

NATIONAL EQUINE ANTI-DOPING AND CONTROLLED MEDICATION HEARING BODY RULES

Introduction

1. The BEF Equine Anti-Doping and Controlled Medication Rules (“*BEFAR*”) provide that a hearing body comprising three members of the *BEF Anti-Doping Panel* shall decide all cases of alleged violations of *BEFAR*. These National Equine Anti-Doping and Controlled Medication Rules (“*Rules*”) shall govern the manner in which proceedings before the *Hearing Body* shall be dealt with.
2. These *Rules* shall be read in conjunction with *BEFAR* and unless otherwise defined in these *Rules* the terms defined in *BEFAR* shall have the same defined meanings in these *Rules*. For the avoidance of doubt in the event of any ambiguity or discrepancy between *BEFAR* and these *Rules* the provisions of *BEFAR* shall prevail unless expressly stated otherwise.
3. Subject to *Rule 2*, in these *Rules* the following words or phrases shall bear the following meanings unless the context otherwise requires:

“**Answer**” means an answer to the claims made in the *Notification* made in accordance with *Rule 8a*;

“**BEF Chief Executive**” means the chief executive of the *BEF* from time to time;

“**Chair**” means the chair of the *BEF Hearing Body* appointed pursuant to *Rule 4*;

“**Day**” means any day other than a Saturday, Sunday, Christmas Day, Good Friday or a bank holiday under the Banking and Financial Dealings Act 1971, in England and Wales and “**Days**” shall be construed accordingly;

“**Directions Hearing**” means a hearing held to enable the *Chair* to review what directions are appropriate to deal with a case in accordance with *Rule 7*;

“**Notice of Hearing Body Appointment**” means a notice issued by the *BEF Chief Executive* in accordance with *Rule 4* informing the parties of the members of the *Hearing Body*;

“**Reply**” means a reply submitted by the *BEF* to the *Hearing Body* setting out its reply to the *Answer* in accordance with *Rule 8c*;

“**Standard Directions**” means the directions set out at *Rule 8*.

Hearing Body Appointment

4. Within seven *Days* of the appointment of the *Hearing Body* members the *BEF Chief Executive* will notify the parties of the members of the *Hearing Body*.
5. If a *Hearing Body* member having been appointed to deal with the case is subsequently unable to act, the *BEF Chief Executive* may appoint another member of the *BEF Anti-Doping Panel*.

Directions

6. As soon as practicable after the formation of the *Hearing Body*, the *Chair* shall issue directions to the parties in relation to the procedure and time-table to be followed in the proceedings. Where the *Chair* deems appropriate, the *Chair* shall hold a *Directions Hearing* prior to issuing such directions.
7. Where the *Hearing Body* determines, of its own motion or at the request of the parties, to hold a *Directions Hearing*, the *Directions Hearing* may be held in person or by telephone or video conference call. The non-attendance of any party or his/its representative(s) at the *Directions Hearing*, after proper notice of the *Directions Hearing* has been provided, shall not prevent the *Hearing Body Chair* from proceeding with the meeting in such party's absence, whether or not any written submissions are made by or on behalf of that party.
8. Unless the parties are otherwise directed by the *Chair*, the following *Standard Directions* shall apply:
 - a. Within 20 Days of the date of receipt of the *Notice of Hearing Body Appointment* the *Person Responsible* shall submit to the *Hearing Body* and serve on *BEF* an answer to the claims made in the *Notification*.
 - b. In the *Answer* the *Person Responsible* must: admit or deny (in whole or in part) the infringement(s) alleged and set out:-
 - a statement of the facts and any law upon which the *Person Responsible* intends to rely;
 - any mitigating factors which the *Person Responsible* wishes the *Hearing Body* to take into account;
 - copies of all documents in support of his position; and
 - any procedural matters upon which the parties have agreed or proposals in relation to any procedural matters.
 - c. Within 20 Days of receipt of the *Answer* the *BEF* shall submit to the *Hearing Body* and serve on the *Person Responsible* a reply setting out its response to the *Answer*: and
 - a statement of the facts and any law upon which the *BEF* intends to rely;
 - copies of all documents in support of its position; and
 - any procedural matters upon which the parties have agreed or proposals in relation to any procedural matters.
 - d. Unless the *Chair* permits, the parties shall not submit further written material after the time limit for the *BEF*'s response to the *Answer* has expired.
9. The *Chair* may make such order as shall be deemed appropriate in relation to the disclosure of relevant documents and/or other materials in the possession or control of either party; provided that, save for good cause shown, no documents and/or other materials shall be ordered to be disclosed in relation to the laboratory analysis resulting in an *Adverse Analytical Finding* beyond the documents that the *Standard for Laboratories* requires to be included in the laboratory report pack.

Conduct of Proceedings

10. In the event of the right to a hearing being waived in accordance with the provisions of Article 8.3 of Chapter 1 or Article 8.4 of Chapter 2 *BEFAR* as the case may be the *Hearing Body* may determine the case based solely on written submissions and may at its discretion i) meet or (ii) invite the *Person Responsible* and the *BEF* to make representation in person.
11. The *Hearing Body* shall have all powers necessary for, and incidental to, the discharge of its responsibilities under *BEFAR to regulate proceedings before it*, including (without limitation) the power, whether on the application of a party or of its own motion:

- a. to appoint an expert to assist or advise the *Hearing Body* on a specific issue or issues, such expert to be and remain impartial and independent of the parties, and the costs of such expert to be borne by the parties or in such manner as directed by the *Hearing Body*;
- b. to expedite or to adjourn, postpone or suspend its proceedings, upon such terms as it shall determine, where fairness so requires;
- c. to conduct such enquiries as appear necessary or expedient in order to ascertain the facts;
- d. to order any party to make any property, document or other thing in its possession or under its control available for inspection by the *Hearing Body* and any other party;
- e. subject to the consent of the original parties, to allow one or more third parties to intervene or be joined in the proceedings, to make all appropriate procedural directions in relation to such joinder or intervention, and thereafter to make a single final decision or separate decisions in respect of all parties.

Hearings

12. Each person with a right of appeal under *BEFAR*, if not a party to the proceedings before the *Hearing Body*, and if not wishing to exercise its right to attend a hearing, if any, shall have the right to be kept advised by the *BEF* of the status of the proceedings.
13. The procedure to be followed at a hearing shall be at the discretion of the *Chair*, provided always that the hearing is conducted in a fair manner, with a reasonable opportunity provided for each party to present evidence (including the right to call and to question witnesses), address the *Hearing Body* and present its/his case as to both liability and *Sanction(s)*. The *Hearing Body* shall have discretion as to whether to receive evidence from witnesses in person, by telephone, by video conference or in writing, and shall have the right to question a witness and control the questioning of witnesses by a party.
14. The *Chair* may make such order as is deemed appropriate in relation to the manner and form in which any witness or expert evidence should be produced, provided that:
 - a. a party intending to rely upon the evidence of a witness or expert shall serve a statement or report setting out the proposed evidence of such witness or expert at a date in advance of the hearing that is specified by the *Chair*, and
 - b. the *Hearing Body* shall have the power to allow, refuse or limit the evidence or appearance at the hearing of any witness or expert.
15. The non-attendance of any party or his representative at a hearing, after proper notice of the hearing has been provided, shall not prevent the *Hearing Body* from proceeding with the hearing in his absence, whether or not written submissions have been made by or on behalf of that party.
16. Once the parties have completed their respective submissions, the *Hearing Body* shall retire to determine in private whether it is satisfied to the required standard that the *Person Responsible* has committed the *Doping Violation* and/or *Controlled Medication Violation* with which he is charged. The *Hearing Body* shall make its decision unanimously or by majority. No member of the *Hearing Body* may abstain.

Burdens and Standards of Proof

17. The *Hearing Body* shall apply the burden(s) and standard(s) of proof specified in *BEFAR*, as well as any further rules of evidence and/or procedure specified in *BEFAR*.

18. Subject to *Rule 17*, the *Hearing Body* shall have the power to decide on the admissibility, relevance and weight of any evidence (including the testimony of any fact or expert witness) and shall not be bound by any judicial or evidential rules in relation to such matters. Facts may be established by any reliable means, including admissions.

Sanctions

19. Where the *Hearing Body* determines that the *Person Responsible* has committed the *Doping Violation* and/or *Controlled Medication Violation* charged, the *Hearing Body* shall impose *Sanctions* in accordance with *BEFAR*.

Hearing Body Decisions

20. The *Hearing Body* shall announce its decision to the parties in writing, dated and signed by at least the *Chair* within fifteen (15) working days of the end of the hearing and or the determination of the case on the basis of written submissions as the case may be. The written decision shall set out and explain:
 - a. the *Hearing Body's* findings, with reasons, as to what *Doping Violation(s)* and/or *Controlled Medication Violation(s)*, if any, the *Person Responsible* has committed;
 - b. what *Sanctions* the *Hearing Body* is imposing as a result of such findings, with reasons;
 - c. In any case in which the *Hearing Body* exercises the discretion conferred on it under *BEFAR* as to sanctions, the basis in detail on which the *Hearing Body* has determined that such discretion was triggered as well as the basis for the manner in which such discretion was exercised; and
 - d. the rights of appeal that lie in respect of the decision.
21. The *Hearing Body* shall have the power to make such order as to costs as it considers appropriate.
22. The *Hearing Body* shall send copies of the decision to the parties and to any other person that has a right of appeal against the decision.

Appeals from Hearing Body Decisions

23. Decisions issued by the *Hearing Body* may be appealed to *Sport Resolutions* in accordance with the provisions of Article 12 of Chapter 1 or Article 12 of Chapter 2 of *BEFAR* as the case may be.

Service of Documents

24. Where any written notice or document is to be given or supplied to the *BEF* under these *Rules* it must be either sent by pre-paid post or delivered by hand to the *BEF* at Abbey Park, Stareton, Kenilworth, Warwickshire CV8 2 RH and marked for the attention of the *BEF* Chief Executive.
25. Where any written notice or document is to be given or supplied to any other person under these *Rules* it must be either sent by pre-paid post or delivered by hand to the last known address of that person.
26. A document is deemed to be served as follows:
 - a. First class post (or other postal service which provides for delivery on the next business day): The second day after it was posted.
 - b. Personal service: If the document is served personally before 4.30 pm on a day, then on that day.

27. References in these *Rules* or in any form to a party's signing, filing or serving any document or taking any other procedural step include the signature, filing or service of that document or the taking of such other procedural step by the party's solicitor.
28. Time limits fixed under these *Rules* are respected if the communications by the parties are sent before midnight on the last day on which such time limits expire. If the last day of the time limit is an official holiday or a non-business day in the UK, the time limit shall expire at the end of the first subsequent business day.

Amendments

29. These *Rules* may be amended by the *BEF* from time to time in order to reflect any changes made to *BEFAR* and otherwise as required to ensure they remain fit for purpose. Any amendments shall be published by the *BEF* which shall confirm the date on which such amendments shall come into effect.