



DISCIPLINARY TRIBUNAL

By-law

Of

THE POLOCROSSE ASSOCIATION OF AUSTRALIA INC

Date adopted by The Polocrosse Association of Australia In

Board 18 August 2005.

Polocrosse Association of Australia Inc

Disciplinary Tribunals By-law

Preamble

This Disciplinary Tribunal By-law (“the By-law”) has been prepared to assist Polocrosse Association of Australia Inc (“PAA”) members in dealing with offences and disputes which may arise in the conduct of polocrosse programs, competitions and events throughout Australia.

The By-law is designed to be adopted by PAA in accordance with the procedure for adopting by-laws as set out in their constitution. The By-law has been developed in consideration of the principles of procedural fairness.

The By-law is overridden by the PAA Constitution to the extent of any inconsistency.

Part 1 Jurisdiction and Establishment of Tribunals

1. Adoption of By-law

- 1.1 This By-law is made under Article 37 of the Polocrosse Association of Australia Inc (“Association”) constitution (“Constitution”) and comes into operation on 18 August 2005 and is binding on all members of the Association and other persons or organisations which submit themselves to the jurisdiction of the Association.
- 1.2 Any and all by-laws of the Association previously made concerning Tribunals are expressly rescinded.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. Authority of Tribunal

- 2.1 The Association has the power under its constitution to hear and determine charges made against persons, state or sub-associations (“Affiliated Association”), teams or clubs arising from or related to polocrosse activities, matches and competitions conducted by:
- (a) the Association itself; or
 - (b) its Affiliated Associations
- (referred to in this By-law as "Organising Bodies").
- 2.2 The Association and each Affiliated Association has the right to delegate the power of hearing and determining charges to the Association or Affiliated Association tribunal (“Tribunal”), as constituted under Article 34 of the Constitution and in accordance with the provisions of this By-law.
- 2.3 The Tribunal shall have power to suspend, disqualify, fine or otherwise deal with any person involved with polocrosse and/or an Organising Body (including, but not limited to players, coaches, teams, clubs, officials or spectators) in accordance with this By-law, regarding any incident arising from an activity conducted by an Organising Body. 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 polocrosse activity of any sort.
- 2.4 The Tribunal may also deal with any other disciplinary matter delegated to it for adjudication by the relevant Organising Body.
- 2.5 The Tribunal must at all times act independently and impartially in carrying out its duties in accordance with this By-law.

3. Membership of Tribunal

- 3.1 The Tribunal panel shall be appointed by the relevant Organising Body and shall comprise the following persons:
- (a) a 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 4.1; and
 - (b) no fewer than three Tribunal members.

- 3.2 Where a Tribunal chairperson or Tribunal member resigns or is dismissed such that a vacancy exists on the Tribunal, the management committee of the relevant Organising Body shall act to fill such vacancy by appointing a replacement for that position as soon as is reasonably practical to do so.
- 3.3 Wherever possible, matters referred to the Tribunal for determination shall be heard by three members of the Tribunal as determined by the Tribunal chairperson, however a quorum of the Tribunal shall be two (2) members.
- 3.4 No Tribunal decision shall be invalidated by any irregularity in the appointment of a Tribunal member.

4. Responsibilities of Tribunal chairperson

- 4.1 Without limiting the duties of the Tribunal chairperson as set out under the various clauses of this By-law, a person appointed to the position of Tribunal chairperson shall have the following responsibilities:
- (a) to ensure accurate records are kept of all of the Tribunal's proceedings and decisions and to make such records available to the Organising Body upon request;
 - (b) to communicate to the Organising Body the results of hearings of the Tribunal;
 - (c) to chair hearings of the Tribunal or to ensure that such task is delegated to a member of the Tribunal; and
 - (d) to raise with any proposed Tribunal member any potential or possible conflict of interest which may arise from time to time.

5. Records of Tribunal Proceedings

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

6. Convening Tribunal hearings

- 6.1 The Tribunal will be convened to hear charges arising from a match as soon as is practicable.
- 6.2 Notification of persons charged under this By-law shall include details of the day, time and place of the 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 2 Reports and Notifications

7. Reports by officials

- 7.1 Any Organising Body official who has been so empowered by the relevant Organising Body, 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.

8. Investigations

- 8.1 Where an Organising Body, an official of an Organising Body or other person referred to in Article 34(b) of the Constitution believes an offence may have been committed or the Organising Body receives a letter of complaint, but no report has been made, the Organising Body 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 Organising Body 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 one week of the date on which the alleged offence took place.
- 8.2 Letters of complaint to the Organising Body must comply with Article 34(a)(iii) of the Constitution.

9. Duties of officials making a report

- 9.1 Any official who makes a report under clauses 7.1 or 8.1 shall ensure that the charged person, team, club or Affiliated Association 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 48 hours), after the report is made.
- 9.2 An official who makes a report under clauses 7.1 or 8.1 shall enter the details of the alleged offence(s) on the report form issued by the Organising Body for that purpose as soon as possible (but in any case within 48 hours) after the match or other activity, noting all the particulars in connection with the report so that a clear account can be given to the Tribunal when the report is to be dealt with.
- 9.3 An official who makes a report under clauses 7.1 or 8.1 shall lodge the completed 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 48 hours) after the report is made.

10. Duties of Organising Body receiving a report

- 10.1 The Organising Body 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 10.1 may hold another position within the Organising Body.
- 10.2 The Organising Body shall require each team or club entered in competitions, and every Affiliated Association, to designate the contact details of the team secretary, manager or other official ("Nominated Official"), to be used for notification of reports.

- 10.3 The Organising Body shall maintain lists of names, addresses, telephone numbers and email addresses (if applicable) of all Nominated Officials registered with the Organising Body.
- 10.4 For the purpose of this clause 10, a reference to a charged person includes a reference to the representative(s) of a charged team, club or Affiliated Association.
- 10.5 The Hearings Officer designated under clause 10.1 shall have the following duties:
- (a) to recommend to the Organising Body the venue, time and day of the week to be set aside for hearings of the Tribunal;
 - (b) to convene hearings of the Tribunal to deal with matters referred to it, not earlier than 21 days after the making of a report under clauses 8 and 9;
 - (c) to ensure that three members of the Tribunal are present to deal with any matters referred to it for determination;
 - (d) to receive and refer to the Tribunal all material relating to any reports made under this By-law;
 - (e) to ensure the availability of all forms required to be used in any proceedings of the Tribunal;
 - (f) to notify the charged person through their Nominated Official, of the date, time and place of the Tribunal hearing;
 - (g) if the notification under clause 10.5(f) is made by telephone, the officer giving the notification shall immediately make a written record of the time and details of the telephone conversation;
 - (h) 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 an adult (not being a legal practitioner) with them at the Tribunal hearing, as an adviser, and that the adviser shall be allowed to ask questions;
 - (i) to provide the charged person with a copy of the report form. In carrying out this function the Organising Body shall:
 - hand a copy of the report form to the charged person prior to the charged person leaving the match/activity venue following the activity out of which the report was made; or
 - send a copy of the report form to the charged person at the address of the Nominated Official as collected under clause 10.2 above, as soon as possible after the date of the report being lodged by the official with the Organising Body; or
 - make a copy of the report form available for collection by the charged person and notify the Nominated Official of the requirement to effect such collection.
 - (j) to notify the reporting official and any other officials or witnesses required to be in attendance, of the date, time and place of the 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 Tribunal hearing, as an adviser, and that the adviser shall be allowed to ask questions;

- (k) to notify each of the above persons of the consequences of non-attendance at a Tribunal hearing and the procedure to be followed in each case;
- (l) to notify the chairperson (or his/her delegate) of the Tribunal that a report has been received, and to deliver to the chairperson (or his/her delegate) of the Tribunal the report form and any other information relevant to the case; and
- (m) to ensure sufficient report forms are available to officials at competitions conducted by the Organising Body and that officials are aware of the availability of such forms.

11. Period between report & Tribunal hearing

- 11.1 A charged person, team or club shall be entitled to participate in polocrosse activities conducted by the Organising Body until such time as the Tribunal has heard and determined the report.

Part 3 Conduct of Tribunal hearing

12. Attendance at Tribunal hearings

- 12.1 The following persons shall be required to attend a Tribunal hearing conducted under this By-law:
- (a) the charged person;
 - (b) the president, secretary or other delegate representing a charged team, club or Affiliated Association;
 - (c) the reporting official(s);
 - (d) any other person involved in the report;
 - (e) witnesses as indicated by the reporting official or charged person to be notified by the officer designated under clause 10.1; and
 - (f) any witness required by the Tribunal.
- 12.2 The following persons shall be entitled to attend a Tribunal hearing as appropriate:
- (a) any player of a charged team or club;
 - (b) witnesses called to give evidence by a charged person, team, club or Affiliated Association;
 - (c) witnesses called to give evidence by the reporting official(s); and
 - (d) any adult adviser to a charged person or reporting official.
- 12.3 The following persons shall be entitled to attend a Tribunal hearing with the permission of the Tribunal:
- (a) Organising Body representatives;
 - (b) approved representatives of the media; and
 - (c) any other person.
- 12.4 Legal representatives or advocates are not permitted to appear before the Tribunal unless in exceptional circumstances and where leave to appear has been granted by the Tribunal chairperson.

13. Non-attendance at Tribunal hearings

- 13.1 If any charged person (or representative of a charged team, club or Affiliated Association) fails to attend a Tribunal hearing without reasonable cause, the hearing may proceed and a determination made by the Tribunal in the absence of the charged person, team, club or Affiliated Association, provided that the Tribunal is satisfied that all notification procedures under this By-law have been carried out.
- 13.2 A charged person, team, club, Affiliated Association or reporting official may apply to the Hearings Officer to have a 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, club or Affiliated Association. This will be at the discretion of the Hearings Officer (or the Tribunal if already convened) and if the application is granted a new date shall be fixed.

- 13.3 A charged person who is unable to attend a Tribunal hearing shall be entitled to appoint a representative (who is not a legal practitioner) to appear in his/her place if that charged person intends not contesting the charge, subject to the Tribunal receiving a letter of consent from the charged person containing the person's intention to not contest the charges contained in the report and any statement that person would have given to the Tribunal had he or she attended the hearing.
- 13.4 If any witness fails to attend a Tribunal hearing, the hearing may continue in their absence.
- 13.5 If a reporting official fails to attend a Tribunal hearing without reasonable cause, the hearing may proceed and a determination made by the Tribunal in the absence of the reporting official, provided that the Tribunal is satisfied that all notification procedures under this By-law have been carried out.
- 13.6 If a reporting official or Organising Body official inadvertently fails to carry out any duties listed in clause 10, the charges shall not be dismissed for this reason, but may be adjourned to allow the omission to be rectified. Where appropriate, the Tribunal shall take the failure into account and make suitable allowance.

14. Tribunal hearing conducted via teleconference

- 14.1 A charged person, team, club or Affiliated Association may apply to the Tribunal chairperson to have a 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, club or Affiliated Association. In all other respects the procedure of the Tribunal hearing shall be conducted in accordance with this By-law.

15. Procedures of the Tribunal

- 15.1 For the purpose of this clause 15, a reference to a charged person includes a reference to the representative(s) of a charged team, club or Affiliated Association.
- 15.2 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.
- 15.3 At the commencement of a hearing, the chairperson shall identify the members of the Tribunal and determine whether the charged person is present to answer the charge(s) set out in the report.
- 15.4 The charged person shall be asked whether he/she accepts the members of the 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 Tribunal to be valid, then the Tribunal member shall stand down for the duration of the hearing.
- 15.5 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 Tribunal considers its findings and determines an appropriate penalty (if any).

- 15.6 The chairperson shall advise all those persons present of the method of recording the hearing.
- 15.7 The charge(s) as contained in the report shall be read out in the presence of all persons eligible to be present.
- 15.8 The charged person shall be asked whether the charge is understood and the reporting official asked whether the charge correctly represents their intention.
- 15.9 The charged person shall be asked to whether or not they intend to contest the charge(s).
- 15.10 If the charged person does not contest 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 Tribunal requires it.
- 15.11 If the charged person contests the charge(s), 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.
- 15.12 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 Tribunal in its discretion. The charged person or his/her adviser may ask questions of the reporting official or any witness called.
- 15.13 Each witness shall be entitled to leave the Tribunal hearing after giving evidence unless otherwise directed by the Tribunal. Witnesses shall be entitled to remain in the hearing room after giving evidence with the permission of the Tribunal.
- 15.14 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 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.
- 15.15 The Tribunal is empowered to question any person giving evidence.
- 15.16 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.
- 15.17 Video evidence may be presented in the discretion of the Tribunal.
- 15.18 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 Tribunal considers its findings.
- 15.19 If the Tribunal is not satisfied that the particular charge has been proved, but is satisfied that a lesser charge has been established, then the Tribunal may find such lesser charge established and shall apply the penalty applicable to the lesser charge.
- 15.20 Subject to clause 15.21, where it appears to the Tribunal that the reporting official has made an error in laying the wrong charge or omitted charges that should have been laid, the Tribunal may amend the charge(s) and proceed to make a finding.

Further, the 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.

- 15.21 Where charges have been amended under clause 15.20, the Tribunal shall adjourn the hearing unless the charged person consents to it proceeding at that time.
- 15.22 The decision of the Tribunal shall be given in the presence of all, by the Tribunal chairperson.
- 15.23 Subject to clause 15.19, if the Tribunal is satisfied that a charge has been established on the balance of probabilities (ie more probable than not) it shall find the charge proved. Otherwise the charge shall be dismissed.
- 15.24 If a charge has been found proven by the Tribunal the charged person shall be informed of the finding. Any previous convictions against the charged person should then be laid before the Tribunal.
- 15.25 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.
- 15.26 The Tribunal shall then determine the penalty to be imposed (if any). The Tribunal shall notify the Association, Organising Body, the charged person and reporting official of the penalty within seven (7) days.
- 15.27 The Tribunal is not obliged to give oral or written reasons for any decision made by it under this By-law.
- 15.28 A charged person who has been convicted of an offence and received a penalty under this By-law shall not play, coach, referee or otherwise take part in polocrosse activities as directed by the Tribunal until the penalty has been served to the satisfaction of the Organising Body.

Part 4 Offences and Penalties

16. Guidelines

- 16.1 The standard offences to which this By-Law will apply are set out in the Constitution, particularly Article 34, and other PAA policy documents.
- 16.2 Where charges arising from one particular incident are heard together and the Tribunal finds charges against the person or team proven for 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.
- 16.3 A penalty handed down under this clause shall commence from the date of the Tribunal finding unless otherwise expressly directed by the Tribunal. Penalties should wherever possible be expressed to be calendar weeks as opposed to number of matches. The Tribunal has a discretion to rule that a penalty will be suspended for the number of weeks which fall between seasons or during any season break.
- 16.4 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.
- 16.5 Persons on a first offence shall have this taken into account when assessing the penalty to be handed down.
- 16.6 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 16.3.

Part 5 Appeals

17. Right of Appeal

- 17.1 For the purpose of this clause 18, a reference to an Appellant or a charged person includes a reference to the representative(s) of a charged team, club or Affiliated Association.
- 17.2 There shall be appeals as of right in accordance with Article 34(f) of the Constitution, however there shall be no appeal from a decision of the Tribunal to the Association unless the person seeking to appeal ("Appellant") satisfies the Appeals Officer of the Association, or their nominee, in that person's sole discretion, that one or more of the following grounds of appeal is satisfied:
- (a) that significant new or additional evidence has become available;
 - (b) that the penalty imposed by the Tribunal is not in accordance with the provisions of this By-law; or
 - (c) that the Tribunal failed to follow procedures or requirements of this By-law to the significant detriment of the person seeking the appeal.
- 17.3 Only a charged person shall have the right of appeal from a decision of the Tribunal under this By-law.
- 17.4 The Appeals Officer shall be the Secretary of the Association.

18. Notice of Appeal

- 18.1 A person seeking to appeal a decision of the Tribunal must:
- (a) lodge a notice stating full details of charges and results thereof and stating in full the grounds of appeal with the Appeals Officer within fourteen (14) days of the notification of a determination of a Tribunal hearing ("Notice of Appeal"); and
 - (b) pay the appeal fee to the Appeals Officer when lodging the Notice of Appeal, which shall be \$550.00 (including GST) (the appeal fee does not apply in the case of appeals by minors and may be waived in the discretion of the Appeals Officer).
- 18.2 An Appellant shall be notified at least three (3) days prior to any Appeal hearing date as to whether an appeal hearing is to be granted and the time, date and place of the Appeal hearing, in the event that it is granted.

19. Appeal Tribunal

- 19.1 If an appeal hearing is granted, the Appeals Officer shall convene an Appeal Tribunal to hear and determine the appeal in accordance with this By-law and within 28 days of receipt of a Notice of Appeal by the Appeals Officer.
- 19.2 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 polocrosse.

19.3 Tribunal members who were not involved in the hearing of a matter the subject of an appeal shall be eligible to sit on an Appeal Tribunal.

20. Serving of Tribunal Penalties

20.1 Subject to clause 21.2(b), where the Tribunal imposes a penalty that prevents the Appellant from participating in an activity, the appellant shall serve that penalty pending the determination of the appeal.

20.2 Subject to clause 21.3, the Appeal Tribunal may of its own motion or upon application of any party to the appeal, order:

- (a) that an appeal be adjourned; or
- (b) a stay of the execution of the penalty imposed by the Tribunal pending the determination of the appeal.

20.3 The Appeal Tribunal shall make an order under clause 21.2(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.

21. Proceedings of Appeal Tribunal

21.1 The Appeal Tribunal and persons appearing before it are bound by the same procedures under this By-law as if the Appeal Tribunal was a Tribunal hearing a matter at first instance.

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

21.3 The Appeal Tribunal shall conduct the hearing as a complete re-hearing.

21.4 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 4 of this By-law; or
- (d) reduce, increase or otherwise vary any penalty imposed by the initial hearings Tribunal

in such manner as it thinks fit.

21.5 The Appeal Tribunal shall give written reasons for a decision under clause 22.4.

21.6 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 within seven (7) days. The chairperson shall also notify the Appeals Officer of the decision of the Appeal Tribunal.

22. Refund of Appeal Fee

22.1 The Appeal Tribunal shall have the discretion to refund the appeal fee payable under clause 19.1(b).

23. Costs

23.1 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.

24. Single Right of Appeal

24.1 There is only one right of appeal following the decision of the initial 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.

25. Exhaust Internal Appeal

25.1 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

26. Relationship with criminal matters

- 26.1 If during a Tribunal hearing an 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 hearing or investigation, the Tribunal and / or the Organising Body 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.
- 26.2 In making a determination under clause 27.1, the Tribunal and / or Organising Body shall have regard to the need to ensure the ongoing safety of players, referees and other persons involved in the Organising Body.

27. Natural Justice

- 27.1 To the extent permitted by law, to the extent that the principles of natural justice are not included in the provisions set out in this By-law they are expressly excluded.

28. Recognition of Penalties across Associations

- 28.1 Each Organising Body 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, polocrosse associations, leagues and competitions which are affiliated with PAA and or its Affiliated Associations.