2026
HEARING PROCEDURES

Version 1.0

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1 DEFINITIONS AND INTRODUCTION

1.1 Definitions

(A) All other definitions are as defined in the relevant *Rules* and/or *Policy Handbook*.

Table 1- Definitions

Advocate	A person appearing before the Tribunal as permitted under *Procedure Rule 2* to assist an Umpire, a Reporting Officer or a Reported Person.
CMC	The Competition Management Committee of the League or Controlling Body.
Disciplinary Matters	Includes any matter to be heard by the Tribunal as allowed in the *Policy Handbook* or *Rules*.
League	The relevant AFL affiliated or managed League.
Procedure Rules	The Rules within this document.
Reported Person	Any person who appears before the Tribunal on the hearing of a *Notice of Charge* or *Notice of Breach* against that person
Reporting Officer	In the case of a *Notice of Charge* arising from a *Notice of Report* other than that from an Umpire, and a *Notice of Breach* the appropriate representative of the Controlling Body who issues a *Notice of Charge or Notice of Breach* as the case may be.
Report	A *Notice of Report* or *Notice of Breach,* as the case may be.

1.2 Introduction

(A) Tribunals established by the relevant Controlling Body deal with the hearing of any *Notice of Charge* or *Notice of Breach* (as defined under the *National Community Football Policy Handbook (Policy Handbook)* and the *League Rules (the Rules),* as provided for in the *Policy Handbook* and the Rules.

This document, the *AFL NSW/ACT Hearing Procedures 2026 (the Procedures),* adopted by the Controlling Body, supplements the *Policy Handbook* and the *Rules* in providing a detailed outline of the procedures and process involved in Tribunal hearings and includes important notes to assist Reported Persons, Umpires and their advocates who appear before the Tribunal.

Persons appearing before the Tribunal must familiarise themselves with these documents.

In the event of any inconsistency between the Procedures and/or the Rules, the Tribunal shall draw the inconsistency to the attention of the Controlling Body. The Rules override the Procedures to the extent of any inconsistency.

2 COMPOSITION, JURSIDICTION AND POWERS

(A) The relevant Controlling Body is to appoint a Tribunal Chairperson, whose functions and duties shall be as set out in the document Tribunal Chairperson – Position Description, as set out in Appendix 1 and as directed by the relevant Controlling Body from time to time.

(B) The functions and duties of a Tribunal Member shall be as set out in the document Tribunal Member – Position Description, as set out in Appendix 2 and as directed by the Tribunal Chairperson from time to time.

(C) The appointment of a Tribunal Member, including the Tribunal Chairperson, shall be for a period of no more than 12 months, but the appointment of a Tribunal Member, including the Tribunal Chairperson, may be extended from year to year.

(D) Tribunals shall be comprised of three (3) persons for any hearing unless exceptional circumstances apply, where only two (2) persons are available to sit. In such instances, the Tribunal Presiding Member must seek the consent of both parties for the hearing to proceed, otherwise the hearing will be adjourned. A single Member of the Tribunal can give a direction under Procedure Rule 2F (i), Procedure Rule 2F (iv).

(E) Subject to the Policy Handbook, the Tribunal shall be empowered to suspend, reprimand, caution or impose any reasonable penalty it sees fit against any Player or Official:

(i) against whom a Reportable Offence, charge or Disciplinary Matter has been proven;

(ii) found guilty of deliberately giving false or misleading evidence;

(iii) who fails, without reasonable excuse, to attend at a meeting of the Tribunal after being required to appear pursuant to Procedure Rule 2F (iv);

(iv) found guilty of contempt of the Tribunal;

(v) and shall be empowered to fine any Club.

(F) The Tribunal may:

(i) adjourn any hearing with or without imposing conditions;

(ii) find any Report proven with or without the imposition of a penalty;

Guidance Note: This Rule allows the Tribunal to find an offence proven but discharge the Player or Official without penalty, where it has discretion to do so. Where a Report has been proven, a person would generally need to show exceptional circumstances as to why a penalty should not be imposed.

(iii) find, on facts proven before it, that an alternative (but not more serious) offence to that for which a Person has been reported or charged is proven;

Guidance Note: For example, a charge of 'charging' might be found not to be proven, but the offence of 'rough conduct' may be proven; the offence of 'threatening an Umpire' (for which the person is reported) may not be proven but the offence of 'using insulting language to an Umpire' may be proven.

(iv) require upon reasonable notice the appearance before it of any Umpire, Player or Official or the production to it of anything within the possession, power or control of such Umpire, Player or Official;

Guidance Note: The Tribunal has no power to 'subpoena' or order members of the public to appear. However, Players, Umpires and Officials are subject to the Tribunal's jurisdiction and may be guilty of contempt if they disobey a direction given under this Rule.

(v) make findings and recommendations and determine penalties by a majority of the Tribunal. Where the Tribunal consists of an even number of Members, and the Tribunal is evenly divided, the decision of the Presiding Member will prevail;

Guidance Note: The effect of this Rule is that the Tribunal's decisions do not have to be unanimous.

(vi) vacate, annul or vary (conditionally or unconditionally) any finding, or penalty previously imposed by it.

(G) The Tribunal shall have power to regulate its own procedures.

(H) The Tribunal Chairperson may make any guidelines not inconsistent with the *Policy Handbook*, the Rules or the Procedures that they think appropriate for the practice and procedure of the Tribunal. Any such guidelines shall be directory in nature and no decision of the Tribunal shall be invalid solely by reason of a guideline not being followed.

3 REPORTING PROCEDURE BY UMPIRES

(A) A copy of the *Notice of Report* shall be received from the Field Umpire by an Official of the Reported Person's Club in the manner required by the Controlling Body.

(i) This process is outlined in the *AFL NSW/ACT Rules* Clause *15.7.3 Umpire Matchday Record Requirements* and any other such Rule which covers umpire reporting responsibilities. The Team Manager is to obtain the "all clear" from the Field Umpire at the conclusion of the Match.

(B) If any Club neglects to obtain the "all clear" in accordance with these *Procedures* and the *Rules* prescribed by the League, the Umpire shall be deemed to have complied with the requirements of Procedure Rules 3(A).

(C) A *Notice of Report* is still considered valid if the Umpire does not notify the Club, as long as the *Notice of Report* is submitted in line with the relevant *Rules* as prescribed by the Controlling Body.

4 ATTENDANCE

(A) In addition to the reporting Umpire or the Reporting Officer, the Reported Person and a representative of the Reported Person's Club shall attend a hearing at a time and place specified by the Controlling Body.

(B) A reported Player or Official, if the Official has at any time been a Player, shall bring to the hearing a completed Pre-Sentence Report in the form (or as nearly as possible) set out in Appendix 3.

(C) A person wilfully or carelessly making any false statement to the Tribunal, including a false or misleading statement in a pre-sentence report, shall be liable to a fine or suspension for the false statement or misleading statement.

(D) The onus of establishing that a false or misleading statement was not wilful or careless is upon the person making the false or misleading statement.

(E) If a Reported Person, or that Person's representative, fails to appear at a Tribunal hearing at the notified time and place, the Tribunal may proceed to hear and determine the Report in the absence of that Person or that Person's representative. A Reported Person who is not able to be present at the time appointed for the hearing must submit a declaration, in the form provided in Appendix 4, setting out the reason for their non-attendance and including either:

(i) in the case of a Player or Official, the Reported Person's consent to stand down from representing their Club in a playing and/or official capacity until such time as they are able to appear before the Tribunal; or

(ii) the Reported Person's consent to the Tribunal investigating the Report in their absence and the Person's undertaking to abide by the finding of, and any penalty imposed by the Tribunal in their absence.

(F) A Reported Person who is not present at the time appointed for the hearing and who fails to submit a declaration as required by Procedure Rule 4E shall be in contempt of the Tribunal,

which shall then be empowered to investigate the Report in the absence of the Reported Person and to deal as it seems fit with the contempt and the Report if found proven.

(G) Where the Tribunal reasonably believes that misadventure has or may have prevented a Reported Person from either attending or submitting a declaration, it may in its discretion adjourn the hearing. The Tribunal is to exercise its discretion in determining whether the Reported Person shall be permitted to represent a Club in any capacity or participate in a competition or representative match during the period of the adjournment.

(H) Where an Umpire or Reporting Officer is unable to be present at the time appointed for the hearing, the hearing, at the Tribunal's discretion, is to be adjourned in which case the Reported Person may continue to play or officiate until the adjourned hearing takes place.

(I) An Umpire or Reporting Officer who fails to appear at a hearing without notice or reasonable excuse may be in contempt of the Tribunal, but the Notice of Report shall not for that reason only be dismissed.

Guidance Note: The spirit of this Rule is consistent with Procedure Rule 5.2 (A) and is directed to ensuring that Reports are decided on their merits, rather than technicalities.

(J) A person who has been required to attend or produce an item to the Tribunal and who without reasonable excuse fails to appear or produce as required shall be in contempt of the Tribunal.

(K) Where any hearing is to be conducted electronically (for example, video conferencing or online), the policies and procedures adopted by the League for such electronic hearing shall apply, and these Procedure Rules will be read and interpreted accordingly.

5 HEARINGS

5.1 Organisation and Preliminaries

(A) The Tribunal Chairperson, or in their absence, where the Tribunal Chairperson has appointed an acting Chairperson for that Tribunal, or where no acting Tribunal Chairperson has been appointed, the most senior Member, shall be the Presiding Member at any meeting of the Tribunal.

(B) In person hearings shall, at the discretion of the Tribunal and so far as facilities available reasonably allow, be open to the public.

(C) In respect of each Report, the Presiding Member shall first ascertain:

(i) whether the Reported Person and Reporting Officer or reporting Umpire are present;

(ii) whether the Reporting Officer or reporting Umpire is represented by an advocate;

(iii) whether the Reported Person is represented by an advocate;

(iv) whether the Reported Person has been supplied with a copy of the Report;

(v) how the Reported Person intends to plead, and if it is proposed that the Reported Person is to give evidence, that the relevant provisions of *Policy Handbook Rule 25.3(e)* have been complied with;

(vi) the availability of any witnesses the parties propose to call and that with respect to each witness, whether the provisions of *Policy Handbook Rule 25.3(e)* have been complied with;

(vii) the nature and availability of such further evidence the parties intend to present, including the availability of any visual evidence;

(viii) the likely duration of the hearing.

(ix) Any other relevant matters

(D) The Tribunal may then:

(i) proceed immediately to hear the Report; or

(ii) appoint a later time on the same day to hear the Report; or

(iii) adjourn the hearing on such terms as it sees fit.

(E) At the commencement of the hearing, the Report shall be read to the Reported Person. The Reported Person shall then be asked:

(i) for Players in Under Age Competitions, to either admit or not admit the Report. The advocate may enter the plea on behalf of an Under Age Player. In the Procedures, for Players in Under Age Competitions. references to a plea of "guilty" or "not guilty" are to be read as "admit" (the Report) or "not admit" (the Report) as the case may be and, with respect to the findings of the Tribunal, findings of "guilty" or "not guilty" are to be read as "proven" or "not proven", as the case may be.

(ii) in Senior competitions, to either plead guilty or not guilty to the Report.

Guidance Note:
1. In the following discussion, references to Player also apply, where appropriate, to Reported Persons.
2. Players should be careful not to enter a "Claytons" "guilty" plea. This happens when a Player pleads guilty to the Report (for example) striking then, when the hearing gets under way, admits contact but quickly adds 'it was just an accident'. This is 'the 'guilty' plea you make when you're not pleading 'guilty'.
An "element" is a component of a charge which must be proven in order for a finding the Report is proven.
For the report or offence of striking to be proven, TWO elements must be satisfied:
(i) physical contact; and
(ii) intention to perform some act which results in such contact.
It follows that a Player who admits (i) but denies (ii) cannot possibly plead guilty to the charge or report of striking, so Players should give careful consideration to just what they are admitting to before pleading guilty to the charge.
Intent can be either:
(i) intent to make the actual type of physical contact which occurs (e.g. wilfully aiming and delivering a punch); or
(ii) intent to perform some act, a probable result of which is the contact which consequently occurs (e.g. wilfully lashing out with a forearm or elbow in the general direction of a Player close enough to be struck even though not specifically aiming a blow). The resulting contact (and particularly any serious injury resulting) might not be intended, but the act is, and contact which results from recklessness of this kind is not a mere accident.
3. Players often try to plead guilty to the Report 'under provocation' or even plead guilty to the Report but say that they were 'acting in self-defence'. Such pleas are not acceptable. Provocation may be able to be used in mitigation, but not as a complete defence to the Report.
A Player claiming provocation must simply plead guilty to the Report and then rely on any proven act of provocation to mitigate the penalty.
A Player claiming that they acted in self-defence should plead not guilty to the Report, because self-defence, if proven, is a complete answer to the report. However, a plea of self-defence can only succeed where the Reported Person was, at the time, under real or apprehended attack and their response (which is the act for which they were reported) was proportional to the threat. Thus, a Player who responds to an open-handed push in the face from a persistently annoying player by punching that player cannot claim self-defence, for the response is not defensive at all; it is an escalation of the degree of physical contact.

4. Players often plead "not guilty" to a Report on the basis that they wish to challenge the grading only. If the Player does not dispute, for instance, that contact took place, but disputes the grading of "Intentional", and argues that the correct grading should be "Careless", the Player must plead guilty to the charge at the Tribunal. On a successful challenge to the grading at the hearing, the Player may then seek the benefit of any early plea of guilty, which is not available to them if they plead "not guilty" to the Report

(F) A Reported Person may, at any time prior to a decision being handed down by the Tribunal, change their plea.

(G) A Reported Person may at any time plead guilty to an alternative reportable offence, but the Tribunal shall not be bound to accept the plea or to discontinue its enquiry into the alleged offence as originally reported.

Guidance Note: Under this Rule, a reported Player can elect to plead guilty to the offence reported (say, 'charging') but admit as proven an alternative offence ('rough conduct') for which they were not reported. The Tribunal is not bound to accept a plea admitting to a lesser charge (because a reported Player, facing a serious charge and recognising the weight of evidence against them, might seek to avoid a likely heavy penalty by pleading guilty to the lesser offence).

(H) The Tribunal may, at any stage of a hearing, reject a plea of guilty to the Report and make a finding of not guilty.

Guidance Note: This Rule is appropriate where a Player (particularly one not having the assistance of a good advocate) mistakenly pleads guilty to the Report in the belief they have no defence and the evidence subsequently discloses that there is a defence. An example is a plea admitting the Report by a Player who genuinely acted in self-defence (see NOTE (3), Rule 4.5) but mistakenly believes that because they did strike their opponent, they must plead guilty to the Report.

(I) A Reported Person who refuses to plead shall be deemed to have pleaded guilty to the Report.

5.2 Form of Reports

(A) A Report shall be in writing, including any electronic form, in a form prescribed by the League or to a similar effect and hall be valid provided that it complies with the requirements of Procedure Rules 5.2 (B) and 5.2 (E).

Guidance Note: 'or to a similar effect' means that valid Reports can be made on any Report form including those of other Regions or Leagues or even on a blank sheet of paper, so long as the minimum details required by the Procedure Rules are provided.

(B) The Reportable Offence, or other offences alleged, or the conduct or actions alleged to constitute a Reportable Offence, must be stated.

(C) A Report may allege alternative offences.

Guidance Note: It is perfectly acceptable for an Umpire, who is uncertain of all the facts or of which offence they may constitute, to allege alternative offences, e.g., where the Umpire believes they have seen a fist swing and an opposing Player's head jerk back but cannot say for sure whether this was the result of contact or swift evasive action, they could report for 'striking or attempting to strike'. Where an Umpire believes they have seen a Player swinging blows in a pack but cannot be sure which of several Players has been hit, 'striking an unidentified Player' is a valid report.

(D) A Reported Person may ask in advance of the hearing for particulars of any Reported Offence where the conduct constituting the offence is not stated in the Report.

NOTE: Recourse to this Rule is appropriate where the Report alleges a non-specific offence, e.g. 'misconduct', 'wasting time', 'disputing decision' etc. The particulars to be provided are limited to the alleged act or words constituting the reported offence.

(E) The Reported Player must be identified by jumper number and/or by name.

(F) Where the number and name as stated on the Report are inconsistent the Tribunal may take into account the surrounding circumstances and, in particular, who the Umpire orally advised of the Report, in determining whether the Reported Person has been sufficiently identified.

(G) Where a Report is not signed, the Reporting Umpire or Reporting Officer may be shown the Report and if they identify it as their document, the Report shall be deemed to have been signed.

5.3 Procedure

5.3.1 Reported Person Pleading Not Guilty- Umpire Report

(A) Where a Reported Person pleads not guilty to the Report or charge following a Report from an Umpire, the hearing is to proceed as follows:

(i) The Umpire shall give evidence concerning their Report after which they may be questioned by the Tribunal, though they may be questioned by the Tribunal at any time

(ii) The Umpire may be assisted by their advocate and questioned by the Reported Person or their advocate.

(iii) The Reported Person shall give evidence after which they may be questioned by the Tribunal, though they may be questioned by the Tribunal at any time.

(iv) The Reported Person may be assisted by their advocate and questioned by the Umpire or their advocate.

(v) The Umpire and then the Reported Person may adduce further oral, documentary or visual evidence and any witness may be questioned by the other party or their advocate and by the Tribunal.

NOTE: The Tribunal may direct that the showing of any visual evidence be undertaken at such time during the hearing as it directs, as long as this does not cause any procedural unfairness to any party.

(vi) Witnesses shall remain outside the hearing room or be moved into a digital waiting room if the hearing is online, until called.

(vii) Any person who has been called to give evidence shall remain within the precincts of the Tribunal until the taking of all evidence has been concluded unless the Tribunal earlier releases that person.

(viii) The Umpire may give further evidence by way of reply to evidence adduced on behalf of the Reported Person.

(ix) The Reported Person or their advocate may question the Umpire about any evidence given in reply.

(x) At the conclusion of the evidence, the Umpire or their advocate and the Reported Person or their advocate may present a summary of the evidence and make any submission after which the Tribunal shall retire to consider its determination.

(xi) After the Tribunal has reached a decision and reconvened, the Presiding Member shall announce the determination of the Tribunal.

5.3.2 Reported Person Pleading Guilty- Umpire Report

(A) Where a Reported Person pleads guilty to the Report, their evidence shall be taken before that of the Umpire after which the procedure shall be as provided in Procedure Rules 5.3.1 (iv) and 5.3.1 (viii).

Guidance Note: A diagrammatic representation of the hearing procedure for hearing a Report from an Umpire is set out in Appendix 5.

(B) When a Reported Person pleads guilty to the Report, or the Tribunal has found the Report proven:

(i) If they are an Official or non-player, they or their advocate may make a statement in mitigation if allowed in line with the *Policy Handbook*;

(ii) If they are or have at any time been a Player, they shall tender to the Tribunal a completed pre-sentence report (if this has not already been tendered) after which they or their advocate may make a statement in mitigation if allowed in line with any allowable evidence in the *Policy Handbook*.

Guidance Note: Usually, the pre-sentence report is not handed to the Tribunal before the Tribunal makes its finding. The reason is that the Tribunal, in weighing the evidence when a Player has not admitted the Report, should not be deflected in its deliberation by having before it documentary evidence that the Player 'has a record'. However, a Player with a very good record may wish that fact to be known to the Tribunal in support of their 'case' that their playing history suggests they are unlikely to have done what they have been reported as doing or would only have done so under extreme provocation. In such situations it is open to a Player's advocate to tender the pre-sentence report at any stage they wish. Of course, where the Player pleads guilty to the Report, the Tribunal has only penalty to determine, so the pre-sentence report is handed up immediately.

(C) A pre-sentence report may be inspected by the Umpire and their advocate who may challenge its accuracy. The Tribunal may question a Reported Person about their pre-sentence report.

(D) The Tribunal may invite the Umpire or their advocate to make a submission on penalty.

(E) Subject to any ruling by the Tribunal, where a Player or former Player fails to produce a completed pre-sentence report neither they nor their advocate may call evidence or be otherwise heard in mitigation of penalty.

5.3.3 Reported Person Pleading Not Guilty- Club Citing, Review of Footage or Notice of Complaint

(A) Where a Reported Person pleads not guilty to a Report following a report **other** than from a report from an Umpire, the hearing is, subject any directions to the contrary from the Tribunal, to proceed as follows:

(i) The Reporting Party shall call such evidence in support of the Report after which any witnesses may be questioned by the Tribunal and questioned by the Reported Person or their advocate.

(ii) The Reporting Party may be assisted by their advocate.

(iii) The Reported Person shall give evidence after which they may be questioned by the Tribunal and questioned by the Reporting Officer or their advocate

(iv) The Reported Person may be assisted by their advocate.

(v) The Reported Person may call other evidence after which any witnesses may be questioned by the Tribunal and questioned by the Reporting Officer or their advocate.

(vi) Witnesses shall remain outside the hearing room, or in their online waiting room, until called.

(vii) Any person who has been called to give evidence shall remain within the precincts of the Tribunal until the taking of all evidence has been concluded, unless the Tribunal earlier releases that person.

(viii) With the leave of the Tribunal the Reporting Officer may give further evidence by way of reply to evidence adduced on behalf of the Reported Person.

(ix) The Reported Person or their advocate may question any evidence given in reply.

(x) At the conclusion of the evidence, the Reporting Officer or advocate and the Reported Person or their advocate may present a summary of the evidence and make any submission after which the Tribunal shall retire to consider its determination.

(xi) After the Tribunal has reached a decision and reconvened, the Presiding Member shall announce the determination of the Tribunal.

5.3.4 Reported Person Pleading Guilty- Club Citing, Review of Footage or Notice of Complaint

(A) Where a Reported Person has pleaded guilty to the Report, their evidence shall be taken before that of the reporting party after which the procedure shall be as follows:

(B) The Reported Person may be assisted by their advocate and questioned by the Reporting Party's advocate.

(C) The Reporting Party may give further evidence by way of reply to evidence adduced on behalf of the Reported Person.

5.4 Proceedings in Reported Person's Absence

(A) Where the Reported Person has in a request in writing consented to the Tribunal hearing a Report in their absence, the following additional Rules shall apply where applicable:

(i) The Presiding Member shall pronounce a plea on behalf of the Reported person as the request in writing directs;

(ii) The request in writing shall be read to the Tribunal

(iii) Any person referred to by the Reported Person in their written request as a person they would have called to give evidence on their behalf may give evidence, subject to compliance with the relevant provisions of the *Policy Handbook Rule 25.3(e)*, after which they may be questioned by the Reporting Officer or their advocate and by the Tribunal

5.5 Reports on Players Under 12

(A) If the Reported Person is under 12 years at the time of the alleged Reportable Offence, the Tribunal may, after considering the age and degree of maturity of the Player and such other factors as the Tribunal determines appropriate for the hearing of the Report, deal with and hear the Report in such manner as the Tribunal thinks fit.

(B) In dealing with the Report, the Tribunal may:

(i) Dispense with the Tribunal processes described in the Procedure Rules in whole or in part, and this may include a direction from the Tribunal that any cross-examination of the Reported person is done so by the Tribunal only; and/or

(ii) Hear the Report in such manner and pursuant to such directions of the Tribunal as appropriate to the circumstance; or

(iii) Give directions as appropriate for dealing with or for hearing the Report.

5.6 Visual Evidence

(A) When the hearing follows a Report from an Umpire, a copy of any visual evidence, whether by way of physical or digital evidence, must be submitted to the Controlling Body by no later than midday on the day of the hearing.

(B) When the hearing follows a Report **other** than from a report from an Umpire, a copy of any visual evidence, whether by way of physical or digital evidence, must be submitted to the Controlling Body and provided by the Controlling Body to the Club of the Reported Person by no later than midday on the day of the hearing.

5.7 Penalties

(A) The Tribunal shall retire to determine penalty and having so determined shall reconvene and the penalty shall be announced by the Presiding Member, after which any member of the Tribunal may make a statement. The penalty shall take effect immediately on the pronouncement of the Penalty by the Presiding Member.

(B) The penalty is to be recorded in writing, including any digital form of documentation, and signed by the Presiding Member.

(C) Where the penalty is or includes a period of suspension, the period is expressed as a number of matches that the Player is precluded from participating in.

(D) The Tribunal will take into consideration any club-imposed stand down, as applicable, to form part of the total suspension determined.

Guidance Note: In the event a Tribunal Hearing cannot be held in the same week as the Report, and the Player is otherwise eligible to participate in a match on the weekend, the Club can elect to stand the player down from this match (where the Player is only seeking to contest an element of the Report and is looking to reduce the base sanction offered). This stand down will then count towards the total suspension determined by the Tribunal **only** when the Tribunal are made aware of the stand down during the Player advocates submission on penalty when requested to do so by the Tribunal, and the stand down was for the purposes of being applied to the Tribunal determination, and not on the basis of player availability.

(E) Where a period of suspension is imposed:

(i) 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 same day or not. Any suspension shall take effect from an include the next competition match following the suspension for which the Player would, but for the suspension, be eligible.

Guidance Note: The effect of this Rule is that a Player cannot count towards their suspension matches in more than one grade in each round, even if they regularly 'double up'.

(ii) A Player is ineligible to play in any representative match while serving their suspension. In addition to this, the representative matches do not count towards part of the suspension.

Guidance Note: Without this Rule, any Player could claim theoretical eligibility for any representative fixture, no matter how remote their real prospects of selection are and so count the fixture toward their suspension.

(iii) Competition games which are forfeited by the Reported Player's team, washed out, or for any other reason not played, shall not be counted for the purpose of reckoning a period of suspension.

(F) Where the Reported Person is not a Player, the provisions in Procedure Rules 4(a,b,c) apply to the Reported Person as if the Reported Person was a Player, as appropriate.

(G) A suspended person may not, during their period of suspension, participate in any match in the capacity of Player, Runner or Trainer, nor shall they officiate within the enclosed playing area (or within five metres of the boundary line) but may attend a game and observe as a spectator only. Players are not permitted within the playing field during game time, and must not act as runner, water carrier or in any other official capacity. Subject to the direction of the Tribunal, an Official may participate in any official capacity at their Club on non-match days.

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

(I) Where a Player receives notice of an automatic playing suspension as provided by the Rules and requests the automatic suspension be referred to the Tribunal for hearing, the Controlling Body 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).

6 CONTEMPT AND/OR CRITICISM OF A TRIBUNAL DECISION

6.1 Behavioural Standards and Appropriate Comments

(A) The Tribunal has the power to act in a manner it believes appropriate where any persons appearing before it or acting on behalf of any Reported Person appearing before it behaves (whether in the course of the hearing or otherwise) in a manner which the Tribunal deems to be in contempt (or misconduct falling short of contempt) concerning a Tribunal decision.

(B) Any Tribunal Member or any other matter touching on or concerning the Tribunal or a determination made by it shall have the power to call before it such Person and deal with such Person as the Tribunal sees fit.

Guidance Note: The essence of contempt of any quasi-judicial body, (of which a Tribunal is an example), is any attempt to undermine its functions, and this includes:

1. Disrespectful behaviour – which may be contempt because it undermines confidence in the Tribunal and, therefore, its capacity to carry out its duties.

2. Disobeying a proper direction – the Tribunal will generally encounter this as failure to comply with Procedure Rules 2(F) i.e., not appearing at a hearing or failing to comply with a direction to produce something to the Tribunal. Obviously, such conduct affronts the very basis of the League's ability to exert discipline over the game.

3. Attempting to influence decisions by means other than putting argument or evidence before the Tribunal according to the Guidance and Procedure Rules. Public comment prior to a hearing, designed to influence the attitude of Tribunal Members, is one example, but far worse is any direct attempt to bypass the Tribunal's proceedings by 'lobbying' the League. There can be no clearer example of undermining the functions of a Tribunal than attempting to have it 'overruled' in a manner quite contrary to the Guidance and Procedure Rules by which all participating Clubs and the League are bound. The League is to refer such matters to the Tribunal for determination.

(C) The failure of a representative of the Club of a Reported Person to attend a hearing as required under Procedure Rule 4(a), or any adjourned hearing, without proper excuse as determined by the Tribunal, may be dealt with by the Tribunal as contempt of the Tribunal, and the Tribunal shall have the power to fine or sanction the Club for such contempt .

7 POINTS OF LAW

7.1 Process for reviewing points of law raised within a Tribunal Hearing

(A) Where a point of law (which does not include a Law within the meaning of *"the Laws"* as defined) is raised in any hearing before the Tribunal, the following procedure is to apply:

(i) The Presiding Member, if legally qualified, or other Tribunal Member, if legally qualified, shall (after consultation if they see fit) make a ruling and that ruling shall be the determination of the Tribunal on the point, or;

(ii) If the Presiding Member or any other Member is not legally qualified the Tribunal will:

(a) Proceed to make a determination of the factual issues before it;

(b) Thereafter adjourn the hearing until such time as the Tribunal has obtained a ruling on the point of law from a legally qualified person;

(c) Resume the hearing following receipt of such ruling, at which time the Tribunal will advise all parties as to the ruling obtained; and

(d) Proceed to make a determination of the Report.

8 RE-HEARINGS

(A) Findings of fact and determination of penalty shall be final except that the Tribunal may, in its discretion, re-open any hearing for the purpose of considering fresh evidence (but not for the

purpose of reconsidering any finding made or penalty imposed on the basis of previously presented evidence).

(B) Fresh evidence means evidence which was not known to be available and count not, with reasonable diligence, have been known to have been available at the time of the original hearing.

Guidance Note: It is not sufficient that the "new" evidence was simply not presented at the first hearing. An example would be wanting to call fresh evidence from another witness who is, say, a trainer or Club Official and who could have been interviewed and called before the original hearing. This would not satisfy the test. An example of what would satisfy the test is belated awareness that a spectator had taken a private videotape of the incident but had not communicated this fact to the Club prior to the hearing.

(C) The Tribunal shall not re-open any hearing to consider fresh evidence where it appears that even if presented to the original hearing, the fresh evidence could not reasonable be expected to have resulted in a different finding or penalty.

NOTES TO ASSIST REPORTED PERSONS, UMPIRES AND THEIR ADVOCATES

These notes are to further assist persons involved in the proceedings before the Tribunal. They provide general commentary and should be read in conjunction with the *Policy Handbook*, the *Rules* and the *Hearing Procedures*. They are not legal advice.

1 DEFINITIONS OF REPORTS

(A) Proceedings before the Tribunal fall into one of three classes:

(i) Hearing of Umpire's Reports involving Players and Officials;

(ii) Hearing of *Notice of Breach* Reports referred to the Tribunal by the CMC, as provided by the League Rules or as otherwise provided by the Reported Person in line with the *Rules*.

(iii) Such other matters as referred by the League from time to time.

2 NATURAL JUSTICE

The proceedings before the Tribunal are heard in accordance with the rules of natural justice.

2.1 Right to an Unbiased Tribunal

(A) Tribunal Members must not be prejudiced (that is, biased). Prejudice (that is, 'pre-judged') means nothing more than having certain views of the merits of the case, which, for instance, may have been formed outside the hearing itself - for example, where a Member of the Tribunal witnessed the reported incident, or is connected by business or personal relationship with one of the parties.

(B) No person who is or might be thought to be prejudiced should be a Member of the Tribunal hearing any disciplinary matter. If, during the hearing, a Tribunal Member finds themselves in a position of possible prejudice, they should disqualify themselves immediately, even if this means aborting the hearing and starting again.

2.2 Notice of Report

(A) A Notice of Report is given in writing, including electronically, by way of a *Notice of Charge* or a *Notice of Breach* as defined in these *Procedure Rules*, the relevant *League Rules* and the *Policy Handbook*.

(B) A *Notice of Charge* is the document provided by the Controlling Body which includes the details as provided by the Reporting Umpire, and includes any other relevant details relied upon in determining the Report, such as medical information in relation to injury in determining impact.

2.3 Adjournments

(A) In disciplinary proceedings, swift and certain determination of disputes is desirable. Where a Reported Person reasonably requests an adjournment on good grounds, it may be granted, particularly if short notice was given of the hearing. Adjournments which are blatant delaying tactics are refused or discouraged by granting them on terms (for example, imposing a condition that a Reported Player will not play until the case is heard, or that a Club Official will not undertake any duties as an Official or attend games until the matter is finalised).

(B) The granting of an adjournment is always a discretionary matter for the Tribunal.

(C) The power to grant an adjournment is dealt with under Procedure Rules 2(G) and Procedure Rules 4(G).

2.4 The Hearing

(A) The Tribunal's hearings are conducted online. The Guideline Rules will be interpreted and adjusted accordingly to accommodate this.

(B) The *Hearing Procedure Rules* generally provide for an open hearing, at the discretion of the Tribunal Guideline Rule 5.1(B). However, a closed hearing will be ordered by the Tribunal where, for example, sensitive evidence is likely to be given or if the facilities do not enable same, the public to attend.

(C) Subject always to the Tribunal's discretion, the Guideline Rules provide for:

(i) All oral evidence against a reported person to be taken in their presence

(ii) All documentary evidence against a Reported Person to be made available to them

(iii) A Reported Person or their advocate to question all witnesses

(iv) A Reported Person to present evidence on their behalf

(D) Any Reported Person may be represented by an advocate of their choice such as a Club advocate, advocate or agent, and where the Rules so allow, by a solicitor or barrister. Where the Reported Person is under the age of 18 years at the time of the hearing, a Parent may attend in the place of the Reported Person, who must still be represented by a Club advocate, advocate or agent, and where the Rules so allow, by a solicitor or barrister (but never the Parent of the Reported Person). Where the Reported Person is under the age of 18 years at the time of the hearing, a Parent may attend to support the Reported Person.

(E) The Tribunal is not required to give reasons for its decisions and the giving of reasons is at the discretion of the Tribunal.

2.5 Fresh Evidence

(A) The Hearing Procedure Rules provide a Tribunal with the discretion to re-open a hearing, which it has previously concluded, for the purpose of considering further evidence (but not for reviewing the decision it has previously made on the same evidence) (Procedure Rule 7.1). Before the Tribunal takes this unusual step, the 'new evidence' must satisfy two tests:

(i) It must be genuinely new, which means not merely that it was not presented to the original hearing, or that its availability at the time of the original hearing was now known, but that its availability could not with reasonable diligence have been known. For example, wanting to call fresh evidence from another witness who is, for example, a trainer or Club Official and would or could have been interviewed and then given evidence at the original hearing, would not satisfy this test.

(ii) The evidence must also be sufficiently strong that, in the opinion of the Tribunal, it may well have affected the outcome of the earlier determination had it then been available.

2.6 Appeals

(A) There is limited right of appeal, and these rights are outlined in the *Policy Handbook* under Rule 26, and the grounds for any appeal is set out in Rule 26.1, along with any relevant provisions in the League Rules.

3 HEARING PROCEDURE AS PRESCRIBED IN THE RULES

(A) The Tribunal is not bound by rules of procedure and evidence, but the rules of natural justice are applied.

(B) Although the Tribunal has power to waive strict adherence to the Hearing Procedure Rules for the presenting of evidence, it is not obligated to do so. Proper preparation of a case is essential.

4 ABSENCE FROM THE HEARING

(A) Where a postponement or adjournment has not been sought or granted, the Reported Person must attend the hearing. If they cannot attend, they must then elect to:

(i) Have the Report adjourned and agree to terms imposed by the Tribunal, such as not playing until the adjourned hearing takes place; or

(ii) Have the Report heard in their absence and accept the decision of the Tribunal, as outlined in Hearing Procedure Rule 3.

5 ADVOCATES

(A) Effective advocacy is no less a skill than effective coaching and Clubs are encouraged to give thought early in the season as to who will represent a Reported Person.

(B) Any advocates leave to appear may be withdrawn if, at any stage, they misconduct themselves.

(C) Whilst a Reported Person can act as their own advocate, this is not encouraged. If the Player acting as their own advocate decides (prior to or at any point in the hearing) that they wish to give evidence, another advocate must be appointed from then on.

6 CLARIFYING THE REPORT

(A) An Umpire is not required, although they are encouraged to set out in their Report:

(i) The number of the Law under which they made the Report (providing the relevant Law is identifiable from the wording in the Report)

(ii) Their proposed evidence (e.g details of what happened)

Guidance Note: 'Striking Player (number) of (club)' is a sufficiently worded charge without the need to set out how the 'victim' was (allegedly) hit or what the surrounding circumstances were.

(B) However, there are some instances where the Reported Person will be entitled to know more about just what is alleged against them, in order that they may prepare their defence. The most obvious examples are a report for 'misconduct', (which, in the absence of particulars, can be almost anything), 'unacceptable language', 'wasting time' and any report which identifies the offence by reference to a Law by number only, and that Law includes a multiplicity of offences. In such a case, particulars should be given, for example 'threatening language to an Umpire in that they said, "you may not live to see full time", "wasting time in that they refused to kick out when directed". If it is not clear from the Report just what is alleged, the Reported Person (through their advocate or Club) may apply for details of the Report to be given in advance of the hearing. In appropriate cases, an application for details can be made at the hearing, but if a Player leaves their request so late, the application is unlikely to cause the hearing to be postponed while a defence is prepared.

7 NOTES ON "TECHNICAL DEFENCES"

(A) The spirit of the *Tribunal Guidelines* and *Hearing Procedures* is that reports are determined on the facts, not on technicalities. Provision has been made to ensure that this approach is taken by empowering the Tribunal to amend clerical deficiencies in Reports.

(B) Actual prejudice to the Reported Person in defending the Report is generally the only circumstance in which a technical error will vitiate a report.

8 MAKING SURE THE RIGHT EVIDENCE IS AVAILABLE (*POLICY HANDBOOK RULE 25.3(E)*)

(A) It is vital that advocates ensure the appropriate persons are available to give evidence at the hearing (see below under 'Proper Presentation of Evidence at the Hearing') and that any other evidence which assists the case, such as a medical report, is procured.

(B) Obviously, if witnesses will attend the Tribunal or produce things to it willingly, there is no need for the Tribunal to become involved before the hearing itself. However, where a Person is reluctant to give evidence or to produce things in their possession, the assistance of the Tribunal can be enlisted. The Tribunal is NOT a court, and therefore the Tribunal cannot compel members of the public (for example, spectators, first aid volunteers etc) to attend and/or produce documents. However, any Person subject to the League's jurisdiction (which would include Players, Umpires and Club members or Officials) can be required to attend a hearing of the Tribunal and/or to produce any item which is under their control. Failure to comply may be contempt, and the *Tribunal Guidelines* and *Tribunal Procedure Rules* give the Tribunal wide power to suspend or fine any person or Club held to be in contempt.

(C) The *Policy Handbook Rule 25.3(e)* requires that, prior to the hearing, the Person required to attend the Tribunal may request to adduce evidence of persons at the hearing. The request must include the substance of the evidence it is proposed to adduce from the witness.

(D) The advocate must have interviewed at length any potential witnesses prior to rejecting any Early Guilty Plea Offer (EGPO), if offered, as part of the process to determine whether the EGPO should be accepted or not. It will be on the basis of these interviews that the decision will be made as to which witnesses will be called.

(E) The request under *Policy Handbook Rule 25.3(e)* after request must include the substance of the evidence. The requirement is for the "substance" of the evidence to be provided – a full, formal, written statement is not required but may be desirable, particularly for Under Age Players. The substance of the evidence assists the Tribunal to understand the defence of the Reported Person.

(i) It can take the form of a written statement in a form such as could read out by the Person as their evidence, or it can be a simple summary of the proposed evidence contained, for example, in the email forwarded to the League in compliance with *Policy Handbook Rule 25.3(e).*

Guidance Note: An example of the substance of the evidence of a player witnessing an alleged striking incident could be, in addition to the name and address of the witness:

"I was playing for the Goannas in the game against the Echidnas last Saturday. I was 20 metres away from the incident during the second quarter involving number 20 from the Goannas and number 21 from the Echidnas. I saw number 20 push number 21 once in the chest only. There was no contact to number 21's head or face by number 20."

(F) Compliance with *Policy Handbook Rule 25.3(e)* does not excuse the witness from attending the Tribunal to give their evidence. The evidence of witnesses before the Tribunal is in person and oral, and it is in only in exceptional and compelling circumstances as determined by the Tribunal in its absolute discretion will an exception be made. Advocates should not prepare their case on the basis that the Tribunal will excuse a witness from attending the Tribunal hearing.

(G) In the case of an expert witness, there also needs to be provided the qualifications, expertise and the experience of the expert, as well as the substance of their evidence.

(H) The substance of the expert evidence of a medical officer could be:

(i) "I am a medical doctor. I examined player XXX from the Goannas immediately after the game. The bruising to the player's face was consistent with a blow to the face from a fist, as opposed to a collision with the ground. As a result of the injury, I have suggested to XXX that they not play football or train for two weeks"

(I) It must be emphasised that expert witnesses, like ordinary witnesses., must attend the Tribunal to give their evidence – the provision of a Report does not excuse the need for them attending the hearing

(J) It should be noted that the expertise of the witness on the matters the subject of the substance of their evidence must be proven to the Tribunal's satisfaction and that they are truly an expert on the matters the subject of their evidence.

(K) A Tribunal will generally allow a witness to read the document that they have prepared. The witness may supplement that evidence with oral evidence. Reference is made to Procedure Note 14 on the preparation of such documents. Hearing Procedure Notes 10 , 11, 12 and 13 also apply, to the extent relevant, to written lay and written expert evidence.

(L) It is up to each of the parties as to how they present their written and oral evidence and the cross-examination of witnesses on their written and oral evidence, subject to any over-riding direction and supervision of the Tribunal.

9 PROPER PRESENTATION OF EVIDENCE AT THE HEARING

(A) While the following discussion is technically correct, it is a generally more legalist approach than that usually adopted by AFL Tribunals in Community Football, which seek to avoid the more traditional adversarial approach to the giving and taking of evidence before them. The Tribunal is very quick to limit the number of, type and tone of questions, whether they are 'in chief' or, more often than not, in 'cross examination', where it considers such questions to be unhelpful.

(B) The Tribunal also takes a more active role in the process than that which is generally encountered in the adversarial situation.

(C) The calling of a large number of witnesses who simply re-affirm or repeat evidence previously given does not assist the hearing and will be discouraged, unless the evidence is of real assistance to the Tribunal. Advocates must interview witnesses before they are called to give evidence to ensure that their evidence will assist the Tribunal.

(D) This is to ensure that only evidence that is admissible is presented to and accepted by the Tribunal. However, it must also be recognised that even when the evidence is technically admissible, it may carry only limited weight, that is, persuasiveness. The obvious example is evidence given by an ardent Club official, who, even when trying to be 'unbiased', tends to 'see' (and so recall) incidents in a way favourable to the Club's or Reported Person's interests. It is a matter for the Tribunal's judgement, in each case, to decide how much weight to give any evidence.

10 THE "BEST EVIDENCE" RULE

(A) This rule simply means that so far as oral testimony is concerned, the only person who can give evidence of a fact is the person who actually saw it happen, or heard it said. A person who heard about it from someone else cannot give such evidence. For example, a Player cannot give evidence such as, "the trainer told me after the match that he heard the Umpire say to the ground manager…". The trainer himself will have to attend the Tribunal to give evidence of what he heard the Umpire say.

(B) This is the "rule against hearsay", and the reasons for it include:

(i) Stories get distorted as they are repeated from one person to another;

(ii) Effective questioning of a person who did not actually witness an event is clearly limited to what aspects of it they have been told about, and the questioner may want to question things that the witness was not told about.

(C) The Tribunal may accept written medical reports as evidence of the extent of injury but not of how the injury was sustained. Thus, a medical report saying, "X-ray revealed a fractured cheekbone which Mr Smith claimed to have received when struck during a football match" may be allowed as evidence that at the time of the X ray Mr Smith had a fractured cheekbone but not of how they got it (because coming from the doctor who did not actually see the incident, that statement is hearsay). Player Smith must personally tell the Tribunal how they sustained the injury for which they were treated.

11 DIRECT SPEECH MUST BE USED TO RELATE ALL CONVERSATIONS

(A) This means that the words actually spoken must be repeated as closely as they can be recalled. The reason is that indirect speech can distort the meaning of words actually used.

(B) For example, a Player cannot say in evidence:

(i) "After the Umpire blew the whistle they came over and threatened me"

(C) They also cannot say:

(i) After they blew the whilst they came over and told me they would be watching me closely all through the game"

(D) The Player must se the Umpire's words as best the Player can recall them, for example:

(i) "The Umpire blew their whistle, came over to me and said 'Number 41, that tackle was after disposal and we've been instructed to be severe on that all day' or words to that effect"

(E) The Umpire's actual words are significantly different from the suggestions of intimidation and bias respectively, contained in the earlier two versions, where the Player is interpreting, rather than repeating what was said to them.

12 WITNESSES MUST STATE FACTS, NOT OPINIONS

(A) Witnesses should tell only what they actually saw or heard, not what they think was intended. As an example, the statement "The midfielder tried to pass the ball to full forward" is an opinion about the midfielders' intention and the midfielders' tactics may have been different.

(B) The evidence should just be a simple statement of what happened, as in "the midfielder kicked the ball towards the goal square".

13 DOCUMENTS MUST BE PRODUCED, NOT DESCRIBED

(A) Just as conversations must be reconstructed, a document must be allowed to 'speak for itself', so an advocate should always arrange to have the document available. For instance, an injured Player cannot say:

(i) "the doctor gave me a certificate for two days off work because of concussion from being punched"

(B) Not only would the Player be 'interpreting' the medical reason for the doctor giving the Player two days off work, but the Player is also giving hearsay evidence of a supposed opinion by the doctor about how the injury occurred ('from being punched'). Such evidence would therefore be riddled with irregularity and inadmissible. The medical certificate itself should be produced to the Tribunal and as stated earlier, would be evidence only of the Player's medical condition, not the cause of the condition. The Player could say "the doctor gave me two days off work", for that is a fact and not hearsay, but without admissible evidence linking the sick leave to an alleged football injury, the 'two days off' statement is of little, if any, weight.

(C) Where it is not possible to produce the document, the Tribunal may allow someone familiar with it to say what they believe was in it but only when this course will not prejudice a party to the hearing. Again, this is an example of evidence that may have only limited weight.

(D) All medical evidence and other relevant supporting documents are to be kept in the strictest confidence and are only distributed to relevant parties within the Tribunal. This information is not to be shared outside of the Tribunal hearing.

14 PROPER PRESENTATION OF ORAL EVIDENCE

(A) The three stages in a witness's oral evidence are:

(i) Evidence in chief: where the witness gives their version of what they saw and/or heard.

(ii) Cross-examination: where the opposing advocate explores the evidence in chief.

(iii) Evidence in reply: where the witness's own advocate questions them further about matters raised in the cross-examination.

(B) Under *Policy Handbook Rule 25.3(e)*, in the case of an Umpire's Report, the written lay and written expert evidence provided by the reported person is made available to the Umpire and their advocate, and the Reported Person and their advocate have made available to them the report of the Umpire. In the case of a Notice of Breach or similar reference, both the Reporting Person and their advocate and the Reported Person and their advocate have made available to them the written lay and written expert evidence of the other party.

14.1 Examination in chief

(A) The witness should give their version of the events in their own words and with as little interruption as possible. They should not give their evidence simply by answering leading questions (i.e. questions which suggest the answer) from their advocate. Consider the following example:

Advocate: " You were playing back pocket during the last quarter?"

Player: "Yes"

Advocate: "And did you and Player 43 contest a mark?"

Player: "Yes"

Advocate: "And did he elbow you in the face?"

Player: "Yes, he did"

Advocate: "Did you then push him in the chest?"

Player: "Yes"

Advocate: "Was that when the umpire reported you?"

Player: "Yes, they just said they'd be reporting me for striking".

(B) The advocate has given all the evidence, and the Player has simply agreed with the advocate. The Player can be asked "non-leading" questions to which the Player will answer, or the Player can simply give evidence by way of a statement or in a narrative fashion.

(C) Particularly for younger Players, there is generally no objection to the Player reading their statement if it is in an admissible form. The statement should be prepared by the Player preferably, or with the Player's assistance, should be in the Player's own words and not unfairly influenced by the person assisting them in preparing the statement.

The Player could say something along the following lines:

Advocate: "Your name is John Brown?"

Player: "It is"

Advocate: "You are the captain of the Under 16's?"

Player: "Yes"

Advocate: "You were playing in the game last Sunday?"

Player: "That's right"

Advocate: "And you were involved in an incident reported, in the third quarter, by this umpire?"

Player: "Yes"

Advocate: “Please tell the Tribunal, in your own words, exactly what happened”.

(D) The Player now relates their story without being led, because the Player has now reached the contentious part of the evidence.

(E) After Player now relates their story without being led, because the Player has now reached the contentious part of the evidence.

“Why did you push Player 43?”

To which the Player will (the advocate hopes) reply:

“To fend him off after their elbow got me”.

But the advocate cannot ask:

“Your push was only in self-defence?”

Because that suggests the answer to the Player and it is the role of the Tribunal to determine if the Player was acting in self-defence, not the Player.

14.2 Cross-examination

(A) The purpose of cross-examination is to test the witness’s evidence in chief, for a person is entitled to expect that anything they say in evidence which is not tested in cross-examination has been accepted by the other side as truth and should (subject to their general credibility) be similarly treated by the Tribunal. This does not mean, however, that everything a witness says should be challenged. If an advocate has no questions of substance to put to the witness, they will do better not to ask any.

(B) Cross-examination differs from examination in chief in that ‘leading’ the witness is allowed as the advocate tries to get the witness to agree with propositions put to them. An Umpire’s advocate, in questioning the Player, could (if they wished) ask the very sequence of questions set out above which the Player’s advocate could not ask. The cross-examiner may put propositions directly to the witness.

14.2.2 Putting an allegation to the witness

(A) The cross-examiner must put to the witness (to give the witness an opportunity to answer) any allegation which the cross-examiner knows will later be made against the witness by one of the cross-examiner’s own witnesses.

(B) The witness must be given an opportunity to have put to them the alternate version of events that is sought to be established.

(C) Continuing with the above example, if the Player’s advocate knows that they intend to call a witness of their own who is going to allege hearing the Umpire say before the match, ‘Reilly beat me at the Tribunal last time, but I’ll get him today,’ the Player’s advocate must, in cross-examination, directly put that allegation to the Umpire, something like this:

Advocate: Did you speak to the Ground Manager just as you went out onto the field?”

Umpire: “I don’t remember”

Advocate: “Didn’t you say to them ‘last time I reported Reilly they beat me at the Tribunal, but I’ll settle the score today”?

(D) This gives the Umpire the chance to deny the allegation if they want to. If this question was not asked, it would mean the Umpire, after they finished their evidence, would have no chance of denying the allegation when it was communicated later in the hearing, and the allegation would then stand uncontradicted. Where an advocate adduces from a witness a statement concerning another witness which was not put directly to that (other) witness the Tribunal will either:

(i) Allow the other witness to be recalled, to respond to the statement; or

(ii) Disregard the statement in coming to its decision (and advise the advocate that their breach of this principle of cross-examination has led to the evidence being disregarded).

14.2.3 General Notes on Cross-examination

(A) Cross-examination does not have to be restricted to what the witness said in chief. The cross-examiner can ask anything else, provided it is relevant to what is 'in issue'.

(B) Note that the above has essentially been written with an adult witness in mind. The Tribunal will not allow any aggressive, hectoring or unfair questions, in particular to under-age witnesses, and the age and apparent sophistication of underage witnesses, including Umpires, must be taken into account by the advocate when framing their questions. It will certainly be taken into account by the Tribunal when determining whether to allow or reject any question it considers is unfair to the witness.

(C) Special provisions apply where the Reported Person is under 12 years of age at the time of the alleged Reportable Offence- See Hearing Procedure Rules 5.5.

14.3 Re-examination

(A) The witness's own advocate can try to repair any unhelpful answers given under cross-examination. Re-examination must be limited to matters raised in cross-examination – it cannot raise new matters without the express permission of the Tribunal (which must be sought). If there is a real need to bring up something new, leave of the Tribunal should first be asked, and if it is given, the opposing advocate will be given the opportunity of a second cross-examination, limited to the new material.

14.4 Questions by the Tribunal

(A) The Hearing Procedure Rules clearly provide for the questioning of the Umpire, the Reported Person and any witness by the Tribunal. The Tribunal is entitled to, and will, question any witness as and when it sees fit.

15 QUESTIONS BY ADVOCATES THAT WILL NOT BE ALLOWED

(A) Multiple questions are unfair and not allowed. A good question covers only one point, not several. For example, review this question:

"Were you playing back pocket when the ball came down the wing on the grandstand side from a long kick by the other team's midfield?"

(B) This is actually three questions, and the answer is not necessarily the same for all three. This makes it hard for the witness to answer without "explanations", which confuse and prolong the proceedings. Questions should always be worded to allow the witness to give only a direct answer to one point at a time. For example:

Q. "You were in the back pocket"

A. "Yes"

Q. "Did the ball come down the grandstand side?"

A. "Not really, it was more from the edge of the centre square"

Q. "But it was a long kick by the opposing midfield?"

A. "Yes"

15.1 Questions that are not relevant to what is "in issue"

(A) "In issue" means 'the subject of disagreement between the opposing parties'. In a striking charge, for example, there may be no dispute (that is, no 'issue') that the reported Player actually struck another Player. What is disputed ('in issue') is whether it was deliberate or accidental. In that situation, questions about peripheral detail (for example, where other Players, Umpires, trainer etc were positioned), which are directed to suggesting that if the Umpire's recall is inadequate, then their evidence of the reported incident is similarly suspect, are usually irrelevant to the issue. The Umpire should really be questioned about whether they observed any behaviour on the part of the 'victim' which could have provoked the alleged striking, or whether the contact may have occurred unintentionally.

15.2 Questions that assume a fact that has not been established

(A) Questions that assume a fact that has not been established will not be allowed, unless the witness is requested to assume the fact (which then must be established later).

16 OBJECTIONS TO EVIDENCE

(A) The proper for an advocate to challenge any questions (or answer) is to say to the Tribunal, "Objection, that question (or answer) is (for example) leading – irrelevant – assumes a fact not admitted – is an opinion not a fact etc. "as appropriate.

(B) Advocates are not permitted to address their objections directly to witnesses or opposing advocates and should not interject during answers or bicker with other advocates. This applies with equal force during final submissions: each advocate has their turn, has a right to be heard uninterrupted by their opponent and should afford reciprocal courtesy to that opponent.

17 VISUAL EVIDENCE

(A) The Tribunal may at its discretion permit visual evidence into the proceedings and may direct that the showing of any such visual evidence be undertaken at such time during the hearing as it directs, as long as this does not cause any procedural unfairness to any party.

18 PENALTIES

(A) Subject to the provisions of the *Policy Handbook*, fixing a penalty is at the absolute discretion of the Tribunal.

19 CONTEMPT OF THE TRIBUNAL

(A) The Tribunal may at its discretion permit visual evidence into the proceedings and may direct that the showing of any such visual evidence be undertaken at such time during the hearing as it directs, as long as this does not cause any procedural unfairness to any party.

(i) Disrespectful behaviour- which may be contempt because it undermines the confidence in the Tribunal and, therefore, its capacity to carry out its duties.

(ii) Attempting to influence decisions by means other than putting argument or evidence before the Tribunal according to the Rules. Public comment prior to a hearing, designed to influence the attitude of the Tribunal Members is one example, as is any direct attempt to bypass the Tribunals' proceeding

1. Tribunal Chairperson – Position Description

Overview:
The AFL NSW/ACT has established a Tribunal by way of a centrally managed process designed to deliver to its constituent Leagues a consistent set of disciplinary procedures and processes.

The Tribunal:

- hears and determines Reports and other matters as referred to the Tribunal, held at locations convenient to those involved, on a set night.
- comprises a panel of Tribunal Members, managed by the Controlling Body.
- holds meetings as required chaired by the Tribunal Chairperson of all Tribunal Members and/or other relevant persons to outline and review the process and provide information and guidance on the delivery of outcomes;
- is provided administrative support to assist them in conducting their hearings.

The Tribunal is an independent disciplinary tribunal constituted pursuant to the League Rules. The Tribunal deals with Reports from Umpires and any Notice of Breach into any alleged breaches of the Laws, the Policy Handbook or the League Rules.

The Tribunal Chairperson leads the Tribunal and is a direct interface between Tribunal Members, the Controlling Body and other key stakeholders.

Reports To:
The Tribunal Chairperson reports to the Controlling Body.

Tasks and Activities:
A sitting Tribunal hears the evidence of Umpires, Reported Persons and witnesses and determines Reports laid under the Laws, Policy Handbook and League Rules, or matters referred to it, and imposes penalties in accordance with those documents where Reports are proven.

The Tribunal Chairperson:

- chairs all Tribunal hearings on which the Tribunal Chairperson sits;
- consults with the Controlling Body on the appointment of Tribunal Members;
- liaises with the Controlling Body in the convening of Tribunals;
- in conjunction with the Controlling Body, maintains a database of all hearings and outcomes;
- reports to the Controlling Body on the functioning of the Tribunal process and the ongoing development and refinement of disciplinary procedures as administered by the Tribunal;
- seeks ways in which the processes can be enhanced.

Knowledge and Skills Required:
The Tribunal Chairperson is a Tribunal Member. The Tribunal Chairperson must chair Tribunals on which they sit, hearing and determining reports and other matters referred to the Tribunal involving breaches of the Laws, Policy Handbook and League Rules including the hearing of evidence and submissions. A sound knowledge and understanding of the Laws and the relevant disciplinary provisions is required.
The Chairperson must have an understanding of the functions and performance of disciplinary Tribunals, be independent and impartial and act in a fair manner. Like all Tribunal Members, the Tribunal Chairperson cannot be a current member or Official of a Club affiliated to the League. Legal qualifications are not a pre-requisite but are desirable. High level communication and interpersonal skills are necessary.

Time Commitment Required:
A sitting Tribunal consists of three Members, drawn on rotation from a panel of available Tribunal Members. The Tribunal usually sits on a nominated evening during the League's football season (approximately mid-March to mid-September each year). The hearings are at venues as appropriate, or conducted electronically

(for example, video conferencing or online). The hearings generally take between approximately 2-3 hours. Administrative and other related tasks would require, on average, approximately 2 hours per week, in addition to sitting on the Tribunal.

2. Tribunal Member – Position Description

Overview:
The Tribunal is an independent disciplinary Tribunal constituted pursuant to the League's Rules0. The Tribunal deals with Reports from Umpires and any Notice of Breach.

Reports To:
Tribunal Members report to the Tribunal Chairperson.

Tasks and Activities:
A sitting Tribunal hears the evidence of Umpires, Reported Persons and witnesses and determines Reports laid under the Laws, Policy Handbook and League Rules, or matters referred to it, and imposes penalties in accordance with those documents.

Knowledge and Skills Required:
Tribunal Members must be able to hear and determine Reports and other matters referred involving breaches of the Laws, Policy Handbook and League Rules including the hearing of evidence and submissions. A sound knowledge and understanding of the Laws and the relevant disciplinary provisions is required. Members must have an understanding of the functions and performance of disciplinary Tribunals, be independent and impartial, and act in a fair manner. Legal qualifications are not a pre-requisite. High level communication and interpersonal skills are necessary. Tribunal Members cannot be a current member or Official of a Club affiliated to the League.

Time Commitment Required:
A sitting Tribunal consists of three Members, drawn on rotation from a panel of available Tribunal Members. The Tribunal usually sits on a nominated evening during the League's football season (approximately mid-March to mid-September each year). The hearings are at venues as appropriate, or conducted electronically (for example, video conferencing or online). The hearings generally take between approximately 2-3 hours.

Tribunal Members must be available and willing to sit on no less than 4 occasions during the League's football season.

3. Pre-Sentence Report

To be completed and brought to the Tribunal hearing by any reported person if they have at any time been a Player, or annexed to a request in writing by any person consenting to a hearing in their absence.

REPORTED PERSON'S NAME: _____ DATE OF BIRTH: __/____/_____

CLUB: _____

PLAYING HISTORY

YEAR(s)	CLUB(s)	AWARDS AT LEAGUE OR ASSOCIATION LEVEL i.e. not Club Awards	TRIBUNAL CONVICTIONS	
			Offence	Penalty

Signature of Player: _____ Date: _____/_____/_____

4. Pro Forma Request In Writing

to be submitted by Reported Person unable to attend Tribunal hearing

1A

I, (full name)

of (full address),

make the following request of the AFL NSW/ACT Tribunal (the Tribunal).

1 I am unable to attend before the Tribunal on (date) for the reason/s that:

(state reason/s fully and unambiguously)

GUIDANCE NOTE: ***Clause 1 must be completed in all circumstances. Select one only of the alternative forms of Clause 2, depending upon whether the Reported Person is seeking an adjournment (Clause 2A) OR is consenting to hearing in their absence (Clause 2, comprised of options 2B and 2C)***

The Reported Person selects ONE ONLY of the alternative forms of 2B or 2C, depending upon whether they are pleading the report as proven (Clause 2B) or not admitted (Clause 2C)

2A ☐ I am willing to stand down from representing my Club as a Player or Official until I have appeared before the Tribunal and I agree to give to the Controlling Body not fewer than four clear business days' notice of the date of a Tribunal meeting which I am able to attend.

OR

2B ☐(i) I consent to the Tribunal investigating in my absence the report of which I am the subject set down for hearing on the aforesaid date

(ii) I agree that the report is proven but ask the Tribunal to take into account the following matters:

(*set out mitigating circumstances*)

OR

2C ☐(i) I plead the report as not proven and say in answer that

(*state any **facts** and briefly refer any further evidence or witnesses which the Tribunal should consider or hear*).

☐(ii) I undertake to abide by any finding (including penalty) of the Tribunal and I further undertake not to raise the fact of my absence from the hearing in any challenge to the finding or to any penalty which may be imposed.

☐(iii) I attach a completed pre-sentence report (if the reported person is, or has at any time been a Player.

and I make this request in writing believing the same to be true.

Signature of Applicant

5. Diagramatic Representative of the Procedure for Hearing an Umpire's Report

TRIBUNAL OPENED. REPORTED PERSON AND UMPIRE IDENTIFIED. REPORT READ TO PLAYER, WHO IS ASKED TO PLEAD 'GUILTY' OR 'NOT GUILTY' TO THE REPORT

The Player's advocate does not plead on the Player's behalf (although may if the Player is an Under Age Player)

A. PLAYER DOES PLEADS **NOT GUILTY** TO CHARGE OR REPORT

1. Witnesses asked to leave the room
2. Umpire's evidence (with assistance of advocate – if need be)
3. Umpire questioned by Player's Advocate
4. Umpire may be questioned by Tribunal at any time
5. Player's evidence (with assistance of advocate – if need be)
6. Player questioned by Umpire's advocate
7. Player may be questioned by Tribunal at any time
8. Umpire allowed to clarify evidence through advocate
9. Umpire's witnessed called:
   - questioned by umpire's advocate
   - questioned by player's advocate
   - clarification by umpire's advocate
   - Umpire witnesses may be questioned by Tribunal at any time
10. Player allowed to clarify evidence through advocate
11. Player's witnessed called:
    - questioned by player's advocate
    - questioned by umpire's advocate
    - clarification by player's advocate
    - Player witnesses may be questioned by the Tribunal at any time
12. Advocates sum up
13. Tribunal retires to consider finding

REPORT DISMISSED

OR

PLAYER FOUND GUILTY

A. PLAYER DOES PLEADS **GUILTY** TO CHARGE OR REPORT

1. Witnesses asked to leave the room
2. Player's evidence
3. Umpire's evidence
   - Which should just supplement or traverse the Player's account of what they have admitted to
4. Umpire and Player questioned as need requires
5. Witnesses called and examined (if required)

PROCEED TO B.

B. **PRE-SENTENCE** REPORT HANDED UP

PLAYER'S ADVOCATE MAKES SUBMISSION ON PENALTY

TRIBUNAL RETIRES TO CONSIDER PENALTY

TRIBUNAL DELIVERS PENALTY