

APPEALS TRIBUNAL FORMAT & PROCEDURE

TRIBUNAL BODIES AND TRIBUNALS

All members elected to any such bodies must at all times observe a code of ethics that will uphold the name and principles of the Association. Any such body elected will only act at the discretion of the BV Board.

1. There is a legal requirement that sports administrators must act fairly and impartially to persons (Members) charged with on and off court offences.
2. Courts can now review decisions made by sporting tribunals and no longer treat them as domestic tribunals beyond the reach of the Law. Courts are encroaching more and more into the domain of sporting tribunals, particularly if it is alleged that a fair hearing or natural justice has been denied or any hearing can have adverse effects on the livelihood, Career prospects and reputation of a person (Member).
3. Members acting on any type of tribunal or investigatory body must make sure they are clear of any bias, have no financial or other relationship to either of the parties or the issues involved and be clear that they can gain no advantage in the outcome of the hearing.
4. The Tribunal should make sure that it does not make statements of an inflammatory nature or which may indicate a pre-judgment by the Tribunal as to the outcome of the hearing.
5. Procedural fairness must be upheld at all times and the following proceedings must be observed:-
 - (i) NOTICE – correct notice of any hearing is as laid down.
 - (ii) ORAL proceedings – Natural Justice does not require proceedings to be oral in all cases. This matter will be at the discretion of Members of the Tribunal but a refusal of an oral hearing could be unfair.
 - (iii) PUBLIC OR PRIVATE HEARING – Tribunal hearings should generally be held in Public (open to Members) – but there are no fundamental rules that require a public hearing. Openness of any hearing is very desirable to maintain confidence among members in the decision making process.
 - (iv) LEGAL REPRESENTATION. – At BV hearings this is not permitted (lawyers are criticized for subverting tribunals because of their formalism, cost and delaying tactics).
 - (v) NON LEGAL REPRESENTATION – This is permitted at BV hearings. Agents, Club & Team officials and appointed non-lawyers are given the right to appear on behalf of any person, team or club charged with an offence.
6. **HEARING PROCEDURE** – the basic rule is that provided a party is given an adequate opportunity to present their own case and to controvert the case which they have to meet, the procedure will be at the discretion of the tribunal.

PROCEDURES TO BE ADOPTED PRIOR TO ANY HEARING

of any BV investigatory committee or officially appointed Tribunal.

1. Complaints, charges, reports and appeals will not be entertained unless they are lodged in the proper manner, i.e.
 - in writing to the Association secretary
 - accompanied by the appropriate lodgement fee.
 - (Single member lodgement fee - \$20.00)
 - (Club and Team lodgement fee - \$50.00)Lodgement fees will be refunded at the discretion of the Tribunal.
All matters lodged will first be acted upon by the BV Board for the appropriate action to be taken.
2. All parties must be notified of the Time, Date and Venue of any hearing, giving at least 7 days notice (including any witnesses that are to be called.)
3. A copy of the hearing matter must be forwarded to the Person, Club or Team at least 3 days prior to the hearing date.
4. No hearing may proceed unless a minimum of three members of the elected hearing committee / Tribunal are present. One member must be elected to act as scribe and be responsible for taking the minutes of the hearing and producing the official report.
5. All members of any elected tribunal panel must at the outset of any hearing declare if they have a direct financial or proprietary interest in the matter before them or who may have the appearance of likelihood of bias.
6. Tribunal Members must make themselves aware of all the B.V procedures and protocol in dealing with investigations and hearings. Failure to grant an adjournment to remedy any inadequacies will be treated as a breach of the rules of natural justice.

INVESTIGATORY COMMITTEE AND TRIBUNAL PROTOCOL

1. Investigatory committees and tribunals may impose such penalties by way of disqualification, suspension, fine or otherwise as it may think fit, on any person (Member), Club or Team concerned in any complaint, charge, report or matter referred to it. Any actions taken against the accused must be clearly defined as applying to the Rules of the Association or matters covered by BA National regulations.
2. Decisions from any officially appointed hearing may be given at the conclusion of the hearing or it may be deferred to a date to be decided (must be within 7 days of the conclusion of the hearing).
3. All hearing reports (in writing) shall be forwarded to the Association Secretary by the chairman or appointed person of the hearing within 3 days so that the Association may advise the parties concerned in writing of the outcome of the hearing within 7 days.
4. The Secretary shall table all hearing reports at the first meeting of the Association Board.

HEARING FORMAT

1. The chairperson shall impress on all principals and witnesses the necessity of observing the convention of the hearing they are a party to and any person giving evidence of an untruthful nature will be reported to the appropriate body. In his opening address the chairman will outline any special conditions or protocol to be observed. (one may be that the Tribunal has agreed to an appointed representative acting for one of the principal parties).
2. The person appointed to act as scribe (minute taker) shall read out all the charges and relevant data to be considered.
3. The chairperson shall ask the accused party if they admit to the charges as read or deny them.
4. If the accused admits to the charges as read, the following procedure must be adopted:-
 - a. The informant or scribe will give particulars of the incident.
 - b. The reported party (accused) will have the right to clarify any point in the evidence provided.
 - c. The reported person shall be allowed to make a statement if they so desire.
 - d. The informant or scribe shall have the right to clarify any point in the evidence of the reported person.
 - e. All persons shall retire and the committee will arrive at a decision or will defer it to a date to be set.
5. If the accused (reported party) denies the charge as read, the following procedure must be adopted:-
 - a. The informant or scribe will give particulars of the incident before the tribunal.
 - b. The informant or scribe shall have the right to call any witnesses in support of the incident before the tribunal.
 - c. The accused (reported party) shall have the right to question the informant, scribe and or witnesses.
 - d. The accused (reported party) may make a statement and shall have the right to call witnesses in support of his statement.
 - e. The informant or scribe shall have the right to question the accused and all witnesses.
 - f. At the conclusion, all persons shall retire and the committee shall arrive at a decision or will defer it to a date to be set.
6. All decisions handed down shall be confirmed in writing by the Association Secretary within the time frame set down in the hearings format. Decisions handed down at the conclusion of the hearing shall be done in the presence of both the informant and the accused (reported party) or appointed representatives.
7. Witnesses may not leave the room after having given evidence until the conclusion of the hearing of all evidence. A witness may not ask a question or interrupt proceedings at any time. If witnesses have to be re-called they shall only be questioned in the presence of the informant and the reported party.