

Berwick Indoor Sports Centre

Kambrya College
Bemersyde Drive
BERWICK, VIC 3806

TRIBUNAL BY-LAWS

October 2012

It is the aim of Berwick Indoor Sports Centre (BISC) to provide regulations and guidelines for Tribunals which will ensure a regulated, consistent and proper practice for the proper administration of all tribunal hearings. It is up to Tribunal Chairperson/s to show common sense in their interpretation.

1. REPORTING PROCEDURE:

- 1.1 All reports must be lodged on the OFFICIAL BERWICK INCIDENT FORM and lodged with the management or a representative e.g. (competition manager) as soon as practicable after the conclusion of the match in which the alleged offence occurred.
- 1.2 A separate report form must be completed for each player that is being reported.
- 1.3 All reports will be lodged for MISCONDUCT and the nature of the alleged principle offence or offences forming the MISCONDUCT shall be clearly described and defined. Multiple offences against the same individual may be included on the same report form.
- 1.4 A report for MISCONDUCT can be lodged against any player, team, team official or spectator by any BISC official, including centre management.

2. NOTIFICATION OF REPORTS AND TRIBUNAL HEARING:

- 2.1 It is not necessary for the reporting official to advise any person other than a management official that a report has been lodged. Written advice of the report and notification of the tribunal hearing will be forwarded to the reported person by management. Reporting Officials will be notified by management of the date and time for the tribunal hearing.
- 2.2 Non attendance at a Tribunal by the reported person without prior notification shall be interpreted as an admission of guilt and the tribunal may hand down any penalty they consider appropriate in that persons absence.
- 2.3 In genuine and notified cases of non attendance by reported player, official or witnesses the tribunal may be adjourned. This is at the sole discretion of the Tribunal Chairperson/s hearing the report.

3. CONVERSION OR DISMISSAL OR REPORTS:

- 3.1 A tribunal hearing will not be conducted and management of the Centre is empowered to dismiss the charge or convert the hearing to a management inquiry in any of the following circumstances:-

- (a) A voluntary decision by the reporting official to withdraw the report.
- (b) Where a reporting official has reported more than one player on the same report form.

4. COMPOSITION OF TRIBUNAL:

4.1 The Tribunal shall consist of at least two Commissioners. The management of BISC shall:-

- (a) Determine the number of Commissioners sitting at the hearing.
- (b) Appoint the required Commissioners to conduct the hearing.

5. WITNESSES AND EVIDENCE:

5.1 A reported person can be accompanied by a representative who may act as advocate should the tribunal deem it necessary. Should the tribunal not allow an advocate, the attending representative can act as an observer and shall take no part in the tribunal proceedings whatsoever.

5.2 The Tribunal Chairperson may obtain evidence by telephone or other means of communication provided that such evidence is relevant and genuinely considered to assist in the determination of the report.

5.3 The Tribunal Chairperson may adjourn proceedings to gain further evidence that is considered necessary for determination of the report.

6. DETERMINING THE REPORT:

6.1 The tribunal must determine if the reported person is guilty of any form of MISCONDUCT. It is not essential for the tribunal to determine guilt for each offence as perceived by the reporting official. After having determined that the reported player is guilty of MISCONDUCT, the tribunal must define the nature of such MISCONDUCT. It is possible for the tribunal to define the nature of the misconduct under more than one heading.

6.2 In determining guilt, credence can only be given to the evidence obtained from the official report form and from interviewing witnesses. Claims of provocation or any other extraneous information such as previous history of the reported person should not be considered when determining guilt. This type of information may be used later to prove extenuating or intensifying circumstances and assist in determining the severity of any penalty applied.

7. PENALTIES:

7.1 INTRODUCTION:

All offences have been listed under three degrees (1st Degree, 2nd Degree) and each category contains two levels of offence severity (Minimum and Maximum). The penalty for each offence is calculated first by category and then by severity of offence. Thereafter it may be necessary to consider any extraneous circumstances that might increase (intensifying) or decrease (extenuating) the penalty that you have determined by the above method. Extraneous circumstances should not be seen as a means to increase or decrease any legitimate penalty.

NOTE: Do not consider extraneous circumstances unless they can be fully justified.

7.2 PENALTY DETERMINATION:

Please refer to the Tribunal By-Laws Offences summary for a summary of offences and the actual Report Form which lists maximum time served.

Thereafter each offence must be determined on the severity of the offence from minimum severity to maximum severity.

EXAMPLE: 2nd Degree Abusive Language Minimum Severity 2 weeks

1st Degree Striking Maximum Severity 10 weeks

Total collective penalty for the proven offences 12 weeks

7.3 EXTRANEOUS CIRCUMSTANCES:

Having determined guilt, defined offences and determined appropriate penalties, consideration can now be given to any extenuating or intensifying circumstances that may prevail such as provocation and previous report history.

Extraneous circumstances are calculated on a scale from –30 (Extenuating) to +30 (Intensifying).

The maximum score for extenuating circumstances (–30) would result in the normal penalty being reduced by 50% and the maximum score for intensifying circumstances (+30) would result in the normal penalty being increased by 50%.

NOTE: It is possible to score up to +60 points for intensifying circumstances and if this were the case only the maximum of +30 points can be applied to the normal penalty.

7.4 SCOPE OF PENALTIES:

All penalties imposed shall apply only to the activity in which the report emanated.

All suspensions shall commence from the time that the Tribunal has determined the penalty for offences proven. The resumption date shall be calculated from midnight on the date of the Tribunal Hearing regardless of whether or not the reported person participated in the activity on this date.

7.5 RECOMMENDATIONS TO MANAGEMENT:

The Tribunal may consider that the reported and proven offence or offences warrants some action which is more severe or less severe than the imposition of the penalty determined. The tribunal is not empowered to impose penalties beyond the scope of those determined by the *Sports Suspension Sheet* nor does it have the authority to apply suspended penalties. In this regard the Tribunal has the opportunity to make recommendations to management detailing the type and nature of further action considered appropriate. These recommendations are to be included on the back of the Official Report Form.

8. CLOSING THE HEARING:

8.1 Advise the reported person of the tribunal hearing outcome and inform the person that management will forward written confirmation of any penalties imposed and details of appeal procedures.

When advising the reported person ensure that the following information is clearly conveyed:-

(a) The tribunal has not proven any MISCONDUCT and therefore the person is not guilty of any offence OR the tribunal has proven MISCONDUCT and the person is guilty of an offence or offences.

(b) If MISCONDUCT is proven inform the reported person of the nature of the proven offence or offences and advise the cumulative penalty imposed with explanation of any extraneous circumstances that may have increased or decreased the penalty and any recommendations made to management.

9. GENERAL INFORMATION:

9.1 Tribunals do not deal with BISC PROTESTS. Protests which have been lodged in relation to the reported incident either directly or indirectly cannot be used as evidence at a Tribunal Hearing. Such Protests will be independently dealt with by management.

9.2 Management will notify all appropriate affiliated Associations of all penalties of six weeks or greater. Such records of penalties will be filed at BISC and will be available for scrutiny by any BISC official.

GUIDELINES

PHILOSOPHY:

BISC is in the business of providing good fun leisure experiences to the broader local community. Local people of all ages, abilities and interests are the major participants. Most of these participants are involved in sport programmes and a wide range of grading standards is available to suit all skill levels. We do not directly promote elitist sporting programmes.

The rewards for participating in BISC activities are simply enjoyment and friendship.

For these reasons we cannot condone disruptive behaviour or behaviour that impinges on the rights of others to participate in a safe, friendly and enjoyable environment.

With this objective in mind a procedure for the reporting of misconduct has been established and trained Tribunal Commissioners are appointed to act as a formal committee of BISC to investigate and resolve such reports. A tribunal is not a court of law and is therefore not bound by legal formalities for the conduct of hearings. Tribunal Commissioners are expected to be diligent, honest and impartial in the conduct of their duties. Logic and common sense are attributes that will assist Commissioners in the resolution of conflicts that confront them at tribunal hearings.

PROCEDURAL GUIDELINES:

1. KNOWLEDGE OF SPORTS;

An intimate knowledge of all sports is not a prerequisite to perform as a Tribunal Commissioner. It is however an advantage to have a basic understanding of the powers of match officials with regard to on court penalties and disqualifications that may be imposed before an official report is lodged. There are sufficient resources throughout all RecroSport venues to obtain such information either in person or by telephone at the time of the tribunal hearing.

2. PLANNING TRIBUNAL HEARING:

The appointed Tribunal Commissioners should make ample provision of time at the commencement of each tribunal hearing to adequately plan the following matters:-

(a) Elect from amongst the appointed Commissioners a person to act as tribunal chairman.

(b) Read and evaluate report to be resolved and declare any vested interest in the report by any Commissioner that may jeopardise impartiality.

(c) Establish a preliminary plan of interview sequence giving due consideration to availability of witnesses and alternative arrangements for interviewing non attending witnesses.

3. COMMENCEMENT OF HEARING:

The first interview should always be the reported person (non attendance excepted). The tribunal chairman should introduce the Commissioners and briefly explain tribunal philosophy. The Commissioners should be introduced to all witnesses as they appear before the hearing. The reported person is to be informed of the MISCONDUCT charge and a summary of the alleged offences should be explained. It is not recommended to read in detail the charges alleged by the reporting official. Invite the reported person to respond to the alleged misconduct and record this response on the officials report form as part of the tribunal record.

Proceed with interview of reported person ensuring that an atmosphere which encourages good communication is maintained. At the completion of this phase established if the reported person is required for further interview and advise accordingly. If not required for further interview the reported person may choose whether or not to stay at the venue for the outcome of the hearing.

4. REVIEW PRELIMINARY PLAN:

Dependent upon the reported persons response to the alleged misconduct the hearing can now lead in one of two directions:

(a) **In the event of non attendance or admission of the charge by the reported person-** In either of these cases the onus is no longer on the tribunal to prove the misconduct. By admission or non attendance the misconduct is proven and the tribunal may determine the appropriate penalty to be imposed.

In order to determine the penalty it may be necessary to interview witnesses to establish the severity of the offence or any extraneous circumstances that may have existed at the time of the reported incident.

(b) **In the event of the charge being denied by the reported person –** The onus is on the tribunal to determine if the reported person is guilty of any form of misconduct. Proceed with the interview plan that was established earlier to determine an appropriate conclusion of the report.

The benefit of any doubt should be in favour of the reported person and rather than make a premature judgement it may be prudent to adjourn the hearing so that further evidence or confirmation of existing evidence may be obtained.

The decision to adjourn a Tribunal Hearing is at the sole discretion of the Commissioners hearing the report. Should this decision be reached it must be remembered that the Commissioners appointed to the Hearing should be available to conclude the Hearing throughout the adjournment. Before deciding on adjournment establish if the relevant witnesses or missing evidence can be obtained by telephone contact or some other means so as to avoid the necessity of adjourning the hearing to a later date.

5. INTERVIEW PROCEDURES AND TECHNIQUES:

The number of witnesses required and the order of interviews is solely at the discretion of the Tribunal Commissioners. It is recommended that a balance of witnesses representing both sides be interviewed and it may be appropriate to interview someone who could reasonably be considered to be neutral. Witness testimony must be relevant and pertinent to the reported incident. Quantity of witnesses interviewed is far less important than quality of evidence obtained.

When interviewing witnesses try to keep questions short and concise. Avoid distractions about irrelevant matters and keep the interview focussed on issues that are applicable to the reported incident and allegations.

Avoid making personal judgements and criticisms. Attempt to remain cool, calm and collected at all times. Take notes of all evidence submitted.

After hearing evidence from a witness it may be appropriate for the commissioners to discuss and evaluate this evidence before proceeding with further interviews. Sketches are often a valuable form of evidence. Attempt to establish witness separation at the hearing to avoid collaboration.

6. ADVISING APPROPRIATE TRIBUNAL PARTICIPANTS:

Assuming that the reported person is still present at the conclusion of the tribunal hearing it is appropriate to advise him/her of the outcome.

During the course of the hearing it may be necessary to remind the reporting official that the allegations contained within the report must be proven. Some officials are under the misapprehension that the outcome of tribunals is a foregone conclusion.

At the conclusion of the hearing it is courteous to inform the reporting official of the tribunal outcome. It is fair to suggest that officials are diligent in the conduct of their duties and do not submit reports without good reason. It may be difficult for an official to understand and accept the outcome as determined by the Commissioners. Discussion with the official and explanation of your reasoning may lead to a better understanding and education by all concerned.

7. CLOSING THE HEARING:

Having advised appropriate participants of the tribunal outcome the hearing can now be closed. When closing a hearing ensure that all relevant information has been recorded on the officials report form.

The information contained in the Tribunal Record is of paramount importance in the event of an appeal being lodged. Appeals will be considered by the respective Centre Manager (or Supervisor, in the event of vested interest) in consultation with the Commissioners who presided at the hearing of the original report.

8. TRIBUNAL RECORD:

- ☐ Record the names of the Tribunal Commissioners (including chairman), the date of the hearing and venue in which the hearing was conducted.
- ☐ Summarise the reported persons response to the alleged misconduct. Focus on admission or denial and record any reasons stated that may substantiate or justify this claim in the opinion of the person reported.
- ☐ Summarise the verbal testimony given by the reporting official. Pay particular attention to verbal accuracy when compared with the written details submitted in the report. Also record any pertinent or relevant facts that may not have been included in the written report.
- ☐ Summarise evidence obtained from witnesses. It is recommended that during the hearing notes are kept of evidence offered by all witnesses interviewed. At the conclusion of the hearing this evidence can be summarised on the officials report form with particular emphasis placed on those aspects of evidence that led the tribunal commissioners to the conclusions achieved.
- ☐ If considered necessary the tribunal may summarise their conclusions and record the rationale behind decisions resolved. This information may prove to be useful in the event of an appeal being lodged. Record in this section the details of any incidental offence discovered as a consequence of this report.
- ☐ Record the outcome of the tribunal hearing. If misconduct was proven record the nature of the misconduct, severity of offence, individual penalties, adjustment for extraneous circumstances and total penalty imposed. A section is provided herein to calculate a score to determine the value of extraneous circumstances.

☐ The final section of the tribunal record is used to record the date that reported person is allowed to resume normal activities in the BISC complex. This section also provides an opportunity for the tribunal commissioners to recommend any further action that they consider to be appropriate. Recommendations contained herein can be either positive (Recommending leniency by way of suspended penalty or early resumption upon demonstrated good behaviour) or negative (recommending other capacities from which the reported person should be excluded).

9. GENERAL COMMENTS:

ADJOURNMENT:

Should it be considered necessary to adjourn a tribunal hearing the Commissioners should develop a plan of action for the adjournment with particular attention to the following matters:-

- ☐ Inform reported person, reporting official, manager and any other affected witnesses of the adjournment.
- ☐ Establish when, how and where the additional evidence is to be obtained.
- ☐ Inform reported person, reporting official and management of subsequent outcome of adjourned hearing.

INCIDENTAL OFFENCE:

In the event of an offence being discovered that is incidental to the report under consideration (e.g. playing under an assumed name) the tribunal is empowered to investigate and deliberate on such an offence. Offences such as this shall be documented on the officials report form and any penalties imposed shall be applied in the normal manner.

REACTIVE BEHAVIOUR:

With the exception of incidental offences listed above, the tribunal is only empowered to impose penalties related to the reported offences. If during the course of the hearing the reported person demonstrates unacceptable behaviour the tribunal may issue a warning that such behaviour can result in another penalty. Should this not curb the reactive behaviour a recommendation to the Manager shall be lodged by the Tribunal Chairman and witnessed by other Tribunal Commissioners. Such recommendations will be dealt with by the respective Centre Manager. Under no circumstances can reactive behaviour be resolved by the addition of further penalties under the original report.

SPORT'S SUSPENSIONS

(Recommended Penalties)

As at September 2012

Minimum Maximum

ABUSIVE LANGUAGE

1st Degree Reprimand 1 week

2nd Degree weeks 10 weeks

ABUSIVE LANGUAGE AFTER GAME 1 week 10 weeks

INTIMIDATION 2 weeks 10 weeks

UNSPORTING CONDUCT 2 weeks 10 weeks

EQUIPMENT ABUSE 1 week 12 weeks

PLUS PAYMENT FOR ANY DAMAGE

RESISTING 1 week 12 weeks

ATTEMPTED STRIKING

1st Degree (push or open hand) 1 week 10 weeks

2rd Degree (clenched fist/head butt) 5 weeks 52 weeks

STRIKING

1st Degree (push or open hand) 2 weeks 52 weeks

2nd Degree (clenched fist/head butt) 10 weeks LIFE

3rd Degree (multiple/malicious blows) 20 weeks LIFE

ATTEMPTED STRIKING an official 10 weeks LIFE

PUSHING/MANHANDLING an official 10 weeks LIFE

STRIKING an official LIFE

The above to be used for all reports and Management enquiries.

Berwick Indoor Sports Centre

68 Bemersyde Drive,

BERWICK VIC 3806

Ph: 8786 7892

(Date)

(Name)

(Address)

(Address2)

(Address3)

Dear (Name)

On **(Date)**, a Tribunal was conducted at the Berwick Indoor Sports Centre to hear charges brought against you by an official on the **(Date)**.

The outcome of the Tribunal Hearing is as follows:

“That **(Name)** was found guilty of misconduct at the Berwick Indoor Sports Centre.”

“It is the Tribunal Commissioners opinion that the nature of the misconduct is
.....”

“That **(Name)** be suspended from playing and coaching all forms of basketball at the Berwick Indoor Sports Centre until midnight on **(Date)**.”

A suspended person is entitled to appeal against the decision of a Tribunal. All appeals must be lodged in writing to the manager of the Berwick Indoor Sports Centre. Your letter must contain serious and legitimate grounds for an appeal that can be substantiated by factual evidence. If an appeal is heard the management has the right to increase or decrease the suspension.

Yours faithfully

Manager – Berwick Indoor Sports Centre