

Basketball WA – Senior Domestic Competition (The Competition)

TRIBUNAL RULES

1 AUTHORITY

- 1.1 These Tribunal rules are made pursuant to clause 4(w) of the Constitution of Western Australian Basketball Federation (WABF) also known as Basketball WA (BWA) that gives power to the Board of Directors (The Board) to prescribe rules covering the manner in which basketball competitions will be conducted in Western Australia.
- 1.2 The Board, or its delegated authority, shall have the power to appoint a Tribunal to hear and determine charges arising from or related to competitions conducted by BWA.
- 1.3 The Board's delegated authority to prescribe rules for The Competition is the Chief Executive Officer (CEO) of BWA. The CEO has delegated the authority to administer these Tribunal Rules to the Basketball WA - Senior Domestic Competition Administrator (The Administrator.)
- 1.4 The Tribunals shall act in accordance with these Tribunals Rules.
2. The Definitions and Interpretations set out in clause 2 of the constitution of WABF shall be used in these Tribunal Rules.

3. COMPOSITION OF TRIBUNALS

- 3.1 The Administrator shall:

- (a) determine the place Tribunals that will meet to hear and determine the matters before them.
- (b) appoint the members of the Tribunals when required.

2.2 HEARING

The tribunal hearing shall be conducted by a minimum of two members and the maximum number shall be three members. Wherever it is possible, each Tribunal hearing shall be heard by three members one of whom is designated as the Chairperson.

2.3 SECRETARY

2.3.1 Each Tribunal shall have a Secretary who shall be responsible for maintaining a permanent Register of the Tribunal's proceedings which shall include the following details:

- (a) person(s) charged;
- (b) details of the charge(s);
- (c) tribunal members who heard the charge;
- (d) the plea of the person(s) charged;
- (e) the finding of the Tribunal (guilty or not guilty);
- (f) the penalty (if any) imposed by the Tribunal;

See Appendix A.

2.3.2 The Tribunal Secretary shall make available such details of the Tribunal's proceedings to The Administrator as detailed in 2.3.1 (a), (b), (c), (d), (e) and (f) at the conclusion of any hearing.

2.3.3. The BWA Report Form shall be used for The Competition.

The BWA Report Form is Appendix B to these Tribunal Rules.

4. POWERS AND JURISDICTION OF A TRIBUNAL

4.1 The Tribunal shall have power to hear and determine charges arising from or related to The Competition which shall include but not be limited to charges against players, coaches, team officials and administrators, referees and team followers.

3.2 REPORTABLE OFFENCES

The game referees may lay a charge(s) against any person(s) who it is alleged has:

- (1) Used abusive, threatening, obscene language or signs
- (2) Adopted a threatening fighting stance
- (3) Spat
- (4) Was fighting including kicking, punching, slapping, pushing
- (5) Damaged equipment in or at the venue
- (6) Acted in a un-sportsman like manner in the stadium precincts or surrounds.
- (7) Interfered with an officials property, equipment or clothing during a fixture or in the stadiums precincts or surrounds
- (8) Participated in a basketball fixture whilst suspended

3.3 Officers of BWA or of a BWA Association, Games Controller, Referee Supervisor, Referee Evaluator and coach of a team participating in the game, (The Complainant), shall also be authorised to lay a charge, if warranted, where the game referee has not laid a charge.

5. NOTIFICATION OF CHARGES

5.1 Each Tribunal shall nominate a person (hereafter called “the Tribunal Secretary”) who shall be responsible for liaising with the Tribunal members on behalf of the competition. In particular receiving reports, forwarding reports to the Tribunal members, convening the Tribunal hearing, including notice of charges and time and date of hearing to the reported person(s).

4.2 **REPORTS ARISING FROM OR RELATED TO MATCHES**

The Complainant shall:

- (a) if practical, notify the person charged that he has been reported as soon as possible. If this is not practical, advise the games operation manager or stadium manager or person in an equivalent position;
- (b) if practical, notify any other persons involved in the incident, that a report has been made;
- (c) if practical, enter on the scoresheet at the earliest opportunity (at half-time or at the end of the match) that a report has been made;
- (d) complete a BWA Report Form (see Appendix B) as soon as possible after the match noting the relevant particulars in such a manner as to give a clear account of the alleged offence(s);
- (e) lodge the report with the Games Controller, or if that is not possible, leave the report at the BWA office marked to the attention of The Administrator within 24 hours of the completion of the match.

4.3 On receiving a report, the Administrator shall: investigate the incident.

4.4 The Administrator has the authority to either:

- (a) dismiss the report, or

- (b) apply a penalty as per the Basketball WA – Senior Domestic Competition Tribunal rules, or
 - (c) send the matter to the Tribunal for a hearing.
- 4.5 Should the person being reported accept the penalty as applied by the Administrator, all provisions of the BasketballWA – Senior Domestic Competition Tribunal Rules shall apply as if the penalty was determined by the Tribunal.
- 4.6 Should the person being reported NOT accept the penalty as applied by the Administrator, the matter shall be, without prejudice, sent to the Tribunal for a hearing.
- 4.7 Should the Complainant NOT accept the Administrator’s decision to dismiss the report or with the penalty the Administrator has issued, the matter shall be, without prejudice, sent to the Tribunal for a hearing.
- 4.8 Should the report be sent to the Tribunal for a hearing, the Administrator shall:
 - (a) liaise with the Tribunal members to fix a time and place for the hearing of the charge(s);
 - (b) notify the person charged via the primary team contact of his team or personally the date, the time and place of the Tribunal hearing. If this is done by telephone or in person, the time of the call or meeting, the name of the person who was notified and the content of the call shall be noted. At the same time that this notice is given, the Administrator shall make available to the person charged a copy of the report form. Notification to the primary team contact of the team shall be deemed to

be notification to the person charged of the date, time and place of the hearing;

- (c) notify The Complainant and any witnesses that their attendance is required at the Tribunal hearing at the specified date, place and time.

5 THE HEARING

5.1 Hearings pursuant to these Tribunal Rules shall be conducted with as little formality as possible. The Rules of Evidence do not apply. Sworn evidence is not required. The standard of proof required to sustain a charge is the balance of probabilities.

5.2 ELIGIBILITY TO ATTEND HEARINGS

5.2.1 Tribunal Hearings shall not be open to the public and the media subject to the discretion of the Tribunal Chairman to include the public and/or the media at the hearing

5.2.2 The following persons shall be required to attend:

- (a) the person charged;
- (b) The Complainant;
- (c) if applicable, the referee(s);
- (d) such other witnesses as are advised by the Administrator.

5.2.3 Representation of persons charged by legal practitioners or advocates is not permitted. The Administrator shall have a discretion to allow an advocate but should only exercise this discretion in exceptional cases and where prior notice has been given that an application will be made to have an advocate.

In exceptional cases, the Administrator or Tribunal may arrange to have a legal practitioner perform the function of assistant to the Tribunal. If this is to be done the parties should be advised.

5.2.4 Where the person charged has not attained the age of 18 years, representation by an advocate who is not a legal practitioner is permitted.

5.2.5 The person charged shall be permitted to remain in the Tribunal room at all times when evidence is being heard which relates to the charges against him subject to him conducting himself in a proper manner. In the event that the person charged deliberately attempts to disrupt the proceedings, the Tribunal shall warn him that such behaviour will not be tolerated. If it persists the Tribunal shall ask the person charged to leave and shall be empowered to proceed in his absence. If the person charged refuses to leave, the Tribunal may be adjourned to another time and or date.

5.3 **THE PROCEDURE AT THE HEARING**

In conducting a hearing, the Tribunal should adopt the following procedure:

- (a) the Administrator is to introduce himself and the other members of the Tribunal to the person charged and ask whether there is any objection to those members sitting as the Tribunal to hear the case. If there is any objection, the objection should be heard by the Tribunal there and then and decided upon and result noted by the Chairperson before the Tribunal goes on to consider the charge(s). If a person of the Tribunal does disqualify themselves the hearing can continue without that person.
- (b) the charge(s) is to be read to the person being charged.

- (c) he is to be asked to plead guilty or not guilty. If no plea is made, a plea of not guilty is to be entered.
- (d) the procedure to be followed in calling evidence is to be explained to the person charged and he is to be asked if he understands the procedure.
- (e) the BWA Report Form is to be read to the person charged in the presence of the referee. The Complainant is then to be asked to give any other relevant evidence and may be questioned by the Tribunal. At the conclusion of the Complainant's evidence the person charged may question the Complainant.
- (f) the evidence of any other witness shall be heard and questioned in the manner set out in paragraph (e). The Tribunal Chairman should ask witnesses other than the person charged and the person laying the charge to remain outside the Tribunal room until they are called to give evidence. Once they have come into the hearing and given their evidence and are no longer required the chairperson shall advise they are free to leave.
- (g) at the conclusion of the evidence which is called in support of the Complainant, the person charged may give evidence himself and call any other relevant witnesses to give evidence. He and his witness shall be subject to questioning by the person laying the charge and the Tribunal members.
- (h) in the event that more than one person is charged arising out of related incidents which occurred at or about the same time, the Tribunal shall in its sole discretion have the power to hear and determine charges against two or more persons at the same time. If

more than one person is charged and there is a joint hearing the Tribunal before finding a person guilty must be satisfied a balance of probabilities that there is sufficient evidence against each person to convict.

- (i) the Tribunal shall have the power to view the video tape or film of any incident where it is available and shall be empowered to show the video tape or film to any witness and ask that witness to comment on it. In the event that the Tribunal proposes to view the video tape or film of an alleged incident, it shall cause the video tape or film to be played in the sight of the person charged.
- (j) the Tribunal shall disallow any question which it considers to be unduly offensive, vexatious, irrelevant or improper.
- (k) subject to the over-riding consideration that the person charged is to be given a fair hearing, the Tribunal shall restrict the number of witnesses which a person charged is permitted to call where the evidence of the witnesses is repetitive.
- (l) after hearing and/or viewing the relevant evidence the Tribunal shall consider its decision and if necessary to do so, may adjourn the proceedings. When it has reached its decision, the Tribunal through its Chairman and in the presence of the person charged, shall announce its decision as to whether the person charged is guilty or not guilty.
- (m) in the event that it finds the person charged guilty, he shall be invited to address the Tribunal as to his record in the sport and character generally. At the discretion of the Tribunal the matter maybe adjourned for the person to call character evidence.

- (n) after considering the submission, the Tribunal shall announce the penalty in the presence of the person charged.
- (o) the Tribunal shall not be bound to give written reasons for any of its decisions or findings of fact but may give reasons at the time of the decision.
- (p) the Tribunal may adjourn the proceedings for such period as it sees fit, exclude persons from the hearing room and otherwise regulate the proceedings in such manner as it sees fit.
- (q) the Tribunal may give or withhold in its discretion the right to a person to tape-record a Tribunal hearing. Hearings shall not be tape-recorded without the permission of the Tribunal.

5.4 In the event that any of these Tribunal Rules or any procedure contained in these Tribunal Rules is not complied with, such non-compliance shall in no way invalidate the proceedings or any finding of the Tribunal or any penalty imposed by it.

5.5 Where these Tribunal Rules do not make specific provision for an event that occurs in the course of the hearing, the Tribunal shall be empowered to take such action as is necessary to ensure that the proceedings are heard properly.

6 POWERS OF THE TRIBUNAL

6.1 The Tribunal shall have power to:

- (a) suspend;
- (b) reprimand;
- (c) fine;

(d) impose suspended sentences or conditional sentences on;

(e) ban -

players, coaches, officials or administrators, referees, team followers and clubs may if it considers it to be appropriate, combine two or more of the above penalties so that a just and effective penalty is imposed.

(For example; in the case of a young player who has offended previously, it may be appropriate to impose a short suspension coupled with a longer suspended sentence in addition, the Tribunal shall have power to impose conditions requiring persons to perform refereeing duties and/or stadium maintenance at the Tribunal's discretion)

6.2 Periods of suspension, suspended sentences and bans shall be expressed in terms of weeks and the Tribunal shall fix a date on which the suspension, suspended sentence or ban is to terminate.

6.3 Suspensions, suspended sentences and bans which are imposed by a Tribunal shall apply to all competitions conducted under the auspices of **BWA**.

6.4 Where the Tribunal is not satisfied that a particular charge has been proved but that the evidence supports another charge that has been proved, it may record a verdict of guilty of that charge. Where it is possible to do so, as a matter of fairness the Tribunal should inform the person charged that it is considering the evidence in relation to the other charge and invite the person charged to consider that charge and if he wishes to do so to make a submission to the Tribunal in relation to the charge.

6.5 PENALTIES

6.5.1 Where a team is charged, a fine not exceeding \$1,000.00 may be imposed on the team. A player, coach, or team may be placed on a conditional

release order for a specified period. An amount not exceeding \$500.00 maybe offered to be paid to BWA in respect of a conditional release order this sum shall be refunded at the end of the period of the order if the terms of the order are kept. If the terms of the order are breached, the bond sum shall be forfeited to BWA. Where the amount of an order is not paid within 21 days of it being imposed by the Tribunal, the Tribunal Secretary shall reconvene the hearing of the charges and the Tribunal may revoke the order and impose some other penalty.

6.5.2 Matters to be considered when imposing a penalty include but are not limited to:

- Previous charges of a similar nature leading to convictions by the Tribunal
- Was there any aspect of provocation or self defence in the facts of the charge
- Were any injuries sustained
- Age
- Prior basketball record

6.5.3 Where more than one charge arises from an incident (for example obscene language which is followed by striking) all charges shall be considered together. Where the Tribunal finds the person charged guilty, a penalty shall be imposed in respect of each charge. The Tribunal shall have the discretion to order that the penalty imposed for one or more of the offences shall be served concurrently rather than cumulatively. The purpose of this is to attempt to impose a penalty which reflects the overall seriousness of the incident.

6.5.4 **STANDARD PENALTIES**

Subject to the proceeding parts of this section, the following penalties shall be used as a guide when imposing penalty but are not mandatory:

- Failure to attend when notice given without reasons-2 weeks
- Disputing referees decisions- 1-3 weeks
- Un-sportsmanlike behaviour, including spitting- 2-4 weeks
- Undue rough play including tripping and pushing- 2-6 weeks
- Abusive, threatening and obscene language or signs- 1-6 weeks
- Adopting a threatening fighting stance- 2-4 weeks
- Striking or attempted striking, including punching, kicking and use of elbows- 4-16 weeks
- Fighting, with several players involved- 6-20 weeks
- Interfering with official equipment or clothing- 1- 6 weeks
- Assaulting a referee, scoretable official or other game officials(other than by striking or kicking)- 10-50 weeks
- Causing a referee, scoretable official or other game officials to fear impending violence- 10-50 weeks
- Striking or kicking or attempting to strike or kick a referee, scoretable official or other game officials- 5 years to life
- Playing, coaching or refereeing while under suspension- suspension for three times the number of games participated in while under suspension
- Damaging equipment in or at the venue- 1-6 weeks

6.6 A person who is suspended shall not be permitted to play, coach or referee in a competition conducted under the auspices of BWA or any of the BWA Associations for the duration of the period specified. A penalty imposed on a player shall apply to that player in his capacity as a coach or referee as well as his capacity as a player.

6.7 **NOTIFICATION OF PENALTIES**

Details of any decision of any the Tribunal which involves a suspension, suspended sentence or banning of any person shall be forwarded to Basketball Australia (BA) and all BWA Associations.

7 FAILURE TO ATTEND

7.1 If any witness fails to attend, the hearing will proceed in the absence of the witness unless the Tribunal, in its discretion, adjourns the hearing to a later date to allow the witness to attend.

7.2 If the person charged fails to attend the appointed hearing:

(a) if he has notified the Administrator that he will be unable to attend, the following shall be adopted:

(i) He may enter a guilty plea to all charges and make a written submission as to the circumstances of the charge to the Tribunal in which case the Tribunal shall proceed to enter the guilty plea and impose a penalty.

(ii) If he indicates a guilty plea to all charges and makes no written submission, the plea should be recorded by the Tribunal and penalty imposed or the matter adjourned to a later date for penalty and submission.

(iii) He may enter not guilty pleas and ask for the matter to be adjourned to a future date for hearing. The Tribunal has a discretion to adjourn to allow his appearance or if satisfied the person charged had sufficient notice of the date go on to hear evidence and determine the charge.

(b) if he does not notify the Administrator of his inability to attend the following shall be adopted:

(i) Subject to being satisfied that notification has been given to the person charged, the hearing shall proceed in the absence of the person charged, and in addition the Tribunal, in its discretion

may impose a penalty against the person charged for failing to attend the hearing:

- (ii) The Tribunal shall adjourn the proceedings and suspend the person until such time as he notifies the Tribunal Secretary that he wishes to have his hearing reinstated and he appears before the Tribunal. In addition, the Tribunal, in its discretion may impose a penalty against the person charged for failing to attend the hearing.

7.3 Tribunals shall use their best endeavours to hear the charges prior to the next match in which the person charged is to play or coach. Where that is not possible, the person charged shall be permitted to play or coach pending the hearing unless the Administrator, at his discretion, is of the opinion that the person charged or any other person on his behalf has caused the Tribunal hearing to be delayed so that the person charged is able to play or coach. In that event, the Administrator is empowered to rule that the person charged is not permitted to play or coach until the charge has been heard. The decision is to be passed to the person charged in writing. If a person charged plays or coaches after a ruling has been made pursuant to this section, the person charged shall be deemed to have played while disqualified and penalised accordingly.

8 APPEALS

8.1 The Administrator shall appoint one or more persons to be Appeals Officer who shall be authorised to hear and determine appeals from decisions of Tribunals pursuant to these Tribunal Rules.

8.2.1 There shall be no appeal from a decision of a Tribunal unless the person charged satisfies the Appeals Officer that one or more of the following grounds of appeal has been satisfied:

(a) that significant new or additional evidence that was not available at the time of the Tribunal hearing has become available.

(b) that the Tribunal failed to follow the procedure set out in these Tribunal Rules to the significant detriment of the person charged.

(c) severity of the sentence

8.2.2 The Complainant has the right to appeal in relation to the penalty. In relation to the appeal the following sub section 8.3 applies.

8.3 A person charged who wishes to appeal pursuant to this rule shall notify the Administrator within 24 hours of the Tribunal of his decision to appeal then provide to the Administrator a written submission as to his grounds for appeal within seven days of the Tribunal hearing. The Administrator shall forward the letter of appeal together with a copy of the scoresheet, the report form, a memorandum of the Tribunal's decision and such other documentation referred to at the Tribunal which appears to be relevant to the Appeals Officer.

8.4 The person charged shall be notified as soon as possible whether an appeal will be held and the time and place for a hearing.

8.5 When allowing an appeal, the Appeals Officer shall direct that the appeal take one of the following forms:

(a) a complete re-hearing of the charge;

- (b) an investigation of a specific issue or point raised by the person charged.

- 8.6 Where there is a complete re-hearing, the Appeals Officer shall be empowered to make a finding as to the guilt or otherwise of the person charged and, if necessary, impose a penalty. The Appeals Officer is in no way bound by the decision of the Tribunal in relation to penalty and may increase or decrease a penalty in his discretion. Where the hearing is restricted to a specific point or issue raised by the person charged, the Appeals Officer shall rule on that point. Then, if it is appropriate to do so, and with the consent of the person charged, substitute his decision as to guilt or otherwise and, if necessary, impose a penalty. If it is not appropriate to do so, or the person charged does not consent, the Appeals Officer shall make his decision on the specific issue or point and refer the matter back to the Tribunal with an appropriate direction as to the further hearing or conduct of the matter.

- 8.7 Where an appeal has been granted but not yet heard, the penalty imposed by the Tribunal shall stand and the person charged shall not be permitted to play or coach, pending the appeal, unless the Appeals Officer when allowing the appeal in his absolute discretion, gives the person charged permission to play or coach pending the hearing of the appeal.

- 8.8 Where it is appropriate, the Appeals Officer shall follow the procedure set out by these Tribunal Rules but any failure to do so will not in any way invalidate the decision of the Appeals Officer or any decision made by him.

- 8.9 Any other matters of appeal which are not covered in clause 8 of these rules can be referred to the Appeals Officer in writing for consideration.

APPENDIX A

**BASKETBALL WA
TRIBUNAL HEARING**

DATE: _____

PLAYER CHARGED: _____

TEAM: _____

GAME DETAILS: _____ **OPPOSITION:** _____

VENUE: _____

DATE: _____

CHARGES: _____ **PLEADED:** _____

DETAILS: _____

TRIBUNAL DECISION: _____ **PENALTY** _____

TRIBUNAL PANEL: _____ **SIGNATURES:** _____

CHAIR: _____

MEMBER: _____

MEMBER: _____

APPENDIX B

BASKETBALL WA

REPORT FORM

Name of person making report _____

Name of Co-official _____

Teams _____
V _____

It is alleged that on _____ 20____ at _____ hours, venue

Name/number of person on report

(Circle appropriate item(s))

Used abusive, threatening, obscene language or signs

Adopted a threatening fighting stance- putting a person in fear of impending violence

Spat

Tripped or attempting to trip

Fighting including kicking, punching, slapping, pushing or attempting to kick, punch, slap or push

Moving under an airborne player (tunneling)

Damaged equipment in or at the venue

Acted in an unsportsmanlike manner in the stadium precincts or surrounds

Interfered with an official's property, equipment or clothing during a fixture or in the stadium precincts or surrounds

Participated in a basketball fixture whilst suspended

Summary of the facts _____

Persons notified/not notified of this report

Signature of person making report