**

## **BYLAW 23: Retention of records**

### **What has changed?**

- Bylaw 23 has been introduced to govern the retention of records of complaints and other disciplinary matters, and of decisions made by the Bu ECs in respect of individual members.
- This will be on strict and controlled conditions, for use by future AGMs, in disciplinary cases and applications to re-join the association under article 10.8.
- This provision will only apply to future cases and not retrospectively.

### **Why?**

There is currently no policy on the retention of these records and they are usually only kept by the parties to the complaint, but may be relevant to future proceedings being heard by an AGM.

This may be an application for readmission where someone has resigned, under art 10.8/ Bylaw 22. It could potentially take place a long time after. If there have not been expulsion proceedings then it is not necessarily the case that later officers would know the circumstances.

Bylaw 22 contains provisions that the NC will adduce evidence of previous decisions to any such AGM and that any findings of fact made by previous panels and other BKA bodies, should not be reopened. This raises the question of what records we keep of any such evidence.

Similar considerations may apply where the NC wishes to provide evidence to an AGM of a members' or officers' course of conduct in an expulsion / removal from office case, where this has taken place over more than one incident.

Article 13.4 makes it clear that confidentiality may be waived at this point. However, if there is no official record of the findings by the complaints panel and reasons for these, or reasons why a decision was made by another committee, then there is a gap in the evidence.

This provision should make sure that key officers are able to have relevant information but that such personal data, being very sensitive, is used only on a 'need to know' basis and otherwise is not accessible.

This provision will also cover situations where the information is relevant to the protection of other members from risk, particularly junior members, and decision making in respect of who can coach children.

### **Proposed wording :**

#### ***Complaints data:***

1. *Article 13.4 provisions on the confidentiality of the complaints procedure shall not prevent:*
  - *the sharing of key information concerning complaints and their outcome, between officers who have a strict need to know as part of the role; and*
  - *where there is an overriding purpose which is in the interests of the Association and*
  - *Any one of the following applies:*
    - *That the information is required to be disclosed to ensure the safety of other members , particularly junior members;*
    - *That the information is relevant to decisions required in respect of an application to coach children by someone who has a conviction relevant to their suitability for that role*

- *That the information is relevant to another disciplinary decision being made by a Bu CC concerning a member of the Association.*
- *Where a person subject to article 10.8 is seeking to rejoin the Association*

*2. In all other circumstances, the confidentiality of the complaints process shall continue to apply after the conclusion of the complaints procedure, unless the matter falls within the provisions of article 13.4 relating to a hearing at the AGM.*

*3.a. The Complaints officer shall retain the report of the Panel in the matter with any key documents, and shall maintain a record summarising:*

- *the outcome of each complaint*
- *any facts found*
- *reasons given for decisions and*
- *sanctions recommended*

*and shall only disclose this information where one of the grounds in 1. above are met.*

*b. Where practicable this information is to be kept in a form where it can be encrypted and any attempts to access it will be automatically logged.*

*4. The lawful bases for processing this personal data are:*

- *That the BKA has a legitimate interest in retaining these records and their retention by one officer is proportionate in the circumstances*
- *There is a contractual basis for retaining these records for this purpose because article 13.4 makes it clear that confidentiality of data cannot be maintained where a disciplinary matter is to come before the AGM.*

*5. At the conclusion of a complaint all parties should be informed of the contents of any summary.*

*6. Either party may then:*

- *Make representations to the Bu CC to amend any matters which do not accurately reflect the outcome of the proceedings (but not as to facts in the case which were disputed)*
- *object to the retention of the record, in which case the matter shall be referred to the NC for a decision. The NC shall*
  - *Consider the balance of the interests of the BKA and the member's rights*
  - *Consider the context and seriousness of any matters which arose in the complaint*
  - *Consider any likely negative consequences of retention for the member*
  - *Make a decision on retention of the record.*

***Recording of decisions by committees:***

***7. Where the NC or a Bu EC makes a decision about a matter relating to an individual member, this matter may be excluded from any minutes published to the membership.***

- *Emails relating to any such matter need not be retained once the immediate matter is dealt with*
- *A summary of the decision, outcome of vote, matters considered and reasons for decision shall be retained by the NC Secretary on the same conditions as apply in 1. above*
- *The Bu EC shall return a summary of any decisions made in respect of individual Bu members upon request of the NC Chair or Secretary or within 6 months of the decision in any event and after having done so the Bu officers should not retain any personal data relating to the member*