

Proposed amendments to BKA Constitution: DOCUMENT 8C

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10. Article 10: Suspension and Expulsion of members

10.1 The relevant BuEC may suspend a member and make a case to the NC for the subsequent expulsion of the member.

10.2 A member cannot be suspended/expelled for the lawful exercise of free expression. Freedom of expression shall include legitimate criticism of others but shall exclude defamation, abuse of others, incitement or hate speech.

10.3 A member cannot be suspended/expelled for the lawful exercise of the freedom of association.

10.4 The NC may suspend a member in the following circumstances:

- The member has breached the constitution.
- The member is on police bail or has been lawfully charged¹⁴ or convicted of an offence which, in the opinion of the NC constitutes a risk to the welfare of its members.
- Has committed an act of gross misconduct
- In exceptional circumstances a member may be suspended from the BKA if, in the opinion of the NC:

o The conduct of the member is injurious or is likely to be injurious to the character and interests of the BKA (saving the provisions of this constitution)

o H has failed to heed written warnings from the NC Chair concerning their conduct)¹⁵

o As an outcome of the complaints procedures detailed in Article 13.

10.5 Suspended members shall immediately forfeit all rights and benefits of membership of the BKA, saving access to the conflict resolution procedures detailed in this constitution.

~~10.6 The NC may seek to have the suspended member “expelled” from the BKA at the earliest available AGM or an EGM.~~

~~10.7 The member suspended will be entitled to submit a written defence to the membership which will be circulated before the earliest available AGM or EGM (on Association website) and will be able to provide a verbal defence at such meeting which shall be limited to 15 minutes of presentation and discussion. Thereafter a vote may be taken to grant further periods of 15 minutes.~~

10.6.

- The NC shall refer suspended members to the Expulsions and Disqualifications Panel [EDP] to consider the case for expulsion.
- The EDP shall make a recommendation and report back to the NC.
- The report, findings of fact and recommendations of the EDP shall be referred to the Membership for ratification at the next AGM or EGM or by another properly constituted voting procedure.

- If the recommendations of the EDP are in the view of the NC unreasonable or untenable then on referral to the AGM the NC may report to the AGM or EGM giving its reasons for not supporting the EDP decision. The membership may then vote to ratify the NC decision or to endorse the EDP decision.

10.7 Where in the opinion of the NC, a member has persistently breached the Associations bye-laws or Codes of Conduct and has not desisted when given a warning concerning their behaviour, the NC may refer the person to the EDP as a disciplinary matter.

10.8 Members who have been expelled or resigned whilst subject to disciplinary proceedings may only re-join the BKA at the discretion of the AGM.

10.8.1 Former members whose circumstances fall within 10.8 may apply for readmission to the Membership Secretary who shall refer the matter to the Expulsions and Disqualifications Panel for consideration.

10.8.2 The Panel shall review the evidence and decide whether there is a case for readmission requiring hearing. If there is, they will hear the former members application in accordance with the procedure set out in Byelaw (22) and produce a recommendation and report for consideration by the membership at the next AGM

10.8.3 The onus of proof to show that the applicant should be readmitted, shall be upon the applicant

10.8.4 Where a previous panel or AGM has made findings of fact or a decision in respect of the former member, then these shall be accepted as the facts of the matter at that time. The applicant shall not be entitled to a rehearing of the original facts

10.8.5 Where the AGM decides to re-admit a former member, any and all monies owed by that member to the BKA shall be paid before the member is readmitted.

10.8.6 Where a former member is readmitted any outstanding disciplinary sanctions with a specified duration shall run from the date of readmission.

10.8.7 Where the applicant has been refused readmission then he or she may not apply further for a period of five years.

¹⁴ *If the charge is dropped or if there is no conviction then the member shall be reinstated, subject to the findings of any other court*

¹⁵ *This provision is included in order to accommodate circumstances which have not been foreseen in the constitution. It is NOT intended to be used as a means of intimidation of members/dojo.*

11. Article 11: Suspension/Removal of elected Officers from post

11.1 The procedure for the suspension and subsequent removal of an elected officer of the NC/BuEC shall be as detailed in Diagram 11-1 and below.

11.2 The relevant NC/BuEC shall first suspend the officer according to the provisions below and then if appropriate seek the removal of the officer ~~by polling the relevant electorate (see diagram 3.2).~~ ~~by referring the matter to the~~ Expulsions & Disqualifications Panel under article 13 A

11.3 The suspension and removal from office of an elected officer is a most serious matter and should not be invoked without other attempts to resolve the problem having been tried e.g. discussion between the parties etc. Ultimately the matter shall be decided by the relevant electorate [upon consideration of the EDP report](#).

11.4 Suspension of an NC officer:

11.4.1 The BuEC/DRC (requires $\geq 66\%$ of those voting) may request that the NC suspend an officer of the NC giving reasons for their request. The BuEC/DRC shall inform the membership in accordance with the Communications Policy.

11.4.2 The NC shall be bound to follow the process detailed in 11.5 and 11.6 for suspending/removing an officer.

11.4.3 The NC itself may initiate the process of suspension and expulsion of an officer of the NC with a $\geq 66\%$ majority (excluding the member concerned). The NC shall inform the membership in accordance with the Communications Policy.

11.5 Suspension of a BuEC officer:

11.5.1 The DRC (requires $\geq 66\%$ of dojo voting) may request that the BuEC suspend an officer of the BuEC giving reasons for their request. The DRC shall inform the membership in accordance with the Communications Policy.

11.5.2 The BuEC itself may initiate the process of suspension and expulsion of an officer of the BuEC, with a $\geq 66\%$ majority of the BuEC (excluding the member of the BuEC concerned). The BuEC shall inform the membership in accordance with the Communications Policy.

11.6 Suspension procedure

11.6.1 The relevant NC/BuEC shall examine the case put forward for the suspension of the officer.

11.6.2 The relevant NC/BuEC shall decide whether there are sufficient grounds for suspending the officer (in accordance with the constitution).

11.6.3 If the relevant NC/BuEC decides that there are insufficient grounds for the suspension of the officer, the officer shall not be suspended.

11.6.4 If the relevant NC/BuEC decides that there are sufficient grounds for the suspension of the officer, they shall then ~~present a case to the NC/Bu membership for the removal of the officer in accordance with the Communications Policy.~~ [refer the matter to the EDP for hearing and consideration of removal and/or other sanction under the procedures in article 13A ;](#)

11.6.6 Elected officers may be suspended from office by means of a motion of “suspension from office” or a motion of “no confidence” [within the Bu or NC](#). The officer subject to such a motion shall be immediately suspended from office and the appropriate procedure followed to remove the officer from post.

11.7 An elected officer cannot be suspended/removed for the lawful expression of free expression which shall have the same meaning as in Article 10

11.8 An officer cannot be suspended/removed for the lawful exercise of the freedom of association.

11.9 The NC/BuEC may suspend/remove its officers in the following circumstances:

- The officer has been subject to suspension/expulsion under Article 10.
- The officer has breached the constitution.
- The officer has, in the opinion of the NC/BuEC displayed less than satisfactory administrative skills.
- The officer has, in the opinion of the NC/BuEC exceeded the authority of the post.
- The officer has, in the opinion of the NC/BuEC misappropriated funds of the BKA
- The officer has been negligent in the execution of their duties.
- The NC/BuEC cannot sustain a working relationship with the officer.
- The officer has lost the confidence of the relevant NC/BuEC/appropriate Electorate.

In exceptional circumstances an officer may be suspended from office if, in the opinion of the NC/BuEC the conduct of the member is injurious to the character and interests of the BKA (saving the provisions of this constitution).¹⁶

11.10 Suspended officers shall immediately forfeit all rights to the post and shall immediately return to the BKA all documentation (electronic, computer account login data, print or otherwise) obtained through holding the post and all physical property of the BKA. Failure to do so shall render the suspended officer liable for all costs incurred by the BKA in recovering such material.

11.11 ~~The NC/BuEC shall present to the membership (in accordance with the Communications Policy) the full circumstances in which the officer was suspended, within 21 days of the suspension and shall seek membership confirmation of its actions at the next available AGM or an EGM. Expulsion from post shall be determined by >=66% majority of those voting. The Officer suspended will be entitled to submit a written defence to the membership which will be circulated before the earliest available AGM or EGM (on BKA website) and will be able to provide a verbal defence at such a meeting which shall be limited to 15 minutes of presentation and discussion. Thereafter a vote may be taken to grant further periods of 15 minutes. The NC shall refer the suspension/requested removal from office to the Expulsions and Disqualifications Panel as soon as is practicable and shall follow the procedures set out in article 13 A and any relevant byelaws.~~

The NC shall within 21 days of the suspension, inform the Membership of the fact of suspension, the article under which the suspension has been made and the fact of referral to the EDP. Should the officer be reinstated, the NC shall communicate this fact and the reasons to the membership.

11.12 A motion of “no confidence” in an officer may be submitted by members to an AGM/EGM, subject to 45 days prior notice to the relevant committee. If the motion is sustained the officer shall be removed from post.

11.13 A motion of “no confidence” in an officer may be moved by members under “Any Other Business” of a properly constituted meeting of the BKA, subject to the rules of Any Other Business, provided that such a motion is based on information/evidence that was not readily available to the membership at least 45 days prior to the meeting. If the motion is sustained the officer shall be removed from post.

11.14 Motion of Censure

11.14.1 Officers may be subject to a motion of “censure”¹⁷. An officer subject to such a motion shall be “admonished”.

11.14.2 Officers subject to a motion of censure shall not lose office, but shall have due regard to the consensus of the membership passing such a motion.

11.14.3 A motion of censure of an officer may be submitted by members to an AGM/EGM, subject to 45 days prior notice to the relevant committee. The relevant NC/BuEC cannot refuse to put such a motion in the agenda.

11.14.4 A motion of “censure” of an officer may be moved by members under “Any Other Business” of a properly constituted meeting of the BKA, subject to the rules of ‘Any Other Business’, provided that such a motion is based on information/evidence that was not readily available to the membership at least 45 days prior to the meeting.

11.15 Motion of Disqualification from office

16 This provision is included in order to accommodate circumstances which have not been foreseen in the constitution. It is NOT intended to be used as a means of intimidation of members/dojo/officers.

17 This is intended to be a form of rebuke less serious than suspension/removal from post.

11.15.1 Officers may be subject to a “Motion of disqualification from Office”, an Officer subject to such a motion shall, if passed, be banned from all elected posts for a period specified within the motion.

11.15.2 A Motion of disqualification from Office may be submitted by members to an AGM/EGM, subject to 45 days prior notice. The relevant NC/BuEC cannot refuse to put such a motion in the agenda

11.15.3 A Motion of disqualification from office of an Officer may be moved by members under “Any other Business” of a properly constituted meeting of the BKA, subject to the rules of ‘Any Other Business’ provided that such a motion is based on information/evidence that was not readily available to the membership at least 45 days prior to the meeting

13. Article 13: Complaints Procedure²¹

The intention of this article is to enable the resolution of members’ complaints/concerns within the BKA, without immediate recourse to law by any of the parties. It is understood that whilst the BKA will do its best to adhere to the procedures below, there may be some unavoidable change to time limits due to member/officer availability. Whilst the BKA wishes to deal with complaints in the most efficient, fair and timely way possible it is understood that the BKA is unlikely to achieve the standards of the Courts and professional Arbitration bodies when dealing with complaints.

13.1 Complaints shall be dealt with by the relevant Dojo Leader or ~~BuEC/NC complaints committee~~ **disciplinary committee Panel** according to the structure detailed in Diagram 13-1 **[needs amending if proposals are passed]** and the procedures detailed below.

²¹ *The intention of this article is to enable the resolution of members’ complaints/concerns within the Association, without immediate recourse to law by any of the parties*

13.2 ~~Bu Complaints Committee~~ **Disciplinary Sub Committee**

13.2.1 ~~There shall be a Bu Complaints Committee for each Bu.~~ There shall be a Disciplinary Subcommittee ("DSC") composed of 4 members from each Bu, plus a Co-ordinator.

13.2.1 Each Bu shall elect, at a Bu AGM or EGM, 4 members to participate in the DSC. The identities of the DSC members shall be published to the membership in accordance with the Communications Policy. The DSC Co-ordinator will be elected by the general membership.

13.2.3.1 A Complaints Panel of 3, one from each Bu, shall be selected from the DSC by the DSC Coordinator to hear any formal complaint. The quorum for a complaints panel shall be 3. The 3 members of a panel shall agree which of them will chair the panel.

13.2.3.2 The DSC Coordinator will advise the NC Chair of the names of the members of the Complaints Panel for each complaint.

~~13.2.2 Each Bu will nominate a complaints panel of 5 members, from which a Complaints Panel of 3 shall be selected to handle a complaint. This must include at least one elected officer of the Bu. Complaint panel members; if not already officers of the Bu (elected or co-opted) shall become co-opted officers. The identities of the complaints panel of 5 shall be published to the membership in accordance with the Communications Policy. The Bu Complaints Committee will nominate one of the members as Chair of the Committee. The quorum for this committee shall be 3.~~

~~13.2.3 Each Bu Complaints Committee will advise the NC Appeal Committee of the names of the members of the Bu Complaints Committee for each complaint.~~

13.2.4 The powers of the ~~Bu Complaints Committee~~ **Complaints Panel** are detailed in Article 13.4.

13.3 ~~National Appeals Committee~~ **Panel**

~~13.3.1 There shall be a National Appeals Committee. This shall comprise of Chair, Vice Chair and the three Dojo Rep Chairs or suitable alternative BKA Officers. The quorum for this committee shall be 4.~~

~~13.3.2 The NC Appeals Committee may determine whether the BuEC was correct in upholding the original complaint, uphold penalties, suggest other penalties based on its assessment of the evidence. The powers of the NC Appeals Committee are detailed in Article 13.4~~

13.3.1 There shall be an Appeals Panel ('AP'), composed of 5 members of the DCS appointed by the DSC Coordinator. This Panel will hear Appeals from complaints determinations, or from a decision of the Child Protection Officer. There shall be representatives on the AP of all 3 Bu. If a member has sat as part of a Panel hearing the initial complaint, he or she shall not be eligible to sit on the Appeals Panel hearing the appeal of that complaint. The quorum for this panel shall be 4.

13.3.2 On an Appeal from a complaint, the AP will operate as a review of the original decision. It may determine whether the CP was correct in upholding or dismissing the original complaint and may uphold or vary penalties. In the event that the Complaints Officer is of the opinion that there were serious procedural flaws in the original process, the AP may operate as a re-hearing of the original complaint. The powers of the Appeals Panel are detailed in Article 13.4

13.3.3 In the event that there are insufficient officers to fill elected posts then the NC may co-opt additional members to sit on the hearing of a case, until such time as further elections can be held for the posts. Any such co-opted officers shall be from the ranks of elected officers and senior advisers of the Bu (in respect of the complaints panels) or any one of the following (in the case of appeals or expulsions etc): Any DRC Chair, VC or NC Chair. If none of these are available the NC may co-opt any other NC or Bu officer and shall use its discretion to achieve a fair and balanced Panel.

21a

21a This is intended as a 'failsafe' provision; if there are insufficient elected panellists then the system essentially reverts back to those officers in these roles under the previous constitution.

13.4 COMPLAINTS PROCEDURE – BRITISH KENDO ASSOCIATION

13.4.1 The procedures to be followed for informal and formal complaints shall be as follows:

General Principles

- The NC may co-opt a Complaints Officer to act as the point of contact for member complaints. The Complaints Officer shall not sit on any Complaints panel and is thus free to advise members and panels.
- The National Committee has the responsibility of ensuring that the BKA Complaints procedure is properly constituted ~~and additionally constitutes the Final Appeal Body~~
- None of the procedures below will prevent any complaint of a criminal nature being referred immediately at any point to the relevant external authorities.
- All complaints of a child and vulnerable person protection nature will be immediately referred to the BKA Child and vulnerable person protection Officer.
- All complaints deemed to be gross misconduct, for example, involving physical assault/drugs and behaviour likely to bring the BKA into disrepute will be referred immediately to the ~~relevant Bu Complaints Committee~~ **Expulsions and Disqualifications Panel under the procedure set out in article 13A.**
- All complaints will be treated in confidence and will not be discussed outside of the complaints structure. However, at the point of requiring member approval (e.g. expulsion), confidentiality cannot be maintained.
- The BKA shall keep a copy of the original complaint and a record of the outcome of all complaints and other disciplinary hearings for a period of 3 years. This will not be disclosed to the membership except where member approval is required, but may be made available to a subsequent disciplinary panel at the stage of the process when sanctions against a member are being considered. This shall be conditional on the following criteria;
 - a. the previous complaint has been upheld;
 - b. The subsequent complaint has been upheld and
 - c. The matter complained about in the previous is relevant to the subsequent complaint in deciding whether a sanction is proportionate.

It is expected that where possible complaints will be dealt with informally at the lowest level possible.

13. 4. 1 Failure to comply with the findings and recommendations of the Complaints panel (s) may constitute gross misconduct.

13.4.2 Informal Complaints

It is expected that at this level complaints will be dealt with informally, verbally, and will be considered within 14 days of the verbal complaint being made.

13.4.3 Complaints by a member of one dojo against another member/s of same dojo

Complaints will be heard informally by the Dojo Leader without undue delay unless the complaint is of gross misconduct when the complaint will be referred immediately to the ~~relevant BU Complaints Committee.~~ [Complaints panel.](#)

Powers of Dojo Leader – the Dojo Leader has the power to expel a member from the dojo but not from the BKA.

13.4.4 Complaints by one member of one dojo against another member of another dojo

These complaints will be heard jointly by the two Dojo Leaders without undue delay – unless the complaint is of gross misconduct when the complaint will be referred to the ~~BU Complaints Committee~~ [complaints panel.](#) Powers as for Dojo Leaders above.

In the event that the two Dojo Leaders fail to arrive at an informal joint decision the complaint will be referred by the Dojo Leaders to the Complaints Officer in writing within the 14 days of the informal hearing of the Complaint, unless the complaint is withdrawn.

13.4.5 Formal Complaints – Referral to ~~Bu Complaints Committees~~ [Complaints Panels](#)-

Procedures to be followed:

1. A complaint made by a member against [any Officer](#) Dojo Leader, dojo teacher [dojo representative](#) or a member(s) will be made in writing (email is acceptable) within 21 days of the incident, 21 days of the last of the series of incidents or within 21 days from when the complainant first became aware of the issue. The complaint should be sent to the Complaints Officer. The written complaint will include all relevant details of the complaint, the names of the individual/s against whom the complaint is made and the names of any witnesses who will be providing witness evidence or statements.
2. The Complaints Officer will then decide, in consultation with the NC Secretary if the complaint is within remit. If there is a difference of opinion at this stage, they will refer the matter to the Vice Chair. The majority decision shall determine the outcome.

~~3. The Complaints Officer will advise the member(s) complained against of the complaint and will forward the written details of the complaint to them. The Complaints Officer will ask for a written response to be made within 14 days and will then forward all the paperwork to the relevant Chair of the Complaints Committee.~~

[3. \(a\) The Complaints Officer shall send all the documents provided by the Complainant to the Chair of the DSC panel as soon as practicable once the matter has been decided to be 'within remit'.](#)

[\(b\). The DSC Chair will select a Complaints Panel from amongst the members of the DSC , composed of one member from each Bu.](#)

[\(c\) The Complaints Officer shall then send the Complaint and any witness statements to the subjects of the complaint \('the Respondents'\) and shall invite them to respond within 14 days.](#)

(d) The Complaints Officer shall send any written material and witness statements filed by the Respondents to the panel members and the Complainant as soon as possible after receipt.

(e) Once the initial evidence is filed then the Complaints Officer, in consultation with the DSC Chair, will decide whether there is a need for a physical hearing using the procedure set out in 4 below.

(f) The Complaints Officer shall then either:

- Set a date for determination of the matter 'on paper' and notify the panel and parties

Or

- seek 'dates to avoid' from the panel members and from the parties, and shall set a date of hearing and notify it to all parties and the panel as soon as available.
- Unless there are exceptional circumstances then the date of the hearing should be within 2 months of the date of the receipt of the complaint by the Complaints Officer.

(g) Where there is to be a physical hearing, parties shall be responsible for informing the Complaints Officer of the number of witnesses and any dates to avoid for them and their witnesses at the earliest possible opportunity, and for informing their own witnesses of the date of any hearing.

(h) The parties shall inform the Complaints Officer of any statements filed by the other parties which are accepted without the need to call the witness to give evidence.

(i) The Complaints officer shall set a timetable for the exchange of any further evidence and will notify the Panel and the parties

(j) The Complaints officer will conduct any further enquiries of parties or witnesses which are required by the Panel and the results shall be available to all parties.

(k) All evidence shall be filed at least 7 days before the date of any hearing or consideration of the written evidence.

4. In consultation with the DSC Coordinator and the parties to the Complaint, the Complaints Officer will decide whether the matter requires a physical hearing.

Whilst a physical hearing is preferable, ~~in consultation with the Complaints Officer, it may be decided the~~ Complaints Officer may determine that a physical hearing is not possible or necessary.

This decision may be taken if the constituent members of the Complaints Panel are located at a geographical distance in excess of 50 miles and there is no event at which all members of the Panel can be present to conduct a hearing which is convenient to the Complainant and the Defendant(s) and/or the matter is simple in nature and the facts are uncontested.

If the decision is taken to waive the requirement for a physical hearing the following procedures will apply:

- a) The decision will be communicated to the Complainant and the Defendant(s)
- b) The Complainant and the Defendant(s) will be sent all the documentation and witness statements from both the Complainant and the Defendant(s) and they will be given sufficient time to consider these documents, ask any further questions of any party, and to communicate the response (s) to the Panel.
- c) Both the Complainant and the Defendant(s) are given the opportunity to give a verbal summary via telephone or internet to the Chair of the Panel should they wish to do so.

d) The Panel will arrive at a decision within 7 days from receipt of all the documentation/verbal summary and communicate this decision to the parties.

e) The hearing may be conducted virtually by video conferencing technology

~~5. Should the decision be made that a physical hearing will take place The Complaints Committee Officer will send the date of the hearing and the details of the complaint to the individual/s complained against within 24 hours of the Complainant being advised of the date of the hearing.~~

~~6.~~ 5. The hearing date may be amended by the Complaints Officer within 7 days of the original hearing date if the Complainant or the individual/s complained against are unavailable for any reasonable cause and any new date must be communicated to the parties and panel by the CO as soon as practicable.

~~7. The witnesses will be advised of the date of the hearing, at the same time as the individual/s complained against and if unable to be present must supply witness statements to be received no less than 7 days before the date of the hearing. Witness statements will immediately be forwarded to the individual/s complained against.~~

~~8.~~ 6. All parties have the right to be accompanied to any oral hearing by a representative and the Panel shall be notified in advance of the name of any such representative if the representative intends to participate in the hearing. The Panel may exclude the representative if that person is disruptive at the hearing, who will not participate in the hearing unless specifically agreed by the Complaints Committee at the commencement of the hearing.

97. When the decision has been made all parties will be notified in writing by the Coordinator of the Disciplinary Subcommittee of the decision and any penalty imposed. Written notification will occur within 14 days of the date of the hearing. The notification of the decision will advise of the rights of appeal.

~~13.4.6 Complaints against Dojo Reps~~

~~Procedure as for complaints against Dojo Leaders/individuals~~

~~13.4.7 Complaints against an individual NC/Bu Executive member~~

~~Complaints must be made in writing within 21 days of the incident or series of incidents or within 21 days from when the complainant first became aware of the issue. An unresolved complaint made against a member of a NC/BuEC shall be sent in writing to the Complaints Officer and if appropriate will then be forwarded to the Chair of a different BuEC Complaints Committee for investigation.~~

~~The Procedure followed will be as the procedure 2—10 in 13.4.5 above.~~

~~13.4.8-6 Elected Structure for the hearing of complaints~~

~~The structure is as follows:~~

~~A) Final Appeal is conducted by the National Monitoring Committee DSC Appeals Committee Panel~~

~~Powers: As set out below. The Appeals Committee Panel may alter the penalties as they see fit, based on their assessment of the evidence.~~

~~B) Formal Complaints are conducted by the Bu Executive Complaints Committees Complaints Panels as follows:~~

~~Kendo Complaints Committee/Iaido Complaints Committee/Jodo Complaints Committee~~

~~Powers: The Complaints Committee has the power to impose penalties as set out below.~~

~~13.4.9 Powers and Penalties~~

The ~~National Committee Appeals Committee~~ **Panel** has the power to impose the following penalties:

1. Suspension/expulsion from the BKA in accordance with the provisions of the Constitution.
2. Removal/Disqualification/Suspension from Office for such period as deemed fit.
3. Banning from holding Office for such a period as deemed fit.
4. Issue a formal reprimand
5. Other proportionate penalty

13.4.9a: where the penalty imposed by any of a complaints, Appeal, or Expulsion & Disqualification Panel on the member is suspension/ expulsion, removal from office, disqualification or banning from office, or other sanction which has a major adverse effect on that members rights under Article 7, then (subject to any appeal) the matter must be referred to the AGM for ratification by the Membership. The relevant Panel shall provide the AGM with a full report including an account of what evidence was considered, findings of fact, and recommendations. The Defendant member shall have the right to put a written statement to the AGM explaining why he or she disagrees with the recommendations. All reports should be made available to the membership via the private members area of the website at least 7 days before the date of the AGM.

The ~~Bu Complaints Committees~~ have the power to impose the following penalties:

1. Suspension from the BKA in accordance with the provisions of the Constitution.
2. Removal/Disqualification/Suspension from Office for such period as deemed fit.
3. Banning from holding Office for such a period as deemed fit.
4. Issue a formal reprimand
5. Other proportionate penalty

It is expected that expulsion from the BKA will apply only after lesser penalties have been considered.

~~Failure of the relevant BKA member(s) to fully implement the instructions of a Bu Complaints Committee or an NC Appeals Panel (compliance with instructions will be assessed by the relevant Committee/Panel), in accordance with the time frame designated by the Committee/Panel (unless an appeal has been lodged according to the constitution) shall constitute gross misconduct; may result in the NC immediately suspending the member(s) from the BKA. The NC may seek to have the suspended member(s) 'expelled' from the BKA at the earliest available AGM or an EGM.~~

If a sanction imposed by a CP or AP is not complied with (unless the matter is under appeal) then the NC may write to the member concerned to enforce compliance. Should the sanction still not be complied with then this will constitute gross misconduct and the NC may suspend the member(s) and refer the matter to the EDP for further consideration of the imposition of harsher sanctions including disqualification from office or expulsion

~~13.4.10 Appeals against Bu Complaints Committee **Complaints Panel** findings and penalties by individual members/Bu Executive member/Dojo Reps~~

~~An appeal against the findings and/or penalty imposed at a formal hearing must be put in writing and sent to the Chair of the National Committee Appeals Committee within 14 days of the date of notification of the decision and any penalty imposed. The grounds for the appeal must be made in writing and set out why the complaint should be heard again. Reasons for an appeal could include new~~

~~evidence or witness statement, or facts not available to the original BU Complaints Committee, correct procedures not being followed or any other reasonable grounds.~~

~~The National Committee's Appeals Committee will, within 14 days of receipt of the written request for appeal, contact the Chair of the relevant BU Executive Committee requesting any written documentation relating to the hearing of the complaint. The National Committee's Appeals Committee will make a decision within a further 14 days of the written information being received by the Chair, as to whether there are sufficient grounds for an appeal to take place. The complainant or individual/s complained about will be notified in writing within a further seven days of the decision and, if the appeal has been refused, detailing the specific reasons for refusal.~~

~~If the appeal has been allowed all parties to the appeal will be notified of a hearing date, which will be set within 28 days of the notification that an appeal has been allowed.~~

~~Subsequent procedures followed will be as Formal Complaints procedures 13.4, 13.5, 13.6~~

~~When a decision has been made, the Chair will inform within 7 days the complainant/ individual/s complained against in writing of the decision and any penalty imposed, altered or revoked, and this decision will be final and binding on the parties.~~

13.4.10 Appeals:

(a) An appeal against the findings and/or penalty imposed at a CP hearing, must be put in writing and sent to the DSC Coordinator Chair of the NC, and the Complaints Officer within 14 days of the date of notification of the decision and any penalty imposed. The grounds for the appeal must be made in writing and set out why the complaint should be reconsidered. Reasons for an appeal could include significant new evidence or witness statements, or relevant facts not available to the original CP, correct procedures not being followed or any other reasonable grounds. In the event that the NC 'overrules' a decision of the Complaints Panel, there shall be an automatic right of appeal to the Appeal Panel.

(b) The National Committee Chair will, within 14 days of receipt of the written request for appeal, contact the the DSC Panel Coordinator requesting any written documentation relating to the hearing of the complaint. The Chair will make a decision in consultation with the Complaints Officer and DSC Panel Coordinator within a further 14 days of the written information being received, as to whether there are sufficient grounds for an appeal to take place. The complainant or individual/s complained about will be notified in writing by the NC Chair within a further seven days of the decision and, if the appeal has been refused, detailing the specific reasons for refusal.

(c) If there are grounds for appeal, then the DSC Coordinator shall refer the matter to an Appeals Panel constituted from 5 members of the pool of DSC officers. All parties to the appeal will be notified and shall provide their dates to avoid to the Complaints Officer if necessary. The Complaints officer shall administrate the exchange of any evidence or other submissions and shall make any necessary further enquiries which may be required by the Panel.

(d) Appeals will normally be conducted by a review of the evidence 'on paper' and on the basis of the original documents except where circumstances exist as set out in (e) below. Where the appeal is determined by a review, the parties may file a written submission to the Appeals Panel within 14 days of

being notified of the Appeal. Such submissions should be sent to the Complaints Officer who will forward them to the Appeals Panel.

(e) A case may proceed by re-hearing in circumstances where:

- (i) There is new evidence; or
- (ii) The Appellant seeks to challenge a finding of fact of the Complaints Panel on the grounds that it is untenable in the face of the evidence filed; or
- (iii) If in the view of the Chair of the DSC panel, it would be in the interests of natural justice for there to be a further hearing.

The decision as to whether the matter should proceed as a review or a hearing should be made by the DSC Coordinator or substitute member of the DSC in consultation with the Complaints officer.

If this section applies then the Complaints Officer shall set a date for the hearing within 28 days of the notification that the appeal is allowed to proceed.

(f) When a decision has been made by the Appeals Panel the DSC Coordinator will inform, within 7 days, the complainant/ individual/s complained against in writing of the decision and any penalty imposed, altered or revoked, and this decision will be final and binding on the parties subject to the provisions of this article on ratification by the AGM of removal from office, expulsion, disqualification and other serious sanctions .

(g) Where a Complaints Panel (where there is no appeal made) or an Appeals Panel recommend expulsion as the outcome of a complaint or appeal, then the NC shall refer the matter directly to the membership without the matter being heard further by the Expulsion and Disqualification Panel.

13.4.11 Parties to the complaint shall bear their own costs. In the case of hardship, application may be made to the NC Treasurer for the reimbursement of travel costs to/from the relevant meetings.

13.6 The provision of false information during the Complaints process shall constitute gross misconduct

13.7 The BKA will not process anonymous complaints.

New section 13A:

Article 13 A : disciplinary matters falling outside of the Complaints Procedure

13A.1.1 Where the NC considers that a member's conduct is likely to be detrimental to the interests of the Association, they shall write to that member warning him or her that the conduct is unacceptable and requiring that the behaviour ceases.

13A.1.2 In the event that the behaviour does not cease, or that the member engages in further unacceptable behaviour of a different nature but in breach of their obligations under the Constitution, or

likely to be detrimental to the interests of the Association, then the NC may suspend the member and refer him or her to the EDP for hearing a case to expel.

13A.1.3 Should the member's actions constitute gross misconduct then there shall be no requirement of a written warning under 13A.1.1 and the NC may suspend the member and refer him or her to the EDP immediately.

13A.1.4 if the grounds on which an officer is suspended are that he or she cannot maintain a reasonable working relationship with the NC then the matter may be referred directly to the membership at an AGM for determination rather than to the EDP.

13A.1.5 On referral to the EDP the Complaints Officer shall act as an Investigating Officer. If the Complaints Officer is unable to act then the Coordinator of the DSC shall nominate a member of the DSC to act in this role. The Investigating Officer will be impartial and shall not be a person with any conflict of interest .

13A.1.6 The Investigating Officer will assemble the evidence: in the event that the Investigating Officer considers that there is insufficient evidence to proceed he will inform the NC of his findings and the matter will be closed. If there is sufficient evidence to proceed, then the investigating Officer shall liaise with the EDP and parties to set a date for hearing of the matter. The hearing will take place in person. The Investigating Officer should if possible be present to assist the EDP and parties.

13A.1.7 The EDP shall make findings of fact, find the case proven or dismiss the case, and make recommendations as to sanctions. Such findings should be communicated to the parties within 21 days by the Chair of the panel hearing the matter.

13A.1.8 Where the case is dismissed, any suspension of the member shall lapse immediately.

13A.1.9 In the event that the case is found proven then the findings and recommendations of the EDP shall be reported to the NC and shall then be presented to the Membership at the next EGM or AGM for ratification. The EDP shall make a written report of the evidence heard, findings of fact and shall make recommendations. Where the NC disagree with the EDP they may indicate this to the Membership, together with reasons in writing and their alternative recommendations. The Defendant member may make a written statement indicating why he or she disagrees with the recommendations. All reports and statements must be available to the members on the private members area of the Association's website a minimum of 7 days before the meeting.

13A.2 The EDP shall have the same range of sanctions available to it as the AP. If the EDP recommends a lesser sanction than disqualification from office or expulsion, and if such a sanction is not complied with within a reasonable time, then the NC may refer the matter back to the EDP which may impose further sanctions

Byelaw 22 to article 10.8:

Article 10.8 states that :

Former members whose circumstances fall within 10.8 may apply for readmission to the Membership Secretary, who shall refer the matter to the Expulsions and Disqualifications Panel (EDP) for consideration.

This Byelaw sets out the procedure which applies.

Proposed amendments:

1. Applications for readmission under Article 10.8 must be made to the Membership Secretary 6 months in advance of the AGM where the matter is requested to be considered by the membership.
2. The membership Secretary will inform the NC immediately and pass the matter on to the DSC Panel Coordinator.
3. The DSC Coordinator shall convene the EDP and shall ask the applicant to provide a statement of his or her case for re-admission. The Coordinator shall immediately send a copy to the NC.
4. The NC shall then within 4 weeks provide a statement concerning:
 - a. The reasons for the expulsion or other disciplinary decisions by the previous AGM
 - b. Any other evidence which is considered relevant to the decision to be taken by the Panel.
5. The Coordinator may set a timetable for the hearing of the matter, otherwise the case will proceed according to the following timetable:
6. Within 4 weeks the Panel will review the case to see whether there is any new evidence or potentially valid reasons for readmission to consider since the expulsion or resignation
7.
 - a. If the Panel considers there is no evidence of change since the last decision the application will be refused and the refusal reported to the AGM.
 - b. If the Panel considers there is a case to determine, then the Panel will publish a copy of the statements to the Membership and shall invite any submissions of relevant evidence from any members within a period of 4 weeks of this statement being published.
8. The Panel shall within the following 8 weeks, determine the matter from statements and other written evidence unless they consider that there is a need for a physical or virtual hearing.
 - a. The onus of proof to show that the applicant should be readmitted, shall be upon the applicant.

- b. Where a previous panel or AGM has made findings of fact or a decision in respect of the former member, then these shall be accepted as the facts of the matter at that time. The applicant shall not be entitled to a rehearing of the original facts.
- c. Exceptionally, where on looking at the initial written evidence, the Panel considers that there is new evidence which has a bearing on the previous decision, they may consider such evidence

9. The EDP will consider the matter, make any necessary findings of fact and make a recommendation to the AGM. The matter will be placed on the agenda for the next AGM and the statements and panel report will be published to the membership at least 4 weeks before the date of the AGM.

10. The Coordinator will send a copy of the decision to:

- a. The applicant
- b. The NC Secretary
- c. The complaints officer for inclusion in the DSC Panel archive

11. Where the AGM decides to re-admit a former member, any and all monies owed by that member to the BKA shall be paid before the member is readmitted.

12. Following expulsion a former member may not apply for readmission for 5 years and following a refusal no further applications will be considered from the same person for 5 years.

Notes on reasons for consequential amendments:

11.6: Votes of no confidence/action by the membership is a democratic right and should follow a different path (ie to EGM/AGM). It does not make sense for something to go from the Membership, to the EDP and then back to the Membership.

11.11: Where the officer has been suspended by the NC the matter should go to the EDP, unless the grounds are failure to maintain a reasonable working relationship with the NC. If the matter goes to the EDP then a statement of grounds/evidence to the membership would not, on the face of it, be needed here but it may be advisable for a brief summary of the situation to be made by the NC to avoid the circulation of rumours. It would be needed in the event that the case falls within the 'reasonable working relationship' exemption.

Appendix 1 - the new posts and job descriptions will need to be added to Appendix 1 (or another similar appendix added, eg 1A) and;

the terms on which people will be elected, to the posts should be added to article 14. Diagram in article 13 will need amending.