

DAPTO NETBALL CLUB REGULATION

DISCIPLINARY PROCEDURES AND APPEALS

OF THE

DAPTO NETBALL CLUB

REGULATION 4 – DISCIPLINARY PROCEDURES & APPEALS

4.1 PURPOSE

In accordance with authority provided by Clause 37 of the Dapto Netball Club (the Club) Constitution, the Management Committee has created this Regulation to outline the process for disciplinary action by the Club against a member, not resulting directly from a complaint or report relating to a competition game, and a process for appeal in relation to such action. This Regulation has been created to be read in conjunction with Clause 11 and 30 of the Constitution, and interpreted in accordance with the Constitution.

4.2 DEFINITION

- (a) The term “subject” under this Regulation shall include Life Members and individual members.
- (b) The term “tribunal” used in this regulation shall mean the “Disciplinary Tribunal” referred to in the Constitution.

4.3 OVERVIEW

Any sanction recommended under this Regulation must:

- (a) observe any contractual and employment rules and requirements;
- (b) conform to the principles of natural justice;
- (c) be fair and reasonable;
- (d) be based on the evidence and information presented; and
- (e) be within the powers of the Tribunal or Management Committee to impose the measure.

4.4 TRIBUNAL

- (a) The Tribunal shall operate in accordance with the procedures expressed in the Regulations but subject always to the Constitution and the Associations Incorporation Act (2009).

- (b) The Management Committee shall appoint a Tribunal Coordinator from within the Management Committee.
- (c) The Tribunal Coordinator shall create an independent panel of ten (10) senior members, representing a cross section of the Club, to be approved by the Management Committee.
- (d) The Management Committee shall appoint the Tribunal of at least three (3) or more members to investigate the matter and make a determination in relation to the alleged breach.
- (e) The Tribunal Co-ordinator may be present at a hearing to provide guidance with regards to the Constitution and Regulations, but cannot participate in any other way in the hearing or vote on any decision.
- (f) The decision of the Tribunal is final, except where an appeal to the Management Committee is lodged in accordance with Clause 4.10.
- (g) Where an appeal has been lodged, the final decision will be made by the Management Committee.

4.5 NOTICE OF ALLEGATION

Where the Management Committee requires a Tribunal to deal with a disciplinary matter, the Secretary shall, as soon as practicable, serve on the subject a notice in writing:

- (a) Setting out the alleged breach by the subject and the grounds on which it is based.
- (b) Stating that the subject may address the Tribunal at a meeting to be held not earlier than seven (7) and not later than twenty eight (28) days after service of the notice.
- (c) Stating the date, place, and time of that meeting.
- (d) Informing the subject that they may do one or more of the following:
 - (i) attend that meeting;
 - (ii) give to the Tribunal at least three (3) days before the date of that meeting, a written statement regarding the alleged breach; and/or
 - (iii) be represented by another senior member of the Club who shall not be legally trained.

4.6 ATTENDENCE AT MEETING

- (a) The subject shall either:
 - (i) attend the meeting in person;
 - (ii) provide a written statement by the subject, putting forward their case to the Tribunal; or
 - (iii) be represented by another senior member of the Club who shall not be legally trained.
- (b) If the subject does not attend or comply with any of the above, they shall be deemed to have failed to attend the meeting. The subject shall have their membership suspended until they have attended a reconvened meeting.
- (c) The new date for the meeting shall be advised, to the subject, by the Secretary, as soon as practicable.

4.7 DECISION OF TRIBUNAL

- (a) At a meeting, the Tribunal shall:
 - (i) give the subject (either personally or through a representative who shall not be legally trained) every opportunity to be heard;
 - (ii) give due consideration to any written statement submitted by the subject; and
 - (iii) determine what (if any) sanctions should be imposed if it is satisfied that the facts alleged in the complaint have been proved and that the alleged breach occurred.
- (b) The Tribunal is required to give reasons for its decision to the subject.
- (c) If the Tribunal imposes a sanction, the Secretary must, within seven (7) days after the action is taken, provide written notice to the subject of the action taken and of the subject's right of appeal in accordance with Clause 4.10 of this Regulation.
- (d) Any sanction imposed by the Tribunal shall be imposed on receipt of notification by the subject.

4.8 SANCTIONS

- (a) If the Tribunal finds that an offence has been proved or committed by an individual, one or more of the following sanctions may be imposed:
 - (i) direct that the individual makes a verbal and/or written apology;
 - (ii) issue a written warning;
 - (iii) direct that the individual attend counselling to address the behaviour;
 - (iv) withdraw any award, honour, achievements bestowed on the subject by the Club;
 - (v) in the case of a coach or and official, disallow that subject from that role for a period of time, or permanently;
 - (vi) suspend the subject's right to participate in particular Club activities;
 - (vii) suspend the subject from membership of the Club for a specified period. Such suspension to be notified to Netball Illawarra;
 - (viii) expel a subject from the Club and advise Netball Illawarra of the expulsion; or
 - (ix) impose any other penalty, action or educative process as it deems appropriate.
- (b) When imposing any sanction, it will be accompanied by a written warning that a similar breach by that subject in the future may result in the imposition of a more serious sanction.

4.9 FACTORS TO CONSIDER WHEN IMPOSING SANCTIONS

The sanction to be imposed on a subject will depend on factors such as:

- (a) the nature and seriousness of the behaviour or incidents;
- (b) the effect of the proposed sanctions on the subject including any personal, professional or financial consequences;
- (c) if there have been relevant prior warnings or disciplinary action;
- (d) if there are any mitigating circumstances; and
- (e) any representations made to the Tribunal.

4.10 APPEAL

- (a) A subject may appeal to the Management Committee against a decision of the Tribunal, but must do so no later than forty eight (48) hours after notice of the decision is served on the subject, by lodging with the Secretary a written notice to that effect.
- (b) Where the Secretary receives a notice of appeal, they shall notify the subject of the receipt of the appeal.
- (c) The notice must be accompanied by a statement of the grounds on which the subject intends to rely for the purposes of the appeal.
- (d) Where a statement of the grounds for the appeal is not provided or is irrelevant to the original charges and decision of the Tribunal, the appeal shall be deemed frivolous and rejected. The decision of the Tribunal shall stand.
- (e) Where the Secretary receives a notice of appeal, they shall notify the Management Committee who shall consider the appeal at its next Management Committee meeting or in a specially convened Management Committee meeting to be held within twenty eight (28) days after the date on which the Secretary received the notice.
- (f) The Management Committee may uphold a decision of the Tribunal, refer the matter back to the Tribunal for it to be reconsidered, or reach its own decision in relation to the allegation against the subject. The Management Committee must provide written reasons for its decision.
- (g) The decision of the Management Committee shall be made by a majority vote and shall be considered as the final decision on the matter.