

# AFL NSW/ACT APPEALS PROCESS

## 16. APPEALS

### 16.1 State Appeals Board

#### (a) **Members of the State Appeals Board Panel**

The Appeals Board Panel must consist of:

- (i) a Chair being a member of the legal profession; and
- (ii) a Panel of not more than four persons who in the opinion of the CEO possess the appropriate qualifications.

#### (b) **Qualifications**

Save and except where the CEO otherwise determines, a person shall not be appointed to the Appeals Board Panel if that person:

- (i) has been a member of a Board of Directors of a Club; or
- (ii) has been a Coach or assistant or specialty Coach of a Club; or
- (iii) has been a Player of a Club,

in the twelve months preceding the appointment.

#### (c) **Appointment of Appeals Board Members**

The CEO may from time to time appoint persons to the Appeals Board, including the Chair.

#### (d) **Absent Appeals Board Members**

If for any period and for any reason a member is absent or unable to attend a hearing of the Appeals Board, the CEO may appoint a person who in his/her opinion is a suitable replacement.

#### (e) **Resignation**

A member of the Appeals Board may resign by providing notice in writing to the CEO.

#### (f) **Removal**

The CEO may remove a member of the Appeals Board at any time in the CEO's absolute discretion.

#### (g) **Composition for Hearing**

On any occasion when an appeal is brought before the Appeals Board, there shall be an Appeals Board appointed to determine the appeal which shall sit as the Appeals Board and shall comprise three persons being:

- (i) a Chair; and
- (ii) two persons from the Appeals Board Panel.

## **16.2 Appeal Procedure**

### **(a) Right of Appeal**

Any registered Player, Official, Club or League may appeal or apply to AFL NSW/ACT in accordance with and on the grounds set out in the relevant AFL and AFL NSW/ACT regulations and policies including:

- (i) these Regulations;
- (ii) AFL National Player and Official Deregistration Policy;
- (iii) State and Territory Tribunal Guidelines;
- (iv) National Disciplinary Tribunal Guidelines;
- (v) AFL National Vilification and Discrimination Policy; and
- (vi) AFL National Player Transfer Regulations.

In the event that the relevant AFL and AFL NSW/ACT regulations and policies do not outline the grounds for appeal or application to AFL NSW/ACT, the grounds set out in clause 16.2 (b) apply.

### **(b) Grounds of Appeal – Administrative Decisions**

Notwithstanding any provision of League By-Laws, a Player, Official, Club and/or the League, may only appeal to the Appeal Board in respect of a decision made by a League (including a determination of a Tribunal with respect to a decision of a League) on one or more of the following grounds:

- (i) that there was an error of law;
- (ii) that the decision was so unreasonable that no League or Tribunal (as the case may be) acting reasonably could have come to that decision having regard to the evidence before it;
- (iii) the classification of the level of the offence was manifestly excessive or inadequate; or
- (iv) that the sanction imposed was manifestly excessive or inadequate,
- (v) (each, a Ground).

### **(c) Appeal Procedure**

A registered Player, Official, Club or League may appeal a determination to the Appeals Board within 10 days of the relevant determination being made (including a failure to act or make a decision when the decision ought reasonably to have been made, which cannot be before 28 days after the relevant request for a determination).

**(d) Lodgement of Appeals**

- (i) Notice of an Appeal is brought by lodging a written notice with the CEO (or delegate). The Notice of Appeal must:
  - a. be in writing;
  - b. state the grounds of appeal and any submissions in respect of the Chair's decision to be made under clause 16.3 (d) (iii); and
  - c. include full details of the event precipitating the appeal together with any information which might assist in its consideration.
- (ii) Notice of Appeal must be accompanied by a payment to AFL NSW/ACT of:
  - a. the sum of \$500 towards the costs of the appeal, which is not refundable in any circumstances; and
  - b. an additional sum of \$500 which shall be dealt with as follows:
    - 1. Where an appeal is successful, this payment will be refunded by AFL NSW/ACT within 30 days of notice to the AFL NSW/ACT by the Appeals Board of its decision in accordance with clause 16.5.
    - 2. Where an appeal is not successful, this payment will not be refunded, unless the matter involves a monetary sanction and the Appeals Board determines that it would be manifestly unjust and unfair not to refund the whole or part of the payment in which case such amount as may be determined by the Appeals Board will be refunded.
- (iii) The CEO (or delegate) will refer the matter to the Chair of the Appeals Board for consideration. Where the Chair decides that an appeal has reasonable prospects of success, an Appeals Board Panel will be convened and the hearing will be held in accordance with clause 16.3.

**16.3 Hearing Procedure**

**(a) Time for Hearing of Appeal**

- (i) Upon receipt of a valid Notice of Appeal and the required sums outlined in clause 16.2 (d) (ii) the CEO (or delegate), in consultation with the Chair, shall:
  - a. fix the date, time and place for the hearing of the appeal as soon as reasonably practicable; and
  - b. advise all parties with an interest in the appeal in writing of those particulars.
- (ii) The Appeals Board, through the CEO (or delegate) can vary the date, time or place of the specified hearing and upon doing so must immediately provide all parties with an interest in the appeal written notice of the variation.

(b) **Attendance**

All parties to the appeal shall attend and appear before the Appeals Board at the date, time and place fixed for the hearing of the appeal. Where a party fails to attend before the Appeals Board, the Appeals Board may hear and determine the appeal in that party's absence or have the unavailable party available by phone or video link should the need arise.

(c) **Submissions**

The Parties must provide written submission to the Appeals Board in accordance with the timeframe as determined by the Appeals Board.

(d) **Obligations of Appeals Board**

(i). The Appeals Board will:

- a. to the extent that the rules of natural justice require, provide any person whose interest will be directly and adversely affected by its decision adequate notice of or sufficient time to prepare for an appeal;
- b. provide any person whose interest will be directly and adversely affected by its decision a reasonable opportunity to be heard;
- c. hear and determine the matter before it in an unbiased manner; and
- d. make a decision that a reasonable body could honestly arrive at.

(ii) If the appeal is an appeal from a decision of a Tribunal, the Appeals Board shall hear that appeal as on the basis of the evidence before that Tribunal and determine whether or not one or more of the Grounds have been established.

(iii) The Appeals Board may have regard to the record of the proceeding before the Tribunal or other body against whose decision an appeal is made, including a record of any evidence taken in a Tribunal hearing.

(iv) The Appeals Board may, subject to these rules, regulate any proceedings before it in such manner as it thinks fit.

(v) The hearing before the Appeals Board shall be:

- a. inquisitorial in nature; and
- b. conducted with as little formality and technicality and with as much expedition as the proper consideration of the matters permits.

(vi) The Appeals 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 any such manner as it thinks fit.

(vii) The question on appeal before the Appeals Board must be decided according to the opinion of a majority of the members constituting the Appeals Board.

(e) **Onus**

The appellant bears the onus of establishing the grounds of the appeal on the balance of probabilities.

(f) **Representation**

- (i) At any hearing before the Appeals Board a person may:
- (ii) appear in person; or
- (iii) subject to leave of the Appeals Board, be represented by a barrister, solicitor or agent on such terms, if any, as the Chair directs.

(g) **Questions of fact and law**

In the hearing and determination of an appeal, the Appeals Board shall decide all questions of law and fact and without limitation, shall determine the meaning of any words.

(h) **Reasons**

The Appeals Board is not obliged to give reasons for a decision.

**16.4 Powers of Appeals Board**

- (a) The Appeals Board is empowered to meet when and where it considers necessary, having regard to a fair and efficient resolution of the appeal.
- (b) The Appeals Board has the power to make any determination it considers necessary including a decision to set aside the original decision which is appealed against or to impose any extra or different penalty, or to remit the matter back to the Tribunal for determination in accordance with the Appeals Board's decision.

**16.5 Decision Final**

The Appeals Board shall make the formal announcement of the appeal at the conclusion of the hearing and AFL NSW/ACT shall inform the parties in writing of the outcome of the appeal as soon as practicable thereafter. The decision of the Appeals Board shall be final and binding on all parties.

**16.6 Matters not provided for**

The Appeals Board shall have the power to decide any matters not provided for in Regulation 16 to the extent that such matters arise during the course of any hearing.