



Bendigo Baseball Association

Governing Document #7

Tribunal Hearing Procedure

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1.0 Authority of Tribunal

1.1 The BBA has the power under its Rules of Association to hear and determine charges made against persons (including, but not limited to players, coaches, spectators, team/club officials and Association officials), teams or clubs, arising from or related to baseball activities, matches and competitions conducted by the BBA itself or otherwise if the BBA's members are involved.

1.2 The BBA has the right to delegate the power of hearing and determining charges to its tribunal ("Tribunal") in accordance with the provisions of this Governing Document. Where a matter arises for determination by a Tribunal it shall be dealt with at first instance by the BBA Tribunal.

1.3 The Tribunal shall have power to suspend, disqualify, reprimand, fine, bond, ban or otherwise deal with any person involved with baseball (including, but not limited to teams, clubs, players, coaches, spectators, team/club officials and BBA officials) in accordance with this Governing Document, regarding any incident arising from an activity. The incident may have occurred before, during or after the conduct of the activity, within the confines of the stadium, activity venue or its immediate surrounds, or elsewhere if directly related to a baseball activity of any sort.

1.4 The Tribunal may also deal with any other disciplinary matter delegated to it for adjudication by the BBA.

1.5 The Tribunal must always act independently and impartially in carrying out its duties in accordance with this By Law. The principles of procedural fairness and natural justice apply in all proceedings of the BBA tribunal.

1.6 The Tribunal will defer all game protest matters and administration disputes to the BBA Committee.

2.0 Membership of the Tribunal

2.1 The Tribunal panel shall be appointed by the BBA and shall comprise the following persons:

- i. Tribunal chairperson who shall be a person of experience and skills suitable to the function of chairing the Tribunal and discharging the responsibilities as directed by the Governing Documents; and
- ii. No fewer than two additional Tribunal members.
- iii. The Association may appoint any number of people to the Tribunal panel.

2.2 In appointing Tribunal members, the BBA shall have regard to the desirability of pooling Tribunal members with other sporting associations with a view to maximising the expertise in handling disciplinary matters within the sport of baseball.

2.3 A quorum of the Tribunal shall be three (3) members.

2.4 A Tribunal member may hold another position within the BBA, or a club or team affiliated with the BBA.

2.5 No Tribunal decision shall be invalidated by any irregularity in the appointment of a Tribunal member.

3.0 Responsibilities of Tribunal Chair

3.1 Without limiting the duties of the Tribunal chairperson as set out under the various clauses of this Governing Document, a person appointed to the position of Tribunal Chairperson shall have the following responsibilities:

- i. to ensure accurate records are kept of all the Tribunal's proceedings and decisions and to make such records available to the BBA upon request;
- ii. to communicate to the committee of the BBA the results of hearings of the Tribunal via the Secretary of the Tribunal;
- iii. to chair hearings of the Tribunal or to ensure that such task is delegated to a member of the Tribunal;
- iv. to raise with any proposed Tribunal member any potential or possible conflict of interest which may arise from time to time; and
- v. to adjudicate on the worthiness of an appeal against the issue of a Yellow or Blue Card and whether the appeal should go before the Tribunal.

4.0 Records of the Tribunal Proceedings

The method of recording the proceedings and determinations of the Tribunal shall be at the discretion of the Tribunal chairperson. In normal circumstances this would be the BBA Secretary unless otherwise directed by the Chair.

5.0 Tribunal Hearing Procedure

5.1 Lodgement of Charges by Umpire

The following shall be adopted in respect to the hearing of charges lodged against players by Umpires and the conduct of Tribunal Hearings. The BBA Secretary shall convene the Tribunal hearing as necessary, in consultation with the Tribunal Panel members.

5.1.1 The Tribunal Hearing Procedure herein also applies where charges have been brought against a player by other means, such as referral from the BBA or through any authorised Complaints Procedure, such as BBA Governing Document #6, or those procedures approved by Baseball Victoria or Baseball Australia.

5.2 Notification of Tribunal Hearing & Who May Attend

The BBA Secretary shall advise the following persons of the arrangements for the hearing –

- Members of the Tribunal
- The Umpire or Umpires who lodged the report
- Any other Umpire appointed to the match who is required to attend the hearing, at the direction of the BBA Secretary
- Any person or persons including the Executive of the BBA who have brought a complaint or charge against a person.
- The Reported player (or other person or entity reported by the Umpire for a breach of the Rules of Baseball and / or the BBA Governing Documents

- The Reported player(s) club (or other person's or entity's club if applicable)
- Any person associated with the Umpire(s) report who is associated with the BBA can be directed by the BBA Secretary to attend the Tribunal Hearing.

5.3 The notification shall be by electronic or other means, at the discretion of the BBA Secretary. The notification shall include details of the day, time and place of the Tribunal Hearing at which the charge will be heard in accordance with this Governing Document. The notification of the Hearing must provide for a reasonable period between the Reported Person being charged and the Hearing. The notification details MUST be provided to the Tribunal when it sits to determine all matters (Reason – Failure of Persons, clubs or teams in appearing at designated date, time and place of the Tribunal Hearing)

5.4 Time Lines for Reports, including Code of Conduct violations

5.4.1 An Umpire who makes a report (whether it be a Yellow / Blue or Red Card Offence or a Code of Conduct Violation) shall enter details of the alleged offence(s) on the BBA Report Form (BBA Form #7) issued by the BBA for that purpose; and

Any other person or entity who makes a report, such as a Code of Conduct Violation, shall enter details of the alleged offence(s) on the BBA Report Form (BBA Form #10) issued by the BBA for that purpose; and

5.4.2 As soon as possible (but in any case, within 48 hours) after “time” is called on the match or other activity. All the Report cards must be fully completed and forwarded in the time frame allowed (or earlier) to the BBA Competition Coordinator, especially in the case of yellow and blue card offences, in case of appeal.

5.4.3 A supply of the BBA Report Forms will be issued to all clubs and an electronic version available on the BBA Web Site for electronic submission.

5.4.3.1 Electronic submission of the BBA Reported Persons Form will be to the BBA Secretary within the same 48-hour time frame as the hardcopy.

5.5 Period between Report and Tribunal Hearing

A Reported Person, team or club shall be entitled to participate in any sanctioned BBA competition until the Tribunal has heard and determined the report.

5.6 Persons Attending BBA Tribunal Hearings

5.6.1 The BBA Tribunal Hearings are open to any interested person and any interested person may remain in the hearing while evidence is being given, subject to the following procedure: The Tribunal Chair will request observers to identify who they are and request permission from the Tribunal Chairperson to sit at the hearing. If granted permission, such persons are not permitted to speak during the hearing unless granted permission from the Tribunal Chairperson. The Tribunal Chairperson can require observers to leave the hearing at any time;

5.6.2 The continued presence of interested persons is at the discretion of the BBA Tribunal Chair and any disruption or interruption to the proceedings may result in the interested person(s) expulsion from the hearing.

5.6.3 After giving evidence, witnesses will be required to remain in the Hearing while other evidence is being given until all witnesses have been called. Witnesses may seek leave from the Tribunal Chair to be excused from the hearing. If leave is granted the witness must leave the premises immediately and must not communicate by any means with any other person involved in the case.

5.6.4 If the Tribunal Chair believes that a hearing has been compromised due to inappropriate witness communication then the Chair has the authority to determine how the matter should proceed.

6.0 Composition of BBA Tribunal

6.1 The BBA Tribunal Hearing shall be conducted by a Tribunal of at least three (3) members appointed by the BBA and will be conducted in accordance with the procedures as outlined in these rules.

6.2 If a member of the Tribunal Panel is not available, for any reason, then the BBA Secretary may appoint an independent person or persons to fill the vacancy on a temporary basis.

6.3 If a quorum is not present, on the date, time and location specified by the BBA Secretary for the BBA Tribunal Hearing, the Hearing shall be adjourned to a date to be fixed by the BBA Secretary and all parties notified of the adjournment.

6.4 The BBA Tribunal will sit at the time, date and place specified by the BBA Secretary.

6.5 The Tribunal will have a Chair and the Umpire and their advocate (if any), the reported person and their advocate (if any) shall be summonsed before the Tribunal. Advocates may be delegates or officials of clubs but shall not be members of the legal profession.

7.0 Tribunal Procedure

7.1 At the commencement of a Tribunal Hearing, the Chair shall identify the members of the Tribunal and determine whether the Reported Person and all required witnesses are present.

7.2 If Reported Person or required witnesses are not present, section "Non-attendance at Tribunal Hearings" will be invoked.

7.3 The Tribunal Chair shall indicate to all those present how the Hearing shall be recorded.

7.4 The Chair of the Tribunal shall read aloud the written report made by the Umpire (BBA Form #7) or by another person or entity (BBA Form#10). All pertinent information to the charge shall be already present including, if applicable, score books, match cards etc.

7.5 The Reported Person shall be asked whether the charge is understood, and the Umpire/Reporting Entity asked whether the charge correctly represents their intention.

7.6 If an alternative charge is the preferred option of the Umpire/Reporting entity and / or at the discretion of the Tribunal Chair the charge can be altered to better reflect the intent of the Umpire/Reporting Entity.

7.7 The reported person shall be asked to plead to the charge(s) by the Chair of the Tribunal.

7.8 If the Reported Person does not contest the charge(s), then the Chair shall read a short summary of the facts, admit the Umpire's/Reporting Entity's evidence (written or verbal or both) and no witnesses will need to be called to give evidence unless the Tribunal needs to amplify on a point.

7.9 If the Reported person contests the charge(s), then the Chair shall ask all witnesses except the Umpire/Reporting Entity and their Advocate/s and the Reported Person and their Advocate to leave the room and wait for their evidence to be called.

7.10 The Umpire/Reporting Entity will then be asked to amplify on the written report. The Umpire/Reporting Entity can be asked questions firstly, by their Advocate, then by the reported person and / or their Advocate. The members of the Tribunal can ask questions at any time.

7.11 The witnesses appearing in support of the Umpire/Reporting Entity shall be called upon to give their evidence in turn, subject to the approval of the number of witnesses to be called by the Tribunal in its discretion.

7.12 The witness can be asked questions firstly, by the Umpire/Reporting Entity and / or by their Advocate, then by the Reported Person and / or their Advocate. The members of the Tribunal can ask questions at any time. Witnesses shall remain in the hearing room after giving evidence as per Section 5.6.3.

7.13 The Reported Person will then be entitled to present their defence. Where further witnesses are called, they can be asked questions firstly, by the Reported Person and / or their Advocate, then by the Umpire/Reporting Entity and / or by their Advocate. The members of the Tribunal can ask questions at any time.

7.14 At the conclusion of hearing from witnesses, the Reported Person or their Advocate may deliver a statement to the Tribunal summarising their defence.

8.0 Non-attendance at Tribunal Hearings

8.1 If any Reported Person (or representative of a charged team or club) fails to attend a Tribunal Hearing without reasonable cause, the hearing may proceed, and a determination made by the Tribunal in the absence of the Reported Person, team or club, provided that the Tribunal is satisfied that all notification procedures under this By Law have been carried out.

8.2 A Reported Person, team, club or reporting official may apply to the BBA Secretary to have a Tribunal Hearing:

- a) adjourned; or
- b) convened in another way (e.g. teleconference)

if there are compelling circumstances which warrant such steps being taken to avoid costs, hardship or significant inconvenience to the Reported Person, team or club. This will be at the discretion of the BBA Secretary in consultation with the Tribunal Chair (or the Tribunal if already convened).

8.3 A Reported Person, who is unable to attend a Tribunal Hearing, shall be entitled to appoint a representative (who is not a legal practitioner) to appear in his/her place if that Reported Person intends not contesting the charge, subject to:

- i. The Tribunal receiving a memo of consent from the Reported Person containing the person's intention to not contest the charges contained in the report; and
- ii. Any statement that person would have given to the Tribunal had he or she attended the hearing.

8.4 The Tribunal must deliberate and process matters without the Reported Person attending, as if they are contesting, if the following circumstances apply:

- i. The Reported Person or their representative is not present: and/or
- ii. The BBA Secretary has not received a memo of consent indicating that the Reported Person is not contesting the charge: and/or
- iii. A written statement from the Reported Person detailing the evidence he / she would have given to the Tribunal if present.

8.5 If any witness fails to attend a Tribunal Hearing, the hearing may continue in their absence, at the discretion of the Tribunal.

8.5.1 However, if such witness has been notified by the BBA Secretary as being a required person at the Tribunal Hearing, such witness may be liable to penalty by the Tribunal for obstructing the Tribunal procedures.

8.6 If an Umpire fails to attend a Tribunal Hearing without reasonable cause, the hearing may proceed, and a determination made by the Tribunal in the absence of the reporting umpire, provided that the Tribunal is satisfied that all notification procedures under this By Law have been carried out.

8.6.1 If such Umpire has been notified by the BBA Secretary as being required to attend the Tribunal Hearing, such Umpire may be liable to penalty by the Tribunal for obstructing the Tribunal process.

8.7 If an Umpire or Association official inadvertently fails to carry out any duties the charges shall not be dismissed for this reason but may be adjourned to allow the omission to be rectified.

8.7.1 Where appropriate, the Tribunal shall take the failure into account and make suitable allowance.

9.0 Penalties

9.1 The Tribunal has the power to dismiss or downgrade a charge.

9.2 Where a person is found guilty of a red card offence at the Tribunal, the minimum penalty will be a match suspension of 2 weeks.

9.3 The Tribunal will determine the actual length of penalty according to the severity of the offence.

9.4 The Tribunal may choose to suspend a sentence for a period of its choosing.

10.0 Register

10.1 At the conclusion of any Tribunal hearing, the Tribunal Chair will inform the BBA Secretary of the outcome of the hearing.

10.2 The BBA Secretary will maintain a register of Tribunal appearances and penalties.