



## **By-Law 6**

### **DISCIPLINARY PROCEEDINGS**

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Annexure A – Record of Disciplinary Panel Hearing

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## **Name**

1. This By-Law shall be referred to as the **Disciplinary Proceedings By-Law**.

## **Source**

2. This By-Law is made pursuant to rule 33 of the Constitution of Table Tennis Victoria Incorporated.

## **Intent**

3. This By-Law is intended to regulate the procedures and processes for disciplinary hearings and appeals.
4. Table Tennis Victoria has defined standards of conduct and behaviour expected of members participating in the sport of table tennis. These standards are described in:
  - *By-Law 1 – TTV Board Code of Conduct*
  - *By-Law 2 – Member Protection Policy*
  - *By-Law 3 – Member Code of Conduct.*
5. If any of the above prescribed standards are breached by any member or where a member contravenes rule 13.1 of the Constitution of Table Tennis Victoria Incorporated, disciplinary action may be initiated on written complaint to Table Tennis Victoria.

## **Conflict between Constitution and by-law**

6. Rule 13 of the Constitution of Table Tennis Victoria Incorporated governs the discipline of members of Table Tennis Victoria – to the extent that any provision of this by-law is in conflict with the Constitution, the provision is invalid and unenforceable.

## **Delegation**

7. This By-Law constitutes a formal delegation of functions to a committee pursuant to rule 32 of the Constitution of Table Tennis Victoria Incorporated.

## **Commencement**

8. This By-Law commences operation on 3 December 2015.

## **Nature of breach**

9. Disciplinary breaches committed by members at the state, national or international level shall be handled by Table Tennis Victoria under rule 13 of the Constitution of Table Tennis Victoria Incorporated.
10. Minor disciplinary breaches committed at the association / club level should normally be handled by the association / club, with only the more serious breaches amenable to the process established under rule 13 of the Constitution of Table Tennis Victoria Incorporated.

## **Breach of discipline by a member**

11. Rule 13 of the Constitution of Table Tennis Victoria Incorporated, dealing with discipline, applies to all members of Table Tennis Victoria (as defined in rule 7.2 of the Constitution). For avoidance of doubt, this by-law does not apply to persons who are not members of Table Tennis Victoria.

## **Formation of a Disciplinary Panel**

12. Table Tennis Victoria shall establish a Disciplinary Panel which is empowered to hear and determine all complaints relating to a breach of discipline referred to it by the Chief Executive Officer.

## **Disciplinary Panel**

13. Table Tennis Victoria shall appoint a Disciplinary Panel for each calendar year.
14. At the expiry of each calendar year, the Disciplinary Panel shall automatically dissolve.
15. A person may be appointed to the Disciplinary Panel in consecutive years.

## **Nomination process**

16. Table Tennis Victoria shall call for expressions of interest for appointment to the Disciplinary Panel for each calendar year. The notice may be sent out between 1 December of the previous year to 28 February of the relevant year.
17. All nominations must be in writing and received by the CEO of TTV within 14 days of the notice.
18. After the prescribed expiry date for expressions of interest, Table Tennis Victoria shall appoint a Disciplinary Panel for the nominated year.

## **Qualifications of nominee**

19. A nominee for appointment to the Disciplinary Panel must be over the age of 18 years and a resident of Victoria.
20. In appointing persons to the Disciplinary Panel, Table Tennis Victoria must give preference to those nominees who demonstrate an ability to act impartially, to exercise sound judgment and profess an interest in the regulatory framework governing the table tennis affairs of members.
21. For avoidance of doubt, Table Tennis Victoria may appoint a Director to the Disciplinary Panel.
22. In appointing persons to the Disciplinary Panel, Table Tennis Victoria shall give gender equity due consideration.

## **Composition of Panel**

23. The Disciplinary Panel shall consist of a minimum of 3 persons and a maximum of 5 persons.

24. Of the persons appointed to the Disciplinary Panel, Table Tennis Victoria shall nominate 1 person as Chair of the Panel.
25. In the absence of the Chair at any hearing, the persons appointed to the Panel may nominate an Acting Chair.

#### **Ex-officio member**

26. Pursuant to rule 32.4 of the Constitution of Table Tennis Victoria Incorporated, a Director of Table Tennis Victoria or the Chief Executive Officer is deemed to be an ex-officio member of the Disciplinary Panel.
27. Subject to regulation 28, an ex-officio member shall not be entitled to vote on any decision or resolution to be determined by the Disciplinary Panel.
28. For avoidance of doubt, any Director of Table Tennis Victoria who has been appointed to a position on the Disciplinary Panel pursuant to regulation 21 shall be entitled to cast a vote.

#### **Casual vacancy**

29. Table Tennis Victoria may appoint any person to fill any position which has become vacant (for whatever reason) during a calendar year and that person will act as a member of the Disciplinary Panel for the remainder of that calendar year.

#### **Conflict of interest**

30. A person appointed to the Disciplinary Panel may not act where a conflict of interest arises (including where a person is, or perceived to be, biased against or in favour of any party to the complaint) and shall absent himself/herself from discussions of such complaint and shall not be entitled to vote in respect of such complaint.
31. Where a Disciplinary Panel has insufficient numbers to constitute a quorum for a hearing due to a person (or persons) declaring a conflict of interest, Table Tennis Victoria may appoint any person (or persons) to act in any such position declared so vacant for the

purposes of that relevant hearing and the position of such person (or persons) automatically expires at the conclusion of such hearing.

### **Decisions of Panel**

32. The Disciplinary Panel shall use their best endeavours to ensure all decisions and resolutions are made in accordance with rule 13 of the Constitution of Table Tennis Victorian Incorporated and this By-Law.

### **Quorum of Panel**

33. Subject to regulation 35, in relation to any decision or resolution, the Disciplinary Panel may act with a quorum of 3 persons.
34. In circumstances where a complaint relates to a Director of Table Tennis Victoria or a member of the Disciplinary Panel, the Disciplinary Panel may act with a quorum of 4 persons.
35. If a member of the Disciplinary Panel cannot continue once a hearing has commenced, the hearing shall continue provided a quorum is still present. However, if a quorum is not present, the hearing shall terminate and be re-convened at a subsequent date.

### **Voting**

36. Each member of the Disciplinary Panel is entitled to 1 vote.
37. In the event of any evenly divided vote, the Chair (if presiding) shall cast a second vote, or where the Chair is absent, the Acting Chair shall cast a second vote.

### **Notice of hearing**

38. The Chief Executive Officer shall organise for a Disciplinary Panel hearing to be convened as soon as practicable, but must allow adequate time for the respondent to any complaint to prepare any defence.

39. The Disciplinary Panel members shall be provided with a copy of all the relevant correspondence, reports or information received relating to the complaint.
40. In accordance with rule 13.4 of the Constitution of Table Tennis Victoria Incorporated, the Chief Executive Officer shall inform the complainant and the respondent by written notice that a Disciplinary Panel hearing will take place.
41. The Chief Executive Office shall provide the complainant and the respondent with a copy of all the relevant correspondence, reports or information received relating to the complaint.
42. The Chief Executive Office shall also provide the complainant and the respondent with a written copy of rules 13.1 – 13.5 of the Constitution of Table Tennis Victoria Incorporated.
43. For avoidance of doubt, both the complainant and the respondent may appear at any convened Disciplinary Panel hearing in person, or with the assistance of a parent/guardian (where the person is under the age of 18 years) or legal representative.

### **Hearing procedure**

44. If a respondent is not present at a convened hearing, and the Chair of the Disciplinary Panel considers that no valid reason has been presented for his/her absence, the Disciplinary Panel hearing shall continue subject to the Chair being satisfied that all notice requirements have been properly executed.
45. If the Chair of the Disciplinary Panel considers that a valid reason for the non-attendance of the respondent is presented, or the Chair does not consider that the notice requirements have been properly executed, then the Disciplinary Panel hearing shall be re-scheduled to a later date. The Chair shall inform the Chief Executive Officer of the need to re-schedule, and the Chief Executive Officer will organise for the Disciplinary Panel hearing to be reconvened.
46. The Chair of the Disciplinary Panel shall read out the complaint that is to be judged, ask the respondent if they understand the complaint being made against them, and if they agree or disagree with the complaint.



47. If the respondent agrees with the complaint, he/she will be asked to provide any evidence and or submission that should be considered in mitigation by the Disciplinary Panel when determining any disciplinary penalty.
48. If the respondent disagrees with the complaint, the complainant will be requested to describe the circumstances that led to the complaint being made. The complainant may give evidence with the assistance of notes. The complainant shall be allowed to call witnesses. The respondent may be allowed to question the complainant and any relevant witnesses.
49. The respondent shall then be asked to respond to the complaint. The respondent may give evidence with the assistance of notes. The respondent shall be allowed to call witnesses. The complainant may be allowed to ask questions of the respondent and any relevant witnesses.
50. Both the complainant and respondent shall be allowed to be present when evidence is given to the hearing. Witnesses may be asked to wait outside the hearing until required to give evidence.
51. The Disciplinary Panel shall:
- consider any relevant evidence presented in any suitable form
  - be permitted to question any person giving evidence
  - limit the number of witnesses presented if the Panel is of the view that a witness (or witnesses) so excluded shall not give any new evidence.
52. If the Disciplinary Panel considers that at any time during the hearing that there is any unreasonable behaviour from any person present at the hearing, the Chair shall have the power to exclude such person from further participation in the hearing.
53. After all of the evidence has been presented, the Disciplinary Panel shall deliberate in private.
54. If the Disciplinary Panel is satisfied the complaint has been substantiated on the balance of probabilities, the respondent shall then be asked to provide any evidence and or submission that should be considered in mitigation by the Disciplinary Panel when determining any disciplinary penalty.

## **Penalty**

55. The Disciplinary Panel shall then determine the appropriate disciplinary penalty to be imposed in accordance with rule 13.5(c) of the Constitution of Table Tennis Victoria Incorporated.

## **Minutes – Disciplinary hearing**

56. The Chair of the Disciplinary Panel shall ensure that minutes of all hearings are taken and kept of each hearing.
57. The minutes must at least record the names of persons present at a hearing, the nature of the complaint considered at a hearing, any decision or resolution on which a vote is taken and the result of the vote, and any disciplinary penalty imposed.
58. The minutes must be forwarded to the Chief Executive Officer of Table Tennis Victoria as soon as practicable.

## **Record of decision**

59. Upon receipt of the minutes, the Chief Executive Officer shall complete a prescribed form recording the decision of the Disciplinary Panel – see Annexure A.
60. Upon completion of the prescribed form, the Chief Executive Officer shall forward a copy to the complainant and the respondent.
61. The Chief Executive Office shall also provide the complainant and the respondent with a written copy of rules 13.6 – 13.8 of the Constitution of Table Tennis Victoria Incorporated (dealing with the appeal process).

## **Appeal procedure**

62. A complainant or respondent who is not satisfied with a decision or penalty determined by a Disciplinary Panel may lodge an appeal with Table Tennis Victoria.

63. Rules 13.6 – 13.8 of the Constitution of Table Tennis Victoria Incorporated deal with the appeal process and must be adhered to by any appellant.
64. The appeal fee, as set down in rule 13.8(b) of the Constitution of Table Tennis Victoria Incorporated, is set at \$100. If the appeal is allowed by the Appeal Tribunal, the fee is to be reimbursed.
65. The Appeal Tribunal shall follow the Disciplinary Panel hearing procedure for the appeal so far as is reasonably practicable.
66. The Appeal Tribunal shall ensure that minutes of all hearings are taken and kept of each hearing.
67. The minutes must at least record the names of persons present at a hearing, the nature of the appeal considered at a hearing, any decision or resolution on which a vote is taken and the result of the vote, and any decision imposed.
68. The minutes must be forwarded to the Chief Executive Officer of Table Tennis Victoria as soon as practicable.
69. Upon receipt of the minutes, the Chief Executive Officer shall complete a prescribed form recording the decision of the Appeal Tribunal – see Annexure B.
70. Upon completion of the prescribed form, the Chief Executive Officer shall forward a copy to the complainant and the respondent.

### Annexure A – Record of Disciplinary Panel Hearing

Name of complainant:	
Date written complaint received:	
Name of person / organisation complained about:	
Description of complaint:	
Support person / legal representative (if any) at Disciplinary Panel hearing:	
Disciplinary Panel Members:	
Disciplinary Panel hearing date and venue:	
Disciplinary Panel decision and penalty imposed:	
Action recommended:	
Completed by (name of Chief Executive Officer):	
Date:	

### **Annexure B – Record of Appeal Tribunal Hearing**

Name of appellant:	
Date written notice of appeal received:	
Name of respondent:	
Description of appeal:	
Support person / legal representative (if any) at Appeal Tribunal hearing:	
Appeal Tribunal Members:	
Appeal Tribunal hearing date and venue:	
Appeal Tribunal decision and penalty imposed:	
Action recommended:	
Completed by (name of Chief Executive Officer):	
Date:	