

## Tribunal Quick Guide – 2018

This Quick Guide is designed to assist participants involved in the Tribunal process. The Quick Guide is, however, no substitute for a thorough understanding of the documents that govern the Tribunal process. These documents are the Sydney Juniors Tribunal Guidelines, the State and Territory Guidelines – NSW/ACT 2018, the AFL Sydney Juniors By-Laws 2018 (the By-Laws), particularly the Conduct and Disciplinary Procedures provisions, and the AFL NSW/ACT Regulations, all of which may be found at the Resource Centre at Tribunal Central (the Tribunal documents).

The Tribunal documents should be fully understood by all participants in the Tribunal process, but particularly advocates appearing at the Tribunal.

If there is any inconsistency between this Quick Guide and the Tribunal documents, the Tribunal documents will prevail. In this Quick Guide, a reference to a reported person includes a person where the hearing follows a report or charge other than from a report from an Umpire, for example a citing.

### **Preparation for a tribunal**

All witnesses, including the reported person, should be interviewed well prior to the hearing and certainly before a decision is made to accept or reject a Prescribed Penalty Offer (PPO). Additional penalties may apply where a PPO offer is rejected and there is an adverse finding by the Tribunal. You must carefully select the witnesses who are to give evidence, not only in terms of the relevance but also their ability to provide accurate and concise evidence.

It is the responsibility of the reported person's Club to arrange for all evidence to be available at the hearing, including, for example, a medical report. A party should prepare and bring to the hearing any diagrams that they intend to use or which may assist the Tribunal.

Advocates should familiarise themselves with the provisions of Rules 4.43 - 4.38 with respect to evidence, which will be strictly applied. These Rules include advance advice as to witnesses proposed to be called, as well as the use of electronic and other images.

A reported person must bring to the Tribunal a completed pre-sentence report.

### **Section 5 Reportable Offences of the State Guidelines**

Section 5 Reportable Offences of the State Guidelines provides guidelines as to different categories of Reportable Offences and in assessing particular offences and appropriate sanctions for such an offence. It includes definitions for Conduct (Intentional, Careless), Impact (Low, Medium, High or Severe), Contact (High/Groin/Body) as well as other matters. Those considering whether to accept or reject a PPO and advocates appearing before the Tribunal must be fully familiar with this document.

### **The hearing**

A legal practitioner cannot act as an advocate. The parent/guardian of a reported person or an Umpire cannot act as their advocate. An advocate cannot give evidence.

The Tribunal only accepts oral evidence. Statements from witnesses who are unable to attend will generally only be allowed in the most exceptional circumstances, and even then may only be accepted by the Tribunal for very limited purposes and given very limited weight.

It is the responsibility of the party who wishes to call a witness to arrange for that witness to attend. Oral evidence by telephone will only be accepted in exceptional circumstances.

### **Reports are considered on their merits and not on technicalities.**

At the commencement of the hearing, the advocate must advise the Tribunal as to how the reported person intends to plead, the number and availability of witnesses the reported person intends to call and whether there is any visual evidence. Appendix 5 of the Guidelines sets out the hearing in diagrammatic form.

Witnesses may give their evidence by reading a prepared statement, or may be questioned by the advocate. All conversations must be related in direct speech. The exact words used, or as best the witness can recall, or words to the relevant effect, are required. Witnesses are to give evidence of fact, not opinion.

Witnesses may be questioned by the opposing party but questions must be limited to the matters at hand. The Tribunal will control the questioning of witnesses.

Fairness demands that an opposing version of events or facts must be put to each witness, to allow the witness to respond to that alternative version of events or facts.

The parties are to make brief submissions at the conclusion of the hearing.

### **Penalty**

Where there is a finding that the report is proven, or the reported person admits the report, the Tribunal will call on submissions from the reported person's advocate as to penalty. The Tribunal will rarely seek a submission from the reporting person's advocate on penalty.

Submissions on penalty must not ignore the finding of the report being proven or the plea admitting the report being proven. Any submission which challenges such a finding or plea will be rejected.

The Tribunal will determine the penalty in its absolute discretion. The penalty is to be recorded in writing, signed by the Presiding Member and a copy handed to the reported person's advocate..

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 or Official is precluded from participating. Where an Official is suspended, the Quick Guide is to be read appropriately to refer to an Official.

The Tribunal may defer, on terms or absolutely, the operation of any penalty or part thereof. This allows the Tribunal to impose a sentence which is suspended in whole or in part.

Where a period of suspension is expressed as a number of matches, a 'match' shall mean a competition match of the same age group or division in 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. 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".

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.

A suspended person may not, during his/her period of suspension, participate in any match in the capacity of Player, runner or trainer, nor shall he/she officiate within the enclosed playing surface (or, where there is no enclosed playing surface, within five metres of the boundary line), but may attend a game and observe as a spectator only. Players are not permitted within the confines of the playing surface, and must not act as runner, water carrier or in any other capacity. Subject to any direction from the Tribunal, an Official may participate in any official capacity at their Club on non-match days.

Subject to any direction by the Tribunal, where the Tribunal imposes a suspended sentence, the period of the sentence is suspended, subject to good behaviour by the Player or Official. If the Player or Official is found guilty by the Tribunal of any subsequent offence committed during the period of the suspended sentence or, in the case of a Player, a PPO is accepted which results in a match suspension, the suspended sentence will be added to any sentence imposed by the Tribunal for the subsequent offence or as a result of the Prescribed Penalty.

Where a reported person requests that a PPO offer be dealt with by the Tribunal, and the Tribunal is of the opinion that the PPO to the Player was reasonable in all the circumstances and does not reduce the penalty, the Tribunal will impose an extra one match penalty in addition to the penalty offered by AFL Sydney Juniors, or the penalty imposed by the Tribunal, whichever is the greater.

In the event of a dispute as to the games or matches covered by a suspension, the dispute is to be referred to the CMC for determination. The CMC may seek the advice of the Tribunal.

Where a Player receives notice of an automatic playing suspension as provided by the By-laws and requests the automatic suspension be referred to the Tribunal for hearing, the Tribunal may impose such conditions on the Player as it deems appropriate, pending the hearing. The Tribunal may, following the hearing, affirm or vary the suspension, (including increasing the suspension) or apply any other penalty as it deems appropriate. Where the Tribunal is of the opinion that the automatic playing suspension was reasonable in all the circumstances, the Tribunal will impose a suspended sentence at least equal to the automatic match playing suspension imposed on the Player, 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.

### **Important Note for those appearing before the AFL Sydney Juniors Tribunal**

The following is an extract from the Media Release of AFL Chief Executive Gillon McLachlan issued on Thursday 6 July 2017 following the Ali Fahour Tribunal Hearing which addresses the important role that Tribunals assume in all levels of AFL.

*The events this week have sent a clear message that striking and punching at any level of our game is not acceptable.*

*Every football league across our country, and every player in our game, no matter at what level they are playing our sport have to understand there are clear expectations around on-field behaviour. There can be no exceptions.*

*The AFL has worn some criticism for not speaking sooner, and for waiting for the Northern Football League tribunal hearing.*

*I want to make this clear – Tribunals are a critical part of our football community – and their role at every level MUST be respected. We ask the volunteers and leaders of our community leagues to commit to sitting on Tribunals and making difficult decisions every week, in every league around the country.*

*Criticism that the AFL should have spoken before this disrespects the role of those people and processes that keep our game going every weekend.*