



# **Bendigo Baseball Association**

## **Governing Document # 7 Tribunal Hearing Procedure**

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## SECTION ONE      **AUTHORITY OF THE 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,
- 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 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 in 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 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.

## **SECTION TWO      MEMBERSHIP OF THE TRIBUNAL**

- 2.1 The Tribunal panel shall be appointed by the BBA and shall comprise the following:
- 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 the 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 members 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.

## **SECTION THREE      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 BBA.
  - 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.

## **SECTION FOUR      RECORDS OF THE TRIBUNAL MEETINGS**

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.

## SECTION FIVE            **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.

### 5.2    Notification of Tribunal Hearing and 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.
- 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 time and place of the Tribunal Hearing).

### 5.4    Time lines for Reports, for Umpires, 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

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 Co-Ordinator, 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 website 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 hard copy.

### 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 Tribunal Hearings are open to any interested person and any interested person may remain in the hearing while evidence is being given.
- 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.

## SECTION SIX 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 same time, date and place specified by the BBA Secretary.
- 6.5 The Tribunal will have a Chair and the Umpires and their advocate (if any), the reported person and their advocate (if any) shall be summoned before the Tribunal. Advocates may be delegates or officials of clubs but shall not be members of the legal profession.

## SECTION SEVEN 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 a 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 present how the Hearing shall be recorded.
- 7.4 The Chair of the Tribunal shall read aloud the written report (BBA Form #7) made by the Umpire. 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 asked whether the charge correctly represents their intention.

- 7.6 If an alternative charge is the preferred option of the Umpire and/or at the discretion of the Tribunal Chair, the charge can be altered to better reflect the Umpire's intent.
- 7.7 The Reported Person shall be asked to plead to the charge(s), by the Tribunal Chair
- 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 evidence (written or verbal or both) and no witnesses will need to be called to give evidence unless the Tribunal needs to be amplify on a point.
- 7.9 If the Reported Person contests the charge(s), then the Chair shall ask all witnesses except the Umpire and their Advocate, and the Reported Person and their Advocate, to leave the room and wait for their evidence to be called.
- 7.10 The Umpire will then be asked to amplify on the written report. The Umpire 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 for the Umpires 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, 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 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.

## **SECTION EIGHT 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 treat the matter before it if:
- i. No representative is present; and/or
  - ii. The BBA Secretary has not received the 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.

Then the tribunal must treat this matter as if the Reported Person is contesting the matter

- 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.

## **SECTION NINE            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 two 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.

## **SECTION TEN            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.