



Ballarat Cricket Association Procedure 1B TRIBUNAL AND APPEALS PROCESS

GENERAL TRIBUNAL AND APPEALS INFORMATION

- A convenor of the Disciplinary Tribunal and Appeals Panel shall be appointed by the Board of the Ballarat Cricket Association (BCA) prior to the commencement of each season. That convenor will be responsible for setting up a pool of members, who shall be persons of experience and skills suitable to the function of serving on a disciplinary tribunal.
 - The BCA Disciplinary Tribunal and Appeals Panel will consist of persons not currently connected with the Association, or an affiliated Club, as an Official or Player.
- Disciplinary Tribunal hearings arising from match day player, coach or Club official reports are to be conducted as soon as possible after the incident is reported or the match completed.
- Disciplinary Tribunal hearings arising from Match Review Officer (MRO) referrals, or Club or BCA requests after receiving an MRO decision, are to be conducted as soon as possible after the incident is reported or the match completed.
- Disciplinary Tribunal hearings referred by the MIO are to be conducted as soon as possible after such a referral.
- The convenor of the Tribunal and Appeals panel will organise a panel of 3 suitably qualified members, when informed that a Disciplinary Tribunal or Appeals Panel hearing is required.
 - From the panel, a Chair for the hearing will be appointed.
- Natural Justice & Procedure
 - The BCA Disciplinary Tribunal shall observe the rules of natural justice. Subject to the BCA Rules, the BCA Disciplinary Tribunal may lay down its own rules of procedure, which it may vary as it sees fit. The BCA Disciplinary Tribunal shall not be subject to requirements of legal formality.
 - The BCA Appeals Panel shall observe the rules of natural justice. Subject to the BCA Rules, the BCA Appeals Panel may lay down its own rules of procedure, which it may vary as it sees fit. The BCA Appeals Panel shall not be subject to requirements of legal formality.
- Penalties
 - If the BCA Disciplinary Tribunal subsequently finds the player guilty of the charge, it should be expected that any suspension imposed would extend for a period no less than that prescribed by the recommended penalty in Procedure 1A OFFENCES, PENALTIES AND INVESTIGATIONS.
 - However, when imposing a penalty, the BCA Disciplinary Tribunal shall consider any circumstances it considers relevant including:
 - the seriousness of the breach.
 - the harm caused by the breach.
 - the person's seniority and standing in the game.
 - the remorse shown by the person and the prospect of further breaches.
 - the person's prior record; and
 - the impact of the penalty on the person.



- Target day for any BCA Disciplinary Tribunal hearings is the following Thursday for the hearing.
- If it is not possible for the hearing to be conducted prior to the next scheduled game, then either the Chair of the Pennant Committee or the President of the BCA will make a decision as to whether the reported player can participate in the next scheduled game based on:

1. The severity of the alleged report
2. An assessment of the validity of the underlying reasons for delay

- If the hearing cannot be held due to a player, umpire or witness being unwell, they may attend via an online video link. Medical proof may be required.
- Otherwise, the reported player will not be allowed to participate in any future game until the hearing has been conducted.
- Appeals Panel hearings are to be conducted within 7 days of receipt of the appeal.
- A non-refundable fee of \$500 will be invoiced to the Club upon receipt of the appeal of a BCA Disciplinary Tribunal outcome to the Appeals Panel, or the challenge by a club of an MRO decision to the BCA Disciplinary Tribunal. All BCA Appeal Panels have the authority to return some or all the \$500 fee as paid.
- All hearings will be conducted at the BCA office situated at the Eastern Oval, Ballarat, unless otherwise notified.
- Non-attendance at a BCA Appeal Panels hearing or any BCA Disciplinary Tribunal hearing, by the participating parties as requested and specified by the Operations Officer shall result in a penalty upon the party in question under BCA Rule 5.
- The BCA Appeal Panels or BCA Pennant Committee may hear evidence from any person, or any source as deemed necessary or warranted. No hearing before the BCA Tribunal/Appeals panel or BCA Pennant Committee is bound by the laws of evidence, which apply to Courts of Law.
- Any person involved in a BCA Disciplinary Tribunal or Appeal Panel hearing required to provide evidence is to do so with honesty and integrity. Any person deemed to have provided inadequate, false, or misleading information/evidence to any hearing may see that person sanctioned by way of suspension or club fine as seen appropriate by the tribunal or appeal panel.
- All involved parties at a BCA Disciplinary Tribunal or BCA Appeals Party shall have an advocate present. This advocate can be a member of the Club Executive or a suitably skilled person who can represent the needs of the participant. An advocate cannot be practising lawyer or barrister or a member of the BCA Disciplinary Tribunal or Appeals Panel Pool.



BCA DISCIPLINARY TRIBUNAL PROCEDURES

Attendees at the BCA Disciplinary Tribunal

- The person/s bringing the charges to the BCA Disciplinary Tribunal:
 - The Umpire including advocate
 - The Match Review Officer including support person if required
 - The Match Investigation Officer including support person if required
- The player or person or reported club. **The player or reported person must have an advocate attend. That advocate can be a Club Executive member or a suitably skilled person (who is not a practising lawyer or barrister or a member of the BCA Disciplinary Tribunal or Appeals Panel Pool)** who can represent the needs of the participant. If a club has been reported then two members of the Club Executive must attend.
- If the player at the centre of the appeal is under the age of 18, then a guardian/parent/s as well as an advocate must be present.
- If the player or person or reported club is unable to attend, a reason must be submitted to the Operations Officer 24 hours prior to any hearing.
- A reported player or person or reported club which fails to attend their Tribunal Hearing shall be suspended from playing until they attend the Tribunal and the case is dealt with.
- Witnesses can be called during proceedings, only after notifying the Tribunal panel at least 12 hours prior to the hearing commencement.

BCA Disciplinary Tribunal Hearings Procedure

- Introduction of tribunal members and opening addresses by the Chair.
- Advocates or club executive representatives or reported player or person identify themselves.
- The Chair then informs all present this is a formal hearing, and all responses must be directed through the Chair of the Tribunal.
- Reading of the charges
- The Chair asks the player and advocate if they have any objection to any tribunal member hearing this matter and adjudicating on this report?
- The Chair requests a plea from the reported player, person or club – guilty or not guilty?
- If guilty plea:
 - The Chair asks if any person has anything to say including additional information, pleas, or character references.
 - The tribunal then retires in private to make its decision on penalty
 - The tribunal consults tribunal records for any prior history and refers to BCA Procedure 1C under the Code of Behaviour Policy relating to player and official deregistration with reference to the total number of games of suspension threshold where a player can be banned for life.
 - The tribunal consults BCA Procedure 1A – Offences and Penalties.
 - The penalty is determined by consensus of the tribunal members.
 - The chair asks all parties to return and advises of the penalty imposed. In the case of suspension advises when the penalty expires, in the case of a fine when it must be paid, in the case of loss of points, when and which grades that applies to.
 - The BCA Tribunal is not obliged to give the reasons for reaching the decision or determining the penalties. Therefore, participants must not question the tribunals decision.



- If not guilty plea, the Chair then outlines the process for the hearing.
 - Each side will be able to present their side of the case without interruption starting with the parties who referred the charges.
 - Evidence, information and submissions, which may be in writing from:
 - The Umpire/s
 - The BCA Match Review Officer
 - The BCA Match Investigations Officer
 - Any other persons called to give evidence – this maybe in the form of a written statement if unable to attend.
 - The reported player, person or club
 - Witnesses
 - Any relevant FrogBox vision.
 - Character references or pleas.
 - There will be opportunities to ask questions via the Chair by members of the Tribunal Panel or attendees.
 - Advocate for the defending party will provide a short summary before the chair asks all parties to leave and the room and tribunal panel retires in private to make its decision.
- The panel will then:
 - Consider the evidence presented decide if the player, person or club is guilty or not guilty.
 - The tribunal consults tribunal, and any other relevant, records for any prior history and refers to BCA Procedure 1C under the Code of Behaviour Policy relating to player and official deregistration with reference to the total number of games of suspension threshold where a player can be banned for life.
 - The tribunal consults BCA Procedure 1A – Offences and Penalties
 - The penalty is determined by consensus of the tribunal members.
 - The chair asks all parties to return and advises of the result and if guilty the penalty imposed. In the case of suspension advises when the penalty expires, in the case of a fine when it must be paid, in the case of loss of points, when and which grades that applies to.
 - The BCA Disciplinary Tribunal is not obliged to give the reasons for reaching the decision or determining the penalties. Therefore, participants must not question the tribunals decision.
- Formal advice is forwarded by the BCA Administration officer to the Club Secretaries via email and the BCA conduct records are updated.

Appeals against a BCA Disciplinary Tribunal decision must be lodged within 48 hours of receipt of the tribunal hearing outcome. This can be done via return email of the above stating the reason for the appeal in an attached letter on club letterhead.

An appeal of a BCA Disciplinary Tribunal decision can be made by any party involved in the Disciplinary Tribunal hearing, but the Appeals Panel will only hear an appeal where: -

- the person, Club or Association (including BCUA) seeking to appeal (Appellant) satisfies the BCA Appeals Panel that substantial new or additional evidence has become available;
- there was a procedural error in the Disciplinary Tribunal Hearing.
- The decision was so unreasonable that no controlling body or Tribunal acting reasonably could have come to the decision having regard to the evidence before it
- That the sanction imposed was manifestly excessive or inadequate.

Appeals to the BCA Appeals Panel must clearly state the reasons and grounds for the appeal.



The penalty outcome being appealed shall be suspended until the appeal is dealt with. If the penalty outcome relates to match suspension or loss of points every endeavour will be made to hear the appeal on the Friday night prior to the next game including if that is a final. If that is not possible the penalty stands and is enforced until the appeal is dealt with.

APPEAL AGAINST DISCIPLINARY TRIBUNAL DECISION

The Appeals Panel may dismiss an appeal –

- The Appeals Panel may dismiss an appeal to the Appeals Panel without conducting any hearing if the Appeals Panel determines that:
 - The appeal doesn't meet the required criteria for an Appeal
 - The subject matter of the appeal is trivial or unrelated to the functions of the Appeals Panel
 - The appeal is frivolous or vexatious
 - The appeal lacks substance or credibility
 - The appellant does not have sufficient interest in the decision that is the subject of the appeal

Attendees

- The person/s who brought the original charges to the Disciplinary Tribunal:
 - The Umpire including advocate or
 - The Match Review Officer including support person if required or
 - The BCA Investigations Officer including support person if required
- The player or person or reported club. **The player or reported person must have an advocate attend. That advocate can be a Club Executive member or a suitably skilled person who can represent the needs of the participant (who is not a practising lawyer or barrister or a member of the BCA Disciplinary Tribunal or Appeals Panel Pool).** If a club has been reported then two members of the Club Executive must attend.
- If the player at the centre of the appeal is under the age of 18, then a guardian/parent/s as well as an advocate must be present.
- If the reported player or person or reported club fails to attend the appeal hearing, the appeal is immediately dismissed. Unless extenuating circumstances are provided, no further appeals will be permitted.
- Witnesses can be called during proceedings, only after notifying the Tribunal panel at least 12 hours prior to the hearing commencement.

Procedure

- Introduction of panel members and opening addresses by the Chair.
- Advocates or club executive representatives or reported player or person identify themselves.
- The Chair then informs all present this is a formal hearing, and all responses must be directed through the Chair of the Panel.
- Reading of the grounds for appeal.
- The Chair asks the player and advocate if they have any objection to any panel member hearing this matter and adjudicating on this report.
- The Chair will then consider the objection and make his or her decision.
 - The advocate and player appealing the Discipline Tribunal decision will be able to present their grounds for appeal without interruption.
 - The parties who brought the original charges to the Disciplinary Tribunal will be invited to respond without interruption.



- Evidence, information and submissions, which may be in writing from:
 - The Umpire/s
 - The Match Review Officer
 - The Match Investigations Officer
 - Any other persons called to give evidence – this maybe in the form of a written statement if unable to attend.
 - The reported player, person or club
 - Witnesses
 - Any relevant FrogBox vision.
 - Character references or pleas.
- There will be opportunities to ask questions via the Chair by members of the Appeal Panel or attendees.
- Advocate for the defending party will provide a short summary before the chair asks all parties to leave the room and appeal panel retires in private to make its decision.
- The Appeals panel will then:
 - Consider the new appeal evidence presented.
 - The panel consults tribunal, and any other relevant, records for any prior history
 - The panel consults BCA Procedure 1A – Offences and Penalties
 - Determine if the original decision of the Disciplinary Tribunal is to be upheld or rejected. If the original decision is upheld determine if any modifications are to be made to the original penalties.
 - The chair asks all parties to return and advises of the result including reasons.
- Formal advice is forwarded by the BCA Administration officer to the Club Secretary via email and the BCA conduct records are updated.

The decision of the BCA Appeals Panel is final, and no further appeals are available.



BCA APPEALS PANEL PROCEDURES

Appeal Against a Refused Transfer

- A player may lodge only one (1) appeal in any cricket season to the Appeals Panel. Such an appeal must be lodged via email to the Operations Officer at operations.ballaratcricket@gmail.com stating the reason for the appeal.
- The appeal must be dealt with within 7 days of the date the appeal is lodged with the Operations Officer of the BCA (All parties to the dispute must receive a copy of such appeals by 48 hours prior to the Appeals Panel hearing.)
- Non-attendance at an Appeals Committee hearing, or any preliminary enquiry, by the participating parties as requested and specified by the Operations Officer shall result in a penalty upon the party in question under BCA Rule 5.

Attendees

- A Club Executive from the player's "former" Club.
- The player who requires a clearance. The player can request an advocate to attend, however that advocate is to be a Club Executive member only (who cannot be a current or former lawyer or legal executive).
- Witnesses can be called during proceedings, only after notifying the Appeals Panel at least 12 hours prior to the hearing commencement.

Appeals Hearing Procedure

- Introduction of panel members and opening addresses by the Chair.
- Advocates or club executive representatives and player identify themselves.
- The Chair then informs all present this is a formal hearing, and all responses must be directed through the Chair of the Panel.
- Reading of the appeal details and basis of the appeal.
- The Chair asks the player, advocate and club executive member if they have any objection to any Appeals Panel member hearing and adjudicating on this matter?
- Each side will be able to present their side of the case without interruption.
- Evidence, information and submissions, which may be in writing from:
 - The player
 - Any other persons called to give evidence – this maybe in the form of a written statement if unable to attend.
 - Witnesses
- There will be opportunities to ask questions via the Chair by members of the Appeal Panel or attendees.
- The Chair will invite both parties to provide a short summary before the chair asks all parties to leave and the room and appeal panel retires in private to make its decision.
- The panel will then:
 - Consider the evidence presented.
 - The tribunal consults BCA Playing Rules and relevant BCA policies and procedures.
 - Make its decision by consensus of the tribunal panel
 - The chair asks all parties to return and advises of the result including reasons.
 - The participants must not question the panel's decision.
- Formal advice is forwarded by the BCA Administration officer to the Club Secretaries via email.

