

This is a by- law outlining how the complaint and disciplinary and appeal provisions of the PAA apply.

### **Jurisdiction and Establishment of Disciplinary Tribunal**

1. A Disciplinary Tribunal is established.
2. The provisions of this by- law supersede all conditions clauses and provisions of the by- laws and codes of conduct in relation to the conduct of proceedings by a Disciplinary Tribunal.
3. The main objectives of the Tribunal in dealing with matters within its jurisdiction are:
  - (a) to achieve the resolution of questions, complaints or disputes, and make or review decisions, fairly and according to the substantial merits of the case; and
  - (b) to act as speedily and with as little formality and technicality as is practicable, and minimise the costs to parties; and
  - (c) to make appropriate use of the knowledge and experience of Tribunal members.
4. Proceedings of the Tribunal shall be inquisitorial and not adversarial and the Tribunal is not under a duty to make its own inquiries.
5. For the purpose of this by law a reference to a charged person includes a reference to the representative(s) of a charged team, club or Affiliated Association and a reference to a reporting official means the person or entity that makes the complaint.
6. 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.
7. 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.
8. A Tribunal shall comprise the following persons:

- (a) a Chairperson who shall be a person of experience and skills suitable to the functioning of chairing the tribunal and discharging the responsibilities of the tribunal; and
  - (b) no fewer than two other Tribunal members.
- 9. The PAA Board shall appoint a chairperson who is to occupy that position for a period of twelve months. A chairperson may be reappointed at the expiration of each period of tenure.
- 10. Where a chairperson or member resigns or is dismissed, the PAA Board may fill such vacancy with a replacement provided the replacement has the relevant skills for the position, as soon as is reasonably practicable.
- 11. A quorum for a Tribunal hearing shall be two members, including a chairperson. No Tribunal decision shall be invalidated by any irregularity in the appointment of a tribunal member. The Chairperson if unable to sit may appoint a temporary replacement provided that that person has, in the sole discretion of the Chairperson, the skills referred to in clause 8(a).
- 12. The PAA Board shall nominate a number of persons and those persons shall be recorded on a list of tribunal members. A State-graded and/or A-graded umpire shall automatically be a member of the Tribunal. A, B-rated umpire shall be entitled to be a member of the Tribunal provided that the Board have resolved that to be the case.

### **Who May Complain to the Disciplinary Tribunal**

- 13. The National Umpires Committee may elect not to issue a set penalty pursuant to the rules and elect to refer a matter directly to the Disciplinary Tribunal for hearing.
- 14. The PAA Board may determine that a penalty imposed by the rules or an act of misconduct shall be referred to the Disciplinary Tribunal for hearing ( note: not all acts of misconduct can be heard by the Tribunal see the delegation of powers to the Tribunal).

15. A person who does not wish to accept a set penalty may apply to Disciplinary Tribunal for a hearing of the alleged offence.
16. Subject to clause 17 a person (other than a person or body mentioned in clauses 13,14,15) may complain about another to the Disciplinary Tribunal provided that it is in connection with polocrosse and involves a breach of the by-laws of the game.
17. No person may complain about the conduct of a particular game of polocrosse unless the person is: The National Umpiring Committee, a State or Zone Chief Umpire, a Referee or Umpire of the game where an incident is alleged to have happened, a goal scorer, timekeeper, or participant in that game.
18. A person who is suspended or fined pursuant to playing rules applies firstly to the Tribunal and if dissatisfied with the outcome appeals to Judicial Committee
19. A person who is suspended or expelled under the Constitution by either the Council or the Board appeals directly to the Judicial Committee. A person who is suspended by the Board for an infringement of the playing rules applies to the Judicial Committee.

### **Responsibilities of the Tribunal Chairperson**

20. Without limiting the duties of the chairperson, he or she shall have the following specific responsibilities:
  - (a) to ensure accurate records are kept of all tribunal proceedings and decisions;
  - (b) to communicate the results of hearings of the tribunal;
  - (c) to chair hearings of the tribunal and to ensure tasks are delegated to a member of the tribunal; and
  - (d) to raise with any tribunal member any conflict of interest issues that may arise.
21. The Tribunal will be convened to hear charges arising from a complaint as soon as is practicable.

22. The chairperson has the discretion to convene a tribunal by either:
  - (a) teleconference;
  - (b) personal attendances.
23. The determination of the tribunal chairperson as to the manner of hearing shall be final and not subject to appeal.

### **Method of Proceeding**

24. Pending the hearing of a charge, a tribunal may be convened to determine the conduct of the proceedings. Such a convening shall be known as an interim hearing. During the course of an interim hearing only the Tribunal Chairperson (or person appointed by the Chairperson) shall be entitled to sit. By way of interim order a chairperson shall be entitled to:
  - (a) suspend a person based on prima facie evidence pending a final hearing;
  - (b) impose further conditions on a person pending the final hearing;
  - (c) dismiss a complaint as frivolous and vexatious.
25. If a 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 in the absence of a charged person.
26. A charged person may apply to the tribunal chairperson to have the hearing adjourned.
27. A charged person who is unable to attend a hearing shall be entitled to appoint a representative who is not a legal practitioner, to appear in their place if the charged person intends not contesting the charge subject to the tribunal receiving a letter of consent from the charged person.
28. If the tribunal determines that a tribunal hearing should be held in person, a charged person may apply to the tribunal to have the tribunal hearing conducted by telephone conference if there are compelling circumstances.

29. Matter related to the conduct of a final hearing may be dealt with by an interim hearing.
30. Matters determined on an interim basis are not subject to appeal save for a dismissal of a complaint as frivolous and vexatious.

### **Method of Proceeding – Final Hearing**

31. 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.
32. 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).
33. The chairperson shall advise all those persons present of the method of recording the hearing.
34. The charge(s) as contained in the report shall be read out in the presence of all persons eligible to be present.
35. The charged person shall be asked whether the charge is understood and the reporting official asked whether the charge correctly represents their intention.
36. The charged person shall be asked to whether or not they intend to contest the charge(s).
37. 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.
38. 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.

39. 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.
40. 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.
41. 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.
42. The Tribunal is empowered to question any person giving evidence.
43. 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.
44. Video evidence may be presented in the discretion of the Tribunal.
45. 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.
46. 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.
47. 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.

48. Where charges have been amended under, the Tribunal shall adjourn the hearing unless the charged person consents to it proceeding at that time.
49. The decision of the Tribunal shall be given in the presence of all, by the Tribunal chairperson.
50. If the Tribunal is satisfied that a charge has been established it shall find the charge proved. Otherwise the charge shall be dismissed. If a charge has been found proven by the Tribunal the charged person shall be informed of the finding. 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
51. Any previous convictions against the charged person should then be laid before the Tribunal.
52. 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.
53. 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.
54. The Tribunal is not obliged to give oral or written reasons for any decision made by it under this By-law.
55. A charged person who has been convicted of an offence and received a penalty under this By-law shall not play, umpire, 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 Tribunal.
56. 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.

57. In making a determination under clause 56 the Tribunal and / or Organising Body shall have regard to the need to ensure the ongoing safety of players, umpires, referees and other persons involved in the Organising Body.
58. In the event that criminal charges are brought the proceedings are to adjourned at either an interim hearing or final hearing depending upon when that knowledge becomes available. If the matter becomes known during the course of a final hearing the Tribunal may suspend a player from participation in polocrosse ( notwithstanding such a course was not taken at an interim hearing) but can only do so after taking into account the matters refers to in paragraph 57.

#### Part 4 Offences and Penalties

59. 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.
60. 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.
61. Persons on a first offence shall have this taken into account when assessing the penalty to be handed down.
62. A Tribunal may take into account a charged person's prior convictions in determining a penalty.
63. If a fine is imposed the fine shall be a debt recoverable by the PAA in a Court of competent jurisdiction.
64. The jurisdiction of the Australian Capital Territory shall be the competent jurisdiction for the purposes of (63).

#### Part 5 Costs of Tribunal Hearings

65. If a Tribunal hearing is requested to be convened ( other than a complaint referred to the Tribunal by way of application of the rules of the game or the constitution by either the National Umpires Committee, PAA Council or Board) the Tribunal Chairperson may either at an interim hearing or when the matter is referred for consideration set a fee for the hearing. The hearing fee takes into account:
  1. The place of the hearing;
  2. If it is by telephone or in person;
  3. The costs of arranging for the hearing;

66. No tribunal member is entitled to be paid a fee acting as a Tribunal member but the PAA Board may determine that members are reimbursed an expense rate for their attendance.
67. The hearing fee is to be paid by a complainant before a hearing of the complaint proceeds.
68. In the event that a person is found to have committed an offence and the hearing fee was not payable pursuant to clause 65, a hearing fee may be ordered to be paid by that person and such fee shall be deemed to be a debt to the PAA and recoverable in a Court of competent jurisdiction.