



***Disciplinary Procedures  
(Tribunal Rules)  
2013***

## Table of Contents

Headings	Page
DEFINITIONS	3
COMPOSITION, JURISDICTION AND POWERS	3 -
REPORTING PROCEDURE	5
ATTENDANCE	5 – 6
HEARINGS (1)– ORGANISATION AND PRELIMINARIES	6 – 8
HEARINGS (2)– FORM OF REPORTS	8 – 9
HEARINGS (3)- PROCEDURE	9 – 10
HEARINGS (4) – PENALTIES	10 – 11
HEARINGS (5) – PROCEEDINGS IN REPORTED PERSONS ABSENCE	11
CONTEMPT / CRITISISM OF TRIBUNAL DECISION	11 - 12
POINTS OF LAW	12
APPEALS	12 - 13
OTHER DOCUMENTS	13
HEADINGS AND NOTES	13
PRESENTENCE REPORT - APPENDIX 1	14
PROFORMA REQUEST – APPENDIX 2	15
PROCEDURE FOR HEARING AN UMPIRES REPORT	16 – 17
TRIBUNAL CHAIR – POSITION DESCRIPTION	18 – 19
TRIBUNAL MEMBER - POSITION DESCRIPTION	20

# TRIBUNAL RULES

## DEFINITIONS

The following words, where shown, are defined to mean:

<b>advocate</b>	<i>means a person appearing before the tribunal as permitted under rule 4.2 to assist an umpire or reported person.</i>
<b>controlling body</b>	<i>means the AFL Greater Sydney Juniors Inc (AFLGSJ).</i>
<b>hearing</b>	<i>means an enquiry by the tribunal, in a properly convened meeting in to a report or other matter.</i>
<b>official</b>	<i>includes any person assuming a responsibility on behalf of, and with the consent (express or implied) of a member club of the controlling body, irrespective of whether or not that person was elected or appointed to a position by or on behalf of the club. For the avoidance of doubt, "official" shall include any coach, assistant coach, team manager, assistant team manager, runner, trainer, interchange steward, "water boy", ground manager, member of a club's committee or person officiating in any capacity on match day.</i>
<b>player</b>	<i>includes a person registered as a player with the controlling body.</i>
<b>pre-sentence</b>	<i>means the report for presentation to the tribunal prepared by a reported person in accordance with rule 3.2.</i>
<b>report</b>	<i>means a report to the controlling body.</i>
<b>reportable offence</b>	<i>means any act or omission, whether within or without the field of play and whenever occurring which is provided under the laws (whether expressly or implied) or the rules or by the bylaws of the controlling body as being subject to report to the controlling body by any umpire or steward.</i>
<b>the laws</b>	<i>means the Laws of Australian Football as adopted by the National Australian Football Council and such other rules as may be adopted by the controlling body, including, where and as applicable, the Competition Rules and Bylaws of the AFLGSJ (the bylaws).</i>
<b>tribunal</b>	<i>means the tribunal established by the AFLGSJ.</i>
<b>umpire</b>	<i>includes all umpires appointed by the controlling body or discharging the duties of an umpire and such other officials authorised by the controlling body to report offences against the laws.</i>

Words importing the masculine gender include the feminine and visa versa, and words importing the singular include the plural and visa versa.

## COMPOSITION, JURISDICTION AND POWERS

- 1.1 The tribunal shall be comprised of such persons as may be appointed by the controlling body.
- 1.2 The controlling body is to appoint a Tribunal Chair, whose functions and duties shall be as set out in the Tribunal Chair – Position Description as set out in Appendix 3 and as directed by the controlling body from time to time.
- 1.3 The controlling body is to appoint any number of tribunal members as may be necessary to constitute a panel of tribunal members, who are to sit as a tribunal. The functions and duties of a tribunal member shall be as set out in the Tribunal Member – Position Description as set out in Appendix 4 and as directed by the Tribunal Chair from time to time.
- 1.4 The appointment of a tribunal member, including the Tribunal Chair, shall be for a period of no more than 12 months, but the appointment of a tribunal member, including the Tribunal Chair, may be extended from year to year.

- 1.5 A tribunal member, including the Tribunal Chair, may resign by providing notice in writing to the Tribunal Chair (in the case of a tribunal member) or to the controlling body. The controlling body may remove a tribunal member, or the Tribunal Chair, at any time, in its absolute discretion.
- 1.6 A member or official of any affiliated member club cannot be appointed or remain a member of the tribunal or act as the Tribunal Chair.

**NOTE:** Proper adherence to this rule is fundamental to ensuring the proceedings are free from attack on the grounds of prejudice, real or perceived. The safe course, when there is doubt, (especially where the matter is serious and the possible penalty severe), is that any 'suspect' member of the tribunal disqualify himself/herself from the hearing. Courts will set aside findings of tribunals where this basic principle can be shown to have been breached.

- 1.7 For the purpose of exercising its powers under these rules, the number of members to constitute a meeting of the tribunal shall be three, but may in special circumstances be as many as five, but in any event cannot be fewer than two, but a single member of the tribunal can give a direction under rules 1.11(a), 1.11(d) or 4.14.

- 1.8 The tribunal shall enquire into:

(a) reports by umpires of any player or official of any team participating in a match conducted by or under the controlling body;

**NOTE:** The definition of 'official' is wide and catches any person performing a duty or function on behalf of a club.

(b) such other matters as may be referred to it by the controlling body.

- 1.9 Where a reference to the tribunal requires it to determine whether a reportable offence has occurred the tribunal may, if it finds there is a case to answer, charge any player or official with one or more reportable offences.

**NOTE:** The intention of this rule is to satisfy the requirement of natural justice that a person know the charge he/she has to meet. Formulating a charge does not cast the tribunal in the role of prosecutor.

- 1.10 The tribunal shall be empowered to suspend, fine or caution any player or official:

(a) found guilty of a reportable offence;

(b) found guilty of deliberately giving false or misleading evidence;

(c) who fails, without reasonable excuse, to attend at a meeting of the tribunal after being required to appear pursuant to rule 1.7(d);

(d) found guilty of contempt of the tribunal;

and shall be empowered to fine any club.

- 1.11 The tribunal may:

(a) adjourn any hearing with or without imposing conditions;

(b) find any report proved with or without the imposition of a penalty;

**NOTE:** This rule allows the tribunal to find a reported person guilty but discharge him/her without any penalty at all. It is appropriate to dealing with a first offender who has a clean record and is shown to have acted under real provocation.

(c) find, on facts proved before it, that a reported person is guilty of an alternative (but not more serious) offence to that for which he/she has been reported or charged;

**NOTE:** For example, a player reported for 'charging' might be found not guilty of that offence but guilty of 'unduly rough play'; a player might be found not guilty of 'threatening an umpire' (for which he/she is reported) but guilty of 'using insulting language to an umpire'.

- (d) require upon reasonable notice the appearance before it of any umpire, player or official or the production to it of any thing within the possession, power or control of such umpire, player or official;

**NOTE:** The tribunal has no power to 'subpoena' members of the public at large. However, players, umpires and officials are subject to the tribunal's jurisdiction and may be guilty of contempt if they disobey a direction given under this rule.

- (e) make findings and recommendations and determine penalties by a majority of the tribunal. Where the tribunal consists of an even number of members, and the tribunal is evenly divided, the decision of the most senior member will prevail;

**NOTE:** The effect of this rule is that the tribunal's decisions do not have to be unanimous.

- (f) vacate or vary (conditionally or unconditionally) any finding or penalty previously imposed by it.

**NOTE:** 'vacate' is a legal term meaning 'annul'.

- 1.12 The tribunal is not bound by rules of evidence or by the practices and procedures applicable to a Court of record and may inform itself as to any matter in such manner as it thinks fit.
- 1.13 Tribunal 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.
- 1.14 The tribunal shall have power to regulate its own procedures.
- 1.15 The Tribunal Chair may make any guidelines not inconsistent with these Tribunal Rules or the bylaws that he or she thinks appropriate for the practice and procedure of the tribunal, including a hearing. Any such guidelines shall be directory in nature and no decision of the Tribunal shall be invalid solely by reason of a guideline not being followed.

## REPORTING PROCEDURE

- 2.1 Any umpire shall be competent to report players or officials of any team or club for any reportable offence. However, goal and boundary umpires not officially appointed by the Regional Committee or the controlling body shall not be competent to report players or officials of any team or club for any reportable offence.

**NOTE:** Under the definition of 'umpire' even 'unofficial' umpires, who may be officiating because no official umpire is available, can make valid reports.

- 2.2 A copy of the report shall be received from the field umpire by an official of the reported person's club in the manner required by the controlling body.
- 2.3 If any club neglects to obtain a copy of the umpire's report in accordance with the procedures prescribed by the controlling body, the umpire shall be deemed to have complied with the requirements of rule 2.2.
- 2.4 When reporting players, umpires must, in addition to complying with these rules, comply with the laws.
- 2.5 Reference in these rules to the "controlling body" shall, where appropriate, be to the Regional Committee or its delegate for the administration of these rules.

## ATTENDANCE

- 3.1 A reporting umpire, the reported person and a representative of the reported person's club shall attend a hearing at a time and place specified by the controlling body.
- 3.2 The tribunal may convene, including the hearing of any report, by telephone or videoconference.
- 3.3 A reported player shall bring to the hearing a completed pre-sentence report in the form (or as nearly as possible) set out in Appendix 1.

- 3.4 A person wilfully or negligently making any misstatement to the tribunal, including a misstatement in a pre-sentence report, shall be liable to a fine or suspension for the misstatement.
- 3.5 The onus of establishing that a misstatement was not wilful or negligent is upon the person making the misstatement.
- 3.6 A reported person who is not able to be present at the time appointed for the hearing must submit a declaration setting out the reason for his/her non-attendance and including either:
- (a) the person's consent to stand down from representing his/her club in a playing and/or official capacity until such time as he/she is able to appear before the tribunal; or
  - (b) the person's consent to the tribunal's investigating the report in his/her absence and the person's undertaking to abide by the finding of and any penalty imposed by the tribunal in his/her absence.

**NOTE:** A suggested form of declaration is provided in Appendix 2.

- 3.7 A reported person who is not present at the time appointed for the hearing and who fails to submit a declaration as required by rule 3.6 shall be in contempt of the tribunal which shall then be empowered to investigate the report in the absence of the reported person and to deal as it seems fit with the contempt and the report if found proved.
- 3.8 Where the tribunal reasonably believe that misadventure has or may have prevented a reported person from either attending or submitting a declaration it may in its discretion adjourn the hearing in which case the reported person shall not be permitted to represent a club in any capacity or participate in a competition or representative match during the period of the adjournment.
- 3.9 Where an umpire is unable to be present at the time appointed for the hearing, the hearing at the tribunal's discretion is to be adjourned in which case the reported person may continue to play or officiate until the adjourned hearing takes place.
- 3.10 An umpire who fails to appear at a hearing without notice or reasonable excuse may be in contempt of the tribunal but the report shall not for that reason only be dismissed.

**NOTE:** The spirit of this rule is consistent with rule 4.12 and is directed to ensuring that reports are decided on their merits, rather than on technicalities.

- 3.11 A person who has been required to attend before or produce a thing to the tribunal and who without reasonable excuse fails to appear or produce as required shall be in contempt of the tribunal.

#### **HEARINGS (1): ORGANISATION AND PRELIMINARIES**

- 4.1 The Tribunal Chair, or in his/her absence, the senior member, shall be the presiding member at any meeting of the tribunal.
- 4.2 Any party to proceedings before the tribunal may be assisted by an advocate of his/her choice provided always that:
- (a) a person qualified as a legal practitioner is not permitted to act in the role of either player or umpire advocate;
  - (b) the tribunal may refuse or withdraw the right or leave to appear of any advocate who in the opinion of the tribunal is guilty of misconduct or contempt.
- 4.3 Hearings shall, at the discretion of the tribunal and so far as facilities available reasonably allow, be open to the public.
- 4.4 In respect of each report the presiding member shall first ascertain:
- (a) whether the reported person and reporting umpire are present;
  - (b) whether the reporting umpire is represented by an advocate;
  - (c) whether the reported person is represented by an advocate;

- (d) whether the reported person has been supplied with a copy of the report;
- (e) how the reported person intends to plead;
- (f) the availability of any witnesses the parties propose to call;
- (g) the nature and availability of such further evidence the parties intend to present, including the availability of any visual evidence;
- (h) the likely duration of the hearing.

4.5 The tribunal may then:

- (a) proceed immediately to hear the report; or
- (b) appoint a later time on the same day to hear the report; or
- (c) adjourn the hearing on terms as it sees fit.

4.6 At the commencement of the hearing the report shall be read to the reported person who shall be asked to plead 'guilty' or 'not guilty'.

**NOTE:**

(1) Players should be careful not to enter a 'Claytons, guilty plea. This happens when a player pleads guilty to (for example) striking then, when the hearing gets under way, simply admits contact but quickly adds 'it was just an accident'. This is 'the guilty plea you make when you're not pleading guilty'.

For a player to be guilty of striking, TWO elements must be satisfied:

- (i) physical contact; and
- (ii) intention to perform some aggressive act which results in such contact.

It follows that a player who admits (i) but denies (ii) can not possibly plead guilty to striking, so players should give careful consideration to just what they are admitting to before pleading guilty.

On the subject of just what constitutes 'intent' it should be realised that this can be either:

- (a) intent to make the actual type of physical contact which occurs (e.g. wilfully aiming and delivering a punch); or
- (b) intent to perform some hazardous act, a probable result of which is the contact which consequently occurs (e.g. wilfully lashing out with a forearm or elbow in the general direction of a player close enough to be struck even though not specifically aiming a blow). The resulting blow (and particularly any serious injury resulting) might not be intended, but the hazardous act is and contact which results from recklessness of this kind can never be a mere accident.

(2) Players often try to plead 'guilty under provocation' or even 'guilty but acting in self-defence'. Such pleas are not acceptable.

**NOTE:** A player claiming that he/she acted in self-defence should plead 'not guilty', because self-defence, if proved, is a complete answer to the report. However, a plea of self-defence can only succeed where the reported person was, at the time, under real or apprehended attack and his/her response (which is the act for which he/she was reported) was proportional to the threat. Thus, a player who responds to an open handed push in the face from a niggling player by punching the niggler cannot claim self defence, for the response is not defensive at all; it is an escalation of the degree of violence (and will probably provoke a brawl).

A player claiming provocation must simply plead 'guilty' and then rely on any proved act of provocation to mitigate the penalty.

4.7 The Tribunal shall decide on the balance of probabilities whether a reportable offence or other charge has been sustained.

- 4.8 A reported person may, at any time, change his/her plea.
- 4.9 A reported person may at any time plead guilty to an alternative reportable offence but the tribunal shall not be bound to accept the plea or to discontinue its enquiry into the alleged offence as originally reported.

**NOTE:** Under this rule a reported player can elect to plead not guilty to the offence reported (say, 'charging') but guilty to an alternative offence ('unduly rough play') for which he/she was not, in fact, reported. The tribunal is not, however, bound to accept a plea of guilty to a lesser charge (because a reported player, facing a serious charge and recognising the weight of evidence against him/her, might seek to avoid a likely heavy penalty by pleading guilty to the lesser offence).

- 4.10 The tribunal may, at any stage of a hearing, reject a plea of guilty and make a finding of not guilty.

**NOTE:** This rule, although likely to be used only rarely, is appropriate where a player (particularly one not having the assistance of a good advocate) mistakenly pleads guilty in the belief he/she has no defence and the evidence subsequently discloses that there is a good defence. An example is a plea of guilty by a player who genuinely acted in self-defence (see note (2), rule 4.6) but mistakenly believes that because he/she did strike his/her opponent he/she must plead guilty (or 'guilty under provocation').

- 4.11 A reported person who refuses to plead shall be deemed to have pleaded guilty.

#### **HEARINGS (2): FORM OF REPORTS**

- 4.12 A report shall be in writing in a form prescribed by the controlling body or to a similar effect and shall be valid provided that it complies with the requirements of rules 4.22 and 4.14.

**NOTE:** '... or to a similar effect' means that valid reports can be made on any report form including those of other leagues) or even on a blank sheet of paper so long as the minimum details required by rule 4.11 are provided.

- 4.13 The reportable offence or offences alleged, or the conduct or actions alleged to constitute a reportable offence, must be stated.
- 4.14 A report may allege alternative offences.

**NOTE:** It is perfectly acceptable for an umpire, who is uncertain of all the facts or of which offence they may constitute, to allege alternative offences, e.g., where the umpire believes he/she has seen a fist swing and an opposing player's head jerk back, but cannot say for sure whether this was the result of contact or swift evasive action, he/she could report for 'striking or attempting to strike'. Where an umpire believes he/she has seen a player swinging blows in a pack but cannot be sure which of several players has been hit, 'striking an unidentified player' is a valid report.

- 4.15 A reported person may ask in advance of the hearing for particulars of any reported offence where the conduct constituting the offence is not stated in the report.

**NOTE:** Recourse to this rule is appropriate where the report alleges a non-specific offence, e.g. 'misconduct', 'wasting time', 'disputing decision' etc. The particulars to be provided are limited to the alleged act or words constituting the reported offence.

- 4.16 The reported player must be identified by jumper number and/or by name.
- 4.17. Where the number and name as stated on the report are inconsistent the tribunal make take account of surrounding circumstances, and in particular who the umpire orally advised of the report, in determining whether the reported person has been sufficiently identified.
- 4.18 A technical error or failure to comply with rules 2.2, 2.3 or 2.4 shall not invalidate a report.
- 4.19 In particular, a report shall not be invalid by reason only of error or omission in stating the date or place of the report, the quarter in which the report was made, the capacity in which the reporting umpire was officiating or the number of the law under which the report is made.



- 4.20 Where a report is lodged manually and has not been signed, the reporting umpire may be shown the report and if he/she identifies it as his/her document the report shall be deemed to have been signed.
- 4.21 The tribunal may amend a report in order to rectify any deficiency or to substitute an alternative offence to the offence reported, but no such amendment shall be made if to do so would, in the opinion of the tribunal, prejudice the reported person in a way which cannot be cured by imposing conditions upon which the amendment is made.

**NOTE:** In some instances (particularly where vision evidence is available) a reporting umpire may seek to amend his/her report (e.g. he/she may say that, having viewed the vision, he/she now believes the report should have been for 'unduly rough play' not 'charging', or 'striking' or 'assault'). It would be permissible for the tribunal to use its powers under this rule in such a situation because the amended offence is less severe (see rule 1.11(c)) and the player has been aware, from the time he/she was reported, of what the circumstances of the report are. But an attempt to amend a report from, say, 'intentionally attempting to trip' to 'assault' would not be allowed. Not only is the proposed amendment a more serious charge, but the player will have prepared his/her defence to meet alleged facts which are significantly different from those constituting the proposed alternative offence, and so he/she would be prejudiced (i.e. disadvantaged) by the amendment.

### HEARINGS (3): PROCEDURE

- 4.22 Where a reported person pleads not guilty to an offence, the hearing is to proceed as follows:
- 4.22.1 The umpire shall give evidence to amplify his/her report after which he/she may be questioned by the tribunal.
- 4.22.2 The umpire may be assisted by his/her advocate and questioned by the reported person or his/her advocate.
- 4.22.3 The reported person shall give evidence after which he/she may be questioned by the tribunal.
- 4.22.4 The reported person may be assisted by his/her advocate and questioned by the umpire or his/her advocate.
- 4.22.5 The umpire and then the reported person may adduce further oral, documentary or visual evidence and any witness may be questioned by the other party or his/her advocate and by the tribunal.

**NOTE:** The tribunal may direct that the showing of any visual evidence be undertaken at such time during the hearing as it directs, as long as this does not cause any procedural unfairness to any party.

- 4.22.6 Witnesses shall remain outside the hearing room until called.
- 4.22.7 Any person who has been called to give evidence shall remain within the precincts of the tribunal until the taking of all evidence has been concluded, unless the tribunal earlier releases that person.
- 4.22.8 The umpire may give further evidence by way of reply to evidence adduced on behalf of the reported person.
- 4.22.9 The reported person or his/her advocate may question the umpire about any evidence given in reply.
- 4.22.10 At the conclusion of the evidence, the umpire or his/her advocate and the reported person or his/her advocate may present a summary of the evidence and make any submission after which the tribunal shall retire to consider its determination.
- 4.22.11 After the tribunal has reached a decision and reconvened, the presiding member shall announce the determination of the tribunal.
- 4.22.12 Where the tribunal has arrived at a decision by a majority the senior member of the majority (if he/she is not the presiding member) shall announce the determination.
- 4.23 Where a reported person has pleaded guilty his/her evidence shall be taken before that of the umpire after which the procedure shall be as provided in rules 4.22.4 and 4.22.8.

**NOTE:** The hearing procedure is diagrammatically set out in Appendix 3.

4.24 When a reported person has pleaded or been found guilty:

- (a) if he/she is an official, he/she or his/her advocate may make a statement in mitigation and may call witnesses in support of his/her character;
- (b) if he/she is or has at any time been a player, he/she shall hand to the tribunal a completed pre-sentence report (if it has not already been tendered) after which he/she or his/her advocate may make a statement in mitigation and call witnesses in support of his/her character.

**NOTE:** Usually the pre-sentence report is not handed to the tribunal before the tribunal makes its finding of guilty or not guilty. The reason is, quite simply, that the tribunal, in weighing the evidence when a player has pleaded not guilty, should not be deflected in its deliberation by having before it documentary evidence that the player 'has a record'. However, a player with a very good record may wish that fact to be known to the tribunal in support of his/her 'case' that his/her playing history suggests he/she is unlikely to have done what he/she has been reported as doing, or would only have done so under extreme provocation. In such situations it is open to a player's advocate to tender the pre-sentence report at any stage he/she wishes. (Of course, where the player pleads guilty), the tribunal has only penalty to determine, so the pre-sentence report is handed up immediately.

4.25 A pre-sentence report may be inspected by the umpire and his/her advocate who may challenge its accuracy but otherwise shall make no submission as to penalty.

4.26 The tribunal may question a reported person about his/her pre-sentence report.

4.27 Subject to any ruling by the tribunal, where a player or former player fails to produce a completed pre-sentence report neither he/she nor his/her advocate may call evidence or be otherwise heard in mitigation of penalty.

4.28 In all instances, any visual evidence, whether by way of photographs or video/DVD etc, must be submitted to the controlling body by no later than midday on the day of the hearing.

#### **HEARINGS (4): PENALTIES**

4.29 The tribunal shall retire to determine penalty and having so determined shall reconvene and the penalty shall be announced by the presiding member, after which any member of the tribunal may make a statement.

4.30 The penalty is to be recorded in writing and signed by the presiding member.

4.31 Where the penalty is or includes a period of suspension, the period may be expressed as either the number of matches from which, or alternatively the period of time during which, the player is precluded from participating.

4.32 The tribunal may defer, on terms or absolutely, the operation of any penalty or part thereof.

**NOTE:** This rule allows the tribunal to impose a sentence which is suspended in whole or in part.

4.33 Where a period of suspension is expressed as a number of matches:

- (a) a 'match' shall mean a competition match of the same age group as which the player committed the offence, and shall also include as the one match, the matches in all grades in a particular round for which the player would, but for the suspension be eligible, whether played on the one day or not. Any suspension shall take effect from and include the next competition match following the suspension for which the player would, but for the suspension, be eligible;

**NOTE:** The effect of this rule is that a player cannot count towards his/her suspension matches in more than one grade in each round, even if he/she regularly 'doubles up'.

- (b) a player is ineligible to play in any representative match whilst under suspension. In addition to this, the representative matches do not count towards part of the suspension;

**NOTE:** Without this rule, any player could claim theoretical eligibility for any representative fixture, no matter how remote his/her real prospects of selection are, and so count the fixture toward his/her suspension.

(c) Competition games which are forfeited, washed out for any other reason not played, shall not be counted for the purpose of reckoning a period of suspension.

- 4.34 Where a period of suspension is expressed as a period of time the period shall commence from the time the penalty is pronounced and conclude at midnight on the last day of the period.
- 4.35 A suspended person may not, during his/her period of suspension, participate in any match in the capacity of player, playing coach, or playing assistant coach, runner or trainer nor shall he/she officiate within the enclosed playing area (or, where there is no enclosed playing area, within five metres of the boundary line).
- 4.36 Where a player requests that a Prescribed Offence offer be dealt with by the Tribunal, and the Tribunal is of the opinion that the Prescribed Penalty offer to the player was reasonable in all the circumstances, the Tribunal will impose a suspended sentence at least equal to the number of matches suspension offered to the player as the Prescribed Penalty offer, such suspended sentence to remain in force for a period of 12 months from the date of the Tribunal hearing, or to the equivalent round in the following season.

Note: For example, if the player is offered a Prescribed Penalty offer of two matches suspension, the Tribunal will, in addition to affirming the suspension of two matches, impose a suspended sentence of two matches.

- 4.37 Alternatively, the Tribunal may impose such additional penalty as in its absolute discretion it deems appropriate, in addition to the penalty it imposes for the Reportable Offence.

#### **HEARINGS (5): PROCEEDINGS IN REPORTED PERSON'S ABSENCE**

- 4.38 Where the reported person has in a request in writing consented to the tribunal's investigating a report in his/her absence the following additional rules shall apply where applicable:
- 4.38.1 the presiding member shall pronounce a plea on behalf of the reported person as the request in writing directs;
- 4.38.2 the request in writing shall be read to the tribunal;
- 4.38.3 any person who is referred to by the reported person in his/her written request as a person whom he/she would have called to give evidence on his/her behalf shall be called and allowed to give evidence after which he/she may be questioned by the umpire or his/her advocate and by the tribunal.

#### **CONTEMPT/CRITICISM OF TRIBUNAL DECISION**

- 5.1 The tribunal shall have power to act in a manner it believes appropriate where any persons appearing before it behave (whether in the course of the hearing or otherwise) in a manner which the tribunal deems to be a contempt or misconduct falling short of contempt and shall have power to suspend or fine as otherwise allowed under these rules.

**NOTE:** The essence of contempt of any quasi-judicial body, (of which a tribunal is an example), is any attempt to undermine its functions, and this includes:

- (a) Disrespectful behaviour – which may be contempt because it undermines confidence in the tribunal and, therefore, its capacity to carry out its duties.
- (b) Disobeying a proper direction – the tribunal will generally encounter this as failure to comply with rules 1.11(a) or 1.11(d), i.e., not appearing at a hearing or failing to comply with a direction to produce something to the tribunal. Obviously, such conduct affronts the very basis of the controlling body's ability to exert discipline over the game.
- (c) Attempting to influence decisions by means other than putting argument or evidence before the tribunal according to the rules. Public comment prior to a hearing, designed to influence the attitude of tribunal members, is one example, but far worse is any direct attempt to bypass the tribunal's proceedings by 'lobbying' the controlling body. There can be no clearer example of undermining the functions of a tribunal than attempting to have it 'overruled' in a manner quite contrary to the rules by which all participating clubs and the controlling body are bound.

- 5.2 The failure of a representative of the club of a reported person to attend a hearing as required under rule 3.1, or any adjourned hearing, without proper excuse as determined by the tribunal, may be dealt with by the tribunal as a contempt of the tribunal, and the tribunal shall have the power to fine the club for such contempt.
- 5.3 No player, official umpire, advocate or reported person, or any person who is subject to the jurisdiction of the AFLGSJ shall make any unfair, unreasonable or excessive public criticism of, or comment on a tribunal decision, of the tribunal or any tribunal member or any other matter touching or concerning the tribunal or a determination made by it.
- 5.4 The controlling body shall determine in its absolute discretion whether any public criticism or comment is unfair, unreasonable or excessive.
- 5.5 Where a person contravenes this rule, the persons club may also be liable to a sanction.
- 5.7 These provisions are in addition to, and not derogate from the provisions of the bylaws.

#### **POINTS OF LAW**

- 6.1 Where a point of law (which does not include a law within the meaning of 'the laws' as defined) is raised in any hearing before the tribunal the following procedure is to apply:
  - (a) the presiding member, if legally qualified, or other tribunal member, if legally qualified, shall (after consultation if he/she sees fit) make a ruling and that ruling shall be the determination of the tribunal on the point;
  - (b) if the presiding member or any other member is not legally qualified the tribunal may proceed to a determination of the factual issues before it but that determination shall be expressed to be, and shall be, not effective until a ruling on the point of law has been obtained from a legally qualified person.

#### **APPEALS**

- 7.1 Findings of fact and determination of penalty shall be final except that the tribunal may, in its discretion, re open any hearing for the purpose of considering fresh evidence (but not for the purpose of reconsidering any finding made or penalty imposed on the basis of previously presented evidence).

- 7.2 Fresh evidence means evidence which was not known to be available and could not, with reasonable diligence, have been known to have been available at the time of the original hearing;

**NOTE:** The test here is important, for it is not sufficient that the new evidence was just not presented at the first hearing. An example would be wanting to call fresh evidence from another witness who is, say, a trainer or club official and who could have been interviewed before the original hearing. This would not satisfy the test. An example of what would satisfy the test is belated awareness that a spectator had taken a private videotape of the incident but had not communicated this fact to the club prior to the hearing.

- 7.3 The tribunal shall not re-open any hearing to consider fresh evidence where it appears that even if presented to the original hearing, the fresh evidence could not reasonably be expected to have resulted in a different finding or penalty.
- 7.4 An appeal from any decision on a point of law or procedure only may be made to the AFL (NSW/ACT) in accordance with the AFL (NSW/ACT) regulations on such conditions as that body shall determine.

**NOTE:** It is important to distinguish between an appeal and a re-hearing. Persons without legal training usually talk about the former when they really mean the latter.

A re-hearing simply means recycling the same evidence before another body of persons in the hope that (even though the first hearing made no procedural errors) the second hearing might be persuaded to come to a different view of the facts. There is neither need, nor provision under these rules, for any re-hearing.

An appeal is directed to correcting some error of procedure or law, which may have been made in the original hearing and affected its findings. Examples are failure to give proper notice of a hearing, wrongly admitting or excluding certain evidence, misinterpreting a by-law etc. 'Error' in this sense does not include a belief by the unsuccessful party that the ultimate decision is wrong. It is not the result but the path to that result which matters and if the tribunal has followed the correct procedures the mere fact that it has believed one witness and disbelieved another in arriving at a conclusion is not an 'error' which provides grounds for an appeal.

## **OTHER DOCUMENTS**

- 8.1 Those appearing before the tribunal are urged to read and refer to the documents on the GSJ website, under the Resource Centre menu – Tribunal Central

## **HEADINGS AND NOTES**

- 9.1 Headings are used only for the purpose of identification and notes, while assisting and clarifying the parts in which they are located, do not form a part of these Tribunal Rules.

# PRE-SENTENCE REPORT - APPENDIX 1

To be completed and brought to the Tribunal hearing by any reported person or annexed to a request in writing by any person consenting to a hearing in his/her absence.



REPORTED PERSON'S NAME: \_\_\_\_\_ DATE OF BIRTH: \_\_\_\_/\_\_\_\_/\_\_\_\_ CLUB: \_\_\_\_\_

## PLAYING HISTORY

	YEAR(s)	CLUB (s)	..... Inc.	AWARDS AT CLUB, LEAGUE OR ASSOCIATION LEVEL i.e. not Club Awards	TRIBUNAL CONVICTIONS	
					Offence	Penalty

Signature of Player: \_\_\_\_\_ Date: \_\_\_\_/\_\_\_\_/\_\_\_\_

## APPENDIX 2

### PRO FORMA REQUEST IN WRITING

to be submitted by reported person unable to attend tribunal hearing

I, \_\_\_\_\_ (full name)

of \_\_\_\_\_ (full address),

make the following request of the GSJ Disciplinary Tribunal (the tribunal).

1 I am unable to attend before the tribunal on \_\_\_\_\_ (date) for the reason/s that:

*(state reason/s fully and unambiguously)*

2 I am willing to stand down from representing my Club as a player or official until I have appeared before the tribunal and I agree to give to the AFL Greater Sydney Juniors not fewer than four clear business days notice of the date of a tribunal meeting which I am able to attend.

OR

2 (a) I consent to the tribunal investigating in my absence the report of which I am the subject set down for hearing on the aforesaid date

(b) I plead guilty to the report but ask the tribunal to take into account the following matters:

*(set out mitigating circumstances).*

OR

(b) I plead guilty to the report and say in answer that *(state any **facts** and briefly refer any further evidence or witnesses which the tribunal should consider or hear).*

(c) I undertake to abide by any finding (including penalty) of the tribunal and I further undertake not to raise the fact of my absence from the hearing in any challenge to the finding or to any penalty which may be imposed.

(d) I attach a completed pre-sentence report.

and I make this Request in Writing believing the same to be true.

\_\_\_\_\_  
Signature of Applicant

**NOTE CAREFULLY:** *Select one only of the alternative forms of clause 2, depending upon whether the reported person is seeking an adjournment (first form, comprised of one paragraph only) OR is consenting to hearing in his/her absence (second form, comprised of 2a, b, c and d.)*

*If the second form of clause 2 is adopted, the reported person then selects ONE ONLY of the alternative forms of 2(b) depending upon whether he is pleading guilty (first form) or not guilty (second form). 2(c) and 2(d) are always used by persons consenting to a hearing in absentia.*

# PROCEDURE FOR HEARING AN UMPIRE'S REPORT

## APPENDIX 3

1 – REPORT READ TO PLAYER, WHO IS ASKED TO PLEAD 'GUILTY' OR 'NOT GUILTY'

Note: The player's advocate does not plead on the player's behalf

**PLAYER PLEADS NOT GUILTY**

2. UMPIRE MAKES STATEMENT
3. UMPIRE'S EVIDENCE (WITH ASSISTANCE OF ADVOCATE IF NEED BE)
4. UMPIRE QUESTIONED BY PLAYER'S ADVOCATE
5. PLAYER MAKES A STATEMENT
6. PLAYER'S EVIDENCE (WITH ASSISTANCE OF ADVOCATE IF NEED BE)
7. PLAYER QUESTIONED BY UMPIRE'S ADVOCATE
8. UMPIRE ALLOWED TO CLARIFY EVIDENCE THROUGH ADVOCATE
9. UMPIRE'S WITNESSES CALLED:
  - questioned by umpire's advocate
  - questioned by player's advocate
  - clarification by umpire's advocate
10. PLAYER ALLOWED TO CLARIFY EVIDENCE THROUGH ADVOCATE
11. PLAYER'S WITNESSES CALLED:
  - questioned by player's advocate
  - questioned by umpire's advocate
  - clarification by player's advocate
12. ADVOCATES SUM UP
13. TRIBUNAL RETIRES TO CONSIDER FINDING
  - either A or B (see below)

**PLAYER PLEADS GUILTY**

2. PLAYER'S EVIDENCE
3. UMPIRE'S EVIDENCE  
which should just supplement to traverse player's account of what he has pleaded guilty to
4. UMPIRE AND PLAYER QUESTIONED AS NEED REQUIRES
5. PROCEED TO B1



**A1. REPORT DISMISSED**

- A. TRIBUNAL FINDS PLAYER NOT GUILTY**
- B. TRIBUNAL FINDS PLAYER GUILTY**

**B1. PRE-SENTENCE REPORT HANDED UP**

**B2. PLAYER'S ADVOCATE MAKES SUBMISSION ON PENALTY**  
Note: Umpires do not make submissions on penalty

**B3. TRIBUNAL RETIRES TO CONSIDER PENALTY**

**B4. PENALTY ANNOUNCED**

## Appendix 4

### TRIBUNAL CHAIR- Position Description

#### Overview:

Tribunal Central is a centrally managed process designed to deliver to the Greater Sydney Juniors Inc (GSJ) a consistent set of disciplinary procedures and process.

As part of Tribunal Central, the GSJ:

- established the Greater Sydney Juniors Tribunal(Tribunal) to hear and determine Reports and other matters as referred to the Tribunal, held at locations convenient to those involved on a set night (Wednesday). Hearings are held at the AFL offices at Moore Park, Blacktown, Newcastle and the Central Coast;
- established a database of Tribunal Members, drawn from all Regions on the recommendation of the Regions, managed by the GSJ Administration. Tribunal Members are called upon to sit on Tribunals constituted across all Regions;
- holds meetings as required chaired by the Tribunal Chair of all Tribunal Members and Umpire Coordinators to outline and review Tribunal Central and provide information and guidance on the delivery of outcomes;
- provides administrative support to the Tribunal members to assist them in conducting their hearings.

The Tribunal is an independent disciplinary tribunal constituted pursuant to the Disciplinary Procedures (Tribunal Rules) and the Competition Rules (the By-Laws) of the Greater Sydney Juniors Inc (GSJ). The Tribunal deals with reports from umpires and on direct report from Regional Committees and the GSJ Administration (GSJ Admin), into alleged breaches.

The Tribunal Chair leads the Tribunal and is a direct interface between Tribunal Members, the Board and other key stakeholders, such as the Regions and Clubs.

#### Reports To:

The Tribunal Chair reports to the GSJ Board.

#### Tasks and Activities:

A sitting Tribunal hears the evidence of umpires, players and witnesses and determines reports laid under the Laws or By-Laws, or matters referred to it, and imposes penalties in accordance with the By-Laws and Laws where findings of guilt are made.

The Tribunal Chair:

- chairs all Tribunal hearings on which the Tribunal Chair sits;
- sits on hearings across all Regions, as required;
- consults with the Board on the appointment of Tribunal Members as nominated by the Regions;
- liaises with the GSJ Admin in the convening of Tribunals;
- in conjunction with the GSJ Admin, maintains a database of all hearings and outcomes;
- reports to the Board on the functioning of Tribunal Central and the ongoing development and refinement of disciplinary procedures as administered by the Tribunal and Tribunal Central;
- seeks ways in which the processes can be enhanced.

#### Knowledge and Skills Required:

The Tribunal Chair is a Tribunal member. The Tribunal Chair must chair Tribunals on which he/she sits, hearing and determining reports and other matters referred to the Tribunal involving breaches of the Laws and By-Laws including the hearing of evidence and submissions. A sound knowledge and understanding of the Laws and in particular the playing of AFL in the under 12-17 age groups, is required.

The Chair must have an understanding of the functions and performance of disciplinary tribunals, be independent and impartial and act in a fair manner. Like all Tribunal Members, the Tribunal Chair cannot be a current member or official of a club affiliated to the GSJ. Legal qualifications are not a pre-requisite, but are desirable. High level communication and interpersonal skills are necessary.

**Time Commitment Required:**

A sitting Tribunal consists of three members, drawn on rotation from a panel of available Tribunal members. The Tribunal usually sits on a Wednesday evening during the GSJ football season (approximately mid March to mid September each year). The hearings are at AFL offices at Moore Park or Blacktown (where the Tribunal member is available to players or officials from the Sydney Harbour and Western Regions or the Central Coast or Newcastle (where the Tribunal Member is available to hear reports involving players or officials from the Central Coast or Newcastle regions). The hearings generally take up to approximately 2 hours.

The Tribunal Chair should be available most Wednesdays to chair Tribunal hearings during the GSJ football season and occasionally be available to sit on hearings of the Tribunal on the Central Coast.

Administrative and other related tasks would require, on average approximately 2 to 3 hours per week, in addition to sitting on the Tribunal.

## Appendix 5

### TRIBUNAL MEMBER - Position Description

#### Overview:

The Greater Sydney Juniors Tribunal is an independent disciplinary tribunal constituted pursuant to the Disciplinary Procedures (Tribunal Rules) and the Competition Rules and By-Laws (**the By-Laws**) of the Greater Sydney Juniors Inc (**GSJ**). The Tribunal deals with reports from umpires and on direct report from Regional Committees and the GSJ Administration, into alleged breaches of the Laws of Australian Football (**the Laws**) and the By-Laws, involving players and officials in the under 12 to under 17 year groups, and on other matters referred to the Tribunal. The Tribunal also deals with matters referred to it directly by the Board.

#### Reports To:

Tribunal members report to the Tribunal Chair.

#### Tasks and Activities:

A sitting Tribunal hears the evidence of umpires, players and witnesses and determines reports laid under the Laws or By-Laws, or matters referred to it, and imposes penalties in accordance with the By-Laws and Laws where findings of guilt are made.

#### Knowledge and Skills Required:

Tribunal members must be able to hear and determine reports and other matters referred to it involving breaches of the Laws and By-Laws including the hearing of evidence and submissions. A sound knowledge and understanding of the Laws and in particular the playing of AFL in the under 12-17 age groups is required. Members must have an understanding of the functions and performance of disciplinary tribunals, be independent and impartial, and act in a fair manner. Legal qualifications are not a pre-requisite. High level communication and interpersonal skills are necessary. Tribunal members cannot not be a current member or official of a club affiliated to the GSJ.

#### Time Commitment Required:

A sitting Tribunal consists of three members, drawn on rotation from a panel of available Tribunal members. The Tribunal usually sits on a Wednesday evening during the GSJ football season (approximately mid March to mid September each year). The hearings are at AFL offices at Moore Park or Blacktown (where the Tribunal member is available to hear reports involving players or officials from the Sydney Harbour, Western Sydney regions) or Morrisett or Newcastle (where the Tribunal Member is available to hear reports involving players or officials from the Central Coast or Newcastle regions). The hearings generally take up to approximately 2 hours.

Tribunal members must be available and willing to sit on no less than 4 occasions during the GSJ football season.