

Disciplinary Tribunal By-Laws

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BASKETBALL ACT

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1. Introduction

1.1 Definitions

- (a) **Appeal Tribunal** means the Tribunal convened by the Association to hear and determine appeals made against decisions delivered by the Disciplinary Tribunal or similar bodies within the Association.
- (b) **Appellant** means the Association or a Charged Person (including a charged team or club) who appeals a decision of the Disciplinary Tribunal to the Appeal Tribunal.
- (c) **Association** means A.C.T. Basketball Incorporated.
- (d) **Association Activity** means the attendance, performance, or participation in any capacity in any activity organised, facilitated, or sanctioned by the Association, or which occurs at the Stadium, including but not limited to participation in basketball as a player, coach, Spectator, Association or club administrator, or Official. This includes attendance at registered club or team formal training sessions whether occurring at the Stadium or otherwise.
- (e) **Association Policy** means any policy published on the Association website, whether pursuant to the National Integrity Framework or otherwise, as amended from time to time.
- (f) **Association Representative** means any officer, employee, or agent of the Association nominated by the Association to represent the interests of the Association at a Tribunal hearing, for as long as they are so nominated.
- (g) **Audio-Visual Link** refers to any live electronic communication system nominated by the Association from time to time that permits continuous and simultaneous audio-visual communication between the Tribunal and the parties, allowing them to interact with each other in real-time.
- (h) **Board** means those directors elected or appointed to the Association from time to time.
- (i) **By-Laws** means these Disciplinary Tribunal By-Laws, as amended from time to time.
- (j) **Charged Person** means a person, team, or club charged by the Association with an Offence or Prohibited Conduct, including the nominated representative of a charged team or club where relevant.

- (k) **Chief Executive Officer** means the person so appointed by the Association from time to time.
- (l) **Chief Operating Officer** means the person so appointed by the Association from time to time.
- (m) **Code of Conduct** means the Basketball ACT Code of Conduct, as updated from time to time, and includes a document by another title which replaces the Basketball ACT Code of Conduct.
- (n) **Competition** means a schedule of basketball games, however described, including but not limited to a basketball league or tournament, conducted by the Association.
- (o) **Competition Week** means a week in which basketball games are scheduled for the Competition or Competitions for which a person or team is registered, including but not limited to grading rounds, minor round games, and finals.
- (p) **Complaints Policy** means the policy incorporated into the National Integrity Framework for the handling of Prohibited Conduct arising under the Member Protection Policy and Child Safeguarding Policy, as may be amended by Basketball Australia from time to time.
- (q) **Constitution** refers to the Constitution of the Association, adopted on 28 February 2023.
- (r) **Disciplinary Tribunal** means the tribunal empowered at first instance to hear charges under these By-Laws, including the Hearings Panel delegated by the National Integrity Framework and incorporated policies to hear and determine Reports and complaints of Prohibited Conduct made under the National Integrity Framework, and any other matter which may be referred to the Disciplinary Tribunal by the Association from time to time.
- (s) **Glory League** is an automated video system utilised by the Association to capture and record basketball games held at the Stadium from time to time.
- (t) **Hearings Officer** means the person so appointed by the Association from time to time.
- (u) **Infringement** means receipt of a Disqualifying Foul, Technical Foul, or Unsportsmanlike Foul.
- (v) **Infringement Policy** means the Association Policy relating to automatic suspensions following the accumulation of infringements, as published on the Association website from time to time.

- (w) **Integrity Officer** means the person so appointed by the Association from time to time.
- (x) **Low-Range Offence** means an Offence considered by the person making a Report, or the Association, to be in the lower range of offending for a particular Offence.
- (y) **Minor** means a person under the age of 18 years.
- (z) **National Integrity Framework** means the National Framework for Ethical Behaviour and Integrity in Basketball adopted by Basketball Australia, and all policies and other materials endorsed as being incorporated therein by Basketball Australia, as amended by Basketball Australia from time to time and adopted in full by the Association.
- (aa) **Offence** means an offence listed at clause 5.2 of these By-Laws or Prohibited Conduct, in respect of which a Report may be made and charges may be laid by the Association and determined by a Tribunal in accordance with these By-Laws.
- (bb) **Official** means a referee, duty manager, game supervisor, member services officer, referee coach, Competition committee member, or designated officer of the Association.
- (cc) **Prohibited Conduct** means conduct in breach of the National Integrity Framework or incorporated policies.
- (dd) **Report** means a formal complaint of an alleged Offence under these By-Laws or violation or breach of rules, policies, or codes of conduct arising from or related to Association Activities under another Association Policy, the Code of Conduct, or the National Integrity Framework.
- (ee) **Reported Person** means a person, team, or club who is the subject of the Report but has not yet been charged by the Association with an Offence.
- (ff) **Spectator** means a person who is attending, or has attended, a Stadium in connection with a basketball game, other than as a player, coach, or Official.
- (gg) **Stadium** means the Belconnen Basketball Stadium, Tuggeranong Southern Cross Stadium, or any other venue where a Competition or Competitions are played from time to time.
- (hh) **Team Manager** means the manager of a team participating in a Competition, as notified to the Association in writing from time to time, or the coach or captain of that team if no manager has been so notified.

- (ii) **Tribunal** means the Disciplinary Tribunal or Appeal Tribunal convened pursuant to these By-Laws.
- (jj) **Working Days** means Monday to Friday (inclusive) but excluding public holidays that fall on those days.

1.2 Adoption of By-Laws

- 1.2.1 In accordance with clause 17.1 of the Constitution, the Association has the power to amend, repeal and replace these By-Laws.
- 1.2.2 These By-Laws are made pursuant to Rule 17.2(c) of the Constitution and are binding on all members of the Association and other persons or organisations which submit themselves to the jurisdiction of the Association by participating in Association Activities.
- 1.2.3 Any and all By-Laws of the Association previously made concerning the Disciplinary Tribunal and Appeal Tribunal are expressly rescinded. For the avoidance of doubt, all penalties handed down under previous Disciplinary Tribunal By-Laws shall continue to be recognised by the Association.
- 1.2.4 Any Report received prior to, but that has not been finalised, at the Effective Date of these By-Laws, shall be concluded pursuant to the By-Laws in force at the time the Report was received.

1.3 Interaction with National Integrity Framework

- 1.3.1 The Association has adopted the National Integrity Framework as By-Laws under its Constitution.
- 1.3.2 Complaints of Prohibited Conduct under the National Integrity Framework must be reported to the Integrity Officer, unless another person is nominated under that Framework to receive the relevant Report.
- 1.3.3 If a complaint suspected to constitute Prohibited Conduct under the National Integrity Framework is received by the Association other than via the Integrity Officer, then the person who has received the complaint must promptly report it to the Integrity Officer.
- 1.3.4 The Chief Operating Officer will determine in their discretion whether alleged Prohibited Conduct under the National Integrity Framework is more appropriately dealt with under these By-Laws or the National Integrity Framework.
- 1.3.5 Wherever possible, a Tribunal hearing under the Complaints Policy or otherwise under the National Integrity Framework will be convened and conducted by the Association by way of procedure consistent with these By-Laws.

- 1.3.6 In the event of inconsistency between these By-Laws and the National Integrity Framework, the National Integrity Framework will prevail.
- 1.3.7 Action by Basketball Australia pursuant to the National Integrity Framework does not prevent a person additionally being subject to disciplinary action by the Association pursuant to these By-Laws.
- 1.3.8 Action or processes by the Association under these By-Laws do not prevent a person additionally being subject to action by Basketball Australia pursuant to the National Integrity Framework.

1.4 Interaction with other Association Policies

- 1.4.1 Nothing in these By-Laws restricts the penalties available under any other Association Policy, even if a hearing under such policy is referred to the Disciplinary Tribunal for determination.

1.5 Spectators

- 1.5.1 This clause 1.5 applies where a Reported Person or a Charged Person is a Spectator.
- 1.5.2 The Team Manager of the team with which the Spectator is associated must cooperate with the Association to identify the relevant Spectator and provide the Spectator's name to the Association on request.
- 1.5.3 Any requirement in these By-Laws for the Association to notify, or otherwise correspond with, the Spectator will be satisfied by provision of the required notification or other correspondence to the Team Manager of the team with which the Spectator is associated.
- 1.5.4 A Team Manager who receives correspondence pursuant to clause 1.5.3, must provide that correspondence to the relevant Spectator.

1.6 Minors

- 1.6.1 This clause 1.6 applies where a Reported Person or a Charged Person is a Minor.
- 1.6.2 Any notification or other communication required by these By-Laws to be provided to a Minor, must be provided care of their parent or guardian.
- 1.6.3 Any statements, documents, or other response required to be provided to the Association by the Minor must be provided to the Association via the Minor's parent or guardian.
- 1.6.4 Any requirement in these By-Laws for the Association to notify, or otherwise correspond with, the Minor's parent or guardian will be satisfied by provision of the

required notification or other correspondence to the Team Manager of the team with which the Spectator is associated.

- 1.6.5 A Team Manager who receives correspondence pursuant to clause 1.6.4, must provide that correspondence to the relevant parent or guardian.

2. Jurisdiction and Establishment of Disciplinary Tribunals

2.1 Authority of Association and Disciplinary Tribunal

- 2.1.1 Any action for which the Association is responsible under these By-Laws may be taken by the Board or by any officer, employee, or agent of the Association having received the appropriate delegation from the Board.
- 2.1.2 In accordance with clause 17.2 of the Constitution, the Association has the right to hear and determine charges made against persons, affiliated associations, teams, or clubs arising from or related to Association Activities.
- 2.1.3 The Association maintains the right to delegate the power of hearing and determining charges to the Disciplinary Tribunal and designated officers of the Association in accordance with the provisions of these By-Laws.
- 2.1.4 The Disciplinary Tribunal and Appeal Tribunal and the Association shall have power to suspend, disqualify, reprimand, fine, bond, ban or otherwise deal with any person who participates or has participated in Association Activities including, but not limited to, players, coaches, teams, clubs, Officials, or Spectators in accordance with these By-Laws, the National Integrity Framework, or any other Association Policy. The relevant incident or behaviour may have occurred before, during, or after an Association Activity, or within the confines of the Stadium or its immediate surrounds, another Association Activity venue or its immediate surrounds, or any other place or time if arising out of or related to an Association Activity of any sort, including conduct which occurs via electronic means.

2.2 Jurisdiction of Association

- 2.2.1 The Association shall appoint a Hearings Officer to be responsible for the receipt and investigation of Reports made under these By-Laws.
- 2.2.2 Nothing in these By-Laws alters the power of the Association to impose an automatic suspension under the Infringement Policy or any other Association Policy and such suspension will be imposed and served in addition to any penalty imposed in relation to an Offence under these By-Laws.

2.3 Jurisdiction of Disciplinary Tribunal

2.3.1 A person charged with an Offence:

- (a) That is not a Low-Range Offence; or
- (b) That the Association in its discretion refers to the Disciplinary Tribunal; or
- (c) Who rejects a penalty offered by the Disciplinary Tribunal chairperson pursuant to clause 3.5,

must be dealt with by the Disciplinary Tribunal.

2.3.2 The Disciplinary Tribunal may also deal with any other disciplinary matter delegated to them for adjudication by the Association, including matters arising under the National Integrity Framework and any other Association Policy.

2.3.3 The Disciplinary Tribunal must at all times act independently and impartially in carrying out duties in accordance with these By-Laws.

2.4 Membership of the Disciplinary Tribunal

2.4.1 The Association shall maintain a confidential list of Disciplinary Tribunal panel members who shall be persons considered by the Association to be of suitable experience and skill.

2.4.2 The list at clause 2.4.1 shall:

- (a) Contain a sub-list of persons considered to be of suitable experience and skill to act as Disciplinary Tribunal chairperson;
- (b) Note known conflicts of interest for each person; and
- (c) Be subject to review every 12 months, at which time persons may be added or removed from the list at clause 2.4.1 and sub-list at 2.4.2(a).

2.4.3 Clause 2.4.2(c) does not prevent the addition of suitable persons to the list at clause 2.4.1 at any other time.

2.4.4 Persons appointed to the sub-list of Disciplinary Tribunal chairpersons pursuant to clause 2.4.1 shall be eligible to be appointed to the Disciplinary Tribunal as either Disciplinary Tribunal chairperson or Disciplinary Tribunal panel member.

2.4.5 Persons appointed to the list maintained pursuant to clause 2.4.1 will advise the Association of any new known conflicts of interest that arise.

2.4.6 The Disciplinary Tribunal shall be appointed by the Association from the list of persons maintained by the Association pursuant to clause 2.4.1 and shall comprise of the following persons:

- (a) A Disciplinary Tribunal chairperson who is appointed from the sub-list maintained pursuant to clause 2.4.2(a); and
- (b) Two other persons from the list of eligible persons maintained pursuant to clause 2.4.1.

2.4.7 Wherever possible, matters referred to the Disciplinary Tribunal for determination shall be heard by three (3) members, however a quorum of the Disciplinary Tribunal shall be two (2) members including the Disciplinary Tribunal chairperson.

2.4.8 No Disciplinary Tribunal decision shall be invalidated by any irregularity in the appointment of a Disciplinary Tribunal panel member or Disciplinary Tribunal chairperson.

2.5 Responsibilities of Disciplinary Tribunal chairperson

2.5.1 Without limiting the duties of the Disciplinary Tribunal chairperson as set out in these By-Laws, a person appointed to the position of Disciplinary Tribunal chairperson for a particular Disciplinary Tribunal hearing shall have the following responsibilities:

- (a) To consider on referral from the Hearings Officer whether it is appropriate to offer a penalty pursuant to clause 3.5;
- (b) To ensure accurate records are kept of the Disciplinary Tribunal hearing and decision, and to make such records available to the Association upon request;
- (c) To communicate to the Association the results of the Disciplinary Tribunal hearing;
- (d) To chair the Disciplinary Tribunal, and where applicable, exercise the casting vote; and
- (e) To monitor any perceived or actual conflicts of interest which may arise from time to time, and where necessary, address such conflicts of interest.

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

3. Reports and Investigations

3.1 Reports by Officials and the Association

3.1.1 Any Official shall be entitled to create a Report regarding any person, team, or club which, in the opinion of the Official, has committed an Offence under these By-Laws.

3.1.2 The Association shall be entitled to create a Report on its own initiative regarding any person, team, or club, who has, in the opinion of the Association, committed an Offence under these By-Laws or any other Association Policy.

3.2 Investigations

3.2.1 Where the Association believes an Offence may have been committed, or the Association receives a written complaint, but no Report has been made, the Association may request that the Hearings Officer investigate, or appoint a person to investigate, the alleged Offence.

3.2.2 Any investigation pursuant to clause 3.2.1 may include, but is not limited to, review of:

- (a) Any available written statements;
- (b) Evidence obtained from Glory League including, but not limited to, video footage, AI-generated reports, and any other data produced by Glory League that is relevant in the opinion of the Hearings Officer or appointed investigator;
- (c) Any other video evidence available; and
- (d) Any other evidence that the Hearings Officer or investigator appointed pursuant to clause 3.2.1 considers to be relevant, reliable, and appropriate.

The use of such evidence must, at all times, be in accordance with these By-Laws and any other relevant Association Policies.

3.2.3 The Hearings Officer or other person appointed to investigate an alleged Offence may seek any further information considered necessary in their discretion to determine whether a Report ought to be made. This includes, but is not limited to, seeking statements from the individual that it is considered may have committed an Offence and any relevant witnesses.

3.2.4 If, following the investigation, the Hearings Officer considers that a Report should be made, the Hearings Officer may make a Report to the Association.

3.3 Duties of persons making a Report

- 3.3.1 A Report shall be made by entering the details of the alleged Offence/s on the form issued by the Association from time to time for that purpose as soon as possible after the conclusion of the relevant game, other Association Activity, or investigation pursuant to clause 3.2. The Report will note all relevant particulars of the alleged Offence/s.
- 3.3.2 An Official who makes a Report shall lodge the completed form with the Hearings Officer, or if that is not possible, leave the Report at the Stadium or Association office, marked to the attention of the Hearings Officer as soon as practicable.

3.4 Duties of Association on receiving a Report

- 3.4.1 On receipt of a Report, the Hearings Officer shall:
- (a) Notify the Reported Person within two (2) Working Days of receipt of the Report.
 - (b) Invite the Reported Person to provide written response within a further two (2) Working Days.
 - (c) Review the available evidence, including, but not limited to, review of:
 - (i) The Report;
 - (ii) Any written response provided by the Reported Person pursuant to clause 3.4.1(b);
 - (iii) Any other available written statements;
 - (iv) Evidence obtained from Glory League including, but not limited to, video footage, AI-generated reports, and any other data produced by Glory League that is relevant in the opinion of the Hearings Officer;
 - (v) Any other video evidence available; and
 - (vi) Any other evidence that the Hearings Officer considers to be relevant, reliable, and appropriate.
 - (d) Make a recommendation to the Association that either:
 - (i) Charges should be laid against the Reported Person in respect of the conduct the subject of the Report; or
 - (ii) No further action should be taken in response to the Report.

- (e) Wherever possible, a recommendation should be made by the Hearings Officer pursuant to clause 3.4.1(d) within five (5) Working Days from receipt of the Report. A recommendation under clause 3.4.1(d) and any subsequent charges laid by the Association will not be invalidated due to non-compliance with this clause 3.4.1(e).

3.4.2 On receipt of a recommendation from the Hearings Officer pursuant to clause 3.4.1(d), the Association will determine the charges (if any) to be laid against the Reported Person, with reference to the Offences Guidelines at Annexure A.

3.4.3 The Association shall, following the decision to lay charges against a Reported Person:

- (a) Refer the matter to the Disciplinary Tribunal chairperson pursuant to clause 3.5 if appropriate.
- (b) Convene a Disciplinary Tribunal pursuant to clause 4 as soon as practicable.
- (c) Notify the Charged Person in writing of the date and time of the Disciplinary Tribunal hearing at least five (5) days prior to the hearing, unless otherwise agreed by the Charged Person.
- (d) Receive and refer to the Disciplinary Tribunal all relevant material in possession of the Association in relation to the Report, including the Report itself, at least two (2) days prior to the Disciplinary Tribunal hearing. Additional material subsequently received should be promptly provided to the Disciplinary Tribunal.
- (e) Provide the Charged Person with a copy of the Report form and all material provided to the Disciplinary Tribunal pursuant to clause 3.4.3(d) at least two (2) days prior to the Disciplinary Tribunal hearing. Additional material subsequently received should be promptly provided to the Charged Person.
- (f) Advise any Minors involved as a Charged Person, reporting Official, witness, or otherwise, of the requirement for an independent adult to accompany them at the Disciplinary Tribunal.
- (g) Notify the Charged Person, reporting Official, and any witnesses of the consequences of non-attendance at a Disciplinary Tribunal hearing and the procedure to be followed in each case.
- (h) Ensure the availability of all forms required to be used in any Disciplinary Tribunal hearing.

3.5 Alternative procedure for Low-Range Offences

3.5.1 If an Official or the Association believes the Offence/s reported is/are Low-Range Offence/s, they may indicate as such on the Report.

3.5.2 Where an indication is made pursuant to clause 3.5.1, the Hearings Officer shall refer the Report to the Disciplinary Tribunal chairperson. If the Disciplinary Tribunal chairperson considers that the Offence/s:

- (a) Appear to be on the lower range of offending for a particular Offence;
- (b) The relevant Offence/s do not carry a maximum penalty of more than 18 weeks suspension; and
- (c) The Charged Person has not been the subject of a Report in the preceding 12 months,

the Disciplinary Tribunal chairperson may, in their absolute discretion, offer the Charged Person a penalty which the Disciplinary Tribunal chairperson believes would be imposed if the matter proceeded to hearing before the Disciplinary Tribunal.

3.5.3 If the Charged Person is offered a penalty pursuant to clause 3.5.2, that penalty shall be served as follows:

- (a) Subject to clause 5.3.5, 50% of the penalty to commence from the date of the Offence; and
- (b) 50% of the penalty to be suspended for 12 months and come into effect only in the event that the Charged Person receives a further suspension (whether pursuant to these By-Laws, the Infringement Policy, or another Association Policy) within those 12 months. This portion of the penalty will otherwise be suspended indefinitely.

3.5.4 If the Charged Person accepts the penalty offered under clause 3.5.2 within 24 hours of the offer being conveyed to them, the agreed penalty will be imposed and becomes an order of the Disciplinary Tribunal as if the Charged Person had been found guilty at a Disciplinary Tribunal hearing.

3.5.5 If the Charged Person accepts an offered penalty pursuant to clause 3.5.2, there is no right of appeal.

3.5.6 If the Charged Person rejects the penalty offered under clause 3.5.2 or fails to respond within 24 hours of the offer being conveyed to them or such other time as the Disciplinary Tribunal chairperson allows, the Report will be referred to a hearing of the Disciplinary Tribunal.

3.6 Period between Report and hearing

- 3.6.1 A Reported Person may continue to participate in Association Activities unless the Chief Operating Officer considers in their discretion that the alleged Offences are of such gravity that continued participation in Association Activities by the Reported Person would adversely reflect upon the Association and the relevant Competition.
- 3.6.2 The Reported Person will have no right of appeal against a decision of the Chief Operating Officer to suspend the Reported Person's participation in Association Activities pursuant to clause 3.6.1 pending the laying of charges.
- 3.6.3 Subject to clause 3.6.5, where a Charged Person has been charged with an Offence carrying a maximum penalty of 12 weeks suspension or less, they shall be entitled to participate in Association Activities until such time as the charges against them have been finalised.
- 3.6.4 Subject to clause 3.6.5, where a Charged Person has been charged with an Offence carrying a maximum penalty of more than 12 weeks suspension, they shall not participate in Association Activities until the charges against them have been finalised.
- 3.6.5 Clauses 3.6.3 and 3.6.4 will be subject to the discretion of the Chief Operating Officer to overturn the default position and allow a Charged Person to participate in Association Activities pending determination of the charges against them or determine that they may not participate in Association Activities until the charges against them have been determined. Appeal from a decision made pursuant to this clause 3.6.5 may be made to the Chief Executive Officer only, whose decision will be final.
- 3.6.6 Nothing in this clause 3.6 affects the operation of an automatic suspension or suspensions imposed pursuant to the Infringement Policy.

4. Conduct of Disciplinary Tribunal Hearing

4.1 Convening Disciplinary Tribunal hearings

- 4.1.1 The Association shall provide notice to all teams participating in Competitions of the regular day and time of Disciplinary Tribunal hearings. Updated notice may be provided from time to time.
- 4.1.2 Disciplinary Tribunal hearings are to be held on the day and time notified for the purpose of clause 4.1.1 whenever practicable.

4.2 Attendance at Disciplinary Tribunal hearings

- 4.2.1 The following persons may attend a Disciplinary Tribunal hearing conducted under these By-Laws, at the discretion of the Disciplinary Tribunal chairperson:
- (a) The Charged Person;
 - (b) The Association Representative;
 - (c) The president, secretary or other delegate representing a charged team or club;
 - (d) The reporting Official(s);
 - (e) Witnesses called to give evidence by the Association or Charged Person; and
 - (f) Any other witness required by the Disciplinary Tribunal.
- 4.2.2 The following persons may attend a Disciplinary Tribunal hearing only with the permission of the Disciplinary Tribunal chairperson, which must be sought and received in advance of the Disciplinary Tribunal hearing:
- (a) Other representatives of the Association;
 - (b) Club representatives;
 - (c) Approved representatives of the media; and
 - (d) Any other person not listed at clause 4.2.1.
- 4.2.3 Any Minor who attends a Disciplinary Tribunal hearing, whether as a Charged Person, reporting Official, witness, or otherwise, must be accompanied by an appropriate adult support person who is not a person also listed at clause 4.2.1.
- 4.2.4 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 in advance by the Disciplinary Tribunal chairperson.
- 4.2.5 The Disciplinary Tribunal retains absolute discretion over the attendance at a Disciplinary Tribunal hearing of any person listed in clauses 4.2.1 and 4.2.2.
- 4.2.6 All persons required to appear before the Disciplinary Tribunal shall do so via Audio-Visual Link, unless otherwise directed by the Disciplinary Tribunal, pursuant to clause 4.4.

4.3 Non-Attendance at Disciplinary Tribunal hearings

- 4.3.1 If a Charged Person fails to attend a Disciplinary Tribunal hearing without reasonable cause, the hearing may proceed and a determination be made by the Disciplinary Tribunal in the absence of the Charged Person, provided that the Disciplinary Tribunal is satisfied that all notification procedures under these By-Laws have been followed.
- 4.3.2 Whether a failure to attend a Disciplinary Tribunal hearing was for reasonable cause under clause 4.3.1 will be at the absolute discretion of the Disciplinary Tribunal chairperson.
- 4.3.3 A Charged Person may apply to the Association 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. This will be at the discretion of the Disciplinary Tribunal chairperson and if the application is granted a new date for the hearing shall be fixed.
- 4.3.4 If any witness, including a reporting Official, fails to attend a Disciplinary Tribunal hearing, the hearing may continue in their absence.
- 4.3.5 If the Association inadvertently fails to carry out any requirements of these By-Laws, the charges shall not be dismissed for this reason, but the Disciplinary Tribunal hearing may be adjourned at the discretion of the Disciplinary Tribunal chairperson to allow the omission to be rectified as determined by the Disciplinary Tribunal. Where appropriate, the Disciplinary Tribunal shall take the failure into account and make suitable allowance.

4.4 Disciplinary Tribunal hearing conducted by Audio-Visual Link

- 4.4.1 Subject to clause 4.5, Disciplinary Tribunal hearings shall be conducted via Audio-Visual Link.
- 4.4.2 All persons appearing via Audio-Visual Link are responsible for ensuring that they have access to a reliable internet connection and a device equipped with a camera and microphone. Any person to whom this requirement will cause hardship should advise the Association as soon as possible.
- 4.4.3 If any person fails to appear at the time appointed for the Disciplinary Tribunal hearing via the Audio-Visual Link provided by the Association, the Disciplinary Tribunal hearing may proceed in their absence pursuant to clause 4.3.
- 4.4.4 All persons must ensure that they participate in the Disciplinary Tribunal hearing from a quiet and private location, and that they maintain the confidentiality of the Disciplinary Tribunal hearing.
- 4.4.5 Recording of a Disciplinary Tribunal hearing is not permitted under any circumstances.

4.5 Disciplinary Tribunal hearing conducted in person

- 4.5.1 The Charged Person or the Association may apply to the Disciplinary Tribunal chairperson to have a Disciplinary Tribunal hearing conducted in person if they believe that there are compelling circumstances which would make it more appropriate for the Disciplinary Tribunal hearing to be conducted in person.
- 4.5.2 The Disciplinary Tribunal chairperson may, on their own initiative, determine that a Disciplinary Tribunal hearing is to be conducted in person.
- 4.5.3 Where an application pursuant to clause 4.5.1 is denied, the Disciplinary Tribunal hearing will be conducted via Audio-Visual Link.
- 4.5.4 Where it is determined by the Disciplinary Tribunal chairperson pursuant to clauses 4.5.1 or 4.5.2 that a Disciplinary Tribunal hearing will be conducted in person, the procedure of the Disciplinary Tribunal hearing shall in all other respects be conducted in accordance with these By-Laws.

4.6 Hearing on the papers

- 4.6.1 The Disciplinary Tribunal may, on application by the Charged Person or the Association, or on its own initiative, determine that a matter shall be heard on the papers.
- 4.6.2 If the Disciplinary Tribunal determines that a matter will be heard on the papers, the Charged Person and the Association will be invited to provide any submissions or evidence they wish the Disciplinary Tribunal to consider in determining the matter, within a timeframe determined by the Disciplinary Tribunal chairperson.
- 4.6.3 The Disciplinary Tribunal may determine the matter and sentencing based on the Report, written submissions provided by the Charged Person and the Association pursuant to clause 4.6.2 (if any), and any other relevant documentation, without the need for a Disciplinary Tribunal hearing.
- 4.6.4 The Disciplinary Tribunal reserves the right to request additional information or clarification from a Charged Person, the Association, or any other relevant persons.
- 4.6.5 A decision of the Disciplinary Tribunal pursuant to this clause 4.6 will be communicated in writing to the Association, who will provide notification to the Charged Person.
- 4.6.6 The Disciplinary Tribunal retains the power to determine at any time prior to notifying its decision to the Association that it would be more appropriate to proceed with a Disciplinary Tribunal hearing.

4.7 Procedures of the Disciplinary Tribunal

- 4.7.1 In the event of a team or club being the subject of a Report, one (1) member of the team or club shall act as spokesperson for the charged team or club. References in these By-Laws to a Charged Person includes the spokesperson for a charged team or club as applicable.
- 4.7.2 An individual member of a team or club referred to at clause 4.7.1 may apply to the Disciplinary Tribunal chairperson to speak on their own behalf, separate to the spokesperson for the team or club. The Disciplinary Tribunal chairperson may accept or refuse this application in their absolute discretion.
- 4.7.3 At the commencement of a Disciplinary Tribunal hearing, the Disciplinary Tribunal chairperson shall:
- (a) Identify the members of the Disciplinary Tribunal;
 - (b) Declare any relevant actual or perceived conflicts identified by the members of the Disciplinary Tribunal; and
 - (c) Determine whether the Charged Person is present to answer the charge(s) laid by the Association.
- 4.7.4 The Charged Person shall be asked whether they accept the members of the Disciplinary Tribunal as impartial and independent, or whether they wish to raise any objection in relation to any member. If any such objection is found by the Disciplinary Tribunal chairperson to be valid, then the relevant Disciplinary Tribunal member shall stand down for the duration of the Disciplinary Tribunal hearing.
- 4.7.5 The Charged Person and the Association Representative shall be advised of:
- (a) Their right to remain in the Disciplinary Tribunal hearing while all evidence is presented; and
 - (b) That they will not be present whilst the Disciplinary Tribunal considers its findings and determines an appropriate penalty (if any).
- 4.7.6 For the avoidance of doubt, the Disciplinary Tribunal may at any time request that all persons leave the room while it discusses matters that it considers are not appropriate for discussion in the presence of persons other than the Disciplinary Tribunal.
- 4.7.7 The charge(s) arising from the Report shall be read out in the presence of the Charged Person, the Association Representative, and any other person who the Disciplinary Tribunal considers is appropriate to be present.

- 4.7.8 The Charged Person shall be asked whether the charge is understood, and the Association Representative asked whether the charge correctly represents the intention of the Association.
- 4.7.9 Where it appears to the Disciplinary Tribunal that the Association has made an error in laying the wrong charge, or omitted charges that should have been laid, including under any other Association Policy, the Disciplinary Tribunal may amend the charges.
- 4.7.10 The Charged Person shall be asked to plead guilty, not guilty, or guilty of an alternative charge in respect of each charge laid by the Association, including charges amended pursuant to clause 4.7.9.
- 4.7.11 If the Charged Person pleads guilty to the charge(s), the Disciplinary Tribunal chairperson may read a short summary of the facts and admit the reporting Official's evidence (whether written or verbal) without calling additional witnesses to give evidence, unless the Disciplinary Tribunal requires it in their discretion.
- 4.7.12 If the Charged Person pleads not guilty to the charge(s) then the Disciplinary Tribunal chairperson shall ask all witnesses to leave the room and wait to be called to give their evidence.
- 4.7.13 The Association Representative shall then be entitled to present the evidence in support of the charges. The Association Representative may make a short statement explaining the Association's position in relation to the charges. The Association Representative shall proceed to call the reporting Official and any other witnesses of the Association to give their evidence in turn, subject to the approval of the number of witnesses to be called by the Disciplinary Tribunal chairperson in their discretion. The Charged Person may ask questions of the reporting Official and any other witness called by the Association, mediated by the Disciplinary Tribunal chairperson.
- 4.7.14 The Charged Person shall then be entitled to present their defence. The Charged Person may make a short statement explaining their position in relation to the charges. Witnesses may be called by the Charged Person subject to approval of the number of witnesses to be called by the Disciplinary Tribunal chairperson in their discretion. The Association Representative may ask questions of the Charged Person or any other witness called by the Charged Person, mediated by the Disciplinary Tribunal chairperson.
- 4.7.15 The Disciplinary Tribunal is empowered to question any person giving evidence.
- 4.7.16 Each witness will leave the Disciplinary Tribunal hearing after giving evidence, unless otherwise directed by the Disciplinary Tribunal chairperson.
- 4.7.17 Witnesses may be allowed to remain in the hearing room after giving evidence if permitted by the Disciplinary Tribunal in its absolute discretion.

- 4.7.18 Video evidence may be presented by the Charged Person or the Association Representative at the discretion of the Disciplinary Tribunal chairperson.
- 4.7.19 At the conclusion of all of the evidence and submissions, the Disciplinary Tribunal chairperson shall ask the Charged Person, the Association Representative, and all other persons present, to leave the room while the Disciplinary Tribunal considers its findings.
- 4.7.20 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.
- 4.7.21 The Disciplinary Tribunal may direct that the Association investigate a possible Offence by a person other than the Charged Person on the basis of evidence presented during the course of a Disciplinary Tribunal hearing.
- 4.7.22 Where charges have been amended under clause 4.7.9, the Disciplinary Tribunal chairperson shall adjourn the Disciplinary Tribunal hearing unless the Charged Person consents to the hearing proceeding at that time. For the abundance of clarity, this clause 4.7.22 does not apply to the establishment of a lesser charge pursuant to clause 4.7.20.
- 4.7.23 Subject to clause 4.7.24, the decision of the Disciplinary Tribunal shall be given by the Disciplinary Tribunal in the presence of the Charged Person and the Association Representative.
- 4.7.24 The Disciplinary Tribunal may, in its absolute discretion, determine that its decision is reserved to a later date. If the Disciplinary Tribunal's decision is reserved pursuant to this clause, the decision of the Disciplinary Tribunal shall be given in writing to the Association, who will communicate that decision to the Charged Person.
- 4.7.25 If the Disciplinary Tribunal is satisfied that an Offence 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.

4.8 Sentencing

- 4.8.1 Following determination of the charges brought by the Association, any previous convictions against the Charged Person must then be laid before the Disciplinary Tribunal by the Association Representative.
- 4.8.2 The Association Representative will then be given the opportunity to make short submissions as to the penalty the Association considers would be appropriate. For the avoidance of doubt, the Association Representative does not have to make any submissions pursuant to this clause 4.8.2, in their discretion.

- 4.8.3 The Charged Person will then be given the right to make a final statement in relation to previous convictions, other mitigating circumstances, and an appropriate penalty. For the avoidance of doubt, the Charged Person does not have to make any submissions pursuant to this clause 4.8.3, in their discretion.
- 4.8.4 After the Association Representative and Charged Person have been given the opportunity to make submissions as to sentencing, the Disciplinary Tribunal will deliberate in the absence of the Charged Person and the Association Representative to determine the penalty to be imposed.
- 4.8.5 The Disciplinary Tribunal shall then recall the Charged Person and Association Representative to advise of the penalty that has been determined. If a suspension is imposed, the Disciplinary Tribunal will specify which Association Activities a Charged Person is suspended from and the term of suspension from each such Association Activity.
- 4.8.6 The Disciplinary Tribunal may, in its absolute discretion, determine that its sentencing decision is reserved to a later date. If the sentencing decision is reserved pursuant to this clause, any penalty to be imposed shall be advised in writing to the Association, who will communicate that decision to the Charged Person.
- 4.8.7 Only the Association and the Charged Person (which may include the Charged Person's Team Manager, coach, and/or club) will be advised of the outcome of a Disciplinary Tribunal hearing. Nothing in this clause prevents the Association from releasing de-personalised results or statistics of Disciplinary Tribunal hearing outcomes.
- 4.8.8 The Disciplinary Tribunal is not obliged to give oral or written reasons for any decision made by it under these By-Laws, but may do so in its discretion.

4.9 Charged Persons who are Minors

- 4.9.1 Where a Charged Person is a Minor, these By-Laws will apply in their entirety, other than as modified by clause 1.6 and this clause 4.9. In the event of inconsistency between this clause 4.9 and any other clause of these By-Laws, this clause will prevail.
- 4.9.2 For the purpose of this clause 4.9, a reference to a Charged Person is a reference to a Charged Person who is a Minor only.
- 4.9.3 The Charged Person must have an appropriate adult support person present at all times during the course of a Disciplinary Tribunal. The Charged Person and their adult support person will be allowed time to consult privately as reasonably required throughout the course of the hearing.
- 4.9.4 A right for a Charged Person to present evidence or ask questions of witnesses under these By-Laws will be exercised by their parent or guardian.

- 4.9.5 The Disciplinary Tribunal is to consider the desirability of proceeding with sentencing on the papers pursuant to clause 4.6. This consideration does not in any way reduce the discretion of the Disciplinary Tribunal.
- 4.9.6 The Disciplinary Tribunal chairperson in determining whether to deal with a matter by way of the alternative procedure for Low-Range Offences outlined in clause 3.5 is to consider the desirability of dealing with charges against Minor participants as quickly and efficiently as possible and without the need for a Disciplinary Tribunal hearing. This consideration does not in any way reduce the discretion of the Disciplinary Tribunal chairperson.
- 4.9.7 When conducting a Disciplinary Tribunal hearing, the Disciplinary Tribunal is to adapt the process in clauses 4.7 and 4.8 as it deems appropriate with reference to the age of the Charged Person. For the avoidance of doubt, this includes granting leave for the Charged Person to not attend a Disciplinary Tribunal hearing and be represented only by their parent or guardian, in appropriate circumstances.
- 4.9.8 In considering a potential penalty, the Disciplinary Tribunal is to give consideration to the following, in addition to any other considerations it believes appropriate:
- (a) The age of the Charged Person;
 - (b) The desirability of encouraging young people to continue playing and enjoying basketball;
 - (c) The importance of sport in the lives of young people;
 - (d) The desirability of a focus on rehabilitation;
 - (e) Whether a penalty other than a suspension may be appropriate (for example, an apology or completion of a referee course); and
 - (f) The appropriateness of a suspension from specific Association Activities only.

For example, suspension from playing in Competition games but allowing the Charged Person to attend training or spectate Competition games.

5. Offences and Penalties

5.1 Interpretation

- 5.1.1 Clause 5.2 outlines the Offences under these By-Laws and the applicable maximum penalties.
- 5.1.2 Definitions and charging guidelines in relation to each of the Offences listed in clause 5.2 are contained in the Offences Guidelines in Annexure A.

- 5.1.3 Where appropriate, maximum penalties outlined at clause 5.2 are divided into Offences against Officials and Offences against persons other than Officials as indicated.
- 5.1.4 A reference to a maximum period of suspension is a suspension from all Association Activities for the maximum period indicated. The Disciplinary Tribunal may issue a penalty up to the maximum time period and maximum Association Activities indicated.

5.2 Offences

- 5.2.1 Accumulation of eight (8) or more Infringements in a Competition season
- | | | |
|-----|------------------|---------------------|
| (a) | Maximum penalty: | 12 weeks suspension |
|-----|------------------|---------------------|
- 5.2.2 Attempting to kick
- | | | |
|-----|--|---------------------|
| (a) | Maximum penalty: | 12 weeks suspension |
| (b) | Maximum penalty if directed at Official: | 52 weeks suspension |
- 5.2.3 Attempting to strike
- | | | |
|-----|--|---------------------|
| (a) | Maximum penalty: | 12 weeks suspension |
| (b) | Maximum penalty if directed at Official: | 52 weeks suspension |
- 5.2.4 Attempting to trip
- | | | |
|-----|--|---------------------|
| (a) | Maximum penalty: | 12 weeks suspension |
| (b) | Maximum penalty if directed at Official: | 52 weeks suspension |
- 5.2.5 Conduct which brings the game of basketball into disrepute
- | | | |
|-----|------------------|---------------------|
| (a) | Maximum penalty: | 18 weeks suspension |
|-----|------------------|---------------------|
- 5.2.6 Contempt of Tribunal
- | | | |
|-----|------------------|---------------------|
| (a) | Maximum penalty: | 20 weeks suspension |
|-----|------------------|---------------------|
- 5.2.7 Deliberately endangering the health and safety of other participants in Association Activities
- | | | |
|-----|--|------------|
| (a) | Maximum penalty: | No maximum |
| (b) | Maximum penalty if directed at Official: | No maximum |

5.2.8	Disputing the decision(s) of a referee	
	(a) Maximum penalty:	6 weeks suspension
5.2.9	Fighting	
	(a) Maximum penalty:	No maximum
5.2.10	Involvement in melee	
	(a) Maximum penalty:	10 weeks suspension
5.2.11	Kicking	
	(a) Maximum penalty:	No maximum
	(b) Maximum penalty if directed at Official:	No maximum
5.2.12	Obscene gestures	
	(a) Maximum penalty:	10 weeks suspension
	(b) Maximum penalty if directed at Official:	20 weeks suspension
5.2.13	Offensive language	
	(a) Maximum penalty:	10 weeks suspension
	(b) Maximum penalty if directed at Official:	20 weeks suspension
5.2.14	Participating in Association Activities while suspended	
	(a) Maximum penalty:	5 weeks per activity
5.2.15	Putting a person in fear of impending violence	
	(a) Maximum penalty:	52 weeks suspension
	(b) Maximum penalty if directed at Official:	3 years suspension
5.2.16	Refusal to follow reasonable direction/s given by an Official	
	(a) Maximum penalty:	8 weeks suspension
5.2.17	Serious or repeated breach of Code of Conduct	
	(a) Maximum penalty:	8 weeks suspension

- | | | |
|--------|--|---------------------|
| 5.2.18 | Striking | |
| | (a) Maximum penalty: | No maximum |
| | (b) Maximum penalty if directed at Official: | No maximum |
| 5.2.19 | Threatening another person | |
| | (a) Maximum penalty: | 52 weeks suspension |
| | (b) Maximum penalty if directed at Official: | 2 years suspension |
| 5.2.20 | Tripping | |
| | (a) Maximum penalty: | 52 weeks suspension |
| | (b) Maximum penalty if directed at Official: | No maximum |
| 5.2.21 | Tunnelling | |
| | (a) Maximum penalty: | 2 years suspension |
| 5.2.22 | Unsportsmanlike behaviour | |
| | (a) Maximum penalty: | 6 weeks suspension |

5.3 Penalty

- 5.3.1 In the case of a charged team or club, the penalty shall be imposed against the entire team or club as the team or club.
- 5.3.2 A penalty imposed against a team or club pursuant to clause 5.3.1 will not impact participation of individual players Association Activities other than playing for the charged team or club. For the avoidance of doubt, if individual members of the team or club have been separately charged, they may receive individual penalties in addition to those imposed on their team or club.
- 5.3.3 Where:
- (a) Multiple charges against one Charged Person, arising from one incident, are heard together; and
 - (b) A Tribunal finds the Charged Person guilty of more than one Offence;
- it may impose a single penalty of not more than the total of the maximum penalties for each of the Offences for which a Charged Person is found guilty, or it may impose individual penalties for each Offence.

5.3.4 A Charged Person who has been convicted of an Offence and received a suspension or ban under these By-Laws shall not participate in Association Activities as specified by the Disciplinary Tribunal. For the avoidance of doubt, the Disciplinary Tribunal may, in its absolute discretion, suspend a Charged Person from all Association Activities or from specified Association Activities only, or suspend a Charged Person from specified Association Activities for different periods of time.

For example, a Charged Person may be suspended from playing in Competition games for 10 weeks but suspended from training and spectating Competition games for 4 weeks only.

5.3.5 Subject to clause 5.3.6, a suspension ordered by the Disciplinary Tribunal shall commence from the date of the Offence unless otherwise expressly directed by the Disciplinary Tribunal. The Disciplinary Tribunal may, in its discretion, determine that a penalty shall commence at an alternative date determined by the Disciplinary Tribunal.

5.3.6 A suspension under these By-Laws shall not run concurrently with any suspension imposed under the Infringement Policy. A suspension determined by the Disciplinary Tribunal shall commence immediately following the end of any suspension imposed under the Infringement Policy.

5.3.7 Penalties should wherever possible be expressed as Competition Weeks. The Disciplinary Tribunal may, in its discretion, determine that a penalty shall be served by way of calendar weeks.

5.3.8 Where a Disciplinary Tribunal imposes more than one period of suspension, it may impose them to be served concurrently or cumulatively or partly concurrently and partly cumulatively.

5.3.9 A Disciplinary Tribunal may take into account in determining an appropriate penalty:

- (a) A Charged Person's prior convictions provided the penalty does not exceed the maximum penalties assigned to Offences under clause 5.2;
- (b) A guilty plea as evidence of remorse in determining an appropriate penalty;
- (c) The need for specific and general deterrence;
- (d) The impact of the Offence on the victim (if any); and
- (e) Any other matter the Disciplinary Tribunal considers appropriate

5.3.10 The Chief Executive Officer may, in their absolute discretion, determine that a penalty determined by the Disciplinary Tribunal has been served to the satisfaction of the Chief Executive Officer and suspend the balance of a Charged Person's penalty, allowing them to return to Association Activities. It is desirable for the Chief Executive Officer to

consult with the Disciplinary Tribunal chairperson who determined the relevant penalty prior to making a determination under this clause. For the avoidance of doubt, the Chief Executive Officer may suspend the balance of a Charged Person's penalty in respect of specified Association Activities only whilst maintaining the penalty in respect of other Association Activities.

For example, the Chief Executive Officer may determine that a suspension in relation to attendance at training sessions has been served to their satisfaction while leaving a suspension in relation to playing in basketball games in place.

6. Appeals

6.1 Right of Appeal

6.1.1 The only grounds of appeal from a decision of the Disciplinary Tribunal are:

- (a) That significant new or additional evidence has become available, to be determined by the Disciplinary Tribunal chairperson;
- (b) That the penalty imposed by the Disciplinary Tribunal is not in accordance with the provisions of these By-Laws; or
- (c) That the Disciplinary Tribunal failed to follow procedures or requirements of these By-Laws to the significant detriment of the Appellant; or
- (d) That the penalty is manifestly excessive or inadequate.

6.1.2 Only a Charged Person or the Association shall have the right of appeal from a decision of the Disciplinary Tribunal under these By-Laws.

6.2 Notice of Appeal

6.2.1 A Charged Person seeking to appeal a decision of the Disciplinary Tribunal must:

- (a) Submit a written Notice of Appeal to the Association within ten (10) Working Days of notification of the outcome of a Disciplinary Tribunal hearing; and
- (b) Subject to clause 6.2.2, pay the appeal fee to the Association when lodging the Notice of Appeal, which shall be \$500.00 (including GST).

6.2.2 The appeal fee required by clause 6.2.1(b) does not apply in the case of appeals by Minors and may otherwise be waived in the discretion of the Association.

6.2.3 The Association may appeal a decision of the Disciplinary Tribunal by submitting a written Notice of Appeal to the Chief Executive Officer within ten (10) Working Days of notification of the outcome of a Disciplinary Tribunal hearing.

- 6.2.4 A Notice of Appeal submitted pursuant to clause 6.2.1(a) or 6.2.3 must specify the grounds of appeal relied upon and outline the submissions the Charged Person intends to make at any Appeal Tribunal hearing.
- 6.2.5 An Appeal Tribunal shall not be convened until clause 6.2.1 or 6.2.3, as applicable, has been complied with.
- 6.2.6 The Appellant shall be notified within seven (7) Working Days of receipt of the Notice of Appeal and payment of the appeal fee (if applicable) as to the time, date and place of the Appeal Tribunal hearing.

6.3 Appeal Tribunal

- 6.3.1 The Association shall convene an Appeal Tribunal to hear and determine an appeal from a decision of the Disciplinary Tribunal in accordance with these By-Laws.
- 6.3.2 An Appeal Tribunal hearing will be convened consistent with clauses 4.4 and 4.5.

6.4 Membership of the Appeal Tribunal

- 6.4.1 The Association shall maintain a list of Appeal Tribunal panel members who shall be persons considered by the Association to be of suitable experience and skill.
- 6.4.2 The list at clause 6.4.1 shall:
- (a) Contain a sub-list of persons considered to be of suitable experience and skill to act as Appeal Tribunal chairperson;
 - (b) Note known potential conflicts of interest for each person; and
 - (c) Be subject to review every 12 months, at which time persons may be added or removed from the list at clause 6.4.1 and sub-list at 6.4.2(a).
- 6.4.3 Clause 6.4.2(c) does not prevent the addition of suitable persons to the list at clause 6.4.1 at any other time.
- 6.4.4 Persons appointed to the sub-list of chairpersons pursuant to clause 6.4.2(a) shall be eligible to sit on the Appeal Tribunal as either chairperson or tribunal member.
- 6.4.5 Persons appointed pursuant to clause 6.4.1 have an obligation to advise the Association of any new conflicts of interest that arise.
- 6.4.6 The Appeal Tribunal shall be appointed by the Association from the list of persons maintained by the Association pursuant to clause 6.4.1 and shall comprise of the following persons:

- (a) An Appeal Tribunal chairperson who shall be appointed from the sub-list of chairpersons maintained pursuant to clause 6.4.2(a); and
- (b) Two other persons from the list maintained pursuant to clause 6.4.1.

6.4.7 Persons who are additionally on the list of Disciplinary Tribunal panel members maintained pursuant to clause 2.4.1, but who were not involved in the hearing of a matter the subject of an appeal, are eligible to sit on an Appeal Tribunal.

6.5 Serving of Disciplinary Tribunal Penalties

6.5.1 Subject to clause 6.5.2, where the Disciplinary Tribunal imposes a penalty that includes a suspension, the Appellant shall serve that suspension pending the determination of the appeal.

6.5.2 The Appeal Tribunal may, on its own initiative or upon application of any party to the appeal, order a stay of the penalty imposed by the Disciplinary Tribunal pending the determination of the appeal if the Appeal Tribunal considers that there are exceptional and compelling circumstances that would make it harsh and unconscionable to not make such an order.

6.5.3 In determining whether the threshold in clause 6.5.2 is satisfied, the Appeal 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 relevant Competition/s.

6.6 Proceedings of Appeal Tribunal

6.6.1 The Appeal Tribunal may conduct the Appeal in any manner it deems appropriate, provided the Appellant is accorded an opportunity to plead the ground/s of appeal outlined in the Notice of Appeal.

6.6.2 The Association shall forward records of the Disciplinary Tribunal hearing in which the matter the subject of the appeal was heard at first instance to the Appeal Tribunal chairperson at least two (2) days prior to the Appeal Tribunal hearing.

6.6.3 An appeal may only succeed if the Appellant makes out a ground or grounds of appeal under clause 6.1.1.

6.6.4 If a ground of appeal outlined in clause 6.1.1 is not made out, the Appeal Tribunal shall dismiss the appeal.

- 6.6.5 If a ground of appeal contained in clause 6.1.1 is made out, an Appeal Tribunal shall have the power to:
- (a) Uphold the appeal; and
 - (b) If it sees fit, reduce, increase, or otherwise vary any penalty imposed by the Disciplinary Tribunal at first instance, so long as the reduced, increased, or varied penalty is consistent with clause 5 of these By-Laws.
- 6.6.6 The Appeal Tribunal shall advise the Charged Person and Association Representative of the outcome of the appeal.
- 6.6.7 The Appeal Tribunal may, in its absolute discretion, determine that its decision is reserved to a later date. If the decision of the Appeal Tribunal is reserved pursuant to this clause, the decision shall be given in writing to the Association, who will communicate that decision to the Charged Person.
- 6.6.8 Only the Association and the Charged Person (which may include the Charged Person's Team Manager, coach, and/or club) will be advised of the outcome of an Appeal Tribunal hearing. Nothing in this clause prevents the Association from releasing de-personalised results or statistics of Appeal Tribunal hearing outcomes.
- 6.6.9 The Appeal Tribunal is not obliged to give oral or written reasons for any decision made by it under these By-Laws, but may do so in its discretion.

6.7 Refund of Appeal Fee

- 6.7.1 The Appeal Tribunal shall have the discretion to refund the appeal fee payable under clause 6.2.1(b).

6.8 Costs

- 6.8.1 Each party to an Appeal Tribunal hearing shall bear their own costs.

6.9 Single Right of Appeal

- 6.9.1 There is only one right of appeal following a decision of the Disciplinary Tribunal.
- 6.9.2 A decision of the Appeal Tribunal is final and binding on all parties.

6.10 Exhaust Internal Appeal

- 6.10.1 A person shall exercise their right of appeal under these By-Laws 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.

7. Miscellaneous

7.1 Relationship with criminal matters

7.1.1 If following a Report under these By-Laws it becomes known that criminal charges have been brought or that the relevant incident is, or may become, the subject of police investigation, the Association, the Disciplinary Tribunal, or the Appeal Tribunal (as relevant) may determine 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.

7.1.2 Where a determination is made under clause 7.1.1, the Reported Person or Charged Person will not be allowed to participate in any Association Activities until the Report has been heard and determined by the Disciplinary Tribunal or the Appeal Tribunal, as appropriate.

7.2 Recognition of Penalties across Associations

7.2.1 The Association acknowledges and agrees to recognise and enforce penalties handed down against persons, teams, or clubs by the disciplinary tribunals of all other state and territory basketball associations, leagues and competitions which are affiliated with Basketball Australia or any other basketball league with which the Association has a reciprocity agreement.

Annexures

Annexure A – Offences Guidelines

Accumulation of eight (8) or more Infringements in a Competition season	A player or coach should be referred to the Disciplinary Tribunal on receipt of their eighth Infringement received pursuant to the Infringement Policy in a single Competition season, and on receipt of every Infringement received thereafter in the same Competition season.
Conduct which brings the game of basketball into disrepute	Any conduct which a reasonable person would believe reflects badly on the game of basketball and/or the Association, and may include behaviour the subject of any other Offence. Accordingly, the Association should consider this charge whenever laying other charges and the Disciplinary Tribunal should consider this as a lesser alternative charge if other charges are not proved. This Offence should be given particular consideration where there are Minors in the vicinity of the conduct the subject of another Offence.
Contempt of Tribunal	Any conduct that occurs prior to, during, or following a Tribunal hearing, which is directed at or pertaining to the Tribunal, Tribunal members, or the determination or orders of the Tribunal, which a reasonable person would consider to be objectionable or demonstrating a lack of respect for the Tribunal. It may include abusive or disruptive behaviour during the course of a Tribunal hearing or failure to follow a direction, order, or determination of a Tribunal. Failure of a Team Manager to comply with the requirements of clause 1.5 of these By-Laws may also be captured by this Offence as such failure frustrates, and demonstrates a lack of respect for, the processes of the Tribunal.
Deliberately endangering health or safety of other participants in Association Activities	This Offence is designed to capture behaviour where body fluids are deliberately spread to another person. It includes but is not limited to smearing blood on another person, spitting on or towards another person, or putting body fluids in such a place that it is likely to come into contact with another person such as on the ball or

basketball court. The behaviour must be deliberate for the Offence to be made out.

Disputing the decision(s) of a referee

The Offence itself is reasonably self-explanatory.

There are acceptable methods of disputing the decision(s) of a referee on the court. Teams should ensure that there is a nominated court captain or coach for each game and that the referees are aware who this is. Only the court captain or the coach (not both) may approach a referee to question a decision. This must be done at an appropriate time such as during a time-out, half time or full time and must be done in an appropriate manner, without anger and expressed in the nature of a genuine question. Any approach of a referee must occur in accordance with the Behaviour Management Framework, if applicable.

If a person other than the court captain or coach, including a Spectator, questions a decision of a referee, this may be an Offence. Similarly, if the court captain or coach does so in an inappropriate manner, this may be an Offence.

Fighting

A person should be charged with fighting if they are involved in an incident in which more than one person is striking or kicking another person or persons, whether in a single, simultaneous, or immediately consecutive incidents.

In the event of a fight, consideration should also be given to other charges which could be brought against the individuals involved, including striking, tripping, kicking etc.

The main difference between a charge of fighting and a charge of involvement in melee is whether a person has made contact with another individual. If no contact has been made, a charge of involvement in melee should be considered.

Involvement in melee

If a person involves themselves in a fight in any way, then that person should be charged with involvement in melee. This includes remaining in the vicinity of a fight that is occurring or intentionally entering the vicinity of a fight that is occurring. A person does not

need to have made contact with any other person in order to be found guilty of involvement in melee.

The key main difference between a charge of involvement in melee and a charge of fighting is whether a person has made contact with another individual. If contact has been made, a charge of fighting should be considered.

Kicking (including attempting to kick)

This is reasonably self-explanatory.

For a finding of guilty of this Offence, the incident should be viewed as intentional or reckless. To be considered reckless, the movement itself must be intentional, but may be reckless to the consequence of making contact with another person. Accidental or incidental contact, such as occurs when scrambling for the ball or contesting position will not be kicking for the purpose of these By-Laws.

However, if the kick resulted from overzealous offence or defence, a charge may be made out if the necessary element of intention or recklessness is satisfied.

Obscene gestures

Hand or body action of an obscene nature. This includes, but is not limited to, the raising of one or two fingers or a fist, in what are common gestures aimed at mimicking swearing in a physical way. The Association should consider whether a charge under the Member Protection Policy is appropriate.

Offensive language

Includes abusive, insulting, or obscene language.

Language which is beyond normal socially accepted behaviour would be caught by this Offence.

If the language includes personal, racist, sexist, or sexual language, the Association should consider whether a charge under the Member Protection Policy is more appropriate.

Participating in Association Activities whilst suspended

This is self-explanatory. A person who has been suspended from all or particular Association Activities, whether pursuant to these By-Laws, the Infringement Policy, or otherwise, must not participate in those activities until their suspension has been served.

If a person is unsure of whether a particular behaviour or activity will be a breach of their suspension, they should obtain confirmation from the Hearings Officer prior to engaging in the behaviour or activity.

A charge of contempt of Tribunal may also be appropriate.

Putting a person in fear of impending violence

This Offence requires something more than a mere threat, which is covered by a separate Offence. There may be a threat accompanied by some overt gesture or aggressive behaviour leaving a person in genuine fear of an impending physical confrontation. If a threat is part of the behaviour leading to the fear, the Association should consider laying that as a separate charge.

The Association should additionally consider whether the relevant behaviour is more appropriately dealt with under the Member Protection Policy.

Refusal to follow reasonable direction/s given by an Official

The Offence itself is reasonably self-explanatory.

Reasonable directions given by an Official must be followed to ensure the safety and enjoyment of all persons participating in Association Activities. This includes a direction to leave the Stadium for any reason.

Objection to a direction given by an Official may be raised only by the court captain or the coach (not both). This must be done at an appropriate time and in an appropriate manner, without anger and expressed in the nature of a genuine question. Any approach of an Official must occur in accordance with the Behaviour Management Framework, if applicable.

Any reasonable direction given by an Official must be followed unless and until that direction is revoked by the Official.

Serious or repeated breach of the Code of Conduct The Code of Conduct covers administrators, Officials, Spectators, parents, players, and coaches and provides a guide as to what is expected from persons involved in Association Activities. This Offence covers any serious or repeated breach of an expectation listed in the Code of Conduct. It is very important for all participants in Association Activities to be familiar with the Code of Conduct. Unfamiliarity with the Code of Conduct will not be accepted as a defence to a charge of this Offence.

Striking (including attempting to strike) Striking is hitting another person with a part of the body (not captured by a more specific Offence such as kicking) or an object, including the ball. This also includes hitting another person with an object as a projectile. Striking includes, but is not limited to, contact with one or two hands, a fist, an elbow, headbutting, chesting, grabbing, pushing, or shoving. For a finding of guilty of this Offence, the incident should be viewed as intentional or reckless. To be considered reckless, the movement itself must be intentional, but may be reckless to the consequence of striking. Accidental or incidental contact, such as occurs when scrambling for the ball or contesting position will not be striking for the purpose of these By-Laws. However, if the strike resulted from overzealous offence or defence, this Offence may be made out if the necessary element of intention or recklessness is satisfied.

Threatening This Offence is designed to protect all persons involved in Association Activities from threatening behaviour. The threat does not need to be verbal. This Offence may include a threatening gesture or other threatening behaviour. The Association should consider whether such behaviour is more appropriately dealt with under the Member Protection Policy. If the threat puts the other person in fear of impending violence, that charge should also be considered.

Tripping (including attempting to trip)

This is reasonably self-explanatory.

For a finding of guilty of this Offence, the incident should be viewed as intentional or reckless. To be considered reckless, the movement itself must be intentional, but may be reckless to the consequence of tripping. Incidents may occur during a game which constitute tripping, but which are accidental or incidental. However, if the tripping resulted from overzealous offence or defence, this Offence may be made out if the necessary element of intention or recklessness is satisfied.

Tunnelling (moving under an airborne player)

Tunnelling is knocking, pushing, or pulling the legs of an airborne person, causing the person to fall to the floor. For a charge of tunnelling, the action should be considered to have been more than likely done deliberately. This action is one of considerable physical danger likely to cause serious injury.

Unsportsmanlike behaviour

Any behaviour which a reasonable person would consider unsporting. This Offence could reasonably include all of the other Offences listed in these By-Laws. However, other unacceptable behaviour not specifically captured by another Offence, such as sledging or taunting an opposition player or Spectator, or throwing a tantrum at the decision of an Official or at the game result, may also constitute unsportsmanlike behaviour.