

20 REPORTS & TRIBUNALS

(QAFL / Pineapple Hotel Cup / State Association / Under 18 / Women's League / Affiliated Leagues)

Note: For situations not dealt with in section 20.0 of this document then, if applicable, the rules and regulations in sections 21.0 can be applied.

Within this document masculine words include the feminine and neuter and singular words include the plural.

20.1 Conduct of Tribunals

AFL Queensland affiliated Leagues will conduct all Tribunals under the following Tribunal guidelines, Tribunal rules and appeal rules. In affiliated Leagues where the Reports and Tribunals procedures for the QAFL (sections 21.1, 21.2 and 21.3) have been wholly or partially adopted or a matter is not dealt with in the AFL Queensland standard Reports and Tribunals Rules and Guidelines (20.1 to 20.14 inclusive), the QAFL Tribunal Rules and Guidelines can be applied. In these situations the overriding decisions of the Football Operations Manager, as defined in the QAFL Tribunal Rules and Guidelines, would be replaced by those of the League Executive.

20.2 Tribunal Hearings

In the event of five (5) or more reports to be heard on the one (1) night, two (2) Tribunals may be convened. Failure to attend at the appointed time will incur a penalty **(Penalty 20 units)**

20.3 Advocates

Clubs must provide player "advocates" for all Tribunal hearings (this applies for charged players and witnesses). **(Penalty 20 units)**.

20.4 Player Suspension

A player who is suspended or disqualified by a Tribunal shall serve such suspension or disqualification in the grade in which they 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.

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

Players transferring from other Leagues will carry any suspensions with them.

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.

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

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: A suspended player will not be eligible to play representative football if the representative fixture occurs while the player is serving the suspension. If the suspended player was selected in the representative team prior to being suspended then he / she foregoes playing in the representative fixture if the fixture occurs during the time of the suspension. In this situation the representative fixture does not count as part of the suspension.

20.5 Video Evidence

Video evidence submitted by clubs must be made available to AFL Queensland or its affiliated League administration by no later than midday on the day of the hearing.

20.6 Video Review Committee – QAFL Seniors ONLY

Video analysis of tapes of all matches played will be assigned after referral from the AFL Queensland umpiring department to evaluate particular incidents that may have occurred during a game.

A form called “Incident Video Referral” will be completed by the AFL Queensland umpiring department and submitted to the AFL Queensland Football Operations Manager no later than 12 noon on the second working day after the end of the round/ weekend of games played in the AFL Queensland State League competition (division one).

The form shall contain details of any incident that may be deemed, in the opinion of the umpiring department, to be a breach of the laws of the game and may be reportable.

The Video Review Committee, made up of the Football Operations Manager, Chief Executive Officer, Football Services Manager and Technical Services Manager, is appointed on behalf of AFL Queensland to evaluate such reports and consider whether charges may emanate from referrals for video analysis.

Should the incident under review be considered a breach of the laws and reportable, then a ‘notice of particulars of charge’ sheet shall be signed by AFL Queensland administration, which will be empowered to notify the charged player(s) of the club of the charge as well as all other parties involved in the incident.

A Tribunal shall be convened to hear the charge emanating from the video report detailed in the 'notice of particulars of charge' and should be heard as soon as practicable. Conversely a set penalty may be offered should the player / official wish to take that option.

20.7 Investigations

AFL Queensland and its affiliated League shall have provision to request an independent investigation of any incident which is deemed to bring the game into disrepute. Each affiliated League shall appoint an Independent Investigation Officer prior to the commencement of each season or as it is deemed necessary.

In addition, investigations may take place as a result of incidents brought to the attention of the affiliated League by way of;

- (a) A written complaint, **together with a fee of 25 units**, from an affiliated / licensed club (lodged by Tuesday 5.00pm) to the Football Operations Manager, AFL Queensland,
- (b) Any other matter that is deemed worthy of investigation by the management committee of the League.

AFL Queensland or its affiliated League reserves the right to accept late lodgement of a request for investigation. These investigations will take place by way of video analysis, independent investigation, or any other means as determined by the appointed Independent Investigation Officer.

If AFL Queensland or its affiliated League, after investigation of an allegation made in accordance with the above paragraph of these regulations, is of the opinion that the coach, player, trainer, water carrier, runner, club official or umpire in question may have been: guilty of a breach of the laws of the game; has contravened the rules and regulations; or has been guilty of conduct unbecoming, or which is likely to bring the game of Australian Football into disrepute, or which is prejudicial to the reputation or interests of AFL Queensland and/or an affiliated League, it may either refer the allegation to the Tribunal as hereinafter provided or otherwise determine the allegation as it deems fit. The independent investigator does not have the power to fine or suspend but may recommend the same to the League's management.

Where the allegation is referred to the Tribunal, the Football Operations Manager or relevant competition manager shall fix a date, time and place for a hearing before the Tribunal, being a date no longer than 21 days after lodgement of the notice (including the 25 unit fee) and shall advise the coach, player, trainer, club official or umpire in question of those particulars and forward to the coach, player, trainer, runner, club official or umpire in question a copy of the notice lodged.

The Tribunal may regulate any proceedings brought before it under this regulation as it thinks fit, but in any such proceedings the coach, player, trainer, runner, club official or umpire, against whom the

allegation has been made and his or her legal or other representative, shall be entitled to appear before the Tribunal.

If the Tribunal decides that the coach, player, runner, club official or umpire in question: has been guilty of a breach of the laws of the game; has contravened the rules and regulations or; has been guilty of conduct unbecoming to a coach, player, trainer, runner, club official or umpire or; is likely to bring the game of Australian Football into disrepute or; is prejudicial to the reputation or interests of AFL Queensland or its affiliated League, it may make such orders and give such directions in the matter as it thinks fit. Without limiting the generality of the foregoing, the Tribunal may:

- (i) impose a fine of such amount as it thinks fit on the coach, player, trainer, runner or official in question and/or upon the club of such coach, player, trainer, runner or official;
- (ii) suspend the coach, player, trainer, runner or official in question for such period as it thinks fit;
- (iii) (iii) remove premiership points from the club of which the coach, player, trainer, runner or official in question is a member and at its discretion award such points to another club or clubs;
- (iv) make adjustments to scores, percentages and results of any match.
- (v) in the case of an umpire, impose such fine or period of suspension as it thinks fit.

Clubs and directors, office bearers, employees and committee members of clubs who, in the opinion of AFL Queensland or its affiliated League, have contravened the provisions of the rules and regulations, or have been guilty of conduct which is unbecoming to a club, director, office bearer, employee or committee member of a club or which is likely to bring the game of Australian Football into disrepute or which is prejudicial to the reputation or interests of AFL Queensland or its affiliated League shall be dealt with as AFL Queensland or its affiliated League deems fit. It is recommended that in these cases, a breach of a code of conduct, the matter be investigated, a report be given to the League and the League determine an appropriate outcome, if any, and the accused be given the right to, either accept the consequences, or take the matter to an Independent Tribunal.

20.8 Imposition of Penalties

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 may also, in respect of the following charges only:

- wilfully wasting time;
- remaining on the playing arena not wearing proper uniform after being warned by the umpire;
- wearing unacceptable equipment (boot studs, rings, jewellery, surgical appliances or guards),

impose a fine, provided that the fine shall **not exceed the sum of 25 penalty points**.

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.

20.9 Racial & Religious Vilification

- (a) No player in his capacity as a player of a club or, in the course of carrying out his duties or functions as or incidental to a player of a club or any director, officer, servant, or agent of a club (including without limitation any coach, assistant coach, trainer, medical officer, runner or person entitled to enter the arena during the course of or prior to or during any break in play in any match) shall act towards or speak to any other person in a manner, or engage in any other conduct which threatens, disparages, vilifies or insults another person ("the person vilified") on the basis of that person's race, religion, colour, descent or national or ethnic origin.
- (b) In the event that it is alleged that a person has contravened rule 20.9 (a) an umpire, club or player may by 5.00pm on the first working day following the day on which the contravention is alleged to have occurred, lodge a complaint in writing with the person appointed from time to time by AFL Queensland or its affiliated League as the complaints officer for the purposes of this rule.
- (c) AFL Queensland or its affiliated League shall:
 - (i) Inform the person alleged to have contravened rule 20.9 (a) of the complaint and provide that
 - (ii) person with an opportunity to respond to it.
 - (iii) Identify and obtain written statements from any available witnesses.
 - (iv) Obtain video or other evidence produced through the multi media.
 - (v) Arrange for the complaint to be conciliated and take all steps necessary for the complaint to be conciliated.
- (d) The particulars of a complaint and the conciliation shall at all times remain confidential. A person shall not publicly comment on or disseminate to any person information concerning a complaint at any time during or after the conciliation.
- (e) Where AFL Queensland or its affiliated League is of the opinion that the matter has not been resolved by conciliation, AFL Queensland or its affiliated League shall:
 - (i) In the case of a player, refer the complaint to the Tribunal to be dealt with as a reportable offence under the Laws of Australian Football; or
 - (ii) In the case of any other person, refer the complaint to AFL Queensland or its affiliated League to be dealt with under the rule covering inappropriate behaviour detailed in the

rules and regulations of AFL Queensland and its affiliated Leagues.

- (f) Where a person alleged to have contravened rule 20.9 (a) has previously taken part in a conciliation (other than as a person vilified), AFL Queensland or its affiliated League may refer the complaint directly to the Tribunal to be dealt with as a reportable offence under the Laws of Australian Football in the case of a player, or directly to AFL Queensland Commission to be dealt with as they see fit.
- (g) Any conciliation referred to in rule 20.9 (c) shall be conducted by a suitable independent person appointed by AFL Queensland or its affiliated League upon agreement between the parties.
- (h) In the event that a complaint is referred to the Tribunal rule 20.9 (d), no evidence shall be given to or accepted by the Tribunal relating to anything said or done in any conciliation carried out pursuant to rule 20.9 (c).
- (i) In the event that a complaints officer has not been appointed for the purposes of these rules or if appointed is for any reason unavailable to act under these rules, the complaints officer for the purpose of these rules shall be the CEO of AFL Queensland or his appointed deputy.
- (j) The complaints officer shall make all reasonable efforts to ensure that conciliation of a complaint under rule 20.9 (c) is completed by 5.00pm, on the third working day following the day on which the incident is alleged to have occurred.
- (k) In any case where the complaints officer determines to refer the complaint to the affiliated League's Tribunal or AFL Queensland, the complaint shall be referred in time for the affiliated League's Tribunal or AFL Queensland as the case may be, to deal with it within 48 hours of any cessation in the conciliation process following the day on which the incident is alleged to have occurred.
- (l) Any time limit for the doing of anything referred to in this rule may be extended by AFL Queensland or its affiliated League if in the opinion of AFL Queensland or its affiliated League it is just and equitable to do so.
- (m) In the event that a complaint under these rules, in respect of conduct engaged in by a person, is found to have been proven by the affiliated League's Tribunal or where AFL Queensland determines that a person, the subject of a complaint, has been involved in conduct which is unbecoming or prejudicial to the interests of the affiliated League, the club employing, engaging or otherwise associated with the person at the time of the conduct shall be deemed to be vicariously liable for the conduct of the person and shall pay to the League a penalty determined by AFL Queensland or its affiliated League.

- (n) Rule 20.9 (m) does not apply to a contravention by a person if, in the opinion of AFL Queensland or its affiliated League the club took all reasonable steps to prevent persons employed, engaged or otherwise associated with the club from engaging in the conduct which contravened the vilification rules.
- (o) Where a matter is resolved by conciliation the only public statement that shall be made concerning a complaint and its resolution shall be that agreed upon by the parties.

20.10 Drug Disciplinary Tribunal

AFL Queensland and its affiliated Leagues are bound by the guidelines and procedures of the Australian Sports Drug Agency (ASDA) which includes random testing of all participants across Queensland.

AFL Queensland on behalf of all affiliated Leagues may appoint from time to time a drug disciplinary Tribunal comprising;

- (i) A legal practitioner,
- (ii) A medical practitioner experienced in sports medicine and matters relating to drugs in sport,
- (iii) A former club administrator,
- (iv) A retired player, and
- (v) Other members at its discretion.

At any hearing of the Tribunal a quorum will comprise any three (3) members.

Powers and duties of the Drug Disciplinary Tribunal:

- The Tribunal shall have the power to and shall hear and determine any matter referred to it.

20.11 Charges / Disputes Against Clubs

(a) Inappropriate Behaviour

An officer, director, life member or servant of AFL Queensland or its affiliated League, player, club president or registered official, an umpire registered by AFL Queensland or its affiliated League under these rules and regulations, or any person who is acting in any official capacity at any match of football or official function authorised or approved by AFL Queensland or its affiliated League shall not at any time:

- (i) Use abusive, threatening or insulting language to or interfere with or assault any umpire, officer of the League, delegate or member of a Tribunal or club president, member of AFL Queensland commission or its affiliated League management committee or servant of the League, playing member of a club, registered official, gatekeeper or other employee of

the League engaged at an oval at which a game arranged by or under the control of or approved by the AFL Queensland or its affiliated League is being played.

- (ii) Engage in conduct which is unbecoming, detrimental or prejudicial to the welfare, image, spirit or best interests of football or AFL Queensland or its affiliated Leagues.
- (iii) Refuse or neglect or fail to observe, obey or comply with the constitution and rules and regulations or any decision or direction of AFL Queensland or its affiliated League.
- (iv) Make any comment in any publication whether written, televised or broadcast which is detrimental or prejudicial to the welfare, image, spirit or best interests of the sport of AFL, AFL Queensland and its affiliated League.
- (v) Make comment in any publication, whether written, televised or broadcast which is adversely critical of a registered umpire or a decision of any Tribunal appointed by AFL Queensland or its affiliated League.

(b) Club observance

A club must observe, obey and comply with the constitution and rules and regulations of AFL Queensland and its affiliated League, and not engage in conduct which is unbecoming, detrimental or prejudicial to interests of Australian Football.

c) Penalty

An individual as listed above or a club found guilty of a breach of; the constitution, and / or rules and regulations of AFL Queensland or its affiliated League, or the Laws of Australian Football, may be subject to:

- (i) Censure; and/or
- (ii) Suspension or disqualification from playing or exercising any official function or attending any football match; and/or
- (iii) The withdrawal of, or suspension or disqualification from exercising, any right or privilege which a person may have or to which they may be entitled by virtue of any office, position or class of membership held by them in or of AFL Queensland or its affiliated League; and/or
- (iv) A fine not exceeding 300 penalty points as the Tribunal determines; and/or
- (v) In the case of a club, the reversal of the result of a match; and/or

- (vi) The suspension or disqualification of a team or teams of that club; and/or
 - (vii) The loss of premiership points.
- (d) Charges / disputes against clubs, players, officials

All clubs referring disputes, protests or charges against clubs or players to AFL Queensland or its affiliated League or reporting any infringements of rules and regulations of AFL Queensland or Laws of the Game shall forward particulars in writing together with a **fee of 25 units** to the Football Operations Manager of AFL Queensland or the appropriate competition manager.

This must be lodged at the office of AFL Queensland or its affiliated League within two working days following the day on which the occurrence took place.

Umpires referring charges against clubs or players must do so within the above time. Duties as to the reporting of players are set out in the AFL Laws of the Game.

Any player or other club official referring a charge against an official of AFL Queensland must do so through the committee of the club of which the player or club official concerned is a member.

20.12 AFL Queensland Tribunal Guidelines

(Pineapple Hotel Cup / State Association / Under 18 / Women's League / Affiliated Leagues)

20.12.1 Introduction

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.

20.12.2 Natural Justice

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

(a) 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 they should disqualify themselves immediately, even if this means aborting the hearing and starting again.

(b) 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 their 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.

(c) 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.

(d) 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 their presence.
- All documentary evidence against a reported person to be made available to them.
- A reported person or his advocate to question all witnesses.
- A reported person to present evidence on their own 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 the lawyer 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.

(e) 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:

- i) 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.
- ii) 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, section 20.14).

20.12.3 Hearing Procedure as Prescribed in the Rules

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 critical to their findings.

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.*

20.12.4 Postponements

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.

20.12.5 Absence from the Hearing

Where a postponement has not been sought or granted, the reported person must attend the hearing. If they cannot attend, they 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 their absence and accept the decision of the Tribunal; or
- in exceptional circumstances only, give evidence via telephone link up.

Whichever the reported person decides, they must, through their club or advocate, submit a statutory

declaration in which they:

- explain their absence from the hearing; and
- nominate which of the three courses, outlined above, they have 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).

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.

20.12.6 Advocates

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 for the upcoming season.

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

A player can act as their own advocate (never a good idea) but under no circumstances can a person (other than 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 they wish to give evidence, another advocate must be employed from then on.

20.12.7 Clarifying the Report

Generally speaking, and despite the wording of the standard Report of Umpire Form, an umpire is not required to set out in the report;

- the number of the law under which he/she made the report (provided the relevant law is identifiable from the wording of the report),
- his/her 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 were the surrounding circumstances.

However, there are some instances where the player will be entitled to know more about just what is alleged against them in order that they may prepare their 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 the player said, "you may not live to see full time" or

“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.

20.12.8 Notes on “Technical Defences”

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.

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

20.12.9 Ensure Right Evidence is Available

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 their 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 Queensland 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.

20.12.10 Proper Presentation of Evidence at the Hearing

The following notes are directed to ensure 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. It is a matter for the Tribunal’s judgement, in each case, to decide how much weight to give any evidence.

20.12.11 “Best Evidence” Rule

This (very appropriately named) rule simply means that so far as oral testimony is concerned, the only person who can give evidence of fact 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 they heard the umpire say to the ground manager...” The trainer has to attend the Tribunal to give evidence of what they 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 they have been told about, and the cross-examiner may want to question other things which the witness was not told about.

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.

20.12.12 Direct Speech Must be Used to Relate All Conversations

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 the player say:

“After he blew the whistle he came over and told me he’d be watching me closely all through the game”.

The player must use the umpire’s words as the player 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.

20.12.13 Witnesses Must State Facts Not Opinions

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"

20.12.14 Document Must be Produced Not Described

Just as conversations must be reconstructed (20.12.12 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, they are 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).

In some cases where it is really not possible to produce the document the Tribunal may allow someone familiar with it to say what he 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.

20.12.15 Presentation of Oral Evidence

There are three stages in a witness's oral evidence:

Evidence in chief – in which the witness gives their version of what they 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.

a) Evidence in chief

The witness should give their version of the events in their own words and with as little interruption as possible. Under no circumstances can the witness give their evidence simply by

answering leading questions (i.e. questions which suggest the answer) from the 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. 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 19s?"
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 their story without being led, because they have reached the contentious part of their evidence.

After the player has made their statement, the advocate, if they believe something important has been left out or not put clearly, can try to prompt the 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 they should say ("yes").

b) 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 they will do better to say nothing.

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 they 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 they 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 they intend to call a witness of their own who is going to allege hearing what the umpire said before the match, "Angela beat me at the Tribunal last time, but I'll get her 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 Angela she beat me at the Tribunal but I'll settle that score today?'"

This gives the umpire the chance to deny the allegation if they want to deny it. If this question were not put, it would mean the umpire, after finishing their 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”.

c) 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.

20.12.16 Questions by the Tribunal

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 their 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 umpire could be asked will have been asked already by the player’s advocate (particularly if they are competent).

20.12.17 Questions by Advocates which Should Not be Allowed

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”

(a) 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 their evidence of the reported incident is similarly suspect, are usually irrelevant to the issue. The umpire should really be questioned about whether they observed any behaviour on the part of the “victim” which could have provoked the alleged striking, or whether the contact may have occurred unintentionally.

(b) 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 they says “yes” or “no” to this

question, they cannot avoid admitting they had a hangover at some stage. Without the word “still”, they can deny ever having had a hangover, so the question would be acceptable.

20.12.18 Objections to Evidence

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 their turn, has a right to be heard uninterrupted by their opponent, and should afford reciprocal courtesy to that opponent.

20.12.19 Penalties

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.

20.12.20 Contempt of the Tribunal

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.

20.13 AFL Queensland Tribunal Rules

(Pineapple Hotel Cup / State Association / Under 18 / Women's League / Affiliated Leagues)

20.13.1 Definitions

| | |
|---------------------------|---|
| Advocate | a person appearing before the Tribunal as permitted under rule 12.14.5(b) to assist an umpire or reported person |
| Hearing | any 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 an affiliated League, irrespective of whether or not that person was elected or appointed to a position by or on behalf of the club |
| Player | a person registered as a player with the affiliated League |
| Report | a report to the affiliated League |
| Reportable Offence | 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 the by-laws of the affiliated League as being subject to report by the affiliated League or to the affiliated League by any umpire or steward |
| The Laws | the laws of Australian Football as adopted by the Australian Football League and such other rules as may be adopted by the affiliated League |
| Tribunal | Tribunal established by an affiliated League |
| Umpire | includes all umpires appointed by the affiliated League and such other officials authorised by the affiliated League to report offences against the laws. |

Within this document masculine words include the feminine and neuter and singular words include the plural.

20.13.2 Composition, Jurisdiction and Powers

(a) The Tribunal shall be comprised of such persons as may be appointed by the affiliated League.

- (i) No person who is an office bearer or official of any member club or association shall be appointed or remain a member of the Tribunal.

Note: Proper adherence to this rule is fundamental to ensuring the proceedings are free from attack on the grounds of 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.

- (ii) The affiliated League shall appoint a chairperson and at least one deputy chairperson.
 - (iii) For the purpose of exercising its powers under these rules the number of members to constitute a meeting of the Tribunal shall not be fewer than three, one of whom shall be the chairperson or deputy chairperson.
- (b) The Tribunal shall enquire into:
- (i) reports by umpires of any player or official of any team participating in a match conducted by or under the affiliated League;
Note: The definition of “official” is wide, and catches any person performing a duty or function on behalf of the club.
 - (ii) such other matters as may be referred to it by the affiliated League.
 - (iii) Where a reference to the Tribunal requires it to determine whether a reportable offence 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 knows the charge he has to meet. Formulating a charge does not cast the Tribunal in the role of prosecutor.
- (c) The Tribunal shall be empowered to suspend, fine or caution any player or official:
- (i) found guilty of a reportable offence; and/or
 - (ii) found guilty of deliberately giving false or misleading evidence; and/or
 - (iii) who fails, without reasonable excuse, to attend a meeting of the Tribunal after being required to appear;
 - (iv) found guilty of contempt of the Tribunal, and shall be empowered to fine any club.
- (d) The Tribunal may:
- (i) adjourn any hearing with or without imposing conditions;
 - (ii) find any report proved with or without the imposition of a penalty;
 - (iii) 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”.

- (iv) require upon reasonable notice the appearance before it of any umpire, player or official or the production to it of anything 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.

- (v) 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.

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

Note: “vacate” is a legal term meaning “annul”.

- (e) The Tribunal is not bound by the rules of evidence or by practices and procedures applicable to Courts of Record, but may inform itself as to any matter in any such manner as it thinks fit.
- (f) The Tribunal shall have power to regulate its own procedures.
- (g) The hearing before the Tribunal shall be:
 - (a) inquisitorial in nature; and
 - (b) conducted with as little formality and technicality and with as much expedition as a proper consideration of the matters before it permits.
- (h) The Tribunal shall:
 - (a) provide any person whose interest will be directly and adversely affected by its decision a reasonable opportunity to be heard;
 - (b) hear and determine the matter before it in an unbiased manner; and
 - (c) make a decision that a reasonable Tribunal could honestly arrive at.
- (i) The Tribunal shall decide on the balance of probabilities whether a Reportable Offence or matter against a person has been sustained.
- (j) No person appearing before the Tribunal shall bear an onus of establishing that the alleged Reportable Offence has been committed.
- (k) The Tribunal is not obliged to give reasons for any decision made.

Reporting Procedure

- (a) Any umpire shall be competent to report players or officials of any team or club for any reportable offence.
- (b) 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 affiliated League.
- (c) If any club neglects to obtain a copy of the umpire's report in accordance with the procedures prescribed by the affiliated League the umpire shall be deemed to have complied with the requirements of rule 12.14.3(b)
- (d) When reporting players, umpires must, in addition to complying with these rules, comply with the laws.

20.13.3 Attendance

- (a) A reporting umpire and any reported person shall attend a hearing at a time and place specified by the affiliated League.
- (b) A reported person shall bring to the hearing a completed pre-sentence report in the form set out in appendix 1.
- (c) A reported person who wilfully or negligently makes a misstatement in a pre-sentence report will be in contempt of the Tribunal and shall be liable to a fine or suspension for the misstatement.
- (d) The onus for establishing that a misstatement was not wilful or negligent is upon the reported person.
- (e) 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 include either:
 - (i) 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
 - (ii) 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.
- (f) 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 20.13.4(e) shall be in contempt of the Tribunal and shall be suspended from representing his club until such time as a statutory declaration in compliance with rule 20.13.4(e) is submitted or the player appears before a properly constituted Tribunal.

- (g) Where an umpire is unable to attend or otherwise give evidence 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.
- (h) An umpire who fails to attend or otherwise be available to give evidence 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 20.12.8 and is directed to ensuring that reported incidents are decided on their merits rather than on technicalities.
- (i) 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.
- (j) The Tribunal may, at the discretion of the Chairperson, take evidence from any umpire, player or other witness by telephone.
- (k) The Tribunal may, at the discretion of the Chairperson and with the consent of the reported person or his advocate, admit a written statement into evidence where an umpire, player or witness is otherwise unable to attend or give evidence.

20.13.4 Hearings: Organisation and Preliminaries

Note: see Appendix 3

- (a) The Chairperson, or in his absence the senior member, shall be the presiding member at any meeting of the Tribunal.
- (b) Any party to proceedings before the Tribunal may be assisted by an advocate of his choice provided always that 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.
- (c) Hearings shall, at the discretion of the Tribunal and so far as facilities available reasonably allow, be open to the public.
- (d) In respect of each report the presiding member shall first ascertain;
 - (i) Whether the reported person and reporting umpire are present,
 - (ii) Whether the reported person is represented by an advocate,
 - (iii) Whether the reported person has been supplied with a copy of the report,
 - (iv) How the reported person has been supplied with a copy of the report,
 - (v) The availability of any witnesses the parties propose to call,

- (vi) The nature and availability of such further evidence the parties intend to present.
- (e) The Tribunal may then;
 - (i) Proceed immediately to hear the report, or
 - (ii) Appoint a later time on the same day to hear the report, or
 - (iii) Adjourn the hearing on terms as it sees fit.
- (f) 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”.
 - (i) A reported person may, at any time, change his plea.
 - (ii) The Tribunal may, at any stage of a hearing, reject a plea of guilty and enter a plea 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 defence.
 - (iii) A reported person who refuses to plead shall be deemed to have pleaded not guilty.

20.13.5 Hearings: Form of Reports

- (a) A report shall be in writing in a form prescribed by the affiliated League or to a similar effect and shall be valid provided that it complies with the requirements of rules hereunder.
 - (i) The reportable offence or offences alleged must be stated.
 - a) A report may allege alternative offences

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”.
 - b) 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.
 - (ii) The reported person must be identified by jumper number and/or by name.

- a) When 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.
- (b) A technical error or failure to comply with rules shall not, of itself, invalidate a report.
 - (i) 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.
 - (ii) 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.
 - (iii) 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 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"). 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 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 "striking" 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.

20.13.6 Hearings: Procedure

- (a) Where a reported person pleads not guilty to an offence the hearing is to proceed as follows.
 - (i) The umpire may be assisted by his advocate and questioned by the Tribunal and by the reported person or his advocate.
 - (ii) Any witness called to support the charge may be questioned by the Tribunal and the reported person's advocate.

Note: This would include the other player(s) referred to in the report in appropriate cases i.e.: a charge of striking
 - (iii) The reported person shall give evidence, after which he may be questioned by the Tribunal.

- (iv) The reported person may adduce further oral, documentary or audio visual evidence, and any witness may be questioned by the other parties advocate, and by the Tribunal, subject to the provisions of rule 20.13.7(b).
 - a) Witnesses shall remain outside the hearing room until called.
 - b) 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.
- (v) Umpires' advocates are to give guidance to the umpire on the presentation of their evidence. Umpires' advocates and umpires are not empowered to question witnesses or charged players.

Note: The Tribunal are best placed to question the parties involved. Umpires are witnesses to an incident and it is not intended that they should also prosecute the charge. In small football communities the image of umpiring will be enhanced if they are not required/allowed to question witnesses or charged players.
- (b) A reported player who wishes to present witnesses at a hearing of the Tribunal must give the affiliated League 24 hours notice of the intention to call such witnesses.
 - (i) The only persons allowed to be called in relation to rule 20.13.7 are those persons who appear on the Official Club Team Sheet on the day of the report, or who are experts in a particular field.
- (c) At the conclusion of the evidence the reported person's advocate may present a summary of the evidence and make any submission relating to that evidence, after which the Tribunal shall retire to consider its determination.
- (d) After the Tribunal has reached a decision and reconvened the presiding member shall announce the determination of the Tribunal.

20.13.7 Hearings: Penalties

- (a) Where a person has pleaded guilty or been found guilty he shall hand to the Tribunal a completed pre-sentence report, after which he or his advocate may make a statement in mitigation.

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 player has pleaded not guilty, should not be deflected in its deliberation by having before it documentary evidence that the player "has a record".
- (i) 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.

- (ii) The Tribunal may question a reported person about his pre-sentence report.
 - (iii) Where a player or former player fails to produce a completed pre-sentence report neither he nor his advocate may be heard in mitigation of penalty.
- (b) The Tribunal shall retire to determine penalty and, having so determined, shall reconvene and the presiding member, after whom any member of the Tribunal may make a statement, shall announce the penalty.
- (i) The penalty is to be recorded in writing and signed by the presiding member.
 - (ii) 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.
 - (iii) Under no circumstances are guilty players to be given suspended sentences.
- (c) Where a period of suspension is expressed as a number of matches:
- (i) A “match” shall mean any competition match and shall include (to count as one match only) the matches played in all grades in a particular round for which the player would, but for the suspension, be eligible, whether played on that one day or not;
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”.
 - (ii) 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. Note that while a player serving a suspension cannot play representative football the representative fixture does not count as one of the games for which the player has been suspended;
 - (iii) 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;
 - (iv) 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;
 - (v) Except as permitted under rule 20.13.8 (c) (v) a) 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);
 - a) 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.
- b) 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.
 - (vi) 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 affiliated League.
 - (vii) 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.

20.13.8 Proceedings in Reported Person's Absence

- (a) 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.
 - (i) The presiding member shall pronounce a plea on behalf of the reported player as the statutory declaration directs.
 - (ii) The statutory declaration shall be read to the Tribunal.
 - (iii) 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.

20.13.9 Contempt

- (a) The Tribunal shall have 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 in 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:

- (i) *Disrespectful behaviour – which may be contempt because it undermines confidence in the Tribunal and therefore its capacity to carry out its duties;*
 - (ii) *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 affiliated League. 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 affiliated League are bound.*
- (b) An official or player, or any person acting on behalf or in concert with the official or player, shall not contact or procure another to contact a person of another club who is or ought reasonably to be regarded as a person required to give evidence before the Tribunal, where that contact is intended to or may otherwise mislead the Tribunal or unfairly affect the conduct of the Tribunal hearing. A person who contravenes this rule shall:
- (i) Be deemed to have engaged in conduct which is unbecoming and prejudicial to the interests of a just and fair hearing; and
 - (ii) Be dealt with by the Tribunal as the Tribunal in its absolute discretion thinks fit.

20.13.10 Points of Law

- (a) 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:
- (i) 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;
 - (ii) 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 advice on the point of law has been obtained from a legally qualified person and the Tribunal has ruled on that point.

20.13.11 Appeals

- (a) Findings of fact and determination of penalty shall be final except that:
- (i) The Tribunal may, in its discretion, reopen 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.
Fresh evidence means evidence which was not known to be available, and could not, with reasonable diligence, have been known to be available at the time of the original hearing;
Note: The test here is important. 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.
 - (ii) The Tribunal shall not re-open any hearing to consider fresh evidence where it appears that even if presented at the original hearing, the fresh evidence could not reasonably be expected to have resulted in a different finding or penalty.
- (b) An appeal from any decision on a point of law or procedure only, may be made to the affiliated League on such conditions as that body shall determine.

APPENDIX 1

1. PRE-SENTENCE REPORT

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: _____

DATE OF BIRTH: ____ / ____ / ____

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 | | | | | | |

Signature of Player _____

Date ____ / ____ / ____

APPENDIX 2

STATUTORY DECLARATION

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 affiliated League 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 Tribunal's 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 not 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 understand 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 1867-1988.

DECLARED at (place)

This (date)

Before me:

*Justice of the Peace in and for the
State of Queensland*

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 must then select 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 GUIDELINES

| 3 PERSON TRIBUNAL | | 5 PERSON TRIBUNAL | |
|----------------------------------|---|----------------------------------|--|
| Chairperson | Declares the Tribunal Hearing opened | Chairperson | Declares the Tribunal Hearing opened |
| Chairperson | Identifies reported person | Chairperson | Identifies reported person |
| Chairperson | Identifies officiating umpire | Chairperson | Identifies officiating umpire |
| Chairperson | Reads report sheet | Chairperson | Reads report sheet |
| Chairperson | Requests a plea from reported person | Chairperson | Requests a plea from reported person |
| | Accepts a submission (if appropriate) | | Accepts a submission (if appropriate) |
| Chairperson | Requests offended player and all witnesses to vacate room | Chairperson | Requests offended player and all witnesses to vacate room |
| Chairperson | Asks questions of umpire, then order for questions – umpire's advocate (a) Tribunal Members (b) Reported Person's Advocate | Tribunal Counsel | Asks questions of umpire, then order for questions – (c) Tribunal Members (d) Reported Person's Advocate |
| Chairperson | Asks Secretary to admit offended player | Chairperson | Asks Secretary to admit offended player |
| Chairperson | Identifies offended player and asks him/her to give their version of the incident | 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 – offended player's advocate (a) Tribunal Members (b) Reported Person's Advocate | Tribunal Counsel | Asks questions of the offended player, then order of questions – (c) Tribunal Members (d) Reported Person's Advocate |
| Chairperson | Asks reported person to give their version of the incident | 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 | Reported Person's Advocate | Asks questions of the reported person, then order of questions – (c) Tribunal Counsel (d) Tribunal Members |
| Chairperson | Asks if any other witnesses will be called | Chairperson | Asks if any other witnesses will be called |
| Chairperson | Asks for submissions on the evidence in order – (a) Reported Persons Advocate | Chairperson | Asks for submissions on the evidence in order – (a) Tribunal Counsel (b) Reported Person's Advocate |
| Chairperson | Requests that all parties (including the Secretary) to vacate the room for Tribunal to consider the evidence as presented | Chairperson | Requests that all parties (including the Secretary) to vacate the room for Tribunal to consider the evidence as presented |
| Chairperson | Requests Secretary to bring reported person and their advocate back into room | Chairperson | Requests Secretary to bring reported person and their advocate back into room |
| Panel Member | Advices decision of the Tribunal | Panel Member | Advices decision of the Tribunal |
| IF THE CHARGE HAS BEEN SUSTAINED | | IF THE CHARGE HAS BEEN SUSTAINED | |
| Chairperson | Asks for pre-sentence report and submissions on penalty from Reported Persons Advocate | Chairperson | Asks for pre-sentence report and submissions on penalty from Tribunal Counsel and Reported Player's Advocate |
| Chairperson | Requests that all parties present to vacate the room for Tribunal to consider the penalty | Chairperson | Requests that all parties present to vacate the room for Tribunal to consider the penalty |
| Chairperson | Requests Secretary to bring all parties present back into the room | Chairperson | Requests Secretary to bring all parties present back into the room |
| Panel Member | Advise penalty (if applicable) | Panel Member | Advise penalty (if applicable) |
| Chairperson | Closes hearing | Chairperson | Closes hearing |

20.14 AFL Queensland Appeal Rules**(Pineapple Hotel Cup / State Association / Under 18 / Women's League / Affiliated Leagues)**

- 20.14.1 A person subject to decision of the Tribunal may appeal to the Appeal Board in respect of a decision made by the Tribunal, provided the appeal is brought no later than midday on the day after which the decision of the Tribunal was made.
- 20.14.2 The affiliated League may appeal to the appointed Appeal Board in respect of a decision made by the Tribunal, provided the appeal is brought no later than midday on the day after which the decision of the Tribunal was made.
- 20.14.3 The appeal may relate to either the findings of the Tribunal or the penalty imposed by the Tribunal.
- 20.14.4 An appeal shall be brought by lodging with the competition manager of an affiliated League a duly completed Notice of Appeal and shall be accompanied by; payment to the League the sum of 100 units for costs of the appeal, which sum shall be dealt with in accordance with Rule 20.14.23
- 20.14.5 A Notice of Appeal shall be lodged by;
- (a) delivering, or
 - (b) transmitting by facsimile / email,
- the Notice addressed to the competition manager of an affiliated League, and received no later than midday on the day after the decision of the Tribunal was made.
- 20.14.6 Upon receipt of a Notice of Appeal, the competition manager of an affiliated League shall:
- a) Fix the date, time and place for the hearing of the appeal as soon as practicable; and
 - b) Advise all parties interested in the appeal in writing of those particulars.
- 20.14.7 The Appeal Board may vary the date, time or place of the appeal, and upon doing so shall immediately provide all parties interested in the appeal, written notice of any such variation provided that it shall endeavor to complete the appeal before the day on which the appellants club is next scheduled to complete.

- 20.14.8 An appellant shall attend and appear before the Appeal Board at the date, time and place fixed for the hearing of the appeal. Where an appellant fails to attend before the Appeal Board, the Appeal Board may still hear and determine the appeal in the appellant's absence.
- 20.14.9 The Appeal Board shall;
- (a) Provide any person whose interest will be directly and adversely affected by its decision a reasonable opportunity to be heard,
 - (b) Hear and determine the matter before it in an unbiased manner; and
 - (c) Make a decision that a reasonable body could honestly arrive at.
- 20.14.10 The Appeal Board may of its own motion or upon application of any party to the appeal, order;
- (a) That an appeal be adjourned,
 - (b) A stay of the execution of the sanction imposed by the Tribunal pending the determination of the appeal.
- 20.14.11 The Appeal Board shall hear and determine an appeal against findings made by the Tribunal by re-hearing the matter and forming its own view of the evidence presented before the Tribunal.
- 20.14.12 Neither the appellant nor its affiliated League may produce fresh evidence at the hearing of the appeal without the permission of the Chairperson. The Chairperson must not give permission to produce fresh evidence unless:
- (a) The evidence could not by reasonable diligence have been obtained by the appellant prior to the conclusion of the hearing before the Tribunal; and
 - (b) The evidence is of sufficient probative value that, considered with other evidence which was before the Tribunal, the Tribunal may have reached a different decision.
- 20.14.13 The Appeal Board may have regard to the record of the proceeding before the Tribunal as previously constituted, including a record of any evidence taken in the Tribunal hearing. This may entail communication with the original Tribunal Chairperson.
- 20.14.14 Subject to the further matters set out in these rules, the Appeal Board may regulate any proceedings brought before it in such manner as it thinks fit.
- 20.14.15 The hearing before the Appeal Board shall be;
- (a) Inquisitorial in nature, and

- (b) Conducted with as little formality and technicality and with as much expedition as the proper consideration of the matters before it permits.
- 20.14.16 The Appeal Board is not bound by the rules of evidence or by practices and procedures applicable to courts of record, but may inform itself as to any matter in any such manner as it thinks fit.
- 20.14.17 The Appeal Board may confirm, reverse or modify the decision of the Tribunal the subject of the appeal and make such orders and give such directions in such manner as it thinks fit.
- 20.14.18 The question on appeal before the Appeal Board must be decided according to the opinion of a majority of the members constituting the Appeal Board.
- 20.14.19 The Appeal Board is not obliged to give reasons for a decision under these rules.
- 20.14.20 On the hearing of an appeal the appellant shall bear the onus of showing on the balance of probabilities that the reportable offence or matter should be dismissed or sustained or that the sanction was inappropriate, as the case may be.
- 20.14.21 In the hearing and determination of an appeal, the Appeal Board shall decide all questions of law and fact, and without limitation shall determine the meaning of any words of a reportable offence.
- 20.14.22 For the purposes of these rules, an appeal is successful if, and only if;
- (a) The Appeal Board determines that a reportable offence has not been proven, or
 - (b) The appellant appeals on the question of sanction only and the Appeal Board imposes a lesser sanction to that imposed by the Tribunal.
- 20.14.23 Where an appeal is successful, the payment made under rule 4(a) shall be refunded.
- 20.14.24 Subject to rule 20.14.25, where an appeal is not successful, the payment made under rule 4(a) shall not be refunded.
- 20.14.25 Where:
- (a) An appellant appeals the Tribunal's decision that he has committed a reportable offence and the sanction imposed by the Tribunal; and
 - (b) The Appeal Board finds the reportable offence proven but imposes a smaller sanction to that imposed by the Tribunal, half of the payment made under rule 4(a) shall be refunded.

- 20.14.26 Where there is any procedural irregularity in the manner in which an appeal has been brought, the Appeal Board may still hear and determine the appeal unless it is of the opinion that the irregularity has caused, or may cause injustice, if the appeal was heard.
- 20.14.27 A decision of the Appeal Board is not invalid because of any defect or irregularity in, or in connection with, the appointment of an Appeal Board member.
- 20.14.28 Any procedure or requirement regulating the function of the Appeal Board is directory in nature and a decision of the Appeal Board is not invalid by reason of that procedure or requirement not being fulfilled.
- 20.14.29 A person subject to these rules shall not publicly comment on the contents of a Notice of Appeal prior to the determination by the Appeal Board. Where a person contravenes these rules, the person's club shall be liable to a sanction unless the person establishes to the reasonable satisfaction of the competition manager of an affiliated League that such public comment was not intended to influence or affect the conduct of the Appeal Board hearing.
- 20.14.30 No person subject to these rules shall make any public criticism of a decision of the Appeal Board, or of any Appeal Board member, or any other matter touching or concerning the Appeal Board or a determination made by it. Where a person contravenes these rules, the person's club shall be liable to a sanction.
- 20.14.31 A person shall exercise his right of appeal under these rules and have any appeal heard and determined by the Appeal Board before commencing any proceedings or becoming a party to any proceedings in a court of law.
- 20.14.32 The affiliated League shall from time to time appoint persons to a board to be known as the Appeal Board.
- 20.14.33 The Appeal Board shall consist of:
- (a) A chairperson who shall be a legal practitioner of no less than three years standing,
 - (b) A panel of not more than four each of whom shall also be a deputy.
- 20.14.34 For the purpose of hearing and determining an appeal against any decision of the Tribunal, the Appeal Board shall be constituted by three members.

- 20.14.35 For the purpose of hearing and determining an appeal only against the appropriateness of the sanction imposed by the Tribunal, the Appeal Board shall, at the discretion of the Chairperson:
- (a) Hear the matter afresh in its entirety, or
 - (b) Receive a written report from the chairperson of the Tribunal who made the original decision which discloses details as to the content of the original hearing.
- 20.14.36 The chairperson of the Appeal Board may make guidelines, not inconsistent with these rules, for the practice and procedure with respect to applications to and hearings by the Appeal Board. Any such guidelines are directory in nature and a decision of the Appeal Board is not invalid by reason of a guideline not being followed.
- 20.14.37 An AFL Queensland affiliated League may refer any appeal to AFL Queensland for its determination. An AFL Queensland appointed Appeals Board may then hear the appeal on behalf of the affiliated League. Any referred appeals shall operate under the same guidelines as outlined in these rules.