

4. COMPETITION APPEAL RULES

4.1 League Tribunal and Appeal Rules Paramount

- (a) These Guidelines prescribe the procedures for an appeal commenced by a Club or Person in respect of a decision made by the Tribunal under these Guidelines, or in respect of a decision made by the Football Body.
- (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

Except where otherwise determined by the Controlling Body, a Person, Club and/or the Controlling Body, may appeal to the Appeal Board in respect of a decision made by the Tribunal 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 Tribunal acting reasonably could have come to that decision having regard to the evidence before it;
- (c) the classification of the level of the offence was manifestly excessive or inadequate;
or
- (d) that the sanction imposed was manifestly excessive,

(each, a **Ground**).

4.4 Appeal Board Members

- (a) The Appeal Board shall consist of:
 - (i) a Chairperson (**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 Football Body possess a sufficient knowledge of Australian Football (**Appeal Board Panel**).
- (b) Persons appointed to the roles in section 4.4(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 member of a Tribunal Panel and who did not comprise the Tribunal for the matter that is the subject of the appeal, shall be eligible for selection for the appeal hearing.

4.5 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; or
- (c) has been a Player of a Club; or
- (d) has been an employee of the AFL or Club,

in the twelve (12) months preceding the appointment.

4.6 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.

4.7 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 Chairman 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.

4.8 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.

4.9 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 Tribunal, a duly completed Notice of Appeal in the form prescribed and, in the case of an appeal under section 4.3, shall be accompanied by payment to the Controlling Body of:
 - (i) the sum of \$150.00 (inclusive of Goods and Services Tax) towards the costs of the appeal, which sum shall not be refundable in any circumstances; and
 - (ii) the further sum of \$150.00 (inclusive of Goods and Services Tax) which shall be dealt with in accordance with section 4.18 – 4.21.
- (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.

4.10 Attendance

- (a) An appellant shall attend and appear before the Appeal Board at the date, time and place fixed for the hearing of the appeal. Where an appellant 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 Football Body.
- (c) A Person wishing to attend the Appeal Board hearing via video conferencing must first seek the approval of the Football 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.

4.11 General Conduct of Appeal Hearing

- (a) Subject to the further matters set out in 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 4.11(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) 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.

4.12 Review

- (a) The Appeal Board shall hear all appeals by way of a review of the evidence presented before the Tribunal 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 seek 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 Tribunal; and
 - (ii) the evidence is of sufficient probative value that, considered with other evidence which was before the Tribunal, the Tribunal would have reached a different decision.

4.13 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.

4.14 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 Tribunal 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.

4.15 Person to Serve Sanction

Subject to section 4.16(b), where the Tribunal imposes a sanction that prevents the appellant from participating in a Match, the appellant shall serve that sanction pending the determination of the appeal.

4.16 Power to Adjourn

Subject to section 4.17, 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 Tribunal pending the determination of the appeal.

4.17 Exceptional and Compelling Circumstances

The Appeal Board shall make an order under section 4.16 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.

4.18 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, the payment made under section 4.9(b)(ii) shall be refunded on receipt by the Football Body of an appropriate tax invoice.

4.19 Unsuccessful Appeal

Where an appeal is not successful, the payment made under section 4.9(b)(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.

4.20 Costs

Notwithstanding section 4.9(a), each party to an appeal shall bear their own costs.

4.21 Abandon Appeal

- (a) Subject to section 4.21(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 Rule 4.9(b)(ii) shall be refunded.
- (b) Where an appellant abandons the appeal during the conduct of the appeal, the payment made under section 4.9(b)(ii) shall not be refunded.

4.22 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 4.11(c) and (d), any procedure or requirement regulating the function of the Appeal Board is discretionary in nature and a decision of the Appeal Board is not invalid by reason of that procedure or requirement not being fulfilled.

4.23 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 Rule, 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.

4.24 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 Rule, the Person's Club may also be liable to a sanction.

4.25 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.