

ICC Code of Conduct Commission

TERMS OF REFERENCE

1. STATUS OF COMMISSION

- 1.1 The ICC Code of Conduct Commission (the Commission) is established as a Committee of the International Cricket Council (the Council) to assist the Executive Board, the President and the Chief Executive in the better performance of their respective roles and duties.

2. RELATIONSHIP WITH THE COUNCIL

- 2.1 The Council has been established with the objects of administering, developing, co-ordinating, regulating and promoting the game of cricket world-wide in co-operation with its Members and to do all such other things as are incidental to, or as the Council may think conducive to, the attainment of all or any of the above objects.
- 2.2 The Commission has been established in furtherance of such objects and in the interests of the game of cricket world-wide to make enquiries or oversee enquiries into conduct which in the opinion of the Executive Board is prejudicial to the interests of the game of cricket and to make recommendations to the Executive Board accordingly.

3. RELATIONSHIP WITH MEMBERS

- 3.1 The Council recognises and confirms that each Member has sovereign rights over its own players, umpires, team officials and administrators and, subject to the Code of Conduct and Memorandum and Articles of Association of the Council, is responsible for all disciplinary matters concerning such players, umpires, team officials and administrators.
- 3.2 The Council and the Members each agree that it is in the interests of the game that the Code of Conduct be applied in a uniform manner and in the interests of the game as a whole.
- 3.3 In furtherance thereof, all Members have agreed to submit to the jurisdiction of and co-operate with the Commission in the discharge of its functions and do all such things as are reasonably within their power to facilitate the discharge of the Commission's functions and to abide by or implement, as the case may be, the decisions of the Executive Board. In addition, all Members have agreed to establish and implement substantively similar procedures for the investigation of conduct which in the opinion of the Executive Board is prejudicial to the interests of the game and to adopt standard penalties for such conduct.
- 3.4 No Member shall have any right of appeal in relation to the proceedings or findings of the Commission nor to any determination of the Executive Board, which shall be final and conclusive.

4. ESTABLISHMENT AND COMPOSITION OF COMMISSION

- 4.1 The Commission shall be established as a Committee of the Council, reporting to the Executive Board.
- 4.2 The Commission shall be comprised of a Chairman who shall be appointed by the Executive Board together with up to such number of Members (Panel Members) as are equal to the number of Full Members from time to time together with the top six ranked Associate Members Each Full Member and each of the top six ranked Associate Members shall have the right to nominate one Panel Member.
- 4.3 Subject to paragraph 6, the first Chairman shall be appointed to hold office for such period, not exceeding three years, as shall be determined by the Executive Board. Thereafter, each succeeding Chairman shall be appointed to hold office for a period of three years. Any Chairman may be re-appointed for one further period of three years, provided that such further period is consecutive to the first period.
- 4.4 Subject to paragraph 8, each Panel Member shall be nominated to the Commission for a period of three years. Upon expiry of this three year period a Panel Member's appointment shall be deemed to be automatically extended for an additional year unless the appropriate Member country stipulates otherwise. After a four year period the appointment may only be extended on an annual basis at the request of the appropriate Member Country. Notice of such request is to be made in writing delivered to the Chief Executive before the 1st April.
- 4.5 Without prejudice to the provisions of paragraphs 4.3 and 4.4, the Executive Board may, in its absolute discretion, extend the appointment of any Chairman or any Panel Member where such Chairman or Panel Member is involved in any specific matter which is current at the end of the term of his appointment but not beyond the completion of such specific matter.

5. QUALIFICATIONS OF THE CHAIRMAN

- 5.1 The Chairman shall be appointed by the Executive Board and, whilst he may be a national of, or resident in, a Member Country, he shall not be an officer, employee or agent of any Member and neither shall he be a member of the Executive Board.
- 5.2 No person shall be appointed to be Chairman unless he be:
 - a. considered by the Executive Board to have a good and sufficient knowledge and understanding of the game of cricket, of the operation of a body charged with the promotion or development of sport on an international basis and of the operation of law as it applies to such matters; and
 - b. considered by the Executive Board to be a person of international standing and repute and held in high regard generally.

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- 5.3 The Chairman shall be required to enter into an undertaking to keep confidential and maintain the confidentiality of all information which comes or may come into his possession by virtue of his appointment as Chairman.

6. REMOVAL OF CHAIRMAN

- 6.1 Without prejudice to the provisions of paragraph 5, the office of Chairman shall be vacated if:
- a. he resigns his office by notice in writing delivered to the Chief Executive;
 - b. he refuses to enter into or breaches the confidentiality undertaking required under paragraph 5.3 and the Executive Board resolves that his office be vacated;
 - c. the Executive Board resolves that he is by reason of sickness no longer able to perform the functions of Chairman or he becomes a patient for any purpose of any law or statute relating to mental ill-health;
 - d. without leave, he be absent from three consecutive meetings and the Executive Board resolves that his office is vacated;
 - e. he becomes bankrupt or compounds with his creditors;
 - f. he is prohibited by law from acting as Chairman;
 - g. he is convicted of a criminal offence and the Executive Board resolves that it is undesirable that he continues to hold office as Chairman;
 - h. he, or any body of which he is, or has been, a director, partner or controller be the subject of any complaint or investigation of misconduct or of malpractice in connection with his or its business affairs and the Executive Board resolves that it is undesirable that he continues to hold office as Chairman; or
 - i. he be dismissed or requested to resign from any office of employment or from any fiduciary office or position of trust, whether or not remunerated and the Executive Board resolves that it is undesirable that he continues to hold office as Chairman.
- 6.2 In the event of the death of the Chairman or in the event that the office of Chairman be vacated for whatever reason, the Executive Board shall appoint a replacement Chairman either for the remainder of the term of office of the Chairman who has died or been replaced or for a period of three years.

7. QUALIFICATIONS OF A PANEL MEMBER

- 7.1 Each Full Member shall have the right to appoint one Panel Member and, whilst he may be a national of, or resident in, such Full Member country, he shall not be an officer, employee or agent of any Member and neither shall he be a member of the Executive Board.

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- 7.2 No person shall be appointed to be a Panel Member unless:
- a. he be reasonably considered by the relevant Full Member to:
 - i) have a good and sufficient knowledge and understanding of the game of cricket;
 - ii) be a person of considerable standing and repute and held in high regard generally;
 - iii) be competent to undertake the duties of a Panel Member; and
 - b. as a guideline, he shall, where possible, have had not less than three years' involvement in the administration of cricket at a national level or he shall have played or umpired not less than ten first-class cricket matches.
- 7.3 No person shall be eligible for nomination as a Panel Member who is a representative of a Full Member or an employee of a Full Member or is otherwise so connected to a Full Member as may reasonably be considered by the Executive Board to give rise to a conflict of interest.
- 7.4 No person who is a current player, umpire, referee or team official or who is otherwise so connected to such a person or persons as may reasonably be considered to give rise to a conflict of interest shall be eligible for nomination as a Panel Member.
- 7.5 Each Panel Member shall be required to enter into an undertaking to keep confidential and maintain the confidentiality of all information which comes or may come into his possession by virtue of his appointment as a Panel Member.

8. REMOVAL OF PANEL MEMBER

- 8.1 Without prejudice to the provisions of paragraph 7, the office of a Panel Member shall be vacated if:
- a. he resigns his office by notice in writing delivered to the Chief Executive;
 - b. he becomes ineligible for appointment under paragraphs 7.3 or 7.4;
 - c. he refuses to enter into or breaches the confidentiality undertaking required under paragraph 7.5 and the Executive Board resolves that his office be vacated;
 - d. the Executive Board resolves that he is by reason of sickness no longer able to perform the functions of a Panel Member or he becomes a patient for any purpose of any law or statute relating to mental ill-health;
 - e. without leave, he be absent from three consecutive meetings and the Executive Board resolves that his office is vacated;

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- f. he becomes bankrupt or compounds with his creditors;
- g. he is prohibited by law from acting as a Panel Member;
- h. he is convicted of a criminal offence and the Executive Board resolves that it is undesirable that he continues to hold office as a Panel Member;
- i. he, or any body of which he is, or has been, a director, partner or controller be the subject of any complaint or investigation of misconduct or of malpractice in connection with his or its business affairs and the Executive Board resolves that it is undesirable that he continues to hold office as a Panel Member; or
- j. he, be dismissed or requested to resign from any office of employment or from any fiduciary office or position of trust, whether or not remunerated and the Executive Board resolves that it is undesirable that he continues to hold office as a Panel Member.

- 8.2 In the event of the death of a Panel Member or in the event that the office of a Panel Member be vacated for whatever reason, the relevant Full Member shall appoint a replacement Panel Member for the remainder of the term of office of the Panel Member who has died or been replaced.

9. DUTIES OF THE CHAIRMAN

- 9.1 The Chairman, or any other Panel member appointed by the Chairman, shall be ex officio Chairman of any Official Enquiry hereinafter established and shall be solely responsible for regulating and administering the affairs of any such Official Enquiry subject always to the provisions of these Terms of Reference and the Terms of Reference of the ICC Anti Corruption and Security Unit (whose Terms of Reference are set out separately).

10. DUTIES OF PANEL MEMBERS

- 10.1 Panel Members shall participate in any Official Enquiry hereinafter established as and when required by the Chairman. No Panel Member may refuse to participate in any Official Enquiry unless the Chairman shall, in his absolute discretion, consider that such Panel Member shall have good and sufficient reason not to participate.
- 10.2 Panel Members shall use all reasonable endeavours to attend in good time and participate in any meeting, which they may reasonably be asked to attend.
- 10.3 Panel Members shall do all such things as the Chairman may reasonably request for the purposes of any Official Enquiry.
- 10.4 Panel Members shall observe these Terms of Reference when participating in any Official Enquiry and undertake at all times to act in the best interests of the game of cricket as a whole.

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- 11.1 No Member shall permit or suffer any person to engage in any conduct prejudicial to the interests of the game (a Relevant Matter). Without prejudice to the generality of the foregoing, all matters set out in Appendix A hereto shall be considered to be a Relevant Matter.
- 11.2 The Executive Board may from time to time amend or supplement Appendix A.

12. INVESTIGATION OF RELEVANT MATTERS

- 12.1 If the Chief Executive or any member of the Executive Board shall become aware of any Relevant Matter which he shall reasonably consider worthy of investigation, he shall notify the President and the Chief Executive who shall then determine whether to notify the Chairman forthwith and in that event, shall at the same time inform the Chief Executive(s) or Chairman (Chairmen) of the Member Country (Countries) concerned.
- 12.2 The Chairman may instruct the ICC Anti Corruption and Security Unit to carry out such further enquiries in accordance with the ICC Anti Corruption and Security Unit's Terms of Reference.
- 12.3 When the Chairman receives the report from the ICC Anti Corruption and Security Unit he shall report on all matters raised in that report to the Executive Board making recommendations for further action if appropriate.
- 12.4 If the Executive Board shall determine that there are sufficient grounds for such further investigation, then the Executive Board shall require the relevant Member to carry out an investigation into the Relevant Matter and submit its report to an Official Enquiry constituted subject to these Terms of Reference and subject to such additional requirements as the Executive Board shall deem necessary or appropriate.
- 12.5 Without prejudice to paragraph 12.4 the Executive Board may require the constitution of an Official Enquiry in accordance with paragraph 12 subject to these Terms of Reference and subject to such additional requirements as the Executive Board shall deem necessary or appropriate to carry out an investigation into the Relevant Matter.

13. CONSTITUTION OF OFFICIAL ENQUIRY

- 13.1 Where an Official Enquiry is to be constituted, it shall comprise the Chairman and two Panel Members who are not connected with a Member in any way connected with the Relevant Matter and who shall be selected by the Chairman.
- 13.2 No Member may object to the composition of any Official Enquiry.

14. PURPOSE OF OFFICIAL ENQUIRY

- 14.1 Where a Member has carried out an investigation into any Relevant Matter prior to the constitution of the Commission, the Executive Board shall require the Commission to constitute an Official Enquiry to review the findings of that investigation and to make recommendations to the Executive Board as to whether the investigation was carried out to the same standard that the Official Enquiry itself would have carried out such investigation and whether the sanction imposed by the Member is appropriate having regard to the nature of the conduct and the provisions of paragraphs 14.2(A) and (B) shall apply.
- 14.2 Where a Member has carried out or has been directed to carry out an investigation into any Relevant Matter subsequent to the constitution of the Commission, the Executive Board shall require the Commission to constitute an Official Enquiry. The Member shall be required to submit to the Official Enquiry a detailed report setting out the following:
- a. the charge or issue which was being dealt with;
 - b. the manner in which it was dealt with;
 - c. a summary of the evidence given to the Member;
 - d. a summary of the findings of fact of the Member;
 - e. the verdict or judgement of the Member;
 - f. recommended sanctions (if any) to be imposed by the Member and the reasons for the proposed imposition of those sanctions;
 - g. any evidence which suggests that players from another country are implicated in any way in the matters raised in the investigation; and
 - h. any other matters which the Member considers relevant.

The Official Enquiry will determine whether such Member has carried out such investigation to the same standard that the Official Enquiry would itself have carried out such investigation and whether the sanction recommended by the Member is appropriate having regard to the nature of the conduct.

- a. Where the Official Enquiry determines that any such investigation has not reached the required standard, the Official Enquiry may either:
 - i) direct the relevant Member to carry out further investigations and, without limiting the generality of the foregoing, may give directions to the relevant Member as to what additional evidence or circumstances such Member should consider in such further investigations, or
 - ii) After consultation with and approval of the Executive Board, assume the investigation itself, or
 - iii) May make such other recommendation to the Executive Board in connection with such investigation as it considers appropriate and thereafter act in accordance with any directions of the Executive Board given in response thereto.

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- b. Where the Official Enquiry is satisfied that the investigation has been carried out to the required standard, the Official Enquiry shall deliver a report to the Executive Board which shall either ratify the decision of the Member and the sanctions determined thereby or shall recommend to the Executive Board that alternative sanctions be imposed, which may be more onerous.
- 14.3 Where an Official Enquiry carries out an investigation into a Relevant Matter itself, the Official Enquiry will determine whether, on the balance of probability, such Relevant Matter is conduct prejudicial to the interests of the game and, if so, recommend to the Executive Board guidelines as to what sanction would, in its opinion, be appropriate having regard to the nature of the conduct and the provisions of paragraph 14.2 shall apply mutatis mutandis.
- 14.4 Where, as a result of any investigation into a Relevant Matter by an Official Enquiry or by a Member, it appears to the Official Enquiry that there are further circumstances which require to be investigated by another Member, then the Official Enquiry shall request the Executive Board to direct the relevant Member to carry out an investigation into such further circumstances and the provisions of this paragraph 14 shall apply mutatis mutandis.

15. OPERATION OF OFFICIAL ENQUIRY

- 15.1 The Chairman of the Official Enquiry shall be solely responsible for regulating and administering the affairs of the Official Enquiry subject always to the provisions of these Terms of Reference and such additional requirements (including as to such expenditure as may be necessary to conduct the enquiry) as the Executive Board shall deem necessary or appropriate.
- 15.2 A Member of an Official Enquiry shall be treated as present in person at a meeting of the Official Enquiry notwithstanding that he is not physically present at the place where the meeting is held if he is in continuous communication with the meeting by conference, telephone or other communication equipment permitting each person physically present at or so in communication with the meeting to hear and be heard by each such other person. Such a Member shall be counted in the quorum of the meeting and shall be entitled to vote thereat.
- 15.3 The quorum for any meeting of an Official Enquiry shall be three Members present in person including the Chairman.
- 15.4 The proceedings of an Official Enquiry shall be conducted in private.
- 15.5 The Official Enquiry shall be entitled to call for such evidence and in such form, whether verbal, written or otherwise recorded as it may, in its absolute discretion, reasonably deem necessary for the proper discharge of its duties and Members shall provide all such evidence and do all such things as are reasonably within their power to facilitate the discharge of the Official Enquiry's functions. Without limiting the generality of the foregoing, each Member shall provide at the Commission's expense copies of all such documents as may reasonably be requested by the Official Enquiry.

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- 15.6 All evidence and other information provided to the Official Enquiry shall, unless otherwise agreed with the Chairman in advance, become and remain the property of the Commission.
- 15.7 The Official Enquiry shall have absolute discretion as to what evidence it requests and requires and what evidence it considers for the purposes of its investigation as well as to when it calls for such evidence and in what format it requires such evidence to be produced.
- 15.8 Any person giving oral evidence to any Official Enquiry shall be entitled to be accompanied by an adviser.
- 15.9 If any person shall refuse to co-operate with the Official Enquiry in any way or any Member shall fail to provide all such evidence and do all such things as are reasonably within its power to facilitate the discharge of the Official Enquiry's functions, then the Official Enquiry shall note such fact in its report to the Executive Board and may take account of such failure in making its recommendations to the Executive Board as to what sanction would, in its opinion be appropriate having regard to the nature of the conduct and may also recommend to the Executive Board any sanction in respect of such failure which it shall deem appropriate for the Executive Board to consider and, if thought fit, impose.
- 15.10 If, in the course of an investigation, it shall appear to an Official Enquiry that, on the balance of probability, allegations made by any person against any other person are false, misleading or malicious or that copies of any document produced to the Official Enquiry contain any false, erroneous or defective statement and is intended to mislead the Official Enquiry, then the Official Enquiry shall note such fact in its report to the Executive Board and may recommend to the Executive Board any sanction in respect of such matter which it shall deem appropriate for the Executive Board to consider and, if thought fit, impose. If the Official Enquiry shall recommend that any sanction in respect of such matter be imposed on a person, the Executive Board shall first invite that person to make representations in relation thereto which the Executive Board shall take into account in deciding whether or not to impose such sanction.
- 15.11 The Official Enquiry shall prepare a detailed report to be submitted to the Executive Board by the date specified by the Executive Board or such date as may subsequently be agreed by the President and the Chairman in relation to the matter under investigation.
- 15.12 No member of the Official Enquiry may abstain from rendering an opinion but any member may record a dissenting opinion. In coming to its determination and in making its recommendation, the Official Enquiry shall act by a majority of its Members.
- 15.13 The Executive Board shall be required to consider the recommendations of the Official Enquiry but shall have absolute discretion as to what action, if any, it takes and the Official Enquiry shall have no responsibility for any action which the Executive Board may take or omit to take.

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- 15.14 All documentation or other evidence obtained, used or generated by the Official Enquiry shall be kept by the Executive Board for a period of not less than six years, but thereafter may be retained or destroyed as the Executive Board shall, in its absolute discretion, determine.
- 15.15 The Executive Board shall determine a budget for any Official Enquiry; no expenditure above this budget or other constraint imposed by the Executive Board shall be incurred without the prior written approval of the President, such approval not to be unreasonably withheld. The President may refer any request for additional expenditure back to the Executive Board whose decision shall be final. Subject thereto, an Official Enquiry shall be entitled to engage or commission any contractor, adviser or agent to assist in the performance of its duties or advise in relation thereto or in connection therewith.

16. AUTHORITY OF OFFICIAL ENQUIRY

- 16.1 Subject to these Terms of Reference and such additional requirements as the Executive Board shall deem necessary or appropriate, an Official Enquiry shall have the full power and authority of the Executive Board, the President and the Chief Executive, or any of them, necessary or incidental to the proper performance of its duties subject to such restrictions or requirements as the Executive Board may deem necessary or appropriate.

17. RESOURCES

- 17.1 The Executive Board shall, subject to paragraph 15.15, provide at the cost and expense of the Council such resources as may reasonably be necessary for the proper administration of the Commission or any Official Enquiry including, without limitation:-
- a. a registrar to manage the affairs of the Commission;
 - b. a recorder;
 - c. offices, secretarial facilities, accommodation and transport to and from, and at, such places as shall be necessary for the Commission or any Official Enquiry, or any Panel Member, to attend on the Commission's business; and
 - d. such other resources independent of ICC as the Chairman might reasonably request for the proper discharge of its duties.

18. FEES AND EXPENSES

- 18.1 Subject to paragraph 15.2, the Council shall be responsible for all costs and expenses properly incurred directly or indirectly by the Commission, any Official Enquiry or any Panel Member and such costs and expenses shall, forthwith upon their being approved by the Chief Executive be reimbursed by the Council.

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- 18.2 The Chairman and each Panel Member shall be entitled to such fees and allowances as may be determined by the Executive Board from time to time.

19. INDEMNITY

- 19.1 The Council hereby agrees to indemnify and keep indemnified each Panel Member from and against all liabilities, obligations, losses, damages, suits and expenses which may be incurred by or asserted against the Panel Member in his capacity as such other than those resulting from the fraud or wilful misconduct of the Panel Member.

20. INTERPRETATION

Unless the context otherwise requires, words or expressions contained in these Terms of Reference shall bear the same meaning as in the Memorandum and Articles of Association of the Council, or in the Code of Conduct or in any Regulation of the Council and in force as at the date hereof.

21. GOVERNING LAW

These Terms of Reference shall be governed by and construed in accordance with English law.