

## **Appendix D to WRFL By-laws: Tribunal and IHC Procedure Guidelines**

WRFL Rules provide that the Board shall appoint an “Independent Tribunal” (Tribunal) and an “Independent Hearing Committee” (IHC). The Rules specify the purposes, powers and quorum requirements of the Tribunal and IHC; and the manner of appointment of members.

The Rules require that the Board shall appoint not less than six (6) members to each of the Tribunal and IHC; and shall appoint a Chairperson to each body. As there is no provision to the contrary in the Rules, the Board may choose to appoint the same persons to each of the Tribunal and IHC panels. Where this is the case, the Board shall appoint separate Chairpersons to each of the Tribunal and IHC; and any appointed member of the common panel, other than the Chairpersons, may be nominated to sit at any hearing of either body. The Chairperson appointed by the Board to the Tribunal shall sit only on hearings of the Tribunal; and the Chairperson appointed by the Board to the IHC shall sit only on hearings of the IHC.

This appendix to WRFL By-laws summarises the procedure guidelines to be followed in hearings of the Tribunal and IHC. As guidelines, they are general in nature and subject to interpretation and variation at the discretion of the Chairperson of any hearing of either body. In all cases, any provision contained in WRFL Rules must be followed.

These guidelines will be reviewed from time-to-time to reflect contemporary practice.

### **INDEPENDENT TRIBUNAL**

- The Tribunal shall deal with any matters referred to it and have the power to impose fines only in the case of clubs, and fines, suspension or disqualification in the case of players, officials or members. Where the Tribunal or WRFL Board believes that a matter may require a penalty more severe than those specified in these guidelines, or a penalty other than one specified in these guidelines, the matter should be referred directly to the WRFL Board to make a determination.
- Subject to the matters set out in WRFL Rules, By-laws and these guidelines, the Tribunal may regulate any proceedings brought before it in any such manner as it thinks fit.
- The Board may appoint a Secretary to the Tribunal. The Secretary shall support the Tribunal with administrative duties such as:
  - preparing the hearing venue;
  - preparing and managing the order of cases to be deliberated;
  - supervising parties waiting to enter the hearing room and ensuring that such parties are informed of the likely timing of their appearance before the Tribunal;
  - ensuring that written reports of all cases, as authorised by the Tribunal Chairperson, are delivered to the attention of the CEO as soon as possible following completion of any hearing;
  - other duties as directed from time-to-time by the Tribunal or IHC.

The Secretary shall not participate in deliberation and/or determination of any matter before the Tribunal and should not be present in the hearing room during any hearing unless directed otherwise by the Chairperson for a specific purpose.

- Any hearing before the Tribunal shall be:
  - inquisitorial in nature; and
  - conducted with as little formality and technicality and with as much expedition as a proper consideration of the matters before it permits.

- The Tribunal is not bound by the rules of evidence or by practices and procedures applicable to Courts of Record but may inform itself as to any matter in any such manner as it thinks fit.
- Unless otherwise directed by the CEO, any party wishing to produce video evidence must have provided to the League a copy of such video (unedited) by no later than 3.00pm on the day of the hearing; and to other affected parties no later than two (2) hours prior to the scheduled time of the hearing. If required, the party wanting to rely on the video evidence must supply the necessary equipment to enable the Tribunal to view the full video and that equipment should include slow motion and pause facilities. Video evidence must not be edited to exclude anything relevant to the incident(s) subject to the hearing; nor to present any distortion of facts. In the event that the Tribunal should determine that video evidence has been edited or amended to unfairly influence its veracity, the video evidence will be dismissed by the Tribunal and the matter reported to the WRFL Board with the Tribunal's recommendation as to any penalty(s). Where the Tribunal considers that video evidence is capable of sustaining or defeating a reportable offence, the Tribunal may make a finding against a person solely on the basis of that video evidence.
- The Tribunal shall allow any evidence or witness to be lead or called before it at any hearing providing the party wanting to lead the evidence or call the witness shall, not later than 3:00pm on the day of the hearing, lodge with the Secretary at the League office a notice in writing the name(s) of the witness(es). This provision does not apply to any witness directed to attend a hearing by the umpire on the day of the match in which the report was made.
- Where a matter is referred to the Tribunal for an alleged contravention of the WRFL Anti-Doping rules or Racial or Religious Vilification rules, the Tribunal shall follow the provisions and guidelines contained in the WRFL Anti-Doping rules or Racial or Religious Vilification rules and if there are none, develop such for use thereafter.
- The Chairperson of the Tribunal may make guidelines, not inconsistent with the Rules and By-laws of the WRFL, for the practice and procedure with respect to a hearing and shall give a set, in writing to the Chief Executive Officer (CEO) of the League for information to member clubs.
- The Tribunal shall:
  - provide any person whose interest will be directly and adversely affected by its decision a reasonable opportunity to be heard;
  - hear and determine the matter before it in an unbiased manner; and
  - make a decision that a reasonable Tribunal could honestly arrive at.
- The Tribunal shall decide on the balance of probabilities whether a reportable offence or matter against a person or member club has been sustained.
- The Tribunal has the power to deal with any person or member club appearing before it whether charged with an offence or not and may impose any penalty it deems fit against any person or member club for any form of misconduct before the Tribunal or within the presence of the Tribunal including any witness the Tribunal believes has lied to it in the giving of his/her evidence. Any witness called and any person charged who fails to appear before the Tribunal when directed to shall be suspended from playing or acting in any way as an official or otherwise within the League until he/she appears before the Tribunal and explains his/her absence. The Tribunal may at its sole discretion accept a written explanation from such person and

excuse him/her from attending and it may at its own discretion accept written evidence if the witness/person has been so excused or it may adjourn the hearing and waive the suspension provided for herein.

- Any question before the Tribunal must be decided according to the opinion of a majority of members constituting the Tribunal panel for that hearing.
- At the conclusion of its hearing, the Tribunal may make such determination, impose such penalties, make such orders and give such directions in each case as it in its absolute discretion thinks fit.
- The Tribunal may have regard to any matters, which it considers relevant to the question of penalty and without limitation may consider:
  - the seriousness of a reportable offence sustained against a person;
  - the injury sustained (if any) and effect upon the person against whom the reportable offence has been committed (if relevant);
  - the prior record of reportable offences committed by the person; and
  - in so far as they are relevant, the objectives of the Rules and By-laws of the WRFL.
- Where a report is sustained against a person and before imposing any penalty, the Tribunal shall provide that person a reasonable opportunity to make submissions on the question of penalty, and the penalty shall be published in the appropriate media and/or website.
- The Tribunal is not obliged to give reason(s) for any decision(s) made by it but shall keep minutes of the hearing for reference should any appeal be lodged. If requested by the Appeal Board, minutes shall be provided to the Appeal Board.
- A person who has been charged with a reportable offence may be represented before the Tribunal by a Club Advocate who must:
  - be a member of the club to which the reported player belongs; and
  - hold a current WRFL Judicial Permit.

The conduct of any Advocate is answerable to the Tribunal and he/she must be co-operative, courteous and truthful at all times when appearing. If not, the Tribunal can direct him/her to leave the hearing.

- The League may be represented at the hearing of any matter before the Tribunal by any person it deems fit, including a legally qualified person.
- Umpires may be represented at hearings of the Tribunal by an Advocate who holds a current Judicial Permit.
- Where there is any procedural irregularity in the making of a report including without limitation the time when the report was made, the nature of the charge laid, or the procedure at the hearing, the Tribunal shall still hear and determine the matter unless it is of the opinion that the irregularity has caused or may cause injustice if the matter was heard.
- A decision of the Tribunal is not invalid because of any defect or irregularity in, or in connection with, the appointment of a Tribunal member.
- Subject to WRFL Rules and By-laws, any procedure or requirement regulating the function of the Tribunal is discretionary in nature and a decision of the Tribunal is not invalid by reason of that procedure or requirement not being fulfilled.

- Any appeal against a decision of the Tribunal shall be conducted in accordance with WRFL Rules and By-laws.
- No member club official or player shall contact or arrange for another person to contact any member, player, official or spectator of another member club who is or ought likely to be regarded as a person required to give evidence before the Tribunal, where that contact is intended to or may otherwise influence the evidence given or affect the conduct of the Tribunal hearing in a manner which is unfair or creates prejudice to any party to such hearing or the Tribunal itself. A person who contravenes this rule shall:
  - be deemed to have engaged in conduct which is unbecoming and prejudicial to the interests of a just and fair hearing; and
  - be dealt with by the Tribunal as the Tribunal in its absolute discretion thinks fit.

In addition to any penalty or determination made in respect of this conduct the Tribunal may impose a penalty on such officials' or players' club as the Tribunal in its absolute discretion thinks fit, save where the club satisfies the Tribunal that the conduct of the official or player was not entered into with the consent, acquiescence or knowledge of the club.

- It is legitimate for an advocate to contact a witness or potential witness in order to determine whether that person is able to give evidence that may assist the Tribunal, or whether that person was a witness to an incident at all. In this context, it is legitimate to ask the witness what evidence he/she can give.
- No member club, official of member club or member of member club, player or other person associated with a member club shall make any public criticism of a Tribunal decision or of any Tribunal Member or any other matter touching or concerning the Tribunal or a determination made by it.
  - First Offence up to fifty (50) penalty units fine to the member club
  - Subsequent Offence up to one hundred (100) penalty units to the member club

## **INDEPENDENT HEARING COMMITTEE (IHC)**

- The IHC shall deal with any matters referred to it, and have the power to impose fines only in the case of clubs, and fines, suspension or disqualification in the case of players, officials or members. Where the IHC or WRFL Board believes that a matter may require a penalty more severe than those specified in these guidelines, or a penalty other than one specified in these guidelines, the matter should be referred directly to the WRFL Board to make a determination.
- Subject to the matters set out in WRFL Rules, By-laws and these guidelines, the IHC may regulate any proceedings brought before it in any such manner as it thinks fit.
- The Board may appoint a Secretary to the IHC. The Secretary shall support the IHC with administrative duties such as:
  - preparing the hearing venue;
  - preparing and managing the order of cases to be deliberated;
  - supervising parties waiting to enter the hearing room and ensuring that such parties are informed of the likely timing of their appearance before the IHC;
  - ensuring that written reports of all cases, as authorised by the Tribunal or IHC Chairperson, are delivered to the attention of the CEO as soon as possible following completion of any hearing;

- other duties as directed from time-to-time by the Tribunal or IHC.

The Secretary shall not participate in deliberation and/or determination of any matter before the IHC and should not be present in the hearing room during any hearing unless directed otherwise by the Chairperson for a specific purpose.

- Any hearing before the IHC shall be:
  - inquisitorial in nature; and
  - conducted with as little formality and technicality and with as much expedition as a proper consideration of the matters before it permits.
- The IHC is not bound by the rules of evidence or by practices and procedures applicable to Courts of Record but may inform itself as to any matter in any such manner as it thinks fit.
- Any party wishing to produce video evidence must have provided to the League a copy of such video (unedited) by no later than 3.00pm on the day of the hearing. If required, the party wanting to rely on the video evidence must supply the necessary equipment to enable the IHC to view the full video and that equipment should include slow motion and pause facilities. Video evidence must not be edited to exclude anything relevant to the incident(s) subject to the hearing; nor to present any distortion of facts. In the event that the IHC should determine that video evidence has been edited or mended to unfairly influence its veracity, the video evidence will be dismissed by the IHC and the matter reported to the WRFL Board with the IHC's recommendation as to any penalty(s).
- The IHC shall allow any evidence or witness to be lead or called before it at any hearing providing the party wanting to lead the evidence or call the witness shall, not later than 3:00pm on the day of the hearing, lodge with the Secretary at the League office a notice in writing the name(s) of the witness(es). This provision does not apply to any witness directed to attend a hearing by the umpire on the day of the match in which the report was made.
- The Chairperson of the IHC may make guidelines, not inconsistent with the Rules and By-laws of the WRFL, for the practice and procedure with respect to a hearing and shall give a set, in writing to the Chief Executive Officer (CEO) of the League for information to member clubs.
- The IHC shall:
  - provide any person whose interest will be directly and adversely affected by its decision a reasonable opportunity to be heard;
  - hear and determine the matter before it in an unbiased manner; and
  - make a decision that a reasonable panel could honestly arrive at.
- The IHC shall decide on the balance of probabilities whether an offence or matter against a person or member club has been sustained
- The IHC has the power to deal with any person or member club appearing before it whether charged with an offence or not and may impose any penalty it deems fit against any person or member club for any form of misconduct before the IHC or within the presence of the IHC including any witness the IHC believes has lied to it in the giving of his/her evidence. Any witness called and any person charged who fails to appear before the IHC when directed to shall be suspended from playing or acting in any way as an official or otherwise within the League until he/she appears before the IHC and explains his/her absence. The IHC may at its sole discretion accept a written explanation from such person and excuse him/her from attending

and it may at its own discretion accept written evidence if the witness/person has been so excused or it may adjourn the hearing and waive the suspension provided for herein.

- Any question before the IHC must be decided according to the opinion of a majority of members constituting the IHC panel for that hearing.
- At the conclusion of its hearing, the IHC may make such determination, impose such penalties, make such orders and give such directions in each case as it in its absolute discretion thinks fit.
- The IHC may have regard to any matters, which it considers relevant to the question of penalty and without limitation may consider:
  - the seriousness of a reportable offence sustained against a person;
  - the injury sustained (if any) and effect upon the person against whom the reportable offence has been committed (if relevant);
  - the prior record of reportable offences committed by the person; and
  - in so far as they are relevant, the objectives of the Rules and By-laws of the WRFL.
- Where a charge is sustained against a person or member club and before imposing any penalty, the IHC shall provide that person or member club a reasonable opportunity to make submissions on the question of penalty, and the penalty shall be published in the appropriate media and/or website.
- The IHC is not obliged to give reason(s) for any decision(s) made by it but shall keep minutes of the hearing for reference should any appeal be lodged. If requested by the Appeal Board, minutes shall be provided to the Appeal Board.
- A person who has been charged with any offence may be represented before the IHC by a Club Advocate who must:
  - be a member of the club to which the reported player belongs; and
  - hold a current WRFL Judicial Permit.

The conduct of any Advocate is answerable to the IHC and he/she must be co-operative, courteous and truthful at all times when appearing. If not, the IHC can direct him/her to leave the hearing.

- The League may be represented at the hearing of any matter before the IHC by any person it deems fit, including a legally qualified person.
- Where there is any procedural irregularity in the making of a charge including without limitation the time when the charge was made, the nature of the charge laid, or the procedure at the hearing, the IHC shall still hear and determine the matter unless it is of the opinion that the irregularity has caused or may cause injustice if the matter was heard.
- A decision of the IHC is not invalid because of any defect or irregularity in, or in connection with, the appointment of an IHC member.
- Subject to WRFL Rules and By-laws, any procedure or requirement regulating the function of the IHC is discretionary in nature and a decision of the IHC is not invalid by reason of that procedure or requirement not being fulfilled.
- Any appeal against a decision of the IHC shall be conducted in accordance with WRFL Rules and By-laws.

- No member club official or player shall contact or arrange for another person to contact any member, player, official or spectator of another member club who is or ought likely to be regarded as a person required to give evidence before the IHC, where that contact is intended to or may otherwise influence the evidence given or affect the conduct of the IHC hearing in a manner which is unfair or creates prejudice to any party to such hearing or the IHC itself. A person who contravenes this guideline shall:
  - be deemed to have engaged in conduct which is unbecoming and prejudicial to the interests of a just and fair hearing; and
  - be dealt with by the IHC as the IHC in its absolute discretion thinks fit.

In addition to any penalty or determination made in respect of this conduct the IHC may impose a penalty on such officials' or players' club as the IHC in its absolute discretion thinks fit, save where the club satisfies the IHC that the conduct of the official or player was not entered into with the consent, acquiescence or knowledge of the club.

- It is legitimate for an advocate to contact a witness or potential witness in order to determine whether that person is able to give evidence that may assist the IHC, or whether that person was a witness to an incident at all. In this context, it is legitimate to ask the witness what evidence he/she can give.
- No member club, official of member club or member of member club, player or other person associated with a member club shall make any public criticism of an IHC decision or of any IHC member or any other matter touching or concerning the IHC or a determination made by it.
  - First Offence up to fifty (50) penalty units fine to the member club
  - Subsequent Offence up to one hundred (100) penalty units to the member club