

# **STATE & TERRITORY DISCIPLINARY COMMITTEE GUIDELINES**

**2019**

# 1 APPLICATION

These *State & Territory Disciplinary Committee Guidelines* (**Guidelines**) apply to Australian Football State Leagues (and other leagues at the discretion of Controlling Bodies) conducted or administered by one of the following Controlling Bodies:

- (a) NSW/ACT: AFL (NSW/ACT) Commission Ltd ACN 086 839 385;
- (b) NT: AFL (Northern Territory) Limited ACN 097 620 525;
- (c) QLD: AFL (Queensland) Limited ACN 090 629 342;
- (d) SA: South Australian National Football League Inc ABN 59 518 757 737;
- (e) TAS: Football Tasmania Limited ACN 085 213 350;
- (f) Victoria: Australian Football League (Victoria) Limited ACN 147 664 579;
- (g) WA: West Australian Football Commission Inc ABN 51 167 923 136.

A Controlling Body may, at its discretion, apply part or all of these Guidelines to additional leagues conducted or administered by, or affiliated with, that Controlling Body.

Where these Guidelines are adopted by a Controlling Body, the players, coaches, officials, spectators, administrators and any other people reasonably connected to that Controlling Body (and the applicable State League or other leagues) are required to comply with these Guidelines.

These Guidelines cover any Disciplinary Matter or conduct in respect of which the Disciplinary Committee is empowered to deal. These Guidelines do not apply to Reportable Offences, which fall under the operation of the State and Territory Tribunal Guidelines.

Where a Disciplinary Matter or other conduct falling under these Guidelines is also a Reportable Offence, the matter must be heard as a Reportable Offence in accordance with the State and Territory Tribunal Guidelines. Unless the Disciplinary Committee determines otherwise, an individual must not be sanctioned under these Guidelines if that individual has also been sanctioned under the State and Territory Tribunal Guidelines in respect of the same conduct.

Leagues may supplement these Guidelines with additional procedures provided those additional procedures are not inconsistent with the terms of these Guidelines.

## **2 DISCIPLINARY COMMITTEE**

### **2.1 Appointment of Committee Members**

The Controlling Body may, from time to time, appoint persons to the Committee.

### **2.2 Committee Members**

The Committee shall consist of:

- (a) a Chairperson with appropriate legal qualifications; and
- (b) a panel of persons, who in the opinion of the Controlling Body possess a sufficient knowledge of Australian Football to competently perform the role of a panel member (**Committee Panel Members**).

Persons appointed to the roles in section 2.4(a) and 2.4(b) may be rotated from hearing to hearing, as determined by the Controlling Body in its absolute discretion.

### **2.3 Qualifications of Committee Members**

Except where the Controlling Body otherwise determines, a person shall not be appointed to the Committee if that person:

- (a) has been a member of a Board of Directors of a Club;
- (b) has been a coach or assistant or specialty coach of a Club;
- (c) has been a Person of a Club; or
- (d) has been an employee of the AFL or a Club,

in the twelve (12) months preceding the appointment.

### **2.4 Resignation and Removal of Committee Members**

- (a) A member of the Committee may resign by providing notice in writing to the Controlling Body.
- (b) The Controlling Body may remove a person appointed to the Committee at any time in its absolute discretion.

### **2.5 Reporting Officer**

- (a) Subject to section 2.5 (b), the Controlling Body may, from time to time and in its absolute discretion, appoint one or more Reporting Officers to:
  - (i) advise the Committee of the particulars of the charge or matter before it;

- (ii) review Match footage;
  - (iii) make submissions in relation to the charge or matter;
  - (iv) respond to any matters put in defence;
  - (v) ask questions of any Person appearing before the Committee;
  - (vi) call any Persons to give evidence as the Reporting Officer may consider necessary or desirable in the interests of general justice and fairness; and
  - (vii) address the Committee by way of summing up prior to any final submissions of the advocate of any Person charged or otherwise appearing to be dealt with by the Committee and prior to the Committee retiring to consider its finding.
- (b) The Reporting Officer shall have the power to withdraw any charge or matter prior to or at any time during a hearing before the Committee.
  - (c) The Reporting Officer shall, with leave of the Committee, have the power to amend any charge or statement of any matter to be determined by the Committee prior to or at any time during a hearing before the Committee.

## **2.6 Representation**

- (a) At any hearing before the Committee a Person charged with a Disciplinary Matter or such other conduct may:
  - (i) appear in person; or
  - (ii) with leave of the Chairperson, be represented by a barrister, solicitor or agent.
- (b) Where a Person charged with a Disciplinary Matter or other conduct is under the age of 16 years at the time of the alleged matter or conduct, the Person may be represented by a parent/guardian instead of a barrister, solicitor or agent.
- (c) Where the Chairperson is of the opinion that a Person or representative of a Person appearing before the Committee has failed to observe directions of the Committee or otherwise acted in a contemptuous, irresponsible or discourteous manner, the Chairperson may dismiss the Person or Person's representative and if appropriate, adjourn the hearing to enable the Person to obtain fresh representation.

## **2.7 Composition of Committee Hearing**

Except where otherwise determined by the Controlling Body, at any Committee hearing, the Committee shall comprise a minimum of three (3) and maximum of (5) persons (including the Chairperson) with the exact number of persons to be at the discretion of the Controlling Body.

## **2.8 Attendance at Committee Hearing**

- (a) A Person who has been summoned to attend a Committee hearing must attend at the time and place notified on the Notice of Charge or other relevant notice.
- (b) The Committee hearing will be held in the State or Territory of the charged Person's registered Club, unless otherwise advised or determined by the Controlling Body.
- (c) A Person wishing to attend the Committee hearing via video or telephone conferencing must first seek the approval of the Controlling Body.
- (d) If a Person issued with a Notice of Charge or other relevant notice or their representative fails to appear at the notified time and place, the Committee may proceed to hear and determine the charge or matter and any sanction, in the absence of that Person.

## **2.9 General Conduct of Hearing**

- (a) Subject to these Guidelines, the Disciplinary Committee may regulate proceedings brought before it in such manner as the Chairperson thinks fit.
- (b) Committee hearings shall be conducted with as little formality and technicality and with as much expedition as a proper consideration of the matters before it permits.
- (c) The Committee is not bound by the rules of evidence or by practices and procedures applicable to Courts of Record and may inform itself as to any matter in any such manner as it thinks fit.
- (d) The Chairperson may make any guidelines not inconsistent with these Guidelines that he or she thinks appropriate for the practice and procedure of a hearing. Any such guideline shall be directory in nature and no decision of the Committee shall be invalidated by reason of a guideline not being followed.
- (e) Subject to section 2.9 (f), in accordance with natural justice principles the Committee shall:
  - (i) provide any Person whose interest will be directly and adversely affected by its decision, a reasonable opportunity to be heard;
  - (ii) hear and determine the matter before it in an unbiased manner; and

- (iii) make a decision that a reasonable Committee could honestly arrive at.
- (f) Whilst the Committee will endeavour to hear and determine any charge or matter referred to it before the Person's Club is next scheduled to compete, to the extent that the rules of natural justice require that:
  - (i) a Person be given adequate notice of or sufficient time to prepare for a hearing; or
  - (ii) the Committee hearing be scheduled at a time which does not affect the Person's or the Person's Club's preparation for the next scheduled Match,
 those requirements are expressly excluded from these Guidelines.

## **2.10 Evidence**

- (a) Any Person required to attend before the Committee may request to adduce witness evidence at the Committee hearing, provided that such a request is submitted to the Controlling Body in writing by no later than 10.00am on the day after notification of the charge or matter, and contains:
  - (i) the name and address of the witness;
  - (ii) the qualifications and experience of the expert witness, if applicable; and
  - (iii) the substance of the evidence it is proposed to adduce from the witness.
- (b) Unless permission is granted by the Chairperson and a Person has complied with section 2.10(a), a Person shall not adduce the evidence of a witness.
- (c) Where the Chairperson allows a person to adduce evidence from a witness, or on any other occasion, the Disciplinary Committee may at the direction of the Chairperson, hear any other expert evidence in relation to the matters requiring its determination.

## **2.11 Matters Referred Under AFL Anti-Doping Code**

Where a matter is referred to the Disciplinary Committee for an alleged contravention of the *Australian Football Anti-Doping Code* or the *AFL Illicit Drugs Policy* (if applicable), this section shall be read in conjunction with the provisions of the *AFL Anti-Doping Code* or the *AFL Illicit Drugs Policy* as the case may be, provided that to the extent of any inconsistency, the provisions and guidelines contained in the *AFL Anti-Doping Code* or the *AFL Illicit Drugs Policy* shall respectively prevail.

## **2.12 Challenge to Jurisdiction, Formalities of Report and Other Technical Matters**

Where a Person intends at a hearing of the Committee to:

- (a) challenge the jurisdiction of the Committee to deal with a matter;
- (b) challenge the constitution of the Committee;
- (c) challenge the formalities of the laying of any charge; or
- (d) raise any other matter requiring a legal or technical interpretation,

the Person intending to do such things must provide full written particulars of all relevant matters and forward a copy of those particulars to the Controlling Body and any other Person who has an interest in the proceeding by midday on the day after notification of the charge or matter to be heard by the Committee.

### **2.13 Standard of Proof**

The Committee shall decide on the balance of probabilities whether a Disciplinary Matter or other charge against a Person has been sustained.

### **2.14 Onus of Proof**

The Person bringing the Disciplinary Matter or other charge shall bear the onus of establishing that the alleged Disciplinary Matter or other conduct occurred.

### **2.15 Decision of the Committee**

- (a) The decision of the Committee shall be determined according to the opinion of a majority of the sitting Committee.
- (b) Subject to section 2.9, the Committee may determine any matter in any such manner as it thinks fit.
- (c) The Committee may determine that a reduced sanction is applicable in exceptional and compelling circumstances. Exceptional and compelling circumstances, which the Committee may consider, at its discretion, include whether:
  - (i) a Person has a verifiable exemplary record;
  - (ii) a Disciplinary Matter was committed in response to provocation;
  - (iii) a Disciplinary Matter was committed in self-defence; or
  - (iv) there are multiple Disciplinary Matters arising from the same event or course of conduct.
- (d) Where a charge is sustained with respect to a charge or matter not involving a Person or a Disciplinary Matter, the Committee may, subject to any contrary provisions in any

relevant Rules and Regulations, impose such sanctions as it, in its absolute discretion, thinks fit.

- (e) The Committee is not obliged to give reasons for any decision made by it under these Guidelines.
- (f) Where a charge is sustained against a Person who was under the age of 16 years at the time of the relevant Disciplinary matter or other conduct, the Controlling Body shall not publicly release the decision of the Committee without the express permission of the Person charged and their parent/guardian.

## **2.16 Validity of Charge and Hearings**

- (a) Where there is a procedural irregularity in the making of a charge or any other matter, the Committee 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.
- (b) Without limitation, the Chairperson may direct that a Notice of Charge be amended to ensure that a matter before the Committee is decided according to its merits and not on the basis of a technicality. The Chairperson's power to amend shall include the power to substitute another charge.
- (c) A decision of the Committee is not invalid because of any defect or irregularity in, or in connection with, the appointment of a Committee member.
- (d) Subject to sections 2.9(e), 2.13 and 2.14, any procedure or requirement regulating the function of the Committee is directory in nature and a decision of the Committee is not invalid by reason of that procedure or requirement not being fulfilled.

## **2.17 Co-operation with Committee**

- (a) Subject to section 2.17(b), a Person shall appear before the Committee, if requested to do so by the Controlling Body or Committee.
- (b) The Chairperson may excuse a Person from appearing before the Committee if the Chairperson is of the opinion that the Person is suffering from an injury or medical condition that would reasonably prevent that Person's attendance.
- (c) Any Person who appears before the Committee and who in the opinion of the Committee has:
  - (i) failed to fully co-operate with the Committee;
  - (ii) failed to truthfully answer any questions asked by the Reporting Officer or the Committee;



- (iii) failed to provide any document in that Person's possession or control relevant to the matter to be determined by the Committee following a request by the Committee; and/or
- (iv) makes any false or misleading statement or makes a statement or acts in a manner calculated to or which is likely to mislead,

shall be dealt with by the Committee as it, in its absolute discretion, thinks fit.

## **2.18 Prohibited Conduct**

- (a) A Person who has been issued with a Notice of Charge, or any Person acting on behalf or in concert with a Person who has been issued with a Notice of Charge, shall not contact or procure another to contact a Person who is or ought reasonably to be regarded as a Person required to give evidence before the Committee, where that contact is intended to or may otherwise mislead the Committee or unfairly affect the conduct of the Committee hearing.
- (b) No Person shall publicly comment on:
  - (i) the contents of a Notice of Charge prior to the conclusion of any determination by the Committee and/or completion of the matter, as the case may be; or
  - (ii) a Notice of Investigation and any matter touching upon or concerning an Investigation under these Guidelines, until completion of such investigation and/or relevant determination by the Committee,

unless the Person establishes, to the reasonable satisfaction of the Controlling Body, that such public comment was not intended to influence or affect the conduct of the Committee hearing or the process of the investigation, as the case may be.

- (c) A Person who contravenes this section shall:
  - (i) be deemed to have engaged in conduct which is unbecoming and prejudicial to the interests of a just and fair hearing; and
  - (ii) be dealt with by the Committee as it, in its absolute discretion, thinks fit.

## **2.19 Sanction on Club**

In addition to any sanction or determination made in respect of a Person under section 2.18, the Committee may impose a sanction on that Person's Club as they in their absolute discretion think fit, except where the Club satisfies the Committee that the conduct of the Person was not entered into with the consent, acquiescence or knowledge of the Club.

## **2.20 Criticism of Committee Decision**

- (a) No Person or Club shall make any unfair, unreasonable or excessive public criticism of a Committee decision or of any Committee Member or any other matter touching on or concerning the Committee or a determination made by it.
- (b) The Controlling Body shall determine in its absolute discretion in any case, whether any public criticism is unfair, unreasonable or excessive.
- (c) Where the Controlling Body determines that any public criticism is unfair, unreasonable or excessive, the Controlling Body may impose a sanction in its absolute discretion.
- (d) Where a Person contravenes this section, the Person's Club may also be liable to a sanction at the discretion of the Controlling Body.

## **2.21 Person Suspension**

- (a) Unless otherwise specified by the Committee in exceptional circumstances, where a Person is suspended or disqualified by the Committee, such suspension or disqualification shall apply to all Australian football competition Matches, subject to section 2.21(c) below. For the avoidance of doubt:
  - (i) a Person suspended in a previous season cannot serve his or her suspension in any pre-season fixtures or off-season fixtures;
  - (ii) a Person suspended in a junior competition graduating to a senior competition shall serve his or her suspension in his or her new grade;
  - (iii) a Person transferring from another league shall carry any suspensions with him or her; and
  - (iv) a Person suspended during a split round cannot serve his or her suspension in that same round in another grade (including representative football).
- (b) Unless otherwise specified by the Committee in exceptional circumstances, a suspended Person will not be eligible to play, coach or otherwise be involved in representative football if the representative fixture occurs while the Person is serving the suspension. If the suspended Person was selected to play in or to coach or

otherwise be involved in the representative team prior to being suspended then he or she foregoes playing in the representative fixture if the fixture occurs during the time of the suspension. In this situation the representative fixture does not count as part of the suspension.

- (c) A Person suspended or disqualified by the Committee may still participate in practice/training Matches with his or her registered Club however such Matches will not count as part of the Person's suspension or disqualification.
- (d) Law 19.4 of the *Laws of the Game* shall apply in relation to all Persons suspended by the Committee.

### 3 REPORTING PROCEDURES

#### 3.1 Incident Referral

- (a) Where a Reporting Officer suspects that a Person may have breached the Rules and Regulations the Reporting Officer must, as soon as practical complete a Disciplinary Matter Referral Form in the form prescribed by the Controlling Body.
- (b) Where a Club suspects that a Person may have contravened the Rules and Regulations, the Club may submit a written complaint to the Controlling Body, by no later than 5.00pm on the next business day after the relevant Match or other time as agreed by the Controlling Body. The Controlling Body may levy a fee for the administration of the referral (with the fee amount, if applicable, to be determined by the Controlling Body in its absolute discretion), which may be refunded if the Controlling Body determines, that the Person who is the subject of the written complaint may have committed a Disciplinary Matter.
- (c) A complaint lodged in accordance with section 3.1(b) cannot be withdrawn by the Club after it has been lodged with the Controlling Body without obtaining the leave of the Chairperson.

#### 3.2 Investigation

The Controlling Body may order an investigation into the alleged breach of the Rules and Regulations (in accordance with the *National Investigation Guidelines* if applicable as determined by the Controlling Body). After receiving that investigation report if the Controlling Body believes in good faith that the Person and/or Club has committed a breach of the Rules and Regulations, the Controlling Body may order the Person and/or Club to appear before a Committee.

### **3.3 Notice of Charge**

- (a) Notwithstanding any other provision of these Guidelines, if an authorised person of a Controlling Body is of the opinion that a Person may have breached any Rules and Regulations, that authorised person may commence the Disciplinary Matter proceedings by completing a Notice of Charge. The authorised person shall provide a copy of the Notice of Charge to the charged Person, their Club, any other Person and the Club of any other Person directly involved in the charge.
- (b) The Reporting Officer, may withdraw any Notice of Charge at any time prior to a Committee hearing by lodging a written notice with the Controlling Body.

## 4 COMPETITION APPEAL RULES

### 4.1 League Committee and Appeal Rules Paramount

- (a) These Guidelines prescribe the procedures for an appeal commenced by a Controlling Body, Club or Person in respect of a decision made by the Committee under these Guidelines or Controlling Body under applicable Rules and Regulations.
- (b) To the extent that anything within these Guidelines is inconsistent with any other player rule, regulation or by-law, the provisions of these Guidelines shall prevail.

### 4.2 Appointment

The Controlling Body may, from time to time, appoint Persons to an Appeal Board.

### 4.3 Grounds for Appeal from Disciplinary Committee

Except where otherwise determined by the Controlling Body, a Person, Club, League or Controlling Body may only appeal to the Appeals Board in respect of a decision made by the Committee under these Guidelines on one or more of the following grounds:

- (a) that there was an error of law;
- (b) that the decision was so unreasonable that no Committee acting reasonably could have come to that decision having regard to the evidence before it;
- (c) the classification of the seriousness of the Disciplinary Matter or other conduct was manifestly excessive or inadequate; or
- (d) that the sanction imposed was manifestly excessive or inadequate,

(each, a **Ground**).

### 4.4 Grounds for Appeal from other applicable Rules and Regulations

Except where otherwise determined by the Controlling Body, a Person, Club, League or Controlling Body may only appeal to the Appeals Board in respect of a decision made by a League or Controlling Body (including a determination of a Tribunal with respect to a decision of a League or Controlling Body) under its applicable Rules and Regulations on one or more of the following grounds:

- (e) that there was an error of law;
- (f) that the decision was so unreasonable that no body acting reasonably could have come to that decision having regard to the evidence before it;

- (g) the classification of the seriousness of the Disciplinary Matter or other conduct was manifestly excessive or inadequate; or
  - (h) that the sanction imposed was manifestly excessive or inadequate,
- (each, a **Ground**).

For the avoidance of doubt, the Grounds in this section 4.4 do not override the grounds, if any, set out in other applicable Rules and Regulations.

#### **4.5 Lodgement of Appeals**

Any Person, Club, League or Controlling Body may, in accordance with these Guidelines, appeal to its Appeals Board where constituted or, where no such body exists, to the Controlling Body's Appeals Board in respect of a Ground set out in section 4.3 or section 4.4.

#### **4.6 Appeal Board Members**

- (a) The Appeal Board shall consist of:
  - (i) a Chairperson with appropriate legal qualifications (**Chairperson of the Appeal Board**); and
  - (ii) at the discretion of the Controlling Body, a panel of not more than six (6) persons who in the opinion of the Controlling Body possess a sufficient knowledge of Australian Football to competently perform the role of an appeal board member (**Appeal Board Panel**).
- (b) Persons appointed to the roles in section 4.6(a)(i) and (ii) may be rotated from hearing to hearing, as determined by the Controlling Body in its absolute discretion.
- (c) Any Appeal Board member, who has also been appointed a Committee Panel Member and who did not comprise the Committee for the matter that is the subject of the appeal, shall be eligible for selection for the appeal hearing.

#### **4.7 Qualifications of Appeal Board Members**

Except where the Controlling Body otherwise determines, a Person shall not be appointed to the Appeal Board if that Person:

- (a) has been a member of a Board of Directors of a Club;
- (b) has been a Coach or assistant or specialty Coach of a Club;
- (c) has been a Player of a Club; or
- (d) has been an employee of the AFL or a Club,

in the twelve (12) months preceding the appointment.

#### **4.8 Resignation and Removal of Appeal Board Members**

- (a) A member of the Appeal Board may resign by providing notice in writing to the Controlling Body.
- (b) The Controlling Body may remove a Person appointed to the Appeal Board at any time in its absolute discretion.

#### **4.9 Representation**

- (a) At any hearing before the Appeal Board a Person may:
  - (i) appear in person; or
  - (ii) be represented by a barrister, solicitor or agent on such terms, if any, as the Chairperson directs.
- (b) Where the Chairperson is of the opinion that a Person or representative of a Person appearing before the Appeal Board has failed to observe directions of the Appeal Board or otherwise acted in a contemptuous, irresponsible or discourteous manner, the Chairperson may dismiss the Person or Person's representative and if appropriate, adjourn the proceedings to enable the Person to obtain fresh representation.

#### **4.10 Composition of Appeal Board**

On any occasion when an appeal is brought before the Appeal Board, the Appeal Board shall comprise, at the discretion of the Controlling Body, up to three (3) Appeal Board members being:

- (a) the Chairperson of the Appeal Board or, in the Chairperson's absence, a member of the Appeal Board Panel who shall act as Chairperson; and
- (b) up to two (2) Appeal Board Panel members.

#### **4.11 Notice of Appeal**

- (a) Except where otherwise determined by the Controlling Body, an appeal under these Guidelines shall be brought by lodging with the Controlling Body, by no later than 5.00pm on the day following the decision of the Committee or decision under the Rules and Regulations (as applicable), a duly completed Notice of Appeal in the form prescribed by the Controlling Body and, in the case of an appeal under section 4.3 or 4.4, shall be accompanied by payment to the Controlling Body of:



- (i) the sum of 50% of a fixed fee to be determined by the Controlling Body (inclusive of Goods and Services Tax), which sum shall not be refundable in any circumstances; and
  - (ii) the remaining 50% of the fixed fee (inclusive of Goods and Services Tax) shall be dealt with in accordance with section 4.19 – 4.22.
- (b) The Controlling Body shall fix a date, time and place for the hearing before the Appeal Board, as soon as practicable after the lodgement of the Notice of Appeal and shall advise all parties interested in the appeal of those particulars.
- (c) The Appeal Board may, at any time prior to the hearing, vary the date, time or place specified in the Notice of Appeal and upon doing so shall, as soon as practicable, provide all parties interested in the appeal with written notice of such variation.

#### **4.12 Attendance**

- (a) An appellant or an appellant's representative shall attend and appear before the Appeal Board at the date, time and place fixed for the hearing of the appeal. Where an appellant or an appellant's representative fails to attend before the Appeal Board, the Appeal Board may hear and determine the appeal in the appellant's absence.
- (b) The Appeal Board hearing will be held in the State or Territory of the appellant's registered Club, unless otherwise advised or approved by the Controlling Body.
- (c) A Person wishing to attend the Appeal Board hearing via video or telephone conferencing must first seek the approval of the Controlling Body.
- (d) A Reporting Officer may attend and appear before the Appeal Board at the date, time and place fixed for the hearing of the appeal. Where a Reporting Officer fails to attend before the Appeal Board, the Appeal Board may hear and determine the appeal in the absence of that Reporting Officer.

#### **4.13 General Conduct of Appeal Hearing**

- (a) Subject to these Guidelines, the Appeal Board may regulate any proceedings brought before it in such manner as the Chairperson of the Appeal Board thinks fit.
- (b) The Appeal Board 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 such manner as it thinks fit.
- (c) Subject to section 4.12(d), in accordance with natural justice principles the Appeal Board shall:

- (i) provide any Person whose interest will be directly and adversely affected by its decision a reasonable opportunity to be heard;
  - (ii) hear and determine the matter before it in an unbiased manner; and
  - (iii) make a decision that a reasonable body could honestly arrive at.
- (d) Without limiting section 4.18, whilst the Appeal Board will endeavour to hear and determine any charge or matter referred to it before the appellant's Club is next scheduled to compete, to the extent that the rules of natural justice require that:
- (i) a Person be given adequate notice of or sufficient time to prepare for an appeal; or
  - (ii) the appeal be scheduled at a time that does not affect the appellant's or the appellant's Club's preparation for the next scheduled Match,

those requirements are expressly excluded from these Guidelines.

#### **4.14 Review**

- (a) The Appeal Board shall hear all appeals by way of a review of the evidence presented before the Committee or Controlling Body (as applicable) and determine whether one or more of the Grounds have been established.
- (b) Neither the appellant nor Reporting Officer may produce fresh evidence at the hearing of an appeal without leave of the Appeal Board.
- (c) If an appellant or Reporting Officer seeks leave to produce fresh evidence, the Appeal Board shall not grant such leave unless:
  - (i) the evidence could not by reasonable diligence have been obtained by the appellant or Reporting Officer prior to the conclusion of the hearing before the Committee or decision under the Rules and Regulations (as applicable); and
  - (ii) the evidence is of sufficient probative value that, considered with other evidence which was before the Committee or Controlling Body (as applicable), the Committee or Controlling Body would have reached a different decision.

#### **4.15 Onus and Standard on Appeal**

On the hearing of an appeal the appellant shall bear the onus of establishing, on the balance of probabilities, one or more Grounds.

#### **4.16 Decision of Appeal Board**

- (a) Any question on appeal before the Appeal Board shall be decided according to the opinion of a majority of those constituting the Appeal Board.
- (b) Where the Appeal Board determines that one or more Grounds have been established, the Appeal Board may confirm, reverse or modify the decision of the Committee or Controlling Body (as applicable) and make such orders and give such directions in such manner as it thinks fit.
- (c) The Appeal Board is not obliged to give reasons for any decision made by it under these Guidelines.

#### **4.17 Person to Serve Sanction**

Subject to section 4.18(b), where the Committee or Controlling Body (as applicable) imposes a sanction that prevents the appellant from participating in a Match, the appellant shall serve that sanction pending the determination of the appeal.

#### **4.18 Power to Adjourn**

Subject to section 4.19, the Appeal Board may, of its own motion or upon application of any party to the appeal, order:

- (a) that an appeal be adjourned; and/or
- (b) a stay of the execution of the sanction imposed by the Committee or Controlling Body (as applicable) pending the determination of the appeal.

#### **4.19 Exceptional and Compelling Circumstances**

The Appeal Board shall make an order under section 4.18 only where it is satisfied that there are exceptional and compelling circumstances that make it harsh and unreasonable if an order was not made. In determining that question, the Appeal Board shall without limitation have regard to:

- (a) the merits of the appeal and the appellant's prospects of success;
- (b) the interests of other Clubs and Persons;
- (c) the effect on the results of the Competition; and
- (d) the need to permit the due and proper administration of Australian football.

#### **4.20 Successful Appeal**

- (a) For the purposes of this section, an appeal is successful if, and only if the Appeal Board determines that one or more Grounds has been established.
- (b) Where an appeal is successful, any payment made under section 4.11(a)(ii) shall be refunded on receipt by the Controlling Body of an appropriate tax invoice.

#### **4.21 Unsuccessful Appeal**

Where an appeal is not successful, any payment made under section 4.11(a)(ii) shall not be refunded, unless the matter involves a monetary sanction and the Appeal Board determines that it would be manifestly unjust and unfair not to refund the whole or part of such payment in which case, the whole or part may be refunded.

#### **4.22 Costs**

Notwithstanding section 4.11(a), each party to an appeal shall bear their own costs.

#### **4.23 Abandon Appeal**

- (a) Subject to section 4.23(b), an appellant may abandon an appeal prior to any hearing by giving written notice to the Controlling Body in which case the payment under section 4.11(a)(ii) shall be refunded.
- (b) Where an appellant abandons the appeal during the conduct of the appeal, the payment made under section 4.11(a)(ii) shall not be refunded.

#### **4.24 Validity of Appeal and Hearings**

- (a) Where there is any procedural irregularity in the manner in which an appeal has been brought, the Appeal Board may still hear and determine the appeal unless it is of the opinion that the irregularity has caused or will cause injustice if the appeal was heard.
- (b) A decision of the Appeal Board is not invalid because of any defect or irregularity in, or in connection with, the appointment of an Appeal Board Member.
- (c) Subject to sections 4.13(c) and (d), any procedure or requirement regulating the function of the Appeal Board is directory in nature and a decision of the Appeal Board is not invalid by reason of that procedure or requirement not being fulfilled.

#### **4.25 Prohibited Conduct**

- (a) No Club or Person shall publicly comment on the contents of a Notice of Appeal prior to the determination by the Appeal Board or conclusion of the matter, as the case may be.
- (b) Where a Person contravenes this section, the Person's Club may also be liable to a sanction unless the Person establishes, to the reasonable satisfaction of the

Controlling Body, that such public comment was not intended to influence or affect the conduct of the Appeal Board hearing.

#### **4.26 Criticism of Appeal Board Decision**

- (a) No Club or Person shall make any unfair, unreasonable or excessive public criticism of a decision of the Appeal Board or of any member of the Appeal Board or any other matter touching or concerning the Appeal Board or a determination made by it.
- (b) The Controlling Body shall determine in its absolute discretion and in any case, whether any public criticism is unfair, unreasonable or excessive.
- (c) Where a Person contravenes this section, the Person's Club may also be liable to a sanction at the discretion of the Controlling Body.

#### **4.27 Exhaust Internal Appeal**

A Club or Person shall exercise their right of appeal under these Guidelines and have any appeal heard and determined by the Appeal Board before commencing any relevant proceedings or becoming a party to any relevant proceedings in a court of law.

## 5 DEFINITIONS

**Affiliated State and Territory Body** means an entity or body that is affiliated with (or licensed by) a Controlling Body as listed above in section 1(a).

**AFL** means the Australian Football League ACN 004 155 211 or any State Body or individual engaged to operate on behalf of the AFL.

**Appeals Board** means an appeals board constituted in accordance with section 4 of these Guidelines.

**Club** means a club fielding a team in a Competition.

**Committee or Disciplinary Committee** means the disciplinary committee empowered to deal with a Disciplinary Matter under these Guidelines.

**Competition** means any Australian football competition, conducted by the AFL, or Controlling Body or an Affiliated State and Territory Body.

**Controlling Body** has the meaning given to it in the *Laws of the Game*.

**Disciplinary Matter** means any matter that contravenes the *Member Protection Policy*, these Guidelines, or the Rules and Regulations of the AFL, a Controlling Body or Affiliated State and Territory Body, other than Reportable Offences (which are required to be heard under the State and Territory Tribunal Guidelines).

**League** means an Australian football league conducted or administered by, or affiliated with, the AFL, a Controlling Body or an Affiliated State and Territory Body.

**Match** means any Australian football Match played between or directly or indirectly involving any Club.

**Notice of Charge** means the formal notice provided to a Person informing them that they are being charged with a Disciplinary Matter.

**Officer** means, as defined in the Corporations Law and without limitation, the Club president, chairperson, vice president, vice chairperson, general manager, chief executive, football manager, coach, any board or committee member and any servant or agent who makes or participates in the making of decisions that affect the whole, or a substantial part, of the business of the Club.

**Person** means a servant or agent of a Club, Player, coach, assistant coach, trainer, runner, Officer, medical officer, employee, independent contractor or volunteer of a Club or any other Person (including a Club) within the purview of these Guidelines.

**Reporting Officer** is an Umpire, umpires observer, umpires coach, Club Officer, or official of a Controlling Body.

**Rules and Regulations** means any rule, regulation, code, policy, agreement or guideline made by the AFL or a Controlling Body that applies to a Person in respect of that Person's participation in or other conduct associated with or in connection with Australian football.

**State League** means the Victorian Football League, North-East Australian Football League, Tasmanian State League, West Australian Football League or South Australian National Football League (as applicable).

**Umpire** includes a field, boundary, goal and emergency umpire.