

# Sporting tribunal operations

## — what you need to know

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As an official, you may occasionally be required to attend a sporting tribunal because of a decision you have made regarding a breach of the playing rules, or to provide information about an off-field incident such as spectator violence or some form of harassment or discrimination. Understanding the procedures and requirements associated with sporting tribunals can assist in the prompt and satisfactory resolution of issues.

Sporting organisations are able to determine how a tribunal is formulated, who adjudicates on the tribunal, and how the tribunal process is to be conducted. In making these determinations, a sporting organisation does not need to abide by any specific legal requirement or process. However, there are three basic principles of natural justice that should be followed by a tribunal to ensure a fair and equitable process is achieved:

- **Notification of the charge** — the person accused should receive notice of, and know the nature of, the allegations made against them.
- **Opportunity to respond** — the person accused should be given the opportunity to respond to the allegations.
- **Decision-makers to be unbiased** — there should not be any preconceived opinions, vested interests or personal involvement of the tribunal members.

Tribunals that do not adhere to these principles, and make decisions that unfairly impact on the livelihood or earning capacity of a person, may be reviewed by a court of law, and any decision arrived at, or penalty imposed, may possibly be set aside.

A tribunal is not required to follow any specific legal process other than that outlined in the organisation's constitution or by-laws. A tribunal is not expected to act as a court of law, but should conduct the hearing as quickly, informally and comprehensively as practicable.

There is no absolute right to legal representation at a sport tribunal hearing. Most tribunals, however, are given a discretionary power in their rules, and where an issue involves either a person's livelihood or a serious allegation, the person should be allowed to be legally represented. If a tribunal is to adjudicate on a matter that involves a person under the age of 18 years, it is strongly recommended that a parent or guardian is allowed to accompany and assist them.

A tribunal can accept any information available to it, even if it would not normally be admissible in a court of law. Hearsay evidence can be considered by a tribunal if it is considered reliable, applicable and appropriate. There is no expectation under natural justice principles for cross-examination of witnesses to occur during a tribunal hearing. Tribunal rules may allow a discretionary power for

cross-examination to occur, which, if permitted, should be consistent for both parties. There is no legal obligation, however, for witnesses to disclose relevant information, or even answer certain questions during a hearing.

Any decisions arrived at by a tribunal should be based only on relevant evidence provided, and should not be influenced by rumour, speculation or gossip. Decisions should also be arrived at to the reasonable satisfaction of the tribunal members or on the 'balance of probabilities' (that is, more probable than not). It is considered good practice for tribunals to outline the reasons for any decisions that are made.

Under natural justice principles, a person should be given the opportunity to address the tribunal when the question of penalty is to be decided. The penalty options that a tribunal can impose must be specifically outlined in the organisation's constitution or by-laws. Any penalty imposed by a tribunal must be reasonable under the circumstances of the case or issue (that is, the 'punishment' fits the 'crime').

As this is general information only, it is recommended that officials obtain a copy of their own organisation's tribunal guidelines to become aware of the specific procedures and entitlements. For more information, please visit the Australian Sports Commission's web site at [www.ausport.gov.au/ethics](http://www.ausport.gov.au/ethics).