



BOWLS

NORTH WEST

BOWLS NORTH WEST Inc DISCIPLINARY POLICY

RELATED POLICIES:

BNW Conditions of Play for Domestic Competitions

BNW Code of Conduct

BA Instantaneous Penalties

BA Member Protection Policy

RESPONSIBLE OFFICERS: BNW CEO

AUTHORITY: BNW Board

APPLICABLE FORMS: BNW Infringement – Players Report

APPROVED: 18 June, 2018

REVIEW DATE: June, 2023

BOWLS NORTH WEST DISCIPLINARY PROCEDURES

1. DEFINITIONS AND INTERPRETATION

- 1.1. Bowls North West (BNW) is the Controlling Body for regional lawn bowls competitions conducted in North West Tasmania.
- 1.2. As the Controlling Body for bowls competitions in North West Tasmania BNW has a responsibility to ensure that all matches played in such competitions are conducted in accordance with its own Conditions of Play for Domestic Competitions, the Laws of the Sport of Bowls – Crystal Mark Third Edition, and all relevant BNW, BTAS and/or BA policies.

2. APPLICATION OF POLICY

- 2.1. This policy will apply in the following circumstances:
 - 2.1.1. To any bowls club being an affiliated member of BNW;
 - 2.1.2. To any individual member of a BNW-affiliated club registered as a player with BNW, who:
 - 2.1.2.1. Participates in any BNW-sanctioned bowls competition; or
 - 2.1.2.2. Represents BNW as a playing member or official of a BNW representative side which participates in a BTAS statewide event.

3. DISCIPLINE OF MEMBERS

- 3.1. Allegations of misconduct by a registered player must be received by the BNW CEO on the prescribed form, Infringement – Player Report.
 - 3.1.1. The reason/s for the referral shall be clear and unambiguous, stating precisely the matter to be determined, as well as the Law/s of Bowls, and/or Condition/s of Play, and/or specific policy/ies it is alleged that the player contravened.
 - 3.1.2. An additional page may be attached to the Infringement – Player Report, if there is insufficient space on the form to provide a full outline of the allegation.
- 3.2. Allegations of actions by clubs contrary to the Laws of Bowls, BNW Conditions of Play, and/or BA/BTAS/BNW policy shall be made in writing to the BNW CEO.
- 3.3. On receipt of an Infringement Notice (or written complaint alleging misconduct by a club), as described in clauses 3.1 and 3.2 above, the BNW CEO will refer such allegation to the BNW Complaints Committee consisting of the BNW Vice Presidents, Chair of the BNW Match Committees to determine any further action to be recommended to the BNW CEO, which may involve:
 - 3.3.1. Immediate dismissal of the complaint, either due to it being ambiguous, trifling or frivolous;
 - 3.3.2. The issuing of a written reprimand to the player or club;

- 3.3.3. Referral to a mediation/conciliation process;
- 3.3.4. Referral to the BNW Match Committee; or
- 3.3.5. Immediate referral to the BNW Tribunal Panel (TP).

3.4. On receipt of the Complaints Committee's report the BNW CEO will take immediate steps to initiate the process recommended.

3.5. The Complaints Committee shall have no power to impose penalties.

4. MEDIATION

- 4.1. Participation in a mediation/conciliation process, if recommended, is mandatory on the parties concerned. Refusal to participate in the process will initiate a Tribunal Panel procedure.
- 4.2. The mediation/conciliation process will be conducted by a Member Protection Officer, acting as Mediator.
- 4.3. The Mediator does not have the power to impose sanctions, but must endeavour to achieve a negotiated settlement between the parties.
- 4.4. At the completion of the mediation/conciliation process the mediator will provide the BNW CEO a written report which will include a statement of resolution and/or any recommendations for the Board's consideration.
- 4.5. The BNW CEO will ensure that a copy of the report is provided to the parties for whom the mediation/conciliation process was initiated.

5. BNW TRIBUNAL PANEL

- 5.1. The Tribunal Panel (TP) will be comprised of five persons appointed by the Board from time to time, being:
 - 5.1.1. A member of the Board;
 - 5.1.2. Other members to be determined by the Board, from a list of names solicited from BNW-affiliated clubs.
 - 5.1.3. Any three of whom shall form a quorum. The CEO of BNW shall have all such powers to him/her necessary for the efficient functioning of the (TP).
 - 5.1.4. The CEO of BNW will act as Secretary of the Tribunal.
- 5.2. The Board will appoint a Tribunal Chair from those listed in 5.1.2.
- 5.3. No person shall accept a position on the TP should they hold a perceived or actual conflict of interest in the alleged matter.

6. CONVENING A TRIBUNAL PANEL HEARING

6.1. On receipt of a recommendation from the BNW CEO that the allegation should be heard by the TP, the TP Secretary will immediately consult with the remaining panel members to determine an appropriate date, time and place for the hearing. The hearing shall take place no less than 14 days and no more than 28 days from the receipt of the referral.

6.2. The TP Secretary will then forward a copy of the Infringement Notice, or written complaint, to the party(ies) required to answer the allegation, informing them of the date, time and place for the hearing, and advising that they are:

- 6.2.1. Permitted to provide a written submission to the TP, to be received not less than five days before the date of the hearing;
- 6.2.2. Permitted to appear at the hearing and/or be represented by a person (not permitted to be legally qualified). In the case of minors, it is mandatory that they are accompanied by an adult who can assist in representing their interests;
- 6.2.3. Permitted to have a support person accompany them to the hearing, who cannot speak during proceedings – unless permitted by the Chair of the TP;
- 6.2.4. Required to notify the TP Secretary of those appearing before the TP, as witnesses on their behalf, no less than five days before the hearing.

6.3. The TP Secretary will contact all witnesses, nominated by either the complainant or the alleged offender, requesting a written statement in support of either the allegation or in defense of those subject of the allegation (depending on the party who nominated them).

6.4. Where the allegation involves a registered player the TP Secretary will also provide documentation of the complaint to the player's club.

7. MEETING OF THE TRIBUNAL PANEL

7.1. The TP shall hear and determine the alleged breach in whatever manner it considers appropriate in the circumstances, provided it does so in accordance with the principles of natural justice.

7.2. At the hearing of the TP the TP shall:

- 7.2.1. Give the club or person who is the subject of the allegation the opportunity to be heard;
- 7.2.2. Give due consideration to the evidence submitted to the hearing whether in the form of a written statement or by way of oral evidence, by any witness in support of either the complainant or those subject of the allegation; and
- 7.2.3. By resolution determine whether the alleged breach occurred.

7.3. The TP will determine the order of oral submissions at the hearing, always ensuring that the complainant will be heard first followed by any other witness supportive of the alleged offence, then the alleged offender and his/her witnesses, allowing reasonable time between each witness. The TP shall be entitled to call such witnesses and evidence as it thinks fit and all parties subject to these regulations shall be required to provide evidence as they are able.

7.4. All parties who are required to attend the TP hearing must be advised of the order of oral submissions prior to the commencement of proceedings.

7.5. Should the TP find that the allegations are proven, the TP is empowered to impose penalties on the club/person based on clause 9.1.

7.6. Should the TP find the allegations unproven the referral shall be dismissed.

7.7. All parties shall bear their own costs.

8. DECISION

8.1. The decision will be a majority decision.

8.2. The TP Secretary will provide the remaining TP members with minutes of the meeting for ratification within three days of the hearing.

8.3. The TP Secretary will provide the BNW CEO the ratified minutes for distribution to the Board within six days of the hearing.

8.4. The BNW CEO will circulate the TP minutes, including its decision and any penalty imposed, to the complainant, the defendant and the defendant's club (if an individual member was alleged to be in breach) within seven days of receiving the documentation from the TP Secretary.

8.5. If the decision is adverse the BNW CEO will include information to the defendant advising of a right of appeal, the grounds on which such appeal may be based (refer to clause 10.1), and the closing date for receipt of the appeal by the BNW CEO.

8.6. The BNW CEO will retain all documentation relating to the complaint, including the TP report.

8.7. The BNW CEO will ensure that the penalties are enacted, delayed until after the date of closure of receipt of appeals.

9. PENALTIES

9.1. Penalties which may be determined, subject always to any limitations in relevant policies or the Laws of Bowls include:

9.1.1. A fine to the maximum of \$1000;

9.1.2. Exclusion(s) from a particular activity, event or events for a period up to but not exceeding 2 (two) years;

9.1.3. Suspension(s) from all bowls activities, on such terms and for such period as considered fit, for a period not exceeding 2 (two) years; or

9.1.4. Disqualification(s) for such period as considered fit, including life bans.

9.2. The TP may impose any of the penalties described in 9.1.2, 9.1.3, or 9.1.4 but as a penalty wholly suspended for a period not exceeding 2 (two) years, during which time the party found to be in breach must not re-offend, otherwise the original penalty imposed will be invoked in addition to any further penalty imposed as a result of a further breach. A party already subject to a penalty wholly suspended shall not be able to have a further penalty also suspended.

10. MATTERS REFERRED TO APPEALS COMMITTEE

10.1. A party found to be in breach and against whom a penalty has been imposed, whether wholly suspended or not, may lodge an appeal against the decision of the TP based on the following grounds:

10.1.1. That the decision is wrong having regard to the application of the relevant rule, regulation, policy or Law of Bowls;

10.1.2. Where new evidence becomes available;

10.1.3. That natural justice has been denied; or

10.1.4. That the penalty is too harsh.

10.2. Appeals, in writing, against the decision and/or penalties imposed by the TP and addressing one or more of the grounds for appeal described in 10.1, must be accompanied with a sum of \$200 in clear funds to BNW as a bond.

10.3. Appeals must be received by the BNW CEO not later than twenty one days after the TP hearing.

11. MEMBERSHIP OF THE APPEALS COMMITTEE (AC)

11.1. The AC shall be composed of three persons appointed by the Board, being:

11.1.1.1. A legally qualified person, recommended by the BNW CEO; and

11.1.1.2. Two members nominated by the Board, not themselves being neither members of the Board, members of a BNW committee nor having been a member of the TP that heard the complaint.

11.1.1.3. The Board will appoint a Chair and a Secretary from those listed in clause 11.1.

11.1.1.4. No person shall accept a position on the AC should they hold a perceived or actual conflict of interest in the matter.

12. CONVENING AN AC

12.1. On receipt of all documentation pertaining to the appeal from the BNW CEO the AC Secretary will, in consultation with the remaining AC members, determine an appropriate date, time and place for the hearing. The meeting shall take place no less than 14 days and no more than 28 days from the date of receipt of the referral.

12.2. If the matter is deemed by the Board to require urgent attention then the AC may agree to a variation of the time frame.

12.3. The AC Secretary shall notify the other AC members and the following parties of the date, time and place of the hearing:

12.3.1. The defendant;

12.3.2. The complainant; and

12.3.3. The defendant's club (if the defendant is an individual member).

12.4. The parties listed in 12.3.2 and 12.3.3 permitted to provide a written submission in response to the defendant's written statement of grounds for appeal, to be received no less than five days prior to the hearing.

12.5. The parties listed in 12.3.1 and 12.3.2 are:

12.5.1. Permitted to appear at the hearing and/or be represented by a person, however shall not be permitted to be represented by a person who is legally qualified;

12.5.2. Required to notify the AC Secretary of those appearing as witnesses before the AC, on their behalf, no less than five days prior to the hearing.

12.6. The defendant is permitted to have a support person accompany them to the proceedings, who is permitted to speak at the hearing.

12.7. The AC hearing is not a rehearing of the matter, but a hearing of the issue/s under appeal only.

13. DECISION

13.1. The decision will be a majority decision.

13.2. The AC may make a decision based on items listed in clause 10.1 only.

13.3. The AC may, in its discretion, confirm the penalty or may decide not to confirm such penalty but instead impose an alternative penalty available under clause 9.1.

13.4. Should the AC find the allegations unproven the referral will be dismissed.

13.5. If the AC revokes the penalty or finding of the TP the bond shall be refunded to the party appealing within fourteen days of the determination of the AC.

- 13.6. The AC may, in its complete discretion, determine that a portion of the entire bond shall be refunded to the party appealing, within fourteen days of the decision of the AC, if it is satisfied that the appeal was not frivolous.
- 13.7. The AC Secretary will provide the remaining AC members with the minutes of the meeting for ratification within three days of the hearing.
- 13.8. The AC Secretary will provide the ratified minutes to the BNW CEO for distribution to the Board within six days of the hearing.
- 13.9. The BNW CEO will circulate the decision of the AC to the parties listed in clause 12.3 within seven days of receiving the documentation from the AC Secretary.
- 13.10. The BNW CEO will ensure that all penalties are enacted immediately.
- 13.11. The decisions of the AC are final and no further appeals are permitted.
- 13.12. The BNW CEO will include all documentation from the AC process and include with records retained from the original TP hearing of the matter.