AFL (NSW/ACT)

TRIBUNAL

RULES & GUIDELINES

(Updated November 2008))

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Overview

Conduct of Tribunals

1.1 AFL Sydney will conduct all tribunals under the following tribunal guidelines, tribunal rules and appeal rules.

Tribunal Hearings

1.2 In the event of five (5) or more reports to be heard on the one (1) night, two (2) tribunals may be convened.

Advocates

1.3 Clubs must provide player "advocates" for all tribunal hearings

Player Suspension

1.4 A player who is suspended or disqualified by a tribunal shall serve such suspension or disqualification in the grade in which he played immediately prior to such suspension or disqualification. A player suspended in a previous season cannot serve their suspension in any pre-season fixtures or off-season fixtures.

1.5 Players suspended in junior competitions graduating to senior competition shall serve their suspension in their new grade.

1.6 Players transferring from other leagues will carry any suspensions with them.

1.7 Should a player / coach be suspended as a player, it is intended that they be permitted to continue to carry out their duties as a coach.

1.8 Should a player be suspended during a split round he cannot serve his suspension in that same round in another grade (including representative football).

1.9 Should there be a general bye in the competition with an Interstate / representative fixture scheduled in the bye a player cannot use the representative match as part of the suspension.

Representative Football

1.10 A suspended player will not be eligible to play representative football if the representative fixture occurs while the player is serving the suspension. In addition to this the representative fixture does not count as part of the suspension.

Video Evidence

1.11 Video/DVD evidence submitted by clubs must be made available to AFL Sydney administration by no later than midday on the day of the hearing.

Imposition of Penalties

1.12 The tribunal may impose upon any player, club or club official those fines stipulated in the rules and regulations which fall within the jurisdiction of the independent tribunal.

The tribunal at its discretion may direct a player found guilty of language related charges to umpire junior matches in a voluntary capacity, in lieu of a suspension or fine. It is compulsory for any player so directed to comply with the tribunal's directive.

2. Guidelines

Introduction

2.1 Disciplinary proceedings in football clubs and affiliated leagues generally fall into one of two classes –

(a) tribunal hearing of umpires or stewards reports;
(b) action by committees or boards of management against members for misconduct.

In practice, the former are by far the more frequent, and reference is made in this manual to the tribunal rules. The term “reported person” is used throughout, to refer to anyone facing disciplinary proceedings of either kind and, unless otherwise stated, “law(s)” means the Laws of Australian Football.

Natural Justice

2.2 Proceedings, which deny a reported person any of the following rights, are likely to be held, by a court, to be defective.

(i) Right to an unbiased tribunal

The tribunal members must not be prejudiced (i.e. biased). Although “prejudice” has a pejorative ring (suggestive of personal animosity by tribunal members to the reported person) it need not go that far: prejudiced (i.e. “pre-judged”) really means nothing more sinister than having certain views of the merits of the case which have been formed outside the hearing itself, e.g. where a member of the tribunal witnessed the reported incident or is connected by business or personal relationship with one of the parties.

No person who is, or might be thought to be (for justice must “be seen to be done”) prejudiced should be a member of the tribunal hearing and any disciplinary matter. If, during the hearing, a tribunal member finds himself in a position of possible prejudice he should disqualify himself immediately, even if this means aborting the hearing and starting again.

(ii) Notice of the charge

Notice should be in writing. It is fairer that way, and there is no room for dispute later about what notice was given.

The requirement is satisfied, in the case of an umpire's report, by handing a copy of the report form to the player or his club. In other situations, a letter from the association would be required, and it should clearly set out the following: -

The complaint or charge against the reported person. (Where the charge is non-specific, e.g. "misconduct", particulars, but no evidence should be included. Particulars means the acts allegedly committed which constitute misconduct, e.g. being intoxicated in the club dining room, whereas evidence would mean what the witnesses will actually say at the hearing).

The time and the place for the hearing.

A Statement of the accused person's rights to be present, to present evidence and to be represented (legally or otherwise) at the hearing.

(iii) Adjournments

In disciplinary proceedings, swift and certain determination of disputes is desirable. However, as one judge has observed, "certainty is a good thing, but justice is better". Where an accused person requests an adjournment on good grounds it should be granted, particularly if short notice was given of the hearing. Adjournments which are blatant delaying tactics can always be safely refused, or at least discouraged by granting them on terms (e.g. imposing a condition that a reported player will not play until the case is heard, or that a club member will not avail himself of certain facilities of the club until the matter is finalised.)

The granting of an adjournment is always a discretionary matter for any tribunal.

(iv) The Hearing

Should be oral. There is no firm legal rule that a reported person must have an oral hearing but in practice such a hearing is the only effective way of testing the evidence.

Should be public. Proceedings behind closed doors may be open to misrepresentation later.

However, a closed hearing would be appropriate where sensitive evidence is likely to be given, or there is a real risk of defamation.

Should provide for
- All oral evidence against a reported person to be taken in his presence.
- All documentary evidence against a reported person to be made available to him.
- A reported person or his advocate to question all witnesses.
- A reported person to present evidence on his behalf.

Need not provide for legal representation. Most tribunals (especially where there is no legally qualified member) prohibit legal representation. Generally there is nothing wrong with this, but in serious matters (involving possible findings which may damage reputation or lead to a very long suspension) consideration should be given to allowing legal representation to a reported person. If the tribunal fears being "outgunned", it can always retain a lawyer to advise it at the hearing (but he should take no part in the tribunal's deliberation on guilt or penalty).

Need not give reasons for its decisions (although in some instances reasons are appropriate as a guide for future reference, and so should be provided).

(v) Appeals

An appeal is directed to correcting some error of procedure or law which may have been made in the original hearing and affected its findings. Examples are failure to give proper notice of a hearing, wrongly admitting or excluding certain evidence, misinterpreting a by-law, etc. Tribunals, in dealing with disciplinary matters, are essentially tribunals of fact and as the hearing rarely involve issues of law about which the tribunal might make errors, there is no need for a regular appellate body equivalent to a court of criminal appeal to review such errors. Note that "error" in this sense does not mean simply that the unsuccessful party thinks the ultimate decision is wrong. It is not the result but the path to that result which matters and if the tribunal has followed the correct procedures the mere fact that it has believed one witness and disbelieved another in arriving at a conclusion is not an "error" which provides grounds for an appeal.

The rules do, however, provide a tribunal with the discretion to re-open a hearing, which it has previously concluded, for the purpose of considering further evidence (but not for reviewing the decision it has previously made on the same evidence). Before the tribunal takes this unusual step, the "fresh evidence" must satisfy two tests –

It must be genuinely new which means not merely that it was not presented to the original hearing, nor that its availability at the time of the original hearing was now known but that its availability could not with reasonable diligence, have been known. For example, wanting to call fresh evidence from another witness who is, say, a trainer or club official and could have been interviewed before the original hearing, would not satisfy this test.

The evidence must also be sufficiently strong that, in the opinion of the tribunal, it may well have affected the outcome of the earlier determination had it then been available.

Appeals may be made on the grounds of severity of sentence. (See Appeal Rules)

Hearing Procedure as Prescribed in the Rules

2.3 Tribunals are not bound by rules of procedure and evidence, but rules of natural justice must still be applied, and the informality considered so desirable in domestic hearings can lead tribunals into error which may be fatal to their findings.

2.4 Although the tribunal has power to waive strict adherence to rules for the presenting of evidence, it should not generally do so. Proper preparation of a case then is essential.

Postponements

2.5 The hearing of reports of players is disciplinary and prompt disposal of such matters is desirable for all parties involved, provided justice is not displaced as a result. Postponements of a hearing should, therefore, only be granted in circumstances where injustice might otherwise result and certainly not as a matter of mere convenience.

Absence from the Hearing

2.6 Where a postponement has not been sought or granted, the reported person must attend the hearing. If he cannot attend, he must then elect to –

- have the report adjourned and agree not to play until the adjourned hearing takes place or
- have the report heard in his absence and accept the decision of the tribunal.

2.7 Whichever he decides, he must, through his club or advocate, submit a statutory declaration in which he explains his absence from the hearing; and nominates which of the two courses, outlined above, he has elected.

(Note: the making of a statutory declaration should not be treated lightly. Knowingly or carelessly making a false Statement in a statutory declaration is more than just contempt of the tribunal's proceedings. It is an offence under the *Oaths Act* for which a person can be prosecuted in a court).

2.8 Where a reported person fails to appear or to submit a statutory declaration the report can be heard in his absence and he may be called before the tribunal and further penalised for contempt.

Advocates

2.9 Effective advocacy is no less a skill than effective coaching and clubs should be encouraged to give thought early in the season (not on the morning of a hearing) to who will represent their players.

2.10 Any advocate's leave to appear may be withdrawn if, at any stage, he misconducts himself.

2.11 A player can act as his own advocate (never a good idea) but under no circumstances can a person (other that a reported player or reporting umpire) be both witness and advocate in the one matter. If the advocate decides (even part way through the hearing) that he wishes to give evidence, another advocate must be employed from then on.

Clarifying the Report

2.12 Generally speaking, and despite the wording of the standard report of umpire form, an umpire is not required to set out in his report:

- the number of the law under which he made the report (provided the relevant law is identifiable from the wording of the report);
- his proposed evidence (i.e. details of what happened).

So, "striking player (number) of (club)", is a sufficiently worded charge without the need to set out how the victim was (allegedly) hit or what the surrounding circumstances were.

However, there are some instances where the player will be entitled to know more about just what is alleged against him in order that he may prepare his defence. The most obvious examples are a report for "misconduct", (which, in the absence of particulars, can be almost anything), unacceptable language, "wasting time" and any report which identifies the offence by reference to a law by number only, and that law includes a multiplicity of offences. In such a case, particulars should be given e.g. "threatening language to an umpire in that he said, "you may not live to see full time", "wasting time in that he refused to kick off when directed". If it is not clear from the report just what is alleged, the player (through his advocate or club) should apply for details of the charge to be given in advance of the hearing. In appropriate cases an application for details can be made at the hearing, but if a player leaves his request so late, the application should not cause the hearing then to be postponed while a defence is prepared.

Notes on "Technical Defences"

2.13 The spirit of the rules is that reports are determined on the facts, not on unmeritorious technicalities, and provision has been made to ensure this, by empowering the tribunal to amend clerical deficiencies in reports.

2.14 Prejudice to the player in defending the report should be the only circumstances in which a technical error will vitiate a report.

Making Sure the Right Evidence is Available

2.15 It is vital that advocates ensure the appropriate persons are available to give evidence at the hearing (see below under "proper presentation of evidence") and that any other evidence which assists their case (e.g. medical report, video recording) is procured.

Obviously, if witnesses will attend the tribunal or produce things to it willingly, there is no need for the tribunal to become involved before the hearing itself. However, where a person is reluctant to give evidence or to produce things in his possession, the assistance of the tribunal can be enlisted. Not being a court, the tribunal cannot compel members of the public (e.g. mere spectators, police or ambulance men) to attend. However, any persons subject to AFL Sydney or its affiliated league jurisdiction (which would include players, umpires and club members or officials) can be required to attend a hearing or to produce any item which is under their control.

Failure to comply may be contempt, and the rules give the tribunal wide power to suspend or fine any person or club held to be in contempt.

Proper Presentation of Evidence at the Hearing

2.16 The following notes are directed to ensuring that only evidence, which is admissible, is presented to and accepted by the tribunal. However, it must also be recognised that even when the evidence is technically ADMISSIBLE, it may carry only limited WEIGHT, I.E. PERSUASIVENESS.

The obvious example is evidence given by an ardent club supporter, who, even when trying to be "unbiased", tends to "see" (and so recall) incidents in a way favourable to

the club's interests (as any umpire well knows). It is a matter for the tribunal's judgement, in each case, to decide how much weight to give any evidence.

The "Best Evidence" Rule

2.17 This (very appropriately named) rule simply means that so far as oral testimony is concerned the only person who can give evidence of act is the person who actually saw it happen or heard it said. A person who heard about it from someone else cannot give such evidence. For example, a player cannot give evidence "that the trainer told me after the match that he heard the umpire say to the ground manager…" The trainer himself will have to attend the tribunal to give evidence of what he heard the umpire say. This is the "rule against hearsay", and the reasons for it are obvious –

- stories get distorted as they are repeated from one person to another;
- effective questioning (cross-examination) of a person who did not actually witness an event is clearly limited to what aspects of it he has been told about and the cross-examiner may want to question other things which the witness was not told about.

2.18 The tribunal may accept written medical reports as evidence of the extent of injury but not of how the injury was sustained. Thus, a medical report saying "X-ray revealed a fractured cheekbone which Mr Smith claimed to have received when struck during a football match" may be allowed as evidence of the injury, but not of how he got it (because coming from the doctor who did not actually see the incident, that Statement is hearsay: player Smith must personally tell the tribunal how he sustained the injury for which he was treated).

Direct speech must be used to relate all conversations

2.19 This means that the words actually spoken must be repeated as closely as they can be recalled. The reason is that indirect speech can distort the meaning of words actually used. For example, a player cannot say in evidence:

"After the umpire blew the whistle he came over and threatened me".

Nor can he say

"After he blew the whistle he came over and told me he'd be watching me closely all through the game".

He must use the umpire's words as he recalls them, e.g.,

"The umpire blew his whistle, came over to me and said: "number 41, that tackle was after disposal and we've been instructed to be severe on that all day".

Plainly the umpire's actual words are significantly different from the suggestions of intimidation and bias, respectively, contained in the earlier two versions where the player is interpreting rather than repeating what was said to him.

Witnesses must state facts not opinions

2.20 Witnesses should tell only what they actually saw or heard, not what they think was intended. So,

"the rover tried to pass the ball to the full forward"

is an opinion about the rover's intention (and the rover's tactics might have been quite different)?

The evidence should be just a simple Statement of what happened, i.e.:

"the rover kicked the ball towards the goal square"

Document must be produced not described

2.21 Just as conversations must be reconstructed (2.20 above), a document must be allowed to "speak for itself", so an advocate should always arrange to have the document available. For instance, an injured player cannot say:

"the doctor gave me a certificate for two days off work because of concussion from being punched".

Not only would the player be 'interpreting' the medical reason for the doctor's giving him two days off work, he is giving hearsay evidence of a supposed opinion by the doctor about how the injury occurred ("from being punched"). Such evidence would be, therefore, riddled with irregularity and quite inadmissible. The medical certificate itself should be produced to the tribunal and is, as Stated earlier, evidence only of the player's medical condition, not the cause of the condition. (Note: the player could say "the doctor gave me two days off work", for that is a fact and not hearsay, but without admissible evidence linking the sick leave to an alleged football injury, the "two days off" story is of little, if any, weight).

2.22 In some cases where it is really not possible to produce the document the tribunal may allow someone familiar with it to say what be believes was in it but only when this course will not prejudice a party to the hearing. Again, this is an example of evidence which may have only limited weight.

The proper presentation of oral evidence

2.23 The are three stages in a witness's oral evidence:

Evidence in chief – in which the witness gives his version of what he saw or heard.

Cross-examination – where the opposing advocate explores or attacks the evidence in chief.

Evidence in reply – where the witness's own advocate questions him further about matters raised in the cross-examination.

(i) Evidence in chief

The witness should give his version of the events in his own words and with little interruption as possible. Under no circumstances can he give his evidence simply by answering leading questions (i.e. questions which suggest the answer) from his advocate. Consider the following example:

Advocate: "You were playing back pocket during the last quarter?"
Player: "Yes"
Advocate: "And did you and player 43 contest a mark?"
Player: "Yes"
Advocate: And did he elbow you in the face?"
Player: "Yes, he did"
Advocate: "Did you then push him in the chest?"
Player: "Yes"
Advocate: "Was that when the umpire reported you?"
Player: "Yes, he just said he'd be reporting me for striking".

This is entirely inappropriate. The advocate has given all the evidence, and the player has simply agreed with him. The witness in this case must say something like the following:

"I was playing back pocket when the ball came down field and 43 and I went for a mark. I got an elbow in the face and so I gave him a push in the chest and that's when the umpire reported me for striking".

It is however, quite acceptable (and time saving) for an advocate to lead a witness through preliminary questions on matters which are not "an issue" , e.g.

Advocate: "Your name is Ron Reilly?"
Player: "It is"
Advocate: "You are the captain-coach of the Under 18s?"
Player: "Yes"
Advocate: "You were playing in the reserves game last Sunday?"
Player: "That's right"
Advocate: "and you were involved in an incident reported by this umpire?"
Player: "Yes"
Advocate: "Please tell the tribunal, in your own words, exactly what happened".

The player now relates his story without being led, because he has reached the contentious part of his evidence.

After the player has made his Statement, his advocate, if he feels something important has been left out or not put clearly, can try to prompt his player to say it. This can be tricky because the advocate must not directly suggest the evidence to be given (i.e. lead the witness). So, the advocate could now ask the player giving the evidence:

"Why did you push player 43?"

To which the player will (the advocate hopes) reply:

"To fend him off after his elbow got me".

But the advocate cannot ask:

"So your push was only in self-defence?"

because that suggests to the player what he should say ("yes").

(ii) Cross-examination

The purpose of cross-examination is to undermine the witness's evidence in chief, for a person is entitled to expect that anything he says in evidence, which is not tested in cross-examination, has been accepted by the other side as truth and should (subject to his general credibility) be similarly treated by the tribunal. This does not mean, however, that everything a witness says should be challenged. If an advocate has no questions of substance to put to the witness he will do better to keep quite.

The vital way that cross-examination differs from examination in chief is that (because the advocate is dealing with an adverse witness) leading the witness is allowed as the advocate tries to get the witness to agree with propositions put to him. So, an umpire's advocate, in cross-examination of the player, could (if he wished) ask the very sequence of questions set out above which the player's advocate could not ask. Indeed, not only can the cross-examiner put things directly to the witness he must put to the witness (so as to give the witness an opportunity to answer) any allegation which the cross-examiner knows will later be made against the witness by one of the cross-examiner's own witnesses.

Continuing the above example, then, if the player's advocate knows that he intends to call a witness of his own who is going to allege hearing the umpire before the match, "Reilly beat me at the tribunal last time, but I'll get him today" the player's advocate must, in cross-examination, directly put that allegation to the umpire, something like this:

Advocate: "Did you speak to the ground manager just as you went out onto the field?"

Umpire: "I don't remember"

Advocate: "Didn't you say to him 'Last time I reported Reilly he beat me at the tribunal but I'll settle that score today?"

This gives the umpire the chance to deny the allegation if he wants to. If this question were not put, it would mean the umpire, after he finished his evidence, would have no chance of denying the allegation when it comes out later in the hearing, and the allegation would then stand uncontradicted

Where an advocate adduces from a witness a Statement concerning another witness which was not put directly to that (other) witness the tribunal should either:
allow the other witness to be recalled to respond to the Statement; or
disregard the Statement in coming to its decision (and forcefully tell the offending advocate that his breach of this principle of cross-examination has led to the evidence being disregarded).

Cross-examination does not have to be restricted to what the witness said in chief. The cross-examiner can ask anything else, provided it is relevant to what is "in issue".

(iii) Re-Examination

Here, the witness's own advocate can try to repair any damaging answers given under cross-examination. Re-examination must be limited to matters raised in cross-examination – it cannot raise new matters without the express permission of the tribunal (which must be sought). If there is a real need to bring up something new, leave of the tribunal should first be asked, and if it is given, the opposing advocate must then get a second cross-examination, limited to the new material.

Questions by the tribunal

2.24 At the conclusion of any witness's evidence (and, occasionally, by intervention during it), the tribunal members may direct questions of their own as they seek to clarify anything which is unclear. This may, on occasion, invoke some adverse comment by clubs because questioning by the tribunal is likely to be directed to the reported player (or his witnesses) rather than to the umpire, and so suggests bias in the tribunal.

To the extent that questioning may be directed more to the reported player than to the umpire the cause should be obvious. Advocates, many of whom are competent and thorough in their "testing" of the umpire's story, almost invariably represent players. Umpires, on the other hand, are "informants" only, and see their role at the hearing, quite properly, as witnesses not prosecutors. (It would be most improper for a reporting umpire to engage in actively working toward the conviction of a reported player, beyond making the report and giving evidence in support of it).

So, although the umpire can (and some, occasionally, do) question players about their evidence, the majority do not, and because there is rarely an umpire's advocate, a lopsided situation results, in which the umpire's evidence has been properly explored in cross examination, but the player's has not. Inevitably, the tribunal will have more to ask of the player than of the umpire, not just to redress the imbalance of cross examination, but because most questions the umpie could be asked will have been asked already by the player's advocate (particularly if he is competent).

Questions by advocates that should not be allowed

2.25 Multiple questions: a good question covers one point only, not several. Thus, the question –

"Were you playing back pocket when the ball came down the wing on the grandstand side from a long kick by the other team's rover?"

is really three questions, and the answer not necessarily "yes" to all three. This makes it hard for the witness to answer without "explanations" which only confuse and prolong proceedings. Questions should always be worded to lock the witness into giving only a direct answer to one point at a time, as in this cross-examination:-

Q. "You were in the back pocket?"
A. "Yes"
Q. "Did the ball come down the grandstand side?'
A. "Not really, it came more from the edge of the centre Square."
Q. "But it was a long kick by the opposing rover?'
A. "Yes"

(i) Questions which are not relevant to what is in issue

"In issue" means "the subject of disagreement between the opposing parties". In a striking charge, for example, there may be no dispute (i.e. no "issue") that the reported player actually struck another player. What is disputed ("in issue") is whether it was deliberate or accidental. In that situation, questions about peripheral detail (e.g. where other players, umpires, trainer etc were positioned), which are directed to suggesting that if the umpire's recall is inadequate then his evidence of the reported incident is similarly suspect, are usually irrelevant to the issue. The umpire should really be questioned about whether be observed any behaviour on the part of the "victim" which could have provoked the alleged striking or whether the contact may have occurred unintentionally.

(ii) Questions which assume a fact which has not been established

Sometimes asked deliberately in an effort to trick a witness, but more often put simply out of carelessness, these questions should always be disallowed, if the opposing advocate objects. Consider this question to an umpire:

"And did you still have a hangover during the game from your brother's wedding reception?"

The word "still" makes this objectionable unless the witness has already admitted to having a hangover prior to the game, because irrespective of whether he says "yes" or "no" to this question, he cannot avoid admitting he had a hangover at some stage. Without the word "still", he can deny ever having had a hangover, so the question would be acceptable.

Objections to evidence

2.26 The proper way for an advocate to challenge any questions (or answer) is to say to the tribunal "Objection, that question (or answer) is (for example) leading – irrelevant – assumes a fact not admitted – is an opinion not a fact etc. (as appropriate)". Under no circumstances should advocates be permitted to address their objections directly to witnesses or opposing advocates, nor should they resort to interjecting during answers or bickering with other advocates. This applies with equal force during final submissions: each advocate has his turn, has a right to be heard uninterrupted by his opponent and should afford reciprocal courtesy to that opponent.

Penalties

2.27 Fixing a penalty is a discretionary matter, but periodic reference to a few legal principles cannot be avoided, particularly with advocates' predictably pleading "self defence", "frustration", "provocation" and "retaliation", in mitigation.

Self defence, if proved, is a complete defence and not merely a mitigating factor in fixing penalty. In rare cases, a player might plead guilty, and then give evidence of an act of provocation which, in the tribunal's opinion, actually constitutes self defence. In such a case the tribunal could reject a plea of guilty and enter a finding of not guilty.

Frustration is just not a defence: rather it is a euphemism for lack of self discipline and as such a virtual invitation to the tribunal to impose discipline upon a player who cannot impose it upon himself.

Contempt of the tribunal

2.28 The essence of contempt of any quasi-judicial body, (of which a tribunal is an example) is any attempt to undermine its functions, and this includes:

- Disrespectful behaviour – which may be contempt because it undermines confidence in the tribunal and, therefore, its capacity to carry out its duties. This does not prevent proper, reasoned comment or criticism at the appropriate time.
- Attempting to influence decisions by means other than putting argument or evidence before the tribunal according to the rules. Public comment prior to a hearing, designed to influence the attitude of tribunal members, is one example, but far worse is any direct attempt to bypass the tribunal's proceedings by "lobbying" the controlling body. There can be no clearer example of undermining the functions of a tribunal than attempting to have it "overruled" in a manner quite contrary to the rules by which all participating clubs are bound. Not only are such devices clear cases of contempt, they are also singularly futile, because the controlling body itself is legally bound by its articles of association or by-laws. A tribunal will be independent, as a matter of law, so long as the controlling body has no power over it other than the one, ultimate sanction, of removing its members from office. In other words, the controlling body should have power to appoint the tribunal, and to dismiss it, but no power to overrule or modify its decisions.

TRIBUNAL RULES

Definitions

advocate	*means a person appearing before the tribunal as permitted under rule 4.2 to assist an umpire or reported person.*
controlling body	*means the AFL Sydney.*
hearing	*means an enquiry by the tribunal, in a properly convened meeting, into a report or other matter.*
official	*includes any person assuming a responsibility on behalf of, and with the consent (express or implied) of a member club of the controlling body, irrespective of whether or not that person was elected or appointed to a position by or on behalf of the club.*
player	*means a person registered as a player with the controlling body.*
pre-sentence report	*means the report for presentation to the tribunal prepared by a reported person in accordance with rule 3.2.*
report	*means a report to the controlling body.*
reportable offence	*means any act or omission, whether within or without the field of play and whenever occurring which is provided under the laws (whether expressly or implied) or the rules or by the by-laws of the controlling body as being subject to report to the controlling body by any umpire or steward.*
the laws	*means the Laws of Australian Football as adopted by the Australian Football League and such other rules as may be adopted by the controlling body.*
tribunal	*means the tribunal established by the (insert name of league or association).*
umpire	*includes all umpires appointed by the controlling body or discharging the duties of an umpire and such other officials authorised by the controlling body to report offences against the laws and shall include club umpires..*

Masculine words include the feminine and neuter and singular words include the plural.

COMPOSITION, JURISDICTION AND POWERS

1.1 The tribunal shall be comprised of such persons as may be appointed by the controlling body.

1.1.1 No person, whether a member or official of any club or association or otherwise shall be appointed or remain a member of the tribunal if such membership might create a conflict of interest.

NOTE: Proper adherence to this rule is fundamental to ensuring the proceedings are free from attack on the grounds or prejudice, real or perceived. The safe course, when there is doubt, (especially where the matter is serious and the possible penalty severe), is that any 'suspect' member of the tribunal disqualify himself from the hearing. Courts will set aside findings of tribunals where this basic principle can be shown to have been breached.

1.1.2 For the purpose of exercising its powers under these rules the number of members to constitute a meeting of the tribunal shall not be less than two, however a single member of the tribunal can give a direction under rules 1.4.1, 1.4.4 or 4.7.1.2.

1.2 The tribunal shall enquire into:

1.2.1 reports by umpires of any player or official of any teams or clubs participating in a match conducted by or under the controlling body;

NOTE: The definition of "official" is wide, and catches any person performing a duty or function on behalf of a club.

1.2.2 such other matters as may be referred to it by the controlling body.

1.2.2.1 Where a reference to the tribunal requires it to determine whether a reportable office has occurred the tribunal may, if it finds there is a case to answer, charge any player or official with one or more reportable offences.

NOTE: The intention of this rule is to satisfy the requirement of natural justice that a person know the charge he has to meet. Formulating a charge does not cast the tribunal in the role of prosecutor.

1.3 The tribunal shall be empowered to suspend, fine or caution any player, official or club:

1.3.1 found guilty of a reportable offence;

1.3.2 found guilty of deliberately giving false or misleading evidence;

1.3.3 who fails, without reasonable excuse, to attend at a meeting of the tribunal after being required to appear pursuant to rule 1.4.4;

1.3.4 found guilty of contempt of the tribunal;

1.4 The tribunal may

1.4.1 adjourn any hearing with or without imposing conditions;

1.4.2 find any report proved with or without the imposition of a penalty;

NOTE: This rule allows the tribunal to find a reported person guilty but discharge him without any penalty at all. It is appropriate to dealing with a first offender who has a clean record and is shown to have acted under real provocation.

1.4.3 find, on facts proved before it, that a reported person is guilty of an alternative (but not more serious) offence to that for which he has been reported;

NOTE: For example, a player reported for "charging might be found not guilty of that offence but guilty of "unduly rough play"; a player might be found not guilty of "threatening an umpire" (for which he is reported) but guilty of "using insulting language to an umpire".

1.4.4 require upon reasonable notice the appearance before it of any umpire, player or official or the production to it of any thing within the possession, power or control of such umpire, player or official;

NOTE: The tribunal has no power to 'subpoena' members of the public at large. However, players, umpires and officials are subject to the tribunal's jurisdiction and may be guilty of contempt if they disobey a direction given under this rule.

1.4.5 make findings and recommendations and determine penalties by a majority of the tribunal;

NOTE: The effect of this rule is that the tribunal's decisions do not have to be unanimous.

1.4.6 vacate or vary (conditionally or unconditionally) any finding or penalty previously imposed by it.

NOTE: "vacate" is a legal term meaning "annul".

1.5 The tribunal is not bound by rules of evidence.

1.6 The tribunal shall have power to regulate its own procedures.

REPORTING PROCEDURE

2.1 Any umpire shall be competent to report players or officials of any team or club for any reportable offence.

NOTE: Under the definition of "umpire" even 'unofficial' field umpires, who may be officiating because no official field umpire is available, can make valid reports. 'Unofficial' boundary and goal umpires, however, are not permitted to make reports.

2.2 A copy of the report shall be received from the field umpire by an official of the reported person's club in the manner required by the controlling body.

2.3 If any club neglects to obtain a copy of the umpire's report in accordance with the procedures prescribed by the controlling body the umpire shall be deemed to have complied with the requirements of rule 2.2.

2.4 When reporting players, umpires must, in addition to complying with these rules, comply with the laws.

ATTENDANCE

3.1 A reporting umpire, the reported person and a representative of the reported person's club shall attend a hearing at a time and place specified by the controlling body.

3.2 A reported player shall bring to the hearing a completed pre-sentence report in the form (or as nearly as possible) set out in appendix 1.

3.2.1 A person wilfully or negligently making a misstatement in a pre-sentence report shall be liable to a fine or suspension for the misstatement.

3.2.2 The onus of establishing that a misstatement was not wilful or negligent is upon the person making the misstatement.

3.3 A reported person who is not able to be present at the time appointed for the hearing must submit a statutory declaration setting out the reason for his non-attendance and including either:

3.3.1 the person's consent to stand down from representing his club in a playing and–or official capacity until such time as he is able to appear before the tribunal; or

3.3.2 the person's consent to the tribunal's investigating the report in his absence and the person's undertaking to abide by the finding of and any penalty imposed by the tribunal in his absence.

NOTE: A suggested form of statutory declaration is provided in appendix 2.

3.4 A reported person who is not present at the time appointed for the hearing and who fails to submit a statutory declaration as required by rule 3.3 shall be in contempt of the tribunal which shall then be empowered to investigate the report in the absence of the reported person and to deal as it seems fit with the contempt and the report if found proved.

3.5 Where the tribunal reasonably believe that misadventure has or may have prevented a reported person from either attending the tribunal or submitting a statutory declaration it may in its discretion adjourn the hearing in which case the reported person shall not be permitted to represent a club in any capacity or participate in a competition or representative match during the period of the adjournment.

3.6 Where an umpire is unable to be present at the time appointed for the hearing, the hearing at the tribunal's discretion may be adjourned in which case the reported person may continue to play or officiate until the adjourned hearing takes place.

3.7 An umpire who fails to appear at a hearing without notice or reasonable excuse may be in contempt of the tribunal but the report shall not for that reason only be dismissed.

NOTE: The spirit of this rule is consistent with rule 4.7 and is directed to ensuring that reports are decided on their merits rather than on technicalities.

3.8 A person who has been required to attend before or produce a thing to the tribunal and who without reasonable excuse fails to appear or produce as required shall be in contempt of the tribunal.

3.9 Any club wishing to use video/DVD recording evidence must seek approval by providing a copy of the incident on video to the Competition Management & Club Development Manager by 5pm on the Tuesday following the match. Unless approval is given clubs will not be permitted to use such evidence.

HEARINGS (1): ORGANISATION AND PRELIMINARIES

4.1 The chairman or in his absence the senior member shall be the presiding member at any meeting of the tribunal.

4.2 Any party to proceedings before the tribunal may be assisted by an advocate of his choice provided always that

4.2.1 a person qualified as a legal practitioner may appear only after obtaining leave of the tribunal;

4.2.2 the tribunal may refuse or withdraw the right or leave to appear of any advocate who in the opinion of the tribunal is guilty of misconduct or contempt.

4.3 Hearings shall, at the discretion of the tribunal and so far as facilities available reasonably allow, be open to the public.

4.4 In respect of each report the presiding member shall first ascertain

4.4.1 whether the reported person and reported umpire are present;

4.4.2 whether the reported person is represented by an advocate;

4.4.3 whether the reported person has been supplied with a copy of the report;

4.4.4 how the reported person intends to plead;

4.4.5 the availability of any witnesses the parties propose to call;

4.4.6 the nature and availability of such further evidence the parties intend to present;

4.4.7 the likely duration of the hearing.

4.5 The tribunal may then

4.5.1 proceed immediately to hear the report; or

4.5.2 appoint a later time on the same day to hear the report; or

4.5.3 adjourn the hearing on terms as it sees fit.

4.6 At the commencement of the hearing the report shall be read to the reported person who shall be asked to plead "guilty" or "not guilty".

NOTES: (1) Players should be careful not to enter a "Claytons" guilty plea. This happens when a player pleads guilty to (say) striking then, when the hearing gets under way, simply admits contact but quickly adds "it was just an accident": this is "the guilty plea you make when you're not pleading guilty".

For a player to be guilty of striking, TWO elements must be satisfied:-

(i) physical contact; and

(ii) *intention* to perform some aggressive act which results in such contact.

It follows that a player who admits (i) but denies (ii) cannot possibly plead guilty to striking, so players should give careful consideration to just what they are admitting to before pleading guilty.

On the subject of just what constitutes "intent" it should be realised that this can be *either:*

(a) intent to make the actual type of physical contact which occurs (e.g. wilfully aiming and delivering a punch); or

(b) intent to perform some hazardous act, a probable result of which is the contact which consequently occurs (e.g. wilfully lashing out with a forearm or elbow in the general direction of a player close enough to be struck even though not specifically aiming a blow). The resulting blow (and particularly any serious injury resulting) might not be intended, but the hazardous act is and contact which results from recklessness of this kind can never be a mere accident.

(2) Players often try to plead "guilty under provocation" or even "guilty but acting in self defence". Such pleas are not acceptable.

A player claiming that he acted in self defence should plead "not guilty", because self defence, if proved, is a complete answer to the report. However, a plea of self defence can only succeed where the reported person was, at the time, under real or apprehended attack and his response (which is the act for which he was reported) was *proportional to the threat.* Thus, a player who responds to an open handed push in the face from a niggling player by punching the niggler cannot claim self defence, for the response is not defensive at all; it is an escalation of the degree of violence (and will probably provoke a brawl).

A player claiming provocation must simply plead "guilty" and then rely on any proved act of provocation to mitigate the penalty.

4.6.1 A reported person may, at any time, change his plea.

4.6.2 A reported person may at any time plead guilty to an alternative reportable offence but the tribunal shall not be bound to accept the plea nor to discontinue its enquiry into the alleged offence as originally reported.

NOTE: Under this rule a reported player can elect to plead not guilty to the offence reported (say, "charging") but guilty to an alternative offence ("unduly rough play") for which he was not, in fact, reported. The tribunal is not, however, bound to accept a plea of guilty to a lesser charge (because a reported player, facing a serious charge and recognising the weight of evidence against him, might seek to avoid a likely heavy penalty by pleading guilty to the lesser offence).

4.6.3 The tribunal may, at any stage of a hearing, reject a plea of guilty and make a finding of not guilty.

NOTE: This rule, although likely to be used only rarely, is appropriate where a player (particularly one not having the assistance of a good advocate) mistakenly pleads guilty in the belief he has no defence and the evidence subsequently discloses that there is a good defence. An example is a plea of guilty by a player who genuinely acted in self defence (see note (2), rule 4.6) but mistakenly believes that because he did strike his opponent he must plead guilty (or "guilty under provocation").

4.6.4 A reported person who refuses to plead shall be deemed to have pleaded guilty.

HEARINGS (2): FORM OF REPORTS

4.7 A report shall be in writing in a form prescribed by the controlling body or to a similar effect and shall be valid provided that it complies with the requirements of rules 4.7.1 and 4.7.2.

NOTE: " … or to a similar effect" means that valid reports can be made on any report form including those of other leagues) or even on a blank sheet of paper so long as the minimum details required by rule 4.7 are provided.

4.7.1 The reportable offence or offences alleged must be stated.

4.7.1.1 A report may allege alternative offence.

NOTE: It is perfectly acceptable for an umpire, who is uncertain of all the facts or of which offence they may constitute, to allege alternative offences, e.g., where the umpire believes he has seen a fist swing and an opposing player's head jerk back, but cannot say for sure whether this was the result of contact or swift evasive action, he could report for "striking or attempting to strike". Where an umpire believes he has seen a player swinging blows in a pack but cannot be sure which of several players has been hit, "striking an unidentified player" is a valid report.

4.7.1.2 A reported person may ask in advance of the hearing for particulars of any reported offence where the conduct constituting the offence is not stated in the report.

NOTE: Recourse to this rule is appropriate where the report alleges a non-specific offence, e.g. “misconduct”, “wasting time”, “disputing decision” etc. The particulars to be provided are limited to the alleged act or words constituting the reported offence.

4.7.2 The reported player must be identified by jumper number and–or by name.

4.7.2.1. Where the number and name as stated on the report are inconsistent the tribunal may take account of surrounding circumstances, and in particular whom the umpire orally advised of the report, in determining whether the reported person has been sufficiently identified.

4.8 A technical error or failure to comply with rules 2.3 shall not invalidate a report.

4.8.1 In particular, a report shall not be invalid by reason only of error or omission in stating the date or place of the report, the quarter in which the report was made, the capacity in which the reporting umpire was officiating or the number of the law under which the report is made.

4.8.2 Where a report has not been signed the reporting umpire may be shown the report and if he identifies it as his document the report shall be deemed to have been signed.

4.8.3 The tribunal may amend a report in order to rectify any deficiency or to substitute an alternative offence to the offence reported but no such amendment shall be made if to do so would, in the opinion of the tribunal, prejudice the reported person in a way which cannot be cured by imposing conditions upon which the amendment is made.

NOTE: In some instances (particularly where videotape or DVD evidence is available) a reporting umpire may seek to amend his report (e.g. he may say that, having viewed the tape, he now believes the report should have been for “unduly rough play” not “charging”, or “striking” or “assault”). It would be permissible for the tribunal to use its powers under this rule in such a situation because the amended offence is less severe (see rule 1.4.3) and the player has been aware, from the time he was reported, of what the circumstances of the report are. But an attempt to amend a report from, say, “intentionally attempting to trip” to “assault” would not be allowed. Not only is the proposed amendment a more serious charge, but the player will have prepared his defence to meet alleged facts which are significantly different from those constituting the proposed alternative offence, and so he would be prejudiced (i.e. disadvantaged) by the amendment.

HEARINGS (3): PROCEDURE

4.9 Where a reported person pleads not guilty to an offence the hearing is to proceed as follows.

4.9.1 The umpire shall give evidence to amplify his report after which he may be questioned by the tribunal.

4.9.1.1 The umpire may be assisted by his advocate and questioned by the reported person or his advocate.

4.9.2 The reported person shall give evidence after which he may be questioned by the tribunal.

4.9.2.1 The reported person may be assisted by his advocate and questioned by the umpire or his advocate.

4.9.3 The umpire and then the reported person may adduce further oral, documentary or audio visual evidence and any witness may be questioned by the other party or his advocate and by the tribunal.

4.9.3.1 Witnesses shall remain outside the hearing room until called.

4.9.3.2 Any person who has been called to give evidence shall remain within the precincts of the tribunal until the taking of all evidence has been concluded unless the tribunal earlier releases that person.

4.9.4 The umpire may give further evidence by way of reply to evidence adduced on behalf of the reported person.

4.9.4.1 The reported person or his advocate may question the umpire about any evidence given in reply.

4.9.5 At the conclusion of the evidence the umpire or his advocate and the reported person or his advocate may present a summary of the evidence and make any submission after which the tribunal shall retire to consider its determination.

4.9.6 After the tribunal has reached a decision and reconvened the presiding member shall announce the determination of the tribunal.

4.9.6.1 Where the tribunal has arrived at a decision by a majority the senior member of the majority (if he is not the presiding member) shall announce the determination.

4.10 Where a reported person has pleaded guilty his evidence shall be taken before that of the umpire after which the procedure shall be as provided in rules 4.9.3 and 4.9.4.

NOTE: The hearing procedure is diagrammatically set out in appendix 3.

4.11 When a reported person has pleaded or been found guilty:

4.11.1 if he is an official, he or his advocate may make a statement in mitigation and may call witnesses in support of his character;

4.11.2 if he is or has at any time been a player, he shall hand to the tribunal a completed pre-sentence report (if it has not already been tendered) after which he or his advocate may make a statement in mitigation and call witnesses in support of his character.

NOTE: *Usually* the pre-sentence report is not handed to the tribunal before the tribunal makes its finding of guilty or not guilty. The reason is, quite simply, that the tribunal, in weighing the evidence when a playing has pleading not guilty, should not be deflected in its deliberation by having before it documentary evidence that the player "has a record". *However,* a player with a very good record may wish that fact to be known to the tribunal in support of his "case" that his playing history suggests he is unlikely to have done what he has been reported as doing, or would only have done so under extreme provocation. In such situations it is open to a player's advocate to tender the pre-sentence report at any stage he wishes. (Of course, where the player pleads guilty),the tribunal has only penalty to determine, so the pre-sentence report is handed up immediately.

4.11.2.1 a pre-sentence report may be inspected by the umpire and his advocate who may challenge its accuracy but otherwise shall make no submission as to penalty.

4.11.2.2 the tribunal may question a reported person about his pre-sentence report.

4.11.3 where a player or former player fails to produce a completed pre-sentence report neither he nor his advocate may call evidence or be otherwise heard in mitigation of penalty.

HEARINGS (4): PENALTIES

4.12 The tribunal shall retire to determine penalty and having so determined shall reconvene and the penalty shall be announced by the presiding member, after which any member of the tribunal may make a statement.

4.12.1 The penalty is to be recorded in writing and signed by the presiding member.

4.12.2 Where the penalty is or includes a period of suspension the period may be expressed as either the number of matches from which, or alternatively the period of time during which, the player is precluded from participating.

4.12.2.1 The tribunal may defer, on terms or absolutely, the operation of any penalty or part thereof.

NOTE: This rule allows the tribunal to impose a sentence which is suspended in whole or in part.

4.12.3 Where a period of suspension is expressed as a number of matches:

4.12.3.1. a "match" shall mean a competition match of the same grade as which the player committed the offence (i.e if a player received a three (3) game suspension after committing an offence in first grade he is not eligible to play again until three (3) first grade games have elapsed.

NOTE: The effect of this rule is that a player cannot count towards his suspension matches in more than one grade in each round, even if he regularly "doubles up" or matches in other grades which may be played when one grade has the bye.

4.12.3.2 the suspension shall take effect from and shall include the next competition match following the tribunal hearing for which the player would, but for the suspension, be eligible and thereafter shall apply to matches consecutively in the order as played rather than as drawn and shall conclude at midnight on the day of the last such match;

4.12.3.3. matches which are forfeited, washed out or for any other reason not played shall not be counted for the purpose of reckoning a period of suspension.

4.12.3.4 a player is ineligible to play in any representative fixtures whilst under suspension. In addition to this the representative matches do not count as part of the suspension.

NOTE: Without this rule, any player could claim theoretical eligibility for any representative fixture, no matter how remote his real prospects of selection are, and so count the fixture toward his suspension.

4.12.4 Where a period of suspension is expressed as a period of time the period shall commence from the time the penalty is pronounced and conclude at midnight on the last day of the period.

4.12.5 Except as permitted under rule 4.12.5.1 a suspended person may not, during his period of suspension, participate in any match in the capacity of player, playing coach, or playing assistant coach, runner or trainer nor shall he officiate within the enclosed playing area (or, where there is no enclosed playing area, within five metres of the boundary line).

4.12.5.1 A playing coach may, during a term of suspension imposed for a playing offence only, occupy the coaching bench and may enter the playing area during the quarter, half and three-quarter time breaks for the purpose only of addressing players.

NOTE: The effect of this rule is to allow a playing coach to continue as coach only, provided his suspension was incurred in the capacity of player. If he were suspended for an offence committed in the capacity of coach (see rule 4.12.5.2) then rule 4.12.5 applies and he would be barred from coaching during his suspension.

4.12.5.2 A playing coach shall be deemed to have been reported in the capacity of a player rather than as a coach if he commits any reportable offence as prescribed by the laws on the day of a match for which his name appears on the team sheet as a player.

NOTE: This rule is intended to cover uncertain situations. Its effect is that a playing coach would be reported as a coach rather than as a player only for offences committed away from the ground where a match is played or for offences committed at the ground when, for any reason (say, injury) his name does not appear on the team sheet as a player.

4.12.6 Where a fine is imposed the tribunal may make special provision for payment but in any case shall stipulate a maximum time within which the fine is to be paid to the controlling body.

4.12.7 Where a fine is imposed on a player the player may, at the discretion of the tribunal, be suspended if he defaults in the payment of the fine or any part thereof until such default has been rectified.

HEARINGS (5): PROCEEDINGS IN REPORTED PERSON'S ABSENCE

4.13 Where the reported person has in a statutory declaration consented to the tribunal's investigating a report in his absence the following additional rules shall apply where applicable.

4.13.1 the presiding member shall pronounce a plea on behalf of the reported as the statutory declaration directs;

4.13.2 the statutory declaration shall be read to the tribunal;

4.13.3 any person who is referred to by the reported person in his statutory declaration as a person whom he would have called to give evidence on his behalf shall be called and allowed to give evidence after which he may be questioned by the umpire or his advocate and by the tribunal.

CONTEMPT

5.1 The tribunal shall have the power to act in a manner it believes appropriate where any persons appearing before it behave (whether in the course of the hearing or otherwise) in a manner which the tribunal deems to be a contempt or misconduct falling short of contempt and shall have power to suspend or fine as otherwise allowed under these rules.

NOTE: The essence of contempt of any quasi-judicial body, (of which a tribunal is an example), is any attempt to undermine its functions, and this includes:

(a) Disrespectful behaviour – which may be contempt because it undermines confidence in the tribunal and, therefore, its capacity to carry out its duties.

(b) Disobeying a proper direction – the tribunal will generally encounter this as failure to comply with rules 1.4.4 or .1, i.e., not appearing at a hearing or failing to comply with a direction to produce something to the tribunal. Obviously, such conduct affronts the very basis of the controlling body's ability to exert discipline over the game.

(c) Attempting to influence decisions by means other than putting argument or evidence before the tribunal according to the rules. Public comment prior to a hearing, designed to influence the attitude of tribunal members, is one example, but far worse is any direct attempt to bypass the tribunal's proceedings by "lobbying" the controlling body. There can be no clearer example of undermining the functions of a tribunal than attempting to have it "overruled" in a manner quite contrary to the rules by which all participating clubs and the controlling body are bound.

POINTS OF LAW

6.1 Where a point of law (which does not include a law within the meaning of "the laws" as defined) is raised in any hearing before the tribunal the following procedure is to apply:

6.1.1 the presiding member, if legally qualified, shall (after consultation if he sees fit) make a ruling and that ruling shall be the determination of the tribunal on the point;

6.1.2 if the presiding member is not legally qualified the tribunal may proceed to a determination of the factual issues before it but that determination shall be expressed to be, and shall be, not effective until a ruling on the point of law has been obtained from a legally qualified person.

APPEALS

7.1 Findings of fact and determination of penalty shall be final except that:

7.1.1 the tribunal may, in its discretion, re open any hearing for the purpose of considering fresh evidence (but not for the purpose of reconsidering any finding made or penalty imposed on the basis of previously presented evidence);

7.1.1.1 fresh evidence means evidence which was not known to be available, and could not, with reasonable diligence, have been known to have been available at the time of the original hearing;

NOTE: The test here is important, for it is not sufficient that the new evidence was just not presented at the first hearing. An example would be wanting to call fresh evidence from another witness who is, say, a trainer or club official and who could have been interviewed before the original hearing. This would not satisfy the test. An example of what would satisfy the test is belated awareness that a spectator had taken a private recording of the incident but had not communicated this fact to the club prior to the hearing.

7.1.2 the tribunal shall not re-open any hearing to consider fresh evidence where it appears that even if presented to the original hearing, the fresh evidence could not reasonably be expected to have resulted in a different finding or penalty.

7.2 An appeal from any decision on a point of law or procedure only may be made to the AFL (NSW/ACT) on such conditions as that body shall determine.

NOTE: It is important to distinguish between an appeal and a re-hearing. Persons without legal training usually talk about the former when they really mean the latter.

A re-hearing simply means recycling the same evidence before another body of persons in the hope that (even though the first hearing made no procedural errors) the second hearing might be persuaded to come to a different view of the facts. There is neither need, nor provision under these rules, for any re-hearing.

An appeal is directed to correcting some error of procedure or law which may have been made in the original hearing and affected its findings. Examples are failure to give proper notice of a hearing, wrongly admitting or excluding certain evidence, misinterpreting a by-law etc. “Error” in this sense does not include a belief by the unsuccessful party that the ultimate decision is wrong. It is not the result but the path to that result which matters and if the tribunal has followed the correct procedures the mere fact that it has believed one witness and disbelieved another in arriving at a conclusion is not an “error” which provides grounds for an appeal.

PRE-SENTENCE REPORT - APPENDIX 1

To be completed and brought to the Tribunal hearing by any reported person or annexed to a Statutory Declaration by any person consenting to a hearing in his absence.

REPORTED PERSON'S NAME: _____ DOB: _____/_____/_____ CLUB: _____

PLAYING HISTORY

	YEAR(s)	CLUB (s)	NAME OF LEAGUE or ASSOCIATION	AWARDS AT LEAGUE OR ASSOCIATION LEVEL i.e. not Club Awards	TRIBUNAL CONVICTIONS Offence	Penalty
JUNIOR						
SENIOR						

To be completed by JP if report Annexed to Statutory Declaration

Signature of Player _____ Date _____/_____/_____

I HEREBY CERTIFY THAT THIS IS THE PRE-SENTENCE REPORT REFERRED TO IN THE STATUTORY DECLARATION OF _____

DECLARED BEFORE ME AT _____ ON_____ DAY OF _____ 200__

Signature of person taking declaration _____

APPENDIX 2

PRO FORMA STATUTORY DECLARATION
to be submitted by reported person
unable to attend Tribunal Meeting

I, (full name)

of (full address), (occupation)

do solemnly and sincerely declare that:

1 — I am unable to attend before the tribunal on (date) for the reason that:

(state reason *fully and unambiguously)*

♦

2 ♓ I am willing to stand down from representing my Club as a player or official until I have appeared before the tribunal and I agree to give to the Secretary of the controlling body not fewer than four clear business days notice of the date of a tribunal meeting which I am able to attend.

OR

♦

2 — (a) I consent to the tribunals' investigating in my absence the report of which I am the subject set down for hearing on the aforesaid date

♓ (b) I plead guilty to the report but ask the tribunal to take into account the following matters: (*set out mitigating circumstances*).

OR

♓ (b) I plead guilty to the report and say in answer that (*state any **facts** and briefly refer any further evidence or witnesses which the tribunal should consider or hear*).

(c) I undertake to abide by any finding (including penalty) of the tribunal and I further undertake not to raise the fact of my absence from the hearing in any challenge to the finding or to any penalty which may be imposed.

(d) I attach a completed pre-sentence report.

and I make this solemn declaration conscientiously believing the same to be true, and by virtue of the provisions of the Oaths Act 1900.

DECLARED at (*place*) this (*date*) before me:

_____

Justice of the Peace in and for
The State of New South Wales

Signature of declarant

NOTE CAREFULLY

Select one only *of the alternative forms of clause 2, depending upon whether the reported person is seeking an adjournment (first form, comprised of one paragraph only)* OR *is consenting to hearing in his absence (second form, comprised of 2a, b, c and d.*

If the second form of clause 2 is adopted, the reported person then selects ONE ONLY *of the alternative forms of 2(b) depending upon whether he is pleading guilty (first form) or not guilty (second form). 2(c) and 2(d) are always used by persons consenting to a hearing in absentia.*

APPENDIX 3

PROCEDURE FOR HEARING AN UMPIRES REPORT	
Chairperson	Declares the Tribunal Hearing opened
Chairperson	Identifies reported person
Chairperson	Identifies officiating umpire
Chairperson	Reads report sheet
Chairperson	Requests a plea from reported person
	Accepts a submission (if appropriate)
Chairperson	Requests offended player and all witnesses to vacate room
Chairperson	Asks questions of umpire, then order for questions – (a) Tribunal Members (b) Reported Person's Advocate
Chairperson	Asks offended player to return
Chairperson	Identifies offended player and asks him/her to give their version of the incident
Chairperson	Asks questions of the offended player, then order of questions – (a) Tribunal Members (b) Reported Person's Advocate
Chairperson	Asks reported person to give their version of the incident
Chairperson	Asks questions of the reported person, then order of questions – (a) Reported Person's Advocate (b) Tribunal Members
Chairperson	Asks if any other witnesses will be called
Chairperson	Asks for submissions on the evidence in order – (a)Reported Persons Advocate
Chairperson	Requests that all parties to vacate the room for Tribunal to consider the evidence as presented
Chairperson	Requests all parties back to return
Chairperson	Advises decision of the tribunal
IF THE CHARGE HAS BEEN SUSTAINED	
Chairperson	Asks for pre-sentence report and submissions on penalty from Reported Persons Advocate
Chairperson	Requests that all parties vacate the room for tribunal to consider the penalty
Chairperson	Requests all parties to return
Chairperson	Advise penalty (if applicable)
Chairperson	Closes hearing

INDEX TO TRIBUNAL RULES

Reference should also be made to the definitions with which the rules commence

AFL (NSW/ACT) COMMISSION LIMITED
PRESCRIBED PENALTY SYSTEM FOR REPORTED PLAYERS
(Adoption of these procedures by affiliated leagues is optional)

Introduction

AFL Sydney has adopted a prescribed penalty system for reported players. It is intended that such a system shall apply to players with a good record and who are reported for minor offences.

The system will not apply to officials who are reported. Those reports will be heard by the tribunal.

Procedure

Umpires shall report and charge players in the usual manner. The reporting umpire shall complete the player report template and forward to the Senior Football Operations Co-ordinator by 10.00 am on the Monday following the match.

Once the Player Report Form and Report Template has been received the Senior Football Operations Co-ordinator will process the report and decide whether or not the offence and player bis suitable for determination under the prescribed penalty system or if the report should be referred to the tribunal.

If the offence and/or player is suitable for determination under the Prescribed Penalty System, the prescribed penalty shall be offered to the club/player on the Monday following the match in which the player was reported. Club/player shall notify AFL Sydney of the acceptance or refusal to accept the set penalty no later than 5.00pm on the Tuesday following the match in which the player was reported. If accepted, the penalty shall be recorded against the player's record kept by the league. If the prescribed penalty is rejected the report shall be referred to the tribunal for hearing at a time to be advised the AFL Sydney.

Minor Offences

• Using abusive, insulting, threatening or obscene language towards or in relation to an umpire	19.2.2 (c)
• Behaving in an abusive, insulting, threatening or obscene manner towards or in relation to an umpire	19.2.2 (d)
• Committing an act of misconduct	19.2.2 (p)
• Tripping another person	19.2.2 (g) (iii)
• Striking another person	19.2.2 (g) (ii)
• Charging another person	19.2.2 (g) (v)
• Engaging in time wasting	19.2.2 (g) (iv)
• Disputing a decision of an umpire	19.2.2 (e)

• Using abusive, insulting, threatening or obscene language	19.2.2 (m)
• Shaking a goalpost	19.2.2 (k)
• Throwing or pushing an opponent	19.2.2 (g) (vi)
• Attempting to trip another person	19.2.2 (j)
• Attempting to strike another person	19.2.2 (i)
• Unduly rough play against an opponent	19.2.2 (g) (vii)
• Wrestling another person	19.2.2 (l)
• Failing to leave the playing surface when directed to do so	19.2.2 (n)
• Wearing unacceptable equipment	19.2.2 (o)
• Using an obscene gesture	19.2.2 (f)
• Engaging in a melee	19.2.2 (g) (viii)
• Committing an act of misconduct	19.2.2 (p)