



A.C.T. BASKETBALL Inc.

Disciplinary Tribunal By-Laws

Effective 8 October 2015



Part 1 Definitions

1.1 In this document unless the context indicates or requires the following words shall have the respective meanings attributed to them as follows:

“Appeals Tribunal” means the Tribunal empowered to hear appeals from the Disciplinary Tribunal.

“Appellant” means a Charged Person or charged team or club who appeals the decision of the Disciplinary Tribunal to the Appeals Tribunal.

“Association” means A.C.T. Basketball Inc.

“Association Policy” means the Member Protection Policy, the Code of Conduct and any other policy published on the Association Website.

“Board” means those directors elected to the Association from time to time.

“Charged Person” means a person, team or club reported of an Offence.

“Competition Management” are employees of the Association who have responsibility for competitions, acting individually or in concert.

“Competition Management Charges” are charges outlined in clause 4.1 that are imposed at the discretion of Competition Management.

“Disciplinary Tribunal” means the Tribunal empowered at first instance to hear reports relating to charges carrying a maximum penalty of greater than six weeks and contested Competition Management Charges.

“Disciplinary Tribunal Panel” means the persons empowered to sit on the Disciplinary Tribunal.

“Minor” means a person under the age of 18. For the purpose of these By-Laws, where a person’s consent is required, a Minor also requires the consent of a parent or guardian.

“Offence” includes one or more of the offences listed in the table in Clause 19, in respect of which a report may be made, heard or determined by the relevant Tribunal or Competition Management in accordance with this By-Law.

“Official” includes referees, score table personnel, duty managers, game supervisors, referee coaches, competition committee members, designated officers of the Association and any other person empowered to report offenses pursuant to this by-law.

“Report Process” means the flowchart outlining how reports are actioned within the Association contained at Appendix 1.

“Tribunals” means the various tribunals delegated by this By-Law to hear and determine reports made in accordance with this By-Law i.e. Disciplinary Tribunal and Appeals Tribunal.

“Working days” means Monday to Friday (inclusive), but excluding public holiday that fall on those days.

Part 2 Jurisdiction and Establishment of Tribunals

2. Adoption of By-law

- 2.1 This By-law is made under Rule 3(a) (ii) of the A.C.T. Basketball Inc. (“Association”) constitution and comes into operation on 25 April 2005 and is binding on all members of the Association and other persons or organisations which submit themselves to the jurisdiction of the Association (including, for example, spectators at Association competitions).
- 2.2 Any and all By-laws of the Association previously made concerning Tribunals are expressly rescinded. For the avoidance of doubt, all penalties handed down under previous disciplinary By-laws shall continue to be recognised by the Association.
- 2.3 Any report received prior to, but not been finalised or acted upon, at the date of operation of these by-laws shall be transferred to the jurisdiction of these By-laws.

3. Authority of Tribunal

- 3.1 The Association has the power under its constitution to hear and determine charges made against persons, affiliated associations, teams or clubs arising from or related to basketball activities, matches and competitions conducted by the Association.
- 3.2 The Association has the right to delegate the power of hearing and determining charges to the Association Tribunals and Competition Management in accordance with the provisions of this By-law.
- 3.3 The Tribunals and Competition Management shall have power to suspend, disqualify, reprimand, fine, bond, ban or otherwise deal with any person involved with basketball including, but not limited to players, coaches, teams, clubs, officials or spectators in accordance with this By-law or Association Policy, regarding any incident arising from an activity conducted by the Association. 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 basketball activity of any sort.

- 3.4 The Disciplinary Tribunal may also deal with any other disciplinary matter delegated to it for adjudication by the Association.
- 3.5 The Tribunals must at all times act independently and impartially in carrying out its duties in accordance with this By-law.

4. Jurisdiction of Tribunals and Competition Management

- 4.1 If a person is charged with an offence outlined in Clause 19.3 carrying a maximum penalty of six weeks or less, and has not been charged previously within the last 12 months, the matter may be dealt with by Competition Management. Competition Management may choose to defer any matter to the Disciplinary Tribunal in its absolute discretion.

- 4.2 A person charged with an offence:

- (a) carrying a maximum penalty of more than six weeks; or
- (b) of such a nature that Competition Management defers the matter to the Disciplinary Tribunal; or
- (c) who has been charged previously within the last 12 months; or
- (d) who rejects a penalty imposed by Competition Management

must be dealt with by the Disciplinary Tribunal.

5. Competition Management Charges

- 5.2 When a report is received that falls within the jurisdiction of Competition Management, Competition Management shall determine whether it will deal with the report or refer it to the Disciplinary Tribunal.
- 5.3 If Competition Management deals with the report, it shall determine a penalty and the Charged Person shall be notified of the penalty as soon as is practicable. The Charged Person does not have the right to appear before Competition Management.
- 5.4 The Charged Person shall be required to notify the Association of his / her acceptance or rejection of the penalty within three Working Days of notification. If the penalty is acceptable to the Charged Person the penalty shall be enforced with no right of appeal.
- 5.5 If the penalty is not acceptable to the Charged Person the matter shall be referred to the Disciplinary Tribunal and be treated in the same manner as any other charge.
- 5.6 If the Charged Person fails to indicate acceptance or rejection of the Competition Management penalty in writing to the Association within three Working Days of notification, the Competition Management Penalty will automatically be invoked.

6. Membership of the Disciplinary Tribunal

- 6.1 The Disciplinary Tribunal shall be appointed by the Association and shall comprise of the following persons:
- (a) a Disciplinary Tribunal chairperson who shall be a person of experience and skills suitable to the function of chairing the Tribunal and discharging the responsibilities set out under Clause 7;
 - (b) at least two persons.
- 6.2 In appointing Disciplinary Tribunal and Appeals Tribunal members, the Association shall have regard to the desirability of pooling tribunal members with other associations with a view to maximising the expertise in handling disciplinary matters within the sport of basketball.
- 6.3 There is no obligation on the Association to appoint to same chairperson or members to all sittings of the Disciplinary Tribunal. The Association should have regard to the possibility of bias or perception of bias in appointing persons to particular Disciplinary Tribunal sittings.
- 6.4 Wherever possible, matters referred to the Disciplinary Tribunal for determination shall be heard by three members of the Disciplinary Tribunal, however a quorum of the Disciplinary Tribunal shall be two (2) members.
- 6.5 No Disciplinary Tribunal decision shall be invalidated by any irregularity in the appointment of a Disciplinary Tribunal member.

7. Responsibilities of Disciplinary Tribunal chairperson

- 7.1 Without limiting the duties of the Disciplinary Tribunal chairperson as set out under the various clauses of this By-law, a person appointed to the position of Disciplinary Tribunal chairperson shall have the following responsibilities:
- (a) to ensure accurate records are kept of the Disciplinary Tribunal's proceedings and decision, and to make such records available to the Association upon request;
 - (b) to communicate to the Association the results of the hearing of the Disciplinary Tribunal;
 - (c) to chair the particular hearing of the Disciplinary Tribunal, and where applicable, hold the casting vote;
 - (d) to monitor any potential or possible conflict of interest which may arise from time to time, and where necessary, address such conflicts of interest.

8. Records of Disciplinary Tribunal Proceedings

- 8.1 The method of recording the proceedings and determinations of the Disciplinary Tribunal shall be at the discretion of the Disciplinary Tribunal chairperson.

9. Convening Disciplinary Tribunal hearings

- 9.1 If practicable, the Association shall provide notice to all teams participating in competitions conducted by it of the regular day, time and place of Disciplinary Tribunal hearings throughout the duration of the competition.
- 9.2 The Disciplinary Tribunal will be convened to hear charges arising from a match as soon as is practicable, preferably prior to the next round of matches occurring.
- 9.3 Notification of persons charged under this By-law shall include details of the day, time and place of the Disciplinary Tribunal hearing at which the charge will be heard in accordance with Part 3 of this By-law, and must be provided a reasonable period prior to such hearing.

Part 3 Reports and Notifications

10. Reports by officials and the Association

- 10.1 Any Official shall be entitled to report any person, team or club which, in the opinion of the Official has committed an Offence under this By-law.
- 10.2 The Association shall be entitled to report any person, team or club, whether under the Member Protection Policy or otherwise, who has, in the opinion of the Association, committed an Offence under an Association Policy.

11. Investigations

- 11.1 Where the Association or an Official of the Association believes an Offence may have been committed or the Association receives a letter of complaint, but no report has been made, the Association may investigate, or appoint a person to investigate, the alleged Offence. If after the investigation it or the person appointed to investigate recommends that a report should be made, the Association or the person appointed by it may make a report. A report arising out of an investigation conducted under this clause should be made within five working days of the date on which the alleged Offence took place

12. Duties of officials making a report

- 12.1 An Official or Association representative who makes a report shall enter the details of the alleged Offence(s) on the report form issued by the Association for that purpose as soon as possible (but in any case within two Working Days) after the match, investigation or other activity, noting all the particulars in connection with the report so that a clear account can be given to the Disciplinary Tribunal or Competition Management when the report is to be dealt with.
- 12.2 An Official or Association representative who makes a report shall lodge a report form with the person nominated by the Association to take charge of reports, or if that is not possible, to leave the report at the stadium or Association office, marked to the attention of that person, as soon as possible (but in any case within two Working Days) after the activity.

13. Duties of Association receiving a report

- 13.1 The Association shall appoint an officer to be responsible for the receipt of reports made under this By-law and to carry out the duties in connection with such reports ("Hearings Officer"). The officer to whom responsibility is delegated under this clause 13.1 may hold another position within the Association.
- 13.2 The Association shall require each team entered in competitions to designate on the entry form the telephone number and email address (if applicable) of the team secretary, or manager, to be used for notification of reports.
- 13.3 The Association shall maintain lists of names, addresses, telephone numbers and email addresses (if applicable) of all Officials registered with the Association.
- 13.4 The Hearings Officer designated under clause 13.1 shall have the following duties:
- a) to ensure that the Charged Person, team or club is notified of the report, as well as any other person involved in the report and all other match officials, as soon as possible (but in any case within two Working Days) after the report is made.
 - b) to determine the charge(s) to be laid against the reported person.
 - c) to refer to Competition Management reports covered by clause 4.1. of this By-Law;
 - d) to refer to the Disciplinary Tribunal reports covered by clause 4.2 of this By-Law;
 - e) to recommend to the Association the venue, time and day of the week to be set aside for hearings of the Disciplinary Tribunal;
 - f) to convene hearings of the Disciplinary Tribunal to deal with matters referred to it;
 - g) to receive and refer to the Disciplinary Tribunal all material relating to any reports made under this By-law;
 - h) to ensure the availability of all forms required to be used in any proceedings of the Disciplinary Tribunal;
 - i) to notify the Charged Person, team or club, through their team secretary or manager, of the date, time and place of the Disciplinary Tribunal hearing;
 - j) if the notification under clause 13.4 (i) is made by telephone, the officer giving the notification shall immediately make a written record of the time and details of the telephone conversation;

- k) if the Charged Person is under the age of 18 years, or otherwise unable to represent him or herself, then they are to be advised that they have the right to have a parent or legal guardian or an adult (not being a legal practitioner unless permission is granted by the Chairperson) with them at the Disciplinary Tribunal hearing, as an adviser, and that the adviser shall be allowed to ask questions;
- l) to provide the Charged Person, team or club with a copy of the report form. In carrying out this function the Association shall:
 - i. hand a copy of the report form to the Charged Person (or a representative of a charged team or club) prior to the Charged Person leaving the match / activity venue following the activity out of which the report was made; or
 - ii. send a copy of the report form to the Charged Person, team or club at the address of the team secretary or manager as collected under clause 13.2 above, as soon as possible after the date of the report being lodged by the Official with the Association; or
 - iii. make a copy of the report form available for collection by the Charged Person, team or club and notify the team secretary or manager of the requirement to effect such collection.
- m) to notify the reporting Official and any other officials or witnesses required to be in attendance, of the date, time and place of the Disciplinary Tribunal hearing. Where such reporting Official is under 18 years of age, they are to be advised that they have the right to have an adult with them at the Disciplinary Tribunal hearing, as an adviser, and that the adviser shall be allowed to ask questions;
- n) to notify each of the above persons of the consequences of non-attendance at a Disciplinary Tribunal hearing and the procedure to be followed in each case;
- o) to notify the chairperson (or his/her delegate) of the Disciplinary Tribunal that a report has been received, and to deliver to the chairperson (or his/her delegate) of the Disciplinary Tribunal the report form and any other information relevant to the case; and
- p) to ensure sufficient report forms are available to Officials at competitions conducted by the Association and that Officials are aware of the availability of such forms.

14. Period between Report & Hearing

- 14.1 Subject to clause 14.2 below, a Charged Person, team or club shall be entitled to participate in basketball competitions conducted by the Association until such time as Competition Management or the Disciplinary Tribunal has heard and determined the report.
- 14.2 Where the Hearings Officer is of the opinion that the report discloses charges that are of such gravity that continued participation by the Charged Person, team or club would adversely reflect upon the conduct of the competition, the

Hearings Officer shall determine that the Charged Person shall not participate in basketball competitions conducted by the Association until the report has been heard and determined.

Part 4 Conduct of Disciplinary Tribunal hearing

15. Attendance at Disciplinary Tribunal hearings

15.1 The following persons shall be requested to attend a Disciplinary Tribunal hearing conducted under this By-law:

- (a) the Charged Person;
- (b) the president, secretary or other delegate representing a Charged team or club;
- (c) the reporting Official(s) or Association representative;
- (d) any other person involved in the report e.g. parent or guardian of a minor,
- (e) witnesses as indicated by the reporting Official or Charged Person to be notified by the officer designated under clause 13.1;
- (f) any witness required by the Disciplinary Tribunal.

15.2 The following persons shall be entitled to attend a Disciplinary Tribunal hearing as appropriate:

- (a) any player of a Charged team or club;
- (b) witnesses called to give evidence by a Charged Person, team or club;
- (c) witnesses called to give evidence by the reporting Official(s);
- (d) any adult adviser to a Charged Person or reporting Official.

15.3 The following persons shall be entitled to attend a Disciplinary Tribunal hearing with the permission of the Disciplinary Tribunal:

- (a) Association representatives;
- (b) approved representatives of the media;
- (c) any other person.

15.4 Legal representatives or advocates are not permitted to appear before the Disciplinary Tribunal unless in exceptional circumstances and where leave to appear has been granted by the Disciplinary Tribunal chairperson.

16. Non-attendance at Disciplinary Tribunal hearings

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

- 16.2 A Charged Person, team or club or reporting Official may apply to the Hearings Officer to have a Disciplinary Tribunal hearing adjourned if there are compelling circumstances which warrant such steps being taken to avoid costs, hardship or significant inconvenience to the Charged Person, team or club. This will be at the discretion of the Disciplinary Tribunal Chairperson (or the Disciplinary Tribunal if already convened) and if the application is granted a new date shall be fixed.
- 16.3 A Charged Person who is unable to attend a Disciplinary Tribunal hearing shall be entitled to appoint a representative (who is not a legal practitioner) to appear in his/her place if the Charged Person intends on pleading guilty, subject to the Disciplinary Tribunal receiving a letter of consent from the Charged Person containing the person's guilty plea to the charges contained in the report and any statement that person would have given to the Disciplinary Tribunal had he or she attended the hearing.
- 16.4 If any witness fails to attend a Disciplinary Tribunal hearing, the hearing may continue in their absence.
- 16.5 If a reporting Official fails to attend a Disciplinary Tribunal hearing without reasonable cause, the hearing may proceed and a determination made by the Disciplinary Tribunal in the absence of the reporting Official, provided that the Disciplinary Tribunal is satisfied that all notification procedures under this By-law have been carried out.
- 16.6 If a reporting Official or Association official inadvertently fails to carry out any duties listed in clause 13, the charges shall not be dismissed for this reason, but may be adjourned to allow the omission to be rectified. Where appropriate, the Disciplinary Tribunal shall take the failure into account and make suitable allowance.

17. Disciplinary Tribunal hearing conducted via teleconference

- 17.1 A Charged Person or charged team or club may apply to the Disciplinary Tribunal chairperson to have a Disciplinary Tribunal hearing conducted by telephone conference call if there are compelling circumstances which warrant such steps being taken to avoid costs, hardship or significant inconvenience to the Charged Person, team or club. In all other respects the procedure of the Disciplinary Tribunal hearing shall be conducted in accordance with this By-law.

18. Procedures of the Disciplinary Tribunal

- 18.1 For the purpose of this clause 18, a reference to a Charged Person includes a reference to the representative(s) of a Charged team or club.
- 18.2 In the event of a team or club being reported, one (1) member of the team or club shall act as spokesperson for the team or club provided that an individual member of that team or club may elect to speak on their own behalf.

- 18.3 At the commencement of a hearing, the chairperson shall identify the members of the Disciplinary Tribunal and determine whether the Charged Person is present to answer the charge(s) arising from the report.
- 18.4 The Charged Person shall be asked whether he/she accepts the members of the Disciplinary Tribunal as impartial and independent, or whether he/she wishes to raise any objection in relation to any member. If the objection is found by the Disciplinary Tribunal to be valid, then the Disciplinary Tribunal member shall stand down for the duration of the hearing.
- 18.5 The Charged Person and the reporting Official(s) shall be notified of their right to remain in the hearing until all evidence is presented but not to be present whilst the Disciplinary Tribunal considers its findings and determines an appropriate penalty (if any).
- 18.6 The chairperson shall advise all those persons present of the method of recording the hearing.
- 18.7 The charge(s) arising from the report shall be read out in the presence of all persons eligible to be present.
- 18.8 The Charged Person shall be asked whether the charge is understood and the reporting Official asked whether the charge correctly represents their intention.
- 18.9 The Charged Person shall be asked to plead.
- 18.10 If the Charged Person pleads guilty to the charge(s), the chairperson may read a short summary of the facts, admit the reporting Official's evidence (written/verbal) and no witnesses need be called to give evidence unless the Disciplinary Tribunal requires it.
- 18.11 If the Charged Person pleads not guilty then the chairperson shall ask all witnesses except the reporting Official(s) and the Charged Person (and their advisers if appointed in accordance with this by-law) to leave the room and to wait to be called to give their evidence.
- 18.12 The reporting Official (or the adviser to a reporting Official who is a minor) shall proceed to give evidence and the witnesses of the reporting Official(s) shall be called upon to give his/her evidence in turn, subject to the approval of the number of witnesses to be called by the Disciplinary Tribunal in its discretion. The Charged Person or his/her adviser may ask questions of the reporting Official or any witness called.
- 18.13 Each witness shall be entitled to leave the Disciplinary Tribunal hearing after giving evidence unless otherwise directed by the Disciplinary Tribunal. Witnesses shall be entitled to remain in the hearing room after giving evidence with the permission of the Disciplinary Tribunal.
- 18.14 The Charged Person shall then be entitled to present their defence. Witnesses may be called subject to the approval of the number of witnesses to be called by the Disciplinary Tribunal in its discretion. Reporting Officials or the

adviser to a reporting Official who is a minor may ask questions of the Charged Person or any witness called.

- 18.15 The Disciplinary Tribunal is empowered to question any person giving evidence.
- 18.16 Where a person exercises their right to have an adult observer or adviser present in accordance with this by-law, an opportunity for consultation shall be provided.
- 18.17 Video evidence may be presented in the discretion of the Disciplinary Tribunal.
- 18.18 At the conclusion of all of the evidence and submissions the chairperson shall ask the Charged Person, the reporting Official and all other persons present to leave the hearing room while the Disciplinary Tribunal considers its findings.
- 18.19 If the Disciplinary Tribunal is not satisfied that the particular charge has been proved, but is satisfied that a lesser charge has been established, then the Disciplinary Tribunal may find such lesser charge established and shall apply the penalty applicable to the lesser charge.
- 18.20 Where it appears to the Disciplinary Tribunal that the reporting Official has made an error in laying the wrong charge or omitted charges that should have been laid, the Disciplinary Tribunal may amend the charges and proceed to make a finding. Further, the Disciplinary Tribunal has the right to direct that a person other than the Charged Person be charged with an offence under this By-law on the basis of evidence presented before it during the course of conducting a hearing.
- 18.21 Where charges have been amended under clause 18.20, the Disciplinary Tribunal shall adjourn the hearing unless the Charged Person consents to it proceeding at that time.
- 18.22 The decision of the Disciplinary Tribunal shall be given in the presence of all, by the Disciplinary Tribunal chairperson.
- 18.23 Subject to clause 18.19, if the Disciplinary Tribunal is satisfied that a charge has been established on the balance of probabilities (i.e. more probable than not) it shall find the charge proved. Otherwise the charge shall be dismissed.
- 18.24 If a charge has been found proven by the Disciplinary Tribunal the Charged Person shall be informed of the finding. Any previous convictions against the Charged Person should then be laid before the Disciplinary Tribunal.
- 18.25 The Charged Person should then be given the right to make a final statement in relation to previous convictions or other mitigating circumstances before being asked to leave the room a second time.
- 18.26 The Disciplinary Tribunal shall then determine the penalty to be imposed (if any) and shall recall the Charged Person and reporting Official to advise of the penalty.

- 18.27 The Disciplinary Tribunal is not obliged to give oral or written reasons for any decision made by it under this By-law.
- 18.28 A Charged Person who has been convicted of an Offence and received a penalty under this By-law shall not play, coach, referee, attend or otherwise take part in basketball activities as directed by the Disciplinary Tribunal until the penalty has been served to the satisfaction of the Association.

Part 5 Offences and Penalties

- 19.1 Clause 19.3 sets out the standard Offences and maximum penalties to be applied. This clause does not preclude the application of other penalties as expressed in clause 3.3.
- 19.2 For the purposes of this By-law, penalties for many Offences which are established by a Tribunal shall be divided into two separate categories:
- (a) penalties for Offences involving persons other than Officials ("Group A Offence"); and
 - (b) penalties for Offences involving an Official ("Group B Offence")
- 19.3 Offences and penalties
- (a) Ejection in any one game due to the accumulation of technical and/or unsportsmanlike fouls

Maximum penalty:	1 week suspension
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 - (b) Technical fouls in consecutive weeks

Maximum penalty:	1 week suspension
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 - (c) Five technical and/or unsportsmanlike fouls in one season

Maximum penalty:	1 week suspension
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 - (d) Disputing the decision(s) of a referee

Maximum penalty (first offence):	1 week suspended sentence
Second offence:	original 1 week suspension plus 1 week suspension (two weeks in total)
 - (e) Unsportsmanlike behaviour

Maximum penalty (first offence):	1 week suspended sentence
Second offence:	original 1 week suspension plus 1 week suspension (two weeks in total)
 - (f) Gross breach of Code of Conduct (except if charged under the Member Protection Policy)

Maximum penalty:	2 weeks suspension
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 - (g) Attempting to trip

A – Penalty range:	4-6 weeks suspension
B – Penalty range:	6-8 weeks suspension
 - (e) Tripping

A – Maximum penalty:	10 weeks suspension
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- B – Maximum penalty: 52 weeks suspension
- (f) Obscene gestures
Penalty range: 2-6 weeks suspension
- (g) Offensive language (which may include abusive, obscene or insulting language)
A – Penalty range: 2-6 weeks suspension
- (h) Attempting to strike
A – Maximum penalty: 6 weeks suspension
B – Maximum penalty: 52 weeks suspension
- (i) Striking (fist, hand, object, head)
A – Maximum penalty: no maximum (refer to Disciplinary Tribunal)
B – Maximum penalty: life-time suspension
- (l) Fighting
A - More than 2 players: no maximum (refer to Disciplinary Tribunal)
- (m) Attempting to kick
A – Maximum penalty: 20 weeks suspension
B – Maximum penalty: 52 weeks suspension
- (n) Kicking
A – Maximum penalty: no maximum (refer to Disciplinary Tribunal)
B – Maximum penalty: life-time suspension
- (o) Spitting
A – Maximum penalty: 20 weeks suspension
B – Maximum penalty: 52 weeks suspension
- (p) Moving under an airborne player (tunnelling)
A - Maximum penalty: 2 years maximum
- (q) Putting a person in fear of impending violence (eg death threats)
A – Maximum penalty: 52 weeks suspension
B – Maximum penalty: 104 weeks suspension
- (r) Coaching, refereeing, playing, score bench duties while under suspension
A - Minimum penalty: 2 weeks per game plus the suspension period
A - Maximum penalty: 5 weeks per game plus the suspension period
- (s) Deliberately endangering the safety, health, of the players, spectators, officials (incidents involving blood/body fluids)
A: Maximum penalty: life-time suspension

- (t) Conduct which brings the game of Basketball into disrepute
Maximum penalty: 19 weeks suspension
- (u) Failure to co-operate in, or hindering an investigation or hearing under these by-laws.
Maximum penalty: 20 weeks suspension
- (v) Any offence not otherwise covered in these By-Laws deemed necessary by the Association, taking into account all relevant circumstances.
Maximum penalty: no maximum (refer to Competition Management or Disciplinary Tribunal as necessary)

- 19.4 Where charges arising from one particular incident are heard together and a Tribunal finds the person or team guilty of more than one Offence, it may impose a single penalty, being not more than the maximum penalty for the most serious of the Offences, or it may impose individual penalties for each Offence.
- 19.5 A penalty handed down under this clause shall commence from the date of the Offence unless otherwise expressly directed by a Tribunal. Penalties should wherever possible be expressed to be calendar weeks as opposed to number of matches. A Tribunal has the discretion to rule that a penalty will be suspended for the number of weeks which fall between seasons or during any season break.
- 19.6 Where a Tribunal imposes more than one period of suspension, it may impose them to be served concurrently or cumulatively or partly concurrently and partly cumulatively.
- 19.7 Persons on a first Offence shall have this taken into account when assessing the penalty to be handed down.
- 19.8 A Tribunal may take into account a Charged Person's prior convictions in determining a penalty to be handed down provided the penalty does not exceed the maximum penalties assigned to Offences under clause 19.3.

Part 6 Appeals

20. Right of Appeal

- 20.1 The only grounds of appeal from a decision of the Disciplinary Tribunal are as follows:
- (a) that significant new or additional evidence has become available;

- (b) that the penalty imposed by the Disciplinary Tribunal is not in accordance with the provisions of this By-law; or
 - (c) that the Disciplinary Tribunal failed to follow procedures or requirements of this By-law to the significant detriment of the person seeking the appeal.
- 20.2 Only a Charged Person shall have the right of appeal from a decision of the Disciplinary Tribunal under this By-law.

21 Notice of Appeal

- 21.1 A person seeking to appeal a decision of the Disciplinary Tribunal must:
- (a) lodge a notice stating full details of charges and results thereof and stating in full the grounds of appeal with the Hearings Officer within ten (10) working days of the notification of a determination of a Disciplinary Tribunal hearing (“Notice of Appeal”).
 - (b) pay the appeal fee to the Hearings Officer when lodging the Notice of Appeal, which shall be \$110.00 (including GST) (the appeal fee does not apply in the case of appeals by minors and may be waived in the discretion of the Hearings Officer).
- 21.2 An Appellant shall be notified within seven working (7) days of receipt of the Notice of Appeal as to the time, date and place of the Appeal hearing.

22. Appeal Tribunal

- 22.1 The Hearings Officer shall convene an Appeal Tribunal to hear and determine the appeal in accordance with this By-law.
- 22.2 An Appeal Tribunal shall consist of no fewer than three (3) persons appointed by the Association from time to time to hear appeals as required by the Association. Members of an Appeal Tribunal will preferably have experience in hearing and determining disciplinary matters in sport, however need not have any particular experience with the sport of basketball.
- 22.3 Persons who have previously sat on the Disciplinary Tribunal, but who were not involved in the hearing of a matter the subject of an appeal, shall be eligible to sit on an Appeal Tribunal.

23. Serving of Disciplinary Tribunal Penalties

- 23.1 Subject to clause 23.2(b), where the Disciplinary Tribunal imposes a penalty that includes a suspension, the Appellant shall serve that suspension pending the determination of the appeal.
- 23.2 Subject to clause 23.3, the Appeal Tribunal 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 penalty imposed by the Disciplinary Tribunal pending the determination of the appeal.

23.3 The Appeal Tribunal shall make an order under clause 23.2 (b) only where it is satisfied that there are exceptional and compelling circumstances that make it harsh and unconscionable if such an order was not made. In determining that question, the Appeals Tribunal shall without limitation have regard to:

- (a) the merits of the appeal and the Appellant's prospects of success;
- (b) the interests of other teams, clubs and players; and
- (c) the effect on the results of the competition.

24. Proceedings of Appeal Tribunal

24.1 The Appeal Tribunal may conduct the Appeal in a manner it deems appropriate, provided the Appellant is accorded an opportunity to plead their cause of action pursuant to clause 20.1

24.2 The Hearings Officer shall forward records of the Disciplinary Tribunal hearing in which the matter the subject of the Appeal was heard at first instance to the chairperson of the Appeal Tribunal.

24.3 The Appeal Tribunal shall have the discretion to conduct the hearing as a complete re-hearing, but an appeal may only succeed if the Appellant makes out a ground(s) of appeal under clause 20.1.

24.4 If a ground on appeal contained in clause 20.1 is made out, an Appeal Tribunal shall have the power to:

- (a) dismiss the appeal;
- (b) uphold the appeal;
- (c) impose any of the penalties set out in Part 5 of this By-law.
- (d) reduce, increase or otherwise vary any penalty imposed by the initial hearing's Disciplinary Tribunal

in such manner as it thinks fit.

24.5 The Appeal Tribunal is not obliged to give oral or written reasons for a decision under clause 24.4.

24.6 At the conclusion of the appeal, the chairperson of the Appeal Tribunal shall ensure that the Appellant and the reporting Official are correctly informed of the determinations of the Appeal Tribunal. The chairperson shall also notify the Hearings Officer of the decision of the Appeal Tribunal.

25. Refund of Appeal Fee

- 25.1 The Appeal Tribunal shall have the discretion to refund the appeal fee payable under clause 21.1(b).

26. Costs

- 26.1 Each party to an appeal shall bear their own costs. The Appeal Tribunal has the power to award that the reasonable costs of the Appeal Tribunal be borne by either party in its absolute discretion.

27. Single Right of Appeal

- 27.1 There is only one right of appeal following the decision of the initial Disciplinary Tribunal. Any appeal must be solely and exclusively resolved by the Appeal Tribunal and the decision of the Appeal Tribunal is final and binding on the parties.

28. Exhaust Internal Appeal

- 28.1 A person shall exercise his right of appeal under this By-law and have any appeal heard and determined by the Appeal Tribunal before commencing any proceedings or becoming a party to any proceedings in a court of law.

Part 6 Miscellaneous

29. Relationship with criminal matters

- 29.1 If during a report process or investigation under this By-law it becomes known that criminal charges have been brought (as opposed to merely the subject of police investigation) arising out of the actions the subject of the report, hearing or investigation, Competition Management or the Tribunal may rule that further action be deferred until completion of the criminal charges, unless the police or other prosecuting authority advise they have no objection to the matter proceeding.
- 29.2 In making a determination under clause 29.1, Competition Management and/or the Tribunal shall have regard to the need to ensure the ongoing safety of players, referees and other persons involved in the Association.

31. Recognition of Penalties across Associations

- 31.1 The Association acknowledges and agrees that it is required to recognise and enforce penalties handed down against individual persons, teams or clubs by the disciplinary tribunals of all other organising bodies, basketball associations, leagues and competitions which are affiliated with Basketball Australia and or its Constituent Associations.

APPENDIX 1

REPORT PROCESS

