

BWA Tribunal Procedure Guidelines

Getting Prepared

The report will be made by the charging official and received by the Hearings Officer to organise a Tribunal.

The Tribunal should be organised prior to the next fixture being played.

If the charged person fails to appear without reasonable excuse then the Tribunal should be adjourned to another suitable date and the charged person advised. If they fail to attend on the next occasion then the option is to suspend the charged person from all basketball related activities with affiliated Associations until the Tribunal has heard the matter and determined a penalty.

It is best to have a set day for Tribunal matters.

You should have a panel of people who you can approach to sit on the Tribunal.

Where possible you should have 3 people on the Tribunal, one Chair and 2 other members. Each Tribunal member should be given a copy of the Tribunal rules. Each Tribunal member should be given a copy of the report sheet and any other relevant material prior to the Tribunal hearing.

Appearances by Skype/Audio

Sometimes it is not possible for the charged person or witnesses to attend in person and a link is set up, appearance in this way is suitable.

You should establish where the person is and who else is present with them.

Introduction

Introduce yourself as the Chair and the other members of the Tribunal.
Inform all present that notes will be taken throughout the proceedings (Rule 15.6).

State you are a duly constituted Tribunal under the Constitution.

Ask if there is any objection to any member of the tribunal hearing the report (Rule 15.4).

- If yes-what basis-conflict, that is known to the Tribunal members-personally know about the matter.

Ask for everyone in the room to identify themselves and record the responses (Rule 15.3).

- Person charged
- Referee or person making the charge
- Witness
- Club Representative
- Others

Tell the charged person you will be requiring them to enter a plea to the charge.

Ask the charged person if they have received a copy of the report sheet, have they read it, have they understood it (Rule 15.8).

It is important that we adopt the principles of fairness and natural justice. The charged person must have an opportunity to answer the charge(s) against them.

Read the charge and ask do you plead guilty/not guilty and record the response (Rule 15.9).

Plea of Guilty

If the charged person pleads guilty the witnesses may be excused.

If there is video footage of the incident then it should be viewed

Ask the person making the charge to provide a summary of their evidence about the charge. They can read a prepared statement.

Listen to the details you may have to amend the charge if there is not clarity or the person making the charge has ticked more than one box for the same incident because they were unsure which was most appropriate.

If the charges change in a material way the hearing may need to be adjourned to give the charged person time to prepare and call other witnesses (Rule 15.8).

If the statement/evidence supports the charge laid then you can accept the plea and record it and if other charges were included you can delete them if you are satisfied they are covered (Rule 15.20).

Then ask the charged person if they agree with the statement and if there is anything they wish to add or comment on again they can also read a prepared statement (Rule 15.10).

They cannot dispute the main elements of the offence, if they do you should consider having a hearing and recording a plea of not guilty.

The Tribunal members can ask questions for clarification of the charged person and person making the report at any time.

Then ask the charged person for their personal particulars-age, how long playing, ever reported previously, what level played at, how often they play and where and other contribution to basketball.

You should then adjourn to consider the penalty. You must reconvene and advise the charged person/person bringing the charge the outcome (Rule 15.26).

The penalties set out offer a range, the maximum is for the very worst case of its type-you will rarely if ever impose the maximum.

If there is more than one charge you can impose separate penalties or one penalty to cover all charges (Rule 16.4).

You can have concurrent and cumulative suspensions (Rule 16.6).

Any suspension imposed will be from all basketball related activity in all affiliated Associations (Rule 15.28).

The penalty, if suspension, should be expressed in weeks not number of games and give a start and end date (Rule 16.5).

You do need to give a discount for the plea of guilty, age, never before a Tribunal before and contribution to basketball (Rule 16.7 and 16.8).

The Tribunal members need to agree on the penalty. You are not obliged to give reasons. Record the penalty on the outcome sheet (Rule 15.27).

Plea of Not Guilty

If the person pleads not guilty then the matter must proceed to a hearing.

The matter will be decided on a balance of probabilities.

The charged person and the person making the report will remain in the hearing room throughout, but not while the Tribunal decides on its findings and penalty (Rule 15.5).

Ask the other people present to leave the room (Rule 15.11).

Confirm the age of the charged person, if over 18 years they do not require assistance if under 18 years they should have a parent or friend present.

Tell the charged person to make notes and anything in dispute will need to be the subject of questions by them to the person making the statement otherwise the evidence will be accepted as it is not contradicted.

Generally evidence that you should hear will be what the person giving evidence -

- Saw
- Heard
- Did
- Any conversation that they had with the charged person or within hearing of that person

If there is video footage of the incident play it now (Rule 15.17).

Start by asking the person making the report to give their statement, they can refer to notes or read a prepared statement as long as they wrote it and the content is of their own knowledge and not what they have been told by others.

At the end of that ask the charged person if they have any questions-they should not be argumentative or personal (Rule 15.12).

The Tribunal members may also ask questions to clarify anything stated (Rule 15.15).

Then ask the witnesses to come in one at a time and give their evidence following the same process, they will leave the room at the conclusion of their evidence (Rule 15.13).

At the end of the witnesses ask the charged person if they want to give evidence- they don't have to (Rule 15.14).

The person making the report should be told to make notes of anything said that they want to question. The Tribunal members are also able to ask questions to clarify anything said.

Then call the witnesses attending on behalf of the charged person-as above.

Then ask if the charged person or person making the charge wants to give a summary (Rule 15.18).

If the Tribunal is not satisfied the charge has been made out but a lesser charge has been proven then that finding can be made and recorded (Rule 15.19).

Then adjourn to make your decision on a *balance of probabilities*.

Then give your decision.

If not guilty then the matter ends.

If guilty then follow the procedure for a plea of guilty-remember there is no discount for a plea now that there has been a hearing.