

## **Basketball Victoria**

### **By-Laws (Tribunals)**

#### **Part 1 Jurisdiction and Establishment of Tribunals**

##### **1. Adoption of By-laws**

- 1.1 These By-laws are made under the Basketball Victoria ("BV") constitution and are known as the "Tribunal By-laws" and come into operation on 1 July 2011 and are binding on all members of BV and other persons who or organisations which submit themselves to the jurisdiction of BV.
- 1.2 Any and all By-laws of BV previously made concerning Tribunals are expressly rescinded. For the avoidance of doubt, all penalties handed down under previous by-laws shall continue to be recognised by BV.
- 1.3 These By-laws are consistent with Basketball Australia's National Tribunal Guidelines and have been approved by Basketball Australia.

##### **2. Authority of Tribunal**

- 2.1 BV has the power under its constitution to hear and determine charges made against persons, affiliated associations, teams or clubs arising from or related to basketball activities, matches and competitions conducted by the BV, its affiliated associations ("association") or its commissions, leagues or Country Council ("organising bodies").
- 2.2 BV has delegated the power of hearing and determining such charges to the BV Tribunal ("Tribunal") in accordance with the provisions of these By-laws.
- 2.3 The Tribunal shall have power to suspend, disqualify, reprimand, fine, bond, ban or otherwise deal with any person involved with basketball (including, but not limited to players, coaches, teams, clubs, officials other than referees, umpires and accredited scoretable officials, or spectators) in accordance with these By-laws, regarding any incident arising from an activity conducted by the organising bodies. The incident may have occurred before, during or after the conduct of the activity, within the confines of the stadium, activity venue or its immediate surrounds or elsewhere if directly related to a basketball activity of any sort. Reportable conduct also includes conduct relating to basketball which occurs by email, telephone or computer and includes cyber bullying.
- 2.4 The Tribunal may also deal with any other disciplinary matter delegated to it for adjudication by BV.
- 2.5 The Tribunal must at all times act independently and impartially in carrying out its duties in accordance with these By-laws.

##### **3. Membership of Tribunal**

- 3.1 Tribunal members may be appointed by BV or an affiliated association.
- 3.2 The association shall advise BV of Tribunal members appointed by it.
- 3.3 Tribunal members may be dismissed without reason and in their absolute discretion by BV if appointed by BV or an association or by an association if appointed by that association.
- 3.4 Wherever possible, matters referred to the Tribunal for determination shall be heard by three members of the Tribunal, however a quorum of the Tribunal shall be two (2) members.

3.5 No Tribunal decision shall be invalidated by any irregularity in the appointment of a member.

#### **4. Responsibilities of Tribunal Chairperson**

4.1 Without limiting the duties of Tribunal chairpersons as set out under the various By-laws of these By-laws, 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 BV upon request;
- (b) to communicate to BV 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;
- (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 Tribunals 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 If practicable, the organising body shall provide notice to all teams participating in competitions conducted by it of the regular day, time and place of Tribunal hearings throughout the duration of the competition.

6.2 The Tribunal will be convened to hear charges arising from an incident as soon as is practicable, preferably prior to the next round of matches occurring.

6.3 Notification of persons charged under these By-laws 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 these By-laws, and must be provided a reasonable period prior to such hearing.

### **Part 2 Reports and Notifications**

#### **7. Reports by officials**

7.1 Any game official (but not including a scorebench official who is not accredited) or official of the organising body who is so authorised by the organising body, shall be entitled to report any person who or team or club which, in the opinion of the official has committed an offence under these By-laws.

#### **8. Investigations**

8.1 Where an organising body or an official of an organising body believes an offence may have been committed or the organising body or BV receives a complaint, but no report has been made, the organising body, BV or official may investigate, or appoint a person to investigate, the alleged offence and if after the investigation it or the person appointed to investigate decides that a report should be made, the organising body or the person appointed by it may make a report.

#### **9. Duties of persons or bodies making a report**

9.1 Any person who or organising body which makes a report under By-laws 7.1 or 8.1 shall ensure that the charged person, team or club is notified of the report, as well as any other person involved in the report and all other relevant game officials as soon as possible, after the report is made. The reporting person shall fulfil this duty by giving the report to the organising body.

- 9.2 A person who or organising body which makes a report under By-laws 7.1 or 8.1 shall enter the details of the alleged offence(s) on the report form as soon as possible 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 A person who or organising body which makes a report under By-laws 7.1 or 8.1 shall lodge a report form with the person nominated by the organising body to take charge of reports, or if that is not possible, to leave the report at the stadium or office of the organising body, marked to the attention of that person, as soon as possible after the activity. It is expected that in normal circumstances this would be no later than 48 hours after the incident leading to the report.

## **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 these By-laws and to carry out the duties in connection with such reports ("Hearings Officer"). The officer to whom responsibility is delegated under this By-law may hold another position within the organising body.
- 10.2 The organising body shall require each team entered in competitions to designate on the entry form the telephone number and postal and email addresses of the team secretary, or manager, to be used for notification of reports.
- 10.3 The organising body shall maintain lists of names, addresses and telephone numbers of all officials registered with the Association.
- 10.4 The Hearings Officer designated under By-law 10.1 shall have the following duties:
- (a) to organise 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;
  - (c) to ensure as far as possible 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 these By-laws;
  - (e) to ensure the availability of all forms required to be used in any proceedings of the Tribunal;
  - (f) to notify the charged person, team or club, through their team secretary or manager, of the date, time and place of the Tribunal hearing;
  - (g) if the notification under By-law 10.4(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 because of some disability is 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 advisor ("advisor"), and that the advisor shall be allowed to ask questions;
  - (i) to provide the charged person, team or club with a copy of the report form and ensure the reporting official has a copy. In carrying out this function the organising body shall:
    - (i) hand a copy of the report form to the charged person (or a representative of a charged team or club) prior to the charged

person leaving the match / activity venue following the activity out of which the report was made; or

- (ii) send a copy of the report form to the charged person, team or club at the address of the team secretary or manager as collected under By-law 10.2 above, as soon as possible after the date of the report being lodged by the official with the Association; or
  - (iii) make a copy of the report form available for collection by the charged person, team or club and notify the team secretary or manager of the requirement to effect such collection.
- (j) to notify the reporting person and any officials or witnesses required to be in attendance, of the date, time and place of the Tribunal hearing. Where such reporting person is under 18 years of age, 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 advisor, and that the advisor 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 basketball competitions until such time as the Tribunal has heard and determined the report.

## **12. Alternative Procedure for Minor offences**

- 12.1 If a reporting official believes the offence or offences reported are of a minor nature they may indicate such on the report.
- 12.2 Where an indication is made under 12.1, or no indication is made, the Hearings Officer shall refer the report to the Tribunal chairperson. If the Tribunal chairperson agrees that the offence or offences appear to be of a minor nature and would not normally attract a penalty of more than 20 weeks suspension, the Tribunal chairperson may, in their absolute discretion, offer the reported person a penalty of approximately 50% of the penalty which the Tribunal Chairperson believes would normally be imposed.
- 12.3 If the reported person accepts the penalty offered under 12.2 within 24 hours of the offer being conveyed to them, the penalty will be imposed and becomes an order of the Tribunal as if the person has been found guilty at a hearing of the Tribunal.
- 12.4 If the reported person rejects the offer under 12.2 or fails to respond to it within 24 hours of the offer being conveyed to them, the report will be referred to a hearing of the Tribunal.

## **Part 3 Conduct of Tribunal hearing**

### **13. Attendance at Tribunal hearings**

- 13.1 The following persons shall be required to attend a Tribunal hearing conducted under these By-laws:
- (a) the charged person;
  - (b) the president, secretary or other delegate representing a charged team or club;
  - (c) the reporting person(s) or representative of the reporting body;
  - (d) any other person involved in the report (this includes any "victim" of the person reported);
  - (e) witnesses as indicated by the reporting or charged person to be notified by the officer designated under By-law 10.1;
  - (f) witnesses required by the Tribunal.
- 13.2 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 or club;
  - (c) witnesses called to give evidence by the reporting person(s) or body;
  - (d) in the case of a charged person or reporting person where an advisor has been allowed - that advisor.
  - (e) representatives of the media;
  - (f) any other person.
- 13.3 Legal representatives or advocates are not permitted to appear before the Tribunal.

#### **14. Non-attendance at Tribunal hearings**

- 14.1 If any charged person (or representative of a charged team or club) 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 or club, provided that the Tribunal is satisfied that all notification procedures under these By-laws have been carried out.
- 14.2 A charged person, team or club or reporting person or body 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 or club. 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.
- 14.3 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 subject to the Tribunal receiving a letter of consent from the charged person containing the person's plea to the charges contained in the report and any statement that person would have given to the Tribunal had he or she attended the hearing. The Tribunal shall give such weight to the facts in that statement as in all the circumstances it believes is appropriate given that the person will not be able to be questioned on those facts.
- 14.4 If any witness fails to attend a Tribunal hearing, the hearing may continue in their absence.
- 14.5 If a reporting person or representative of a reporting body fails to attend a Tribunal hearing without reasonable cause, the hearing may proceed and a determination made by the Tribunal in their absence, provided that the Tribunal is satisfied that all notification procedures under these By-laws have been carried out.
- 14.6 If a reporting person or body or organising body or its official inadvertently fails to carry out any duties listed in By-law 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.

## **15 Recording of Tribunal Hearings**

- 15.1 Subject to these By-laws and such other conditions as the Tribunal may decide upon, video or audio tape recording of a Tribunal Hearing may be made by any person appearing before the Tribunal, provided at least 48 hours' prior notice has been given to the Tribunal.
- 15.2 The Tribunal is not required to advise participants that they have the right to request video or audio taping of hearings.
- 15.3 Regardless of whether recording equipment is provided by the participant or the Tribunal, the tape or disc shall be retained by the Tribunal, provided that the participants in the hearing are permitted to copy the tape or disc under supervision of a Basketball Victoria Tribunal officer.
- 15.4 No person other than at the direction of the person(s) investigating may record an investigation and only the person(s) investigating may listen to or view the tape unless a Tribunal directs otherwise.

## **16. Tribunal hearing Conducted Via Teleconference**

- 16.1 A charged person, team or club 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 or club. A Tribunal may otherwise direct a hearing by telephone conference.
- 16.2 If the Tribunal grants a request of a charged person, team or club or the Tribunal directs under By-law 16.1, the Tribunal shall attempt to organise for the presence of a neutral official at the offsite location to assist the Tribunal in the conduct of the hearing. In all other respects the procedure of the Tribunal hearing shall be conducted in accordance with these By-laws.

## **17. Procedures of the Tribunal**

- 17.1 For the purpose of this By-law 17, a reference to a charged person includes a reference to the representative(s) of a charged team or club.
- 17.2 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. The Tribunal may exempt any member or members of a team or club from any findings and penalties against the team or club if it believes that that person was or those persons were not involved in the incident leading to the finding against the team or club.
- 17.3 At the commencement of a hearing, the chairperson shall identify the members of the Tribunal and determine if the charged person is present to answer the charge(s) set out in the report.
- 17.4 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.
- 17.5 The charged person and the reporting person(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).
- 17.6 The chairperson shall advise all those persons present of the method (if any) of recording the hearing.

- 17.7 The charge(s) as contained in the report shall be read out in the presence of all persons eligible to be present.
- 17.8 The charged person shall be asked whether the charge is understood and the reporting person asked whether the charge correctly represents their intention.
- 17.9 The charged person shall be asked to plead.
- 17.10 If the charged person pleads guilty to the charge(s), the chairperson may read a short summary of the facts, admit the reporting official's evidence (written/verbal) and no witnesses need be called to give evidence unless the Tribunal requires it.
- 17.11 If the charged person pleads not guilty then the chairperson shall ask all witnesses except the reporting person(s) and the charged person (and their advisors) to leave the room and to wait to be called to give their evidence.
- 17.12 The reporting person shall proceed to give evidence and the witnesses of the reporting person(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. Normally there would be only one witness allowed. The reporting person may produce to the Tribunal written witness statements for any witness not available to attend the hearing or in excess of the number of witnesses allowed by the Tribunal. The person producing the witness statement must have sufficient numbers of copies of the statement for each of the Tribunal members and the reported persons. The Tribunal must ensure that the charged person receives a copy of the statement before or at the hearing and allow a reasonable time for the statement to be read by all concerned. The Tribunal shall not place as much weight on the written statement as it would on oral evidence of a witness who attends the hearing. The charged person or his/her advisor may ask questions of the reporting person or any witness called.
- 17.13 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.
- 17.14 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. Normally there would be only one witness allowed. The charged person may produce to the Tribunal written witness statements for any witness not available to attend the hearing or in excess of the number of witnesses allowed by the Tribunal. The person producing the witness statement must have sufficient numbers of copies of the statement for each of the Tribunal members and the reporting person. The Tribunal must ensure that the reporting person receives a copy of the statement before or at the hearing and allow a reasonable time for the statement to be read by all concerned. The Tribunal shall not place as much weight on the written statement as it would on oral evidence of a witness who attends the hearing. Reporting persons or the advisor to a reporting person may ask questions of the charged person or any witness called.
- 17.15 The Tribunal is empowered to question any person giving evidence.
- 17.16 Where a person has an approved advisor present, an opportunity for consultation shall be provided.
- 17.17 Video evidence may be presented at the discretion of the Tribunal.
- 17.18 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.
- 17.19 If the Tribunal is not satisfied that a 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.

- 17.20 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 charges and proceed to make a finding.
- 17.21 Where charges have been amended under By-law 17.20, the Tribunal shall adjourn the hearing unless the charged person consents to it proceeding at that time.
- 17.22 The decision of the Tribunal shall be given in the presence of all, by the Tribunal chairperson.
- 17.23 Subject to By-law 17.19, if the Tribunal is not satisfied that a charge has been established it shall dismiss such charge.
- 17.24 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.
- 17.25 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.
- 17.26 The Tribunal shall then determine the penalty to be imposed (if any) and shall recall the charged person and reporting official to advise of the penalty.
- 17.27 The Tribunal is not obliged to give oral or written reasons for any decision made by it under this By-law.
- 17.28 A charged person who has been convicted of an offence and suspended under this By-law shall not play, coach, referee or otherwise take part in basketball activities (unless BV directs otherwise\*) until the penalty has been served to the satisfaction of the BV. This does not prevent a person being a spectator unless the person is banned from venues. If the suspended person is an employee of an organising body, the suspension will not prevent that person from carrying out their duties in that employment. For the purposes of this By-law, persons such as referees or coaches who have signed the Australian Taxation Office's hobbyist declaration and/or under the ATO Ruling for hobbyists receive expense reimbursement and do not pay tax on that reimbursement are deemed not to be employed. A suspended person who is employed as a professional player or coach shall be suspended from all basketball activities during the suspension but the duration of the suspension shall be calculated in accordance with By-law 18.4 as though the person was a player registered in the Big V or SEABL Leagues.

#### **Part 4 Offences and Penalties**

- 18.1 By-law 18.2 sets out the standard offences and maximum penalties to be applied where a charge has been established by a Tribunal.
- 18.2 For the purposes of this By-law, penalties for many offences which are established by a Tribunal shall be divided into two separate categories:
- (a) penalties for offences involving persons other than officials ("Group A offence"); and
  - (b) penalties for offences involving an official ("Group B offence")

#### **Offences and penalties**

- (a) Disputing the decision(s) of a referee  
Maximum penalty: 6 weeks suspension
- (b) Unsportsmanlike behaviour



- Maximum penalty: 6 weeks suspension
- (c) Gross breach of Code of Conduct  
Maximum penalty: 6 weeks suspension
- (d) Attempting to trip  
A – Maximum penalty: 10 weeks suspension  
B – Maximum penalty: 52 weeks suspension
- (e) Tripping  
A – Maximum penalty: 52 weeks suspension  
B – Maximum penalty: Life-time suspension
- (f) Obscene gestures  
A – Maximum penalty: 10 weeks suspension  
B – Maximum penalty: 20 weeks suspension
- (g) Offensive language (which may include abusive, obscene or insulting language)  
A – Maximum penalty: 10 weeks suspension  
B – Maximum penalty: 20 weeks suspension
- (h) Attempting to strike  
A – Maximum penalty: 10 weeks suspension  
B – Maximum penalty: 52 weeks suspension
- (i) Striking (e.g. fist, hand, object, head)  
A – Maximum penalty: 52 weeks suspension  
B – Maximum penalty: life-time suspension
- (j) Attempting to elbow  
A – Maximum penalty: 10 weeks suspension  
B – Maximum penalty: 52 weeks suspension
- (k) Elbowing  
A – Maximum penalty: 52 weeks suspension  
B – Maximum penalty: life-time suspension
- (l) Fighting  
A – Maximum penalty: 52 weeks suspension
- (m) Attempting to kick  
A – Maximum penalty: 10 weeks suspension  
B – Maximum penalty: 52 weeks suspension
- (n) Kicking  
A – Maximum penalty: 52 weeks suspension  
B – Maximum penalty: life-time suspension
- (o) Spitting  
A – Maximum penalty: 20 weeks suspension  
B – Maximum penalty: 52 weeks suspension
- (p) Moving under an airborne player (tunnelling)  
A – Maximum penalty: 104 weeks suspension
- (q) Threatening a person  
A – Maximum penalty: 52 weeks suspension  
B – Maximum penalty: 104 weeks suspension
- (r) Putting a person in fear of impending violence  
A – Maximum penalty: 52 weeks suspension  
B – Maximum penalty: 104 weeks suspension

- (s) Coaching, refereeing, playing, scorebench duties while under suspension  
 A – Minimum penalty: 2 weeks per game while suspended to be served consecutively to the original suspension period  
 A – Maximum penalty: 5 weeks per game while under suspension to be served consecutively to the original suspension period
- (t) Deliberately endangering the safety, health, of the players, spectators, officials (incidents involving blood/body fluids)  
 Maximum penalty: life-time suspension
- (u) Conduct which brings the game of Basketball into disrepute  
 Maximum penalty: 19 weeks suspension
- (v) Failure by any person (other than a referee, an umpire or an accredited scoretable official) required under by-law 13.1 to attend Tribunal without proper cause when notified  
 Maximum penalty: 20 weeks suspension
- (w) Failure to co-operate in, or hindering an investigation or hearing under these by-laws.  
 Maximum penalty: 20 weeks suspension
- (x) Assault any person  
 A – Maximum penalty: 52 weeks suspension  
 B – Maximum penalty: life-time suspension

18.3 Where charges arising from one particular incident are heard together and the Tribunal finds the person or team guilty of more than one offence, it may impose a single penalty, being not more than the maximum penalty for the total maximum penalties of the offences, or it may impose individual penalties for each offence.

18.4 A penalty handed down under these By-laws shall commence from the date of the Tribunal finding unless otherwise expressly directed by the Tribunal and end on a later appropriate date. To ensure that the penalty is served in full, in setting the commencement and end dates of a penalty, the Tribunal may take into account any season breaks or other reasons such as intended absence from basketball due to holidays. (this discretion may not be exercised to allow a person to participate in finals or for other similar reasons) . Penalties are expressed to be in calendar weeks as opposed to number of matches unless the person is a registered player with the Big V or SEABL, in which case they shall be expressed in matches during the Big V or SEABL seasons. A Big V or SEABL player suspended arising from a domestic competition between Big V seasons shall not be suspended from the Big V or SEABL if the suspension expires before the commencement of the next Big V season. A suspension imposed on a Big V or SEABL player should normally be 10% to 20% of that normally imposed under this By-law for that part of the suspension which occurs during the Big V or SEABL season. For example, a Big V or SEABL player who is suspended 10 weeks prior to the start of a Big V or SEABL season and the usual penalty would be 20 weeks, the player should be suspended for the 10 weeks remaining before the Big V or SEABL season and then 1 or 2 matches of the Big V or SEABL season, being 10% to 20% of the other 10 weeks.

18.5 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.

18.6 Persons on a first offence, or persons who indicate to the Tribunal at least 24 hours prior to the hearing that they intend to plead guilty to some or all of the offences with which they are charged shall have this taken into account when assessing the penalty to be handed down.

- 18.7 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 By-law 18.2.
- 18.8 An additional penalty of up to sixteen (16) weeks may be imposed by a Tribunal if injury to a person or damage to stadium property has been caused in the course of the matter before the Tribunal, or for contempt of the Tribunal, or for other special reasons decided by the Tribunal and notified when the decision is announced. More severe penalties may be imposed when a team or group is involved in a brawl and refusing of future admission of such teams to competition may be recommended to the organising body and may order the forfeit of points already earned in that season or that the team not be granted any points for part or all of the rest of the season. A tribunal may recommend to Basketball Victoria that penalties be increased over the maximum penalty where offences are extreme. If Basketball Victoria agrees, further penalties may be imposed.
- 18.9 In addition to any suspension imposed, the Tribunal may be ban a suspended person from attending any venue under the control of any organising body for the whole or any part of the period of suspension.
- 18.10 Where a Tribunal decides that a total penalty of no more than 5 weeks suspension is appropriate it may instead require that the person serve voluntary work for the person's association at the rate of 5 hours per week of suspension which it would otherwise impose provided that:
- (a) the person agrees; and
  - (b) the association is able to provide sufficient work (which cannot include officiating).

In imposing such a penalty the tribunal shall set a maximum time frame in which the work must be performed. In specifying the time during which the work is to be performed, the Tribunal should take into account the age of the person and if the person is at school should consider imposing that the work be performed in the next school holidays. If the penalty is imposed and the work is not performed within the specified time, the full suspension shall immediately commence to operate unless the secretary of the association believes that there is good reason in all the circumstances why the work has not been performed.

- 18.11 A fine of up to \$500 may be imposed on any non-player or team and a bond of up to \$500 may be imposed on any person or team before the Tribunal. A bond shall be forfeited if the person or the team is found guilty of any offence committed during the term of the bond. Otherwise it is to be returned.
- 18.12 A person who is suspended shall not be permitted to play, coach, referee or do scorebench duties or otherwise participate in a competition conducted by any organising body for the duration of the period specified by the Tribunal and shall not contact their team directly, or indirectly, from fifteen (15) minutes before the game. They must sit on the side of the court opposite to the player bench. Any person banned must not enter any stadium or venue when the stadium or venue is under the control of or being used by a controlling body. Any violations may be reported to a Tribunal which may impose a further penalty of between 2 and 5 weeks for each violation.
- 18.13 Where a fine is imposed, or a team placed on a bond, the amount shall be collected by the organising body and paid to the special account of Basketball Victoria set up for this purpose. Disposition of money from fines and forfeited bonds shall be determined on an annual basis by the Basketball Victoria Executive Committee.
- 18.14 When a fine or bond imposed by the Tribunal is not paid within one (1) calendar month, the Tribunal may take any action necessary until the matter is finalised to the satisfaction of the Tribunal. Such action may include suspension until the fine or bond is paid.

- 18.15 A Tribunal shall not impose a suspended sentence.
- 18.16 A person required under By-law 13.1 to attend a hearing who fails to do so may be dealt with by the Tribunal or referred to the Referees Tribunal as appropriate and may be suspended for up to 20 weeks.
- 18.17 If the Tribunal is of the opinion that another person who has not been reported ought to have been reported, the Tribunal may make a report.

## **Part 5 Appeals**

### **19. Right of Appeal**

- 19.1 There shall be no appeal from a decision of the Tribunal unless the person seeking to appeal ("Appellant") satisfies the Appeals Officer of BV, or their nominee, in that person's sole discretion, that one or more of the following grounds of appeal are 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 these By-laws; or
  - (c) that the Tribunal failed to follow procedures or requirements of these By-laws to the significant detriment of the person seeking the appeal.
- 19.2 Only a charged person shall have the right of appeal from a decision of the Tribunal under this By-law.
- 19.3 The Appeals Officer or nominee will determine one of the following:
- (a) That the person appealing has not established any of the grounds for the appeal;
  - (b) That the person appealing has established one or more of the grounds for the appeal;

If the Appeals Officer or nominee decides that the person appealing has established one or more of the grounds for the appeal they shall direct that the appeal take place in one of the following forms:

- (a) A complete rehearing of the charge;
- (b) That a nominated person or persons investigate a specific area of the original hearing and determine the outcome of the appeal.

Where the Appeals Officer has directed that a person or persons investigate only a specific area of the original hearing, the person or persons nominated may carry out that investigation in any manner they believe reasonable.

- 19.4 The Appeals Officer may direct a stay of the execution of the penalty imposed by the Tribunal pending the determination of the appeal where they are satisfied that there are exceptional and compelling circumstances that make it harsh and unconscionable if such an order was not made.
- 19.5 Where the Appeals Officer determines that the Tribunal has imposed a penalty that is not in accordance with the By-laws he or she may reduce the penalty so that it accords with the By-laws.
- 19.6 There shall be no further appeal from a decision of the Appeals Officer or from a rehearing or on investigation directed under By-law 19.3.

## **20 Notice of Appeal**

- 20.1 A person seeking to appeal a decision of the Tribunal must lodge a notice stating full details of charges and results thereof and stating in full the grounds of appeal with the Hearings Officer within fourteen (14) days of the notification of a determination of a Tribunal hearing ("Notice of Appeal").
- 20.2 Upon receipt of an appeal, the Hearings Officer shall immediately forward all relevant papers to BV.
- 20.3 An Appellant shall be notified as soon as is reasonably possible after receipt of the Notice of Appeal 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. Notice must also be given to the organising body and the reporting official.

## **21. Request for Review**

- 21.1 If the Executive Committee (howsoever designated) of an organising body believes that a Tribunal has made a serious error in its findings of not guilty on a charge or that the penalty imposed is grossly inadequate for the offences for which the reported person has been found guilty, it may make a request for review to Basketball Victoria. Such request shall not be made until the Tribunal members concerned have had an opportunity to consider the matter and the Executive committee has considered any comments made by the Tribunal members. The request for review must be made in writing and must contain a detailed explanation for the request, any evidence to support it and any comments from the Tribunal members. A copy of the request must be given to the reported person or persons at the same time it is submitted to Basketball Victoria and they have a right to also make a submission within 3 days to Basketball Victoria to oppose the request.
- 21.2 Upon receipt of a request for review under 21.1, Basketball Victoria shall refer it to three independent Tribunal members for review. Those Tribunal members shall consider the written material and may either dismiss the request or direct that the matter be reheard in total or partially by an independent Tribunal.
- 21.3 Any decision made under 21.2 and of any rehearing directed as a result of the review shall not be the subject of any further review or appeal by any person.

## **22. Appeal Tribunal and Judiciary Committee**

- 22.1 If an appeal hearing is granted, the Hearings Officer shall convene an Appeal Tribunal to hear and determine the appeal in accordance with this By-law.
- 22.2 An Appeal Tribunal shall consist of no fewer than three (3) persons appointed from time to time to hear appeals as required but a quorum shall be two (2) members. Members of an Appeal Tribunal will preferably have experience in hearing and determining disciplinary matters in sport, however need not have any particular experience with the sport of basketball.
- 22.3 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.
- 22.4 The Appeal Tribunal shall also serve as a Judiciary Committee to adjudicate on:
- (a) Disputes between controlling bodies; and
  - (b) any other matter which in the view of the President of BV requires adjudication.

## **23. Serving of Tribunal Penalties**

23.1 Subject to By-law 19.4, where the Tribunal imposes a penalty that prevents the Appellant from participating in a match, the appellant shall serve that penalty pending the determination of the appeal.

#### **24. Proceedings of Appeal Tribunal**

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

24.2 The Appeal Tribunal shall have the discretion to conduct the hearing as a complete re-hearing or to limit the hearing to consideration of the ground(s) of appeal relied upon by the Appellant under By-law 19.1.

24.4 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 these By-laws.
- (d) reduce, increase or otherwise vary any penalty imposed by the initial hearings Tribunal

in such manner as it thinks fit.

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

24.6 At the conclusion of the appeal, the chairperson of the Appeal Tribunal shall ensure that the Appellant and the reporting person are correctly informed of the determinations of the Appeal Tribunal.

#### **25. Single Right of Appeal**

25.1 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.

#### **26. Exhaust Internal Appeal**

26.1 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.

### **Part 6 Miscellaneous**

#### **27. Relationship with criminal matters**

27.1 If during a Tribunal hearing or an investigation under these By-laws 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 or the Hearings Officer 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.

27.2 In making a determination under By-law 27.1, the Tribunal and / or Hearings Officer shall have regard to the need to ensure the ongoing safety of players, referees and other persons involved in basketball.

#### **28. Natural Justice**

28.1 To the extent that the principles of natural justice are not included in the provisions set out in these By-laws they are expressly excluded.

**29. Recognition of Penalties From other States and Territories**

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

30. An organising body and Basketball Victoria may publish results of Tribunal hearings, including the names of persons found guilty by the Tribunal together with details of offences and penalties, by posting those details on notice boards in the stadium, offices and/or on their web sites.

\* The principles upon which BV shall make the decision of applicability shall be:

- (1) The sentence shall not apply to activities which do not require attendance at games or public representation of the Club, Association or League.
- (2) An exception to this shall be if BV considers the offence to be evidence that the person might be a danger to others with whom that person might interact in those volunteer activities.

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