



DISCIPLINARY REGULATIONS

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1. Introduction

- 1.1 The guiding principles of these “Disciplinary Regulations” (Regulations) are:
- a) to operate a fair, reasonable and readily understood penalty process by and for the softball community;
 - a) to promote transparency and certainty;
 - b) to promote efficiency by establishing Prescribed Penalties; and
 - c) allowing appeal avenues after a prescribed penalty system.

2. Preliminary

- 2.1 These Regulations are established to deal with people and organisations alleged to have:
- a) committed an offence before, during, after or arising directly or indirectly from a game of softball or other activity conducted, authorised or sanctioned by Softball Western Australia (SWA);
 - b) made abusive, offensive, derogatory, disparaging, defamatory or other unacceptable remarks or comments about an Affiliated Association or SWA, a person, team, Club, Association or group whether within the Affiliated Association or SWA or not by any form of electronic media, any form of electronic communications, in writing, verbally or by any other means;
 - c) committed offences not directly related to the playing of a game of softball but which may bring the Affiliated Association or SWA or the sport into disrepute; or
 - d) breached a “Code of Conduct”, a “Zero Tolerance Policy” or a “Member Protection Policy” of the Affiliated Association, SWA or Softball Australia.
- 2.2 All penalties handed down or incurred, and any other action taken, under any repealed By-Laws or Disciplinary Regulations prior to the introduction of these Regulations remain in force and effect and continue to be recognised as if those By-Laws or Disciplinary Regulations were still in operation.
- 2.3 These regulations are established under and by reference to Article 15.1 of the Constitution.

3. Incident Review Officer

- 3.1 An Affiliated Association may appoint an independent Incident Review Officer (IRO) to assist with the review and processing of alleged offences, make decisions and take actions as necessary pursuant to these Regulations.
- 3.2 The IRO has, on the Affiliated Association confirming an IRO’s appointment, full authority to act pursuant to these Regulations on behalf of the Affiliated Association.
- 3.3 For purposes of these Regulations, where an Affiliated Association is referred to, this includes the IRO.

4. Definitions and Interpretations

- 4.1 Unless the contrary intention appears the following terms have the meaning shown:
- a) “Appeals Tribunal” means the body established by Regulation 17;
 - b) “Affiliated Association” has the same meaning as “Affiliated Body” in the SWA Constitution and includes an Association as defined in these Regulations;

- c) "Association" means and includes any Association that manages or conducts games of softball within Western Australia and includes any and all sub-committees of SWA as if they were an association in their own right, including the Perth Softball League;
- d) "Board" means and refers to the SWA Board;
- e) "Business Day" means any day that is not a Saturday, Sunday or public holiday in Western Australia;
- f) "Club" includes any individual team or group of team whether an Affiliated Association or not;
- g) "Charged Person" means and includes a person specified in a complaint or ejection report as an alleged offending person and, where the context permits or is required, a person found to have offended;
- h) "Code of Conduct" means any and all relevant policy or guideline adopted by or published by Softball WA;
- i) "Constitution" means the SWA Constitution;
- j) "Disciplinary Committee" means the Committee established under Regulation 23 of these Regulations and Regulation 15 of the Constitution to consider appeals arising from a decision of the Appeals Tribunal;
- k) "Disciplinary Tribunal" means the Tribunal established by Regulation 8 of these Regulations;
- l) "disqualification" means the withdrawal of all membership rights and privileges for a specified period;
- m) "Ejection Report" means and refers to a report substantially in the form of these Regulations' Attachment D;
- n) "game" in relation to penalties means a game involving a team in which the Charged Person is registered:

where the Charged Person is registered in more than 1 team, the penalty will be served in the next game or games played by the team or teams in which the Charged Person is registered;

where the game is cancelled in its entirety or deferred to another week, the penalty will be served in the next game played by the team or teams in which the Charged Person is registered.
- o) "Hearing" means formalised proceedings to determine a complaint in accordance with Regulation 8;
- p) "local time" means the time in the place where the suspended person is on the day the suspension is due to expire;
- q) "Melee" means an occasion, usually but not limited to during a game, where one or more players, coaches or officials leave their normal position or bench area to engage in a physical or verbal altercation;
- r) "Member Protection Policy" means a policy adopted by or published by Softball WA referring to member protection;
- s) "notification" or "notify" means to communicate by verbal, electronic means or in writing;
- t) "Official Rules of Softball – Fast Pitch" means the current set of rules, as updated, published or made available through the World Baseball Softball Confederation or such rules as replace or amend those rules from time to time;
- u) "Prescribed Penalties" means the penalties as set out in Schedule 1;
- v) "Regulation" means these numbered Disciplinary Regulations;
- w) "SWA Board" means any Board Member elected under Rule 27 of the Constitution and includes the Chairperson (as defined in Regulation 5.1 of the Constitution), but does not include the CEO;

- x) "Softball WA" or "SWA" means the association incorporated by reference to those names in Western Australia and references to them in these Regulations include the Chief Executive Officer (CEO) of SWA and delegated officers, including any SWA appointed Incident Review Officer, for the purposes of decision making and taking of actions pursuant to these Regulations; but does not include any and all sub-committees of SWA responsible for the management or conduct of games of softball;
 - y) "suspension" means the withdrawal of specified membership rights and privileges for a specified period;
 - z) "SWAUA" means the Softball Umpires Association of the WA;
 - aa) "week" in relation to penalties means "week of competition" but does not include a week in which:
 - a) the team in which the Charged Person is registered is not scheduled to play;
 - b) a game involving the team in which the Charged Person is registered:
 - i. is cancelled in its entirety or deferred to another week due to weather conditions;
 - ii. is forfeited in its entirety; or
 - iii. is cancelled in its entirety or deferred to another week for any other reason.
 - bb) "Zero Tolerance Policy" means a policy adopted by or published by Softball WA bearing that name.
- 4.2 Unless the contrary intention appears the definitions and interpretations prescribed in the Constitution apply to these Regulations.
- 4.3 Unless the contrary intention appears, definitions and interpretations prescribed in the current "Official Rules of Softball – Fast Pitch" apply to these Regulations.
- 4.4 Unless the contrary intention appears, and to the extent possible, Clubs and Associations will be treated under these Regulations as if they are natural persons.

5. Ejection Reports

- 5.1 People sometimes get ejected from a game (usually by an umpire – sometimes by an Association). Under this provision there are alternative consequences
- 5.2 When an ejection has occurred the ejector must submit an Ejection Report to the relevant Association and SWA within 48 hours of the ejection.
- 5.3 The recipient Association must, on receiving an Ejection Report, act in one of the below described alternate ways.
- 5.4 An ejector, in an Ejection Report, may:

Notification of Ejection Report – Prescribed Penalty applies

- a) make no recommendation regarding penalty or recommend the Prescribed Penalty. The Affiliated Association must notify the Charged Person, given there is a Prescribed Penalty, about the Prescribed Penalty and it being applied to the Charged Person, preferably within 2 business days of receiving the Ejection Report:
 - the Charged Person incurs one or more of the Prescribed Penalties provided at Part A of Schedule 1;

Tribunal – Assertion Prescribed Penalty insufficient

- b) submit, alternate to the above, that the Prescribed Penalty is inadequate in the circumstances. In this

case the Affiliated Association or SWA must:

- notify the Charged Person of the Prescribed Penalty; and
- establish and notify the Charged Person of the date and time of a Disciplinary Tribunal hearing, within 2 business days of receiving the Ejection Report.

Before the Disciplinary Tribunal hearing:

- i. the Charged Person incurs and must serve the Prescribed Penalty/ies at Part A of Schedule 1 until such time as the Disciplinary Tribunal Hearing decision is made.
- ii. Any portion of penalty incurred under 5.1(c)(i) shall be discounted from any penalty imposed as a result of the Disciplinary Tribunal hearing.

Tribunal – no Prescribed Penalty – ejector recommends a Tribunal Determination

- c) observe there is no Prescribed Penalty for the offence in Part A of Schedule 1 and recommend there be a Disciplinary Tribunal hearing.

The Affiliated Association or SWA may, given it agrees there should be a hearing, inform the Charged Person within 2 business days of the time and date of a Disciplinary Tribunal hearing.

- d) Nothing in the foregoing precludes the Affiliated Association from determining, at its discretion, there should be a Disciplinary Tribunal hearing and arranging it in keeping with the above timing.

- 5.5 Where a game umpire or the WA Chief Umpire or his representative, eject a player, team official or spectator from a game, the ejection will only be for the game in question unless the Affiliated Association notification of the application of the prescribed penalty is given to the Charged Person prior to a subsequent game within the above referred to time-frames. This means that where, for example, the Charged Person is scheduled to play more than 1 game on the day of the ejection, the Charged Person may play the second game unless the Affiliated Association has advised the Charged Person, in writing or verbally, that the prescribed penalty in Part A of Schedule 1 is being immediately applied.
- 5.6 The application of penalties for offences as prescribed in Part A of Schedule 1 will commence from the date of notification.
- 5.7 Clubs immediately upon notification from the Affiliated Association or SWA, and without reference to the Disciplinary Tribunal incur penalties for offences as prescribed in Part B of Schedule 1.
- 5.8 Schedule 1 prescribes penalties for first and second offences. A third or subsequent offence in the same category will incur an immediate Prescribed Penalty equivalent to that for a second offence and the matter is to be referred to the Disciplinary Tribunal for consideration. The Disciplinary Tribunal may impose a greater or lesser penalty on the Charged Person as it deems appropriate in all the circumstances.
- 5.9 The Prescribed Penalties in Schedule 1 do not include the game in which the player or team official was ejected.
- 5.10 Penalties not completed by the end of the current playing season carry over to the next, and if necessary, to a subsequent playing season. It is intended that penalties apply broadly, including softball activities Australia-wide.
- 5.11 The Affiliated Association has the discretion to have regard to all circumstances it considers relevant and:
 - a) consider the ejector's conduct; and
 - b) moderate the Prescribed Penalties, including to determine there is no penalty to apply, at all,

on the understanding the Prescribed Penalties are intended to apply unless there are extenuating circumstances

6. Other Offences

6.1 Except as prescribed in Regulation 5, where a complaint is received at any time about offending actions or inactions, or the Affiliated Association or SWA becomes aware of, a possible misdemeanour or breach of:

- a) a Code of Conduct;
- b) a Zero Tolerance Policy;
- c) a Member Protection Policy
- d) the Affiliated Association's Constitution;
- e) SWA Constitution; or
- f) any other behaviour, whether the subject of a policy or not,

by a Club, team or individual or Affiliated Association, then the Affiliated Association or SWA may determine the most appropriate and expedient way to deal with the matter and may:

- a) deal with the matter itself;
- b) refer the matter to the Disciplinary Committee; or
- c) refer the matter directly to the Disciplinary Tribunal.

Note: a reference to "individual" in this Regulation includes a person in an official capacity. That might be an umpire, scorer, coach, Board Member or any other natural person.

6.2 Where an Affiliated Association (including SWA in its own right which, in turn, includes the Perth Softball League) determines it will deal with the matter itself, it may impose prescribed penalties as set out in Schedule 1 or (particularly where there is no Prescribed Penalty) as they deem fair and just and notify the Charged Person or Charged Persons of such penalties.

6.3 An Affiliated Association may, under these Regulations, determine that a matter is to be referred to a Disciplinary Tribunal.

6.4 Where the Affiliated Association or SWA determines that the matter is to be referred to a Disciplinary Tribunal, the Affiliated Association or SWA must notify all relevant parties and the date of the Disciplinary Tribunal hearing.

6.5 In the case of a representative team or representative team member matter, the Affiliated Association or SWA may request that an official of that team deal with the matter. In this case a report is to be provided by the official to the Affiliated Association or SWA of the action taken within 5 business days.

The Affiliated Association or SWA may take or authorise further action in relation to the offence at its discretion.

6.6 The appeals processes of these Regulations are available in respect of decisions of the Disciplinary Tribunal under this Regulation 6.

6.7 A complaint lodged under this Regulation may include, but is not limited to, any of the following:

- a) behaviour of a Club, team or individual whether or not the matter is directly related to softball;
- b) any complaint relating from a game of softball but not reported by the umpire;

- c) complaints about the behaviour of representative teams or members of a representative team on or off the field whether the offence occurs in WA or elsewhere;
- d) the actions of a Club, team, official or individual that bring, or may bring, the Affiliated Association or SWA or the sport into disrepute; or
- e) any breaches of any of the Affiliated Association or SWA's or a Zero Tolerance Policy, Codes of Conduct, a Member Protection Policy, the Affiliated Association's constituent documents or the SWA Constitution or other policies.

7. Referral to Disciplinary Tribunal

- 7.1 A player, team official, official, spectator or Club that receives notification pursuant to Regulation 5 or Regulation 6 has the right to challenge the imposition of the Prescribed Penalty, other penalty or decision affecting them by referring the matter to the Disciplinary Tribunal.
- 7.2 A player, team official, spectator, Club or individual wishing to refer the matter to the Disciplinary Tribunal must do so in writing and by 5:00pm (WST) on the second business day after receiving the notification.
- 7.3 Where this time limit cannot be met for any reason, the request must be lodged as soon as possible with an explanation why the request could not be lodged sooner.
- 7.4 The request to refer the matter to the Disciplinary Tribunal does not suspend or defer any penalty.
- 7.5 The grounds for requesting referral to the Disciplinary Tribunal must be clearly stated.
- 7.6 A member of a representative team who incurs a suspension under Regulation 5 or Regulation 6 may apply to the Disciplinary Tribunal for a deferment of the suspension in so far as it affects that person's commitment to that representative team. The Disciplinary Tribunal may:
 - a) approve the application;
 - b) suspend the person from the representative team for the duration of the suspension; or
 - c) withdraw the person from the representative team.
- 7.7 All requests to have the matter referred to the Disciplinary Tribunal for consideration must be accompanied by a lodgement fee of \$220 (including GST) payable to the Affiliated Association.
- 7.8 The lodgement fee may be refunded in full or in part by the Affiliated Association if the outcome of the Tribunal Hearing is in favour of the person requesting referral to the Disciplinary Tribunal, at the Disciplinary Tribunal's discretion. A reference to "in favour" in this part means an imposed penalty has been remitted or reduced in whole or in part.
- 7.9 The lodgement fee may be dispensed with:
 - a) on application by the Charged Person to the presiding tribunal on grounds of impecuniosity supported by evidence (eg a Pension Card); or
 - b) simply at the Disciplinary Tribunal's discretion, acting, in what it determines to be, fair.
- 7.10 The Disciplinary Tribunal must record reasons for approving or declining a request for a remitted lodgement fee.
- 7.11 A request for a Disciplinary Tribunal Hearing not lodged in accordance with these Regulations will not be considered.
- 7.12 Lodgement fees retained under these Regulations will form a part of "other income" in the relevant association's accounts.

8. The Disciplinary Tribunal

- a) The Disciplinary Tribunal shall deal with:
 - b) matters referred to it under these Regulations; and
 - c) any other matter referred to it by the Affiliated Association or SWA.
- 8.2 The Disciplinary Tribunal must consist of at least 3 persons and convened by the Affiliated Association. Other additional persons may be added to the Disciplinary Tribunal at the discretion of the Affiliated Association.
- 8.3 An independent person, whether or not a member of the Affiliated Association or SWA, must be appointed by the Affiliated Association to chair the Disciplinary Tribunal (Chair). Where that person is unavailable or unable for any particular Disciplinary Tribunal Hearing, the Affiliated Association must appoint another suitable person.
- 8.4 The other members of the Disciplinary Tribunal must be chosen by the Affiliated Association and may or may not be a member of the Affiliated Association or SWA.
- 8.5 The quorum for the Disciplinary Tribunal is 3 members.
- 8.6 The Disciplinary Tribunal must be convened by the Affiliated Association as soon as practicable after it is required and, if possible, within one week of the commission of an alleged offence or other form of request for a hearing.
- 8.7 Every decision of the Disciplinary Tribunal must be by a majority vote. Each member of the Disciplinary Tribunal, including the member in the Chair, is entitled to one vote only and must exercise that vote.
- 8.8 Where, more than 3 persons form a Disciplinary Tribunal, and in the event of a tied vote, the Chair's vote shall be the casting vote.
- 8.9 The person chairing the Disciplinary Tribunal or the Affiliated Association may appoint a person to record the proceedings of the Disciplinary Tribunal. That person has no voting rights or other powers whatsoever at the Disciplinary Tribunal.
- 8.10 The best practice Guidelines for the Disciplinary Tribunal to follow are set out in Schedule 2. The Disciplinary Tribunal, at its sole discretion, may choose to not strictly follow one or more of the guidelines. The decision of the Disciplinary Tribunal not to follow a guideline will not invalidate a Hearing and cannot be the subject of an Appeal nor used as a reason to lodge an Appeal against the findings of the Disciplinary Tribunal or any penalty it imposes.

9. Jurisdiction

- 9.1 The purpose of the Disciplinary Tribunal is to:
- a) protect and support umpires, officials and innocent parties and uphold the good name and reputation of the Affiliated Association, SWA and softball; and
 - b) consider and determine all matters referred to it.
- 9.2 The Disciplinary Tribunal may:
- a) give such judgment or make such order as, in all the circumstances, it thinks fit;
 - b) impose such penalties as it thinks fit in accordance with these Regulations; or

c) affirm, reverse, set aside or vary any decision or penalty subject to its jurisdiction.

- 9.3 The Disciplinary Tribunal is the sole judge as to whether it may deal with a matter brought before it and may, at any time, dismiss any matter which, in its opinion, is frivolous, vexatious, capricious, scandalous, offensive or contrary to the objectives of the Affiliated Association or SWA. There is no right of appeal against a decision of the Disciplinary Tribunal to dismiss a matter under and by reference to this provision.
- 9.4 The Disciplinary Tribunal may defer or adjourn a Hearing to a specified date, or without setting another date, should circumstances warrant such action and keep interested parties informed about its decision and reasons for such action.
- 9.5 The Disciplinary Tribunal may deal with any person, Club or Affiliated Association that ignores or fails to comply with any penalty or direction of the Disciplinary Tribunal, in *absentia*.
- 9.6 The Tribunal may impose such penalty or take such other action it considers fit and sufficient in the circumstances.
- 9.7 Determination of guilt is to be based on the "Balance of Probability" principle (i.e. more probably than not).

10. Attendance at Disciplinary Tribunal Hearings

- 10.1 The Affiliated Association must notify those required to attend a Disciplinary Tribunal Hearing of the date, time and place of the Hearing.
- 10.2 Failure of a Charged Person to appear before the Disciplinary Tribunal without reasonable cause will not prevent the Disciplinary Tribunal from dealing with the matter in the absence of the charged person provided the Charged Person was properly notified of the Hearing.
- 10.3 Where a person is called to attend a Disciplinary Tribunal Hearing but does not appear, the Tribunal may make such inferences, take such action and impose such sanction on that person which, in all circumstances, it deems fit and sufficient.
- 10.4 Any Charged Person under 18 years of age appearing before the Disciplinary Tribunal must be accompanied by a parent, a guardian or a responsible adult. An adult accompanying such a Charged Person in accordance with this Regulation may offer advice to and, at the sole discretion of the Tribunal, may speak and ask questions on behalf of that Charged Person.
- 10.5 Charged Persons appearing before the Disciplinary Tribunal are entitled to be heard and to produce witnesses in their own defence and to ask questions relating to an allegation.
- 10.6 Any Charged Person appearing before the Disciplinary Tribunal may have a representative of their Club or Association to accompany them at the Disciplinary Tribunal. That representative may offer advice to the Charged Person but has no other rights at the Disciplinary Tribunal.

11. Penalties

- 11.1 If the Disciplinary Tribunal finds an allegation proved it may impose one (or more) of the following penalties:
- a) a reprimand;
 - b) a suspension in accordance with Regulation 11.2 for whatever period the Disciplinary Tribunal deems fit and sufficient in all the circumstances;
 - c) a monetary sanction not exceeding \$2,200 (including GST) for an individual or \$11,000 (including GST) for a Club;
 - d) a monetary penalty to recoup any costs incurred by the Affiliated Association or the Disciplinary Committee as a result of the charged person's actions;

- e) a disqualification; or
 - f) any other penalty deemed appropriate by the Disciplinary Tribunal.
- 11.2 When the Disciplinary Tribunal imposes a suspension under these Regulations it may (indeed should):
- a) express the suspension in days, weeks, months, years or games and determine the date on which any suspension starts;
 - b) determine whether the suspension relates to playing a game, coaching, managing, officiating at a game and/or spectating at a game or having any other involvement; and
 - c) determine whether the suspension is to be served concurrently with, or cumulatively to, any other suspension imposed on the charged person under these Regulations.
- 11.3 The Disciplinary Tribunal, when determining the penalty, may take into consideration:
- a) the charged person's past record;
 - b) the concurrent leagues or competitions in which the charged person participates.
- 11.4 If the Disciplinary Tribunal is not satisfied that a charge in question has been proved but is satisfied that an alternate charge has been proved it may apply a penalty in relation to that alternate charge.
- 11.5 A disqualification imposed by the Disciplinary Tribunal under this Regulation commences from the date of the Tribunal finding.
- 11.6 Any monetary sanction imposed under these Regulations must be paid into the SWA's revenue within 20 business days from the date of imposition. Where the monetary sanction imposed is not paid within 20 business days, an additional monetary sanction of \$25 shall be imposed cumulatively upon the initial monetary sanction for each and 5 business day period (or any part thereof) in excess of the 20 business days.
- 11.7 The Disciplinary Tribunal has an unfettered discretion to decide which of any alternate sanction will apply and all and any subsequent Appeals Tribunal (and thereafter, Disciplinary Committee) is also unfettered in the manner it exercises its discretion. That is, an Appeals Tribunal (and thereafter, Disciplinary Committee) may impose a monetary sanction instead of non-monetary sanction following an appeal, and vice versa.

12. Advice of Decisions

- 12.1 The Disciplinary Tribunal must notify the Charged Person, person making a complaint or lodging the Ejection Report, SWA, the Affiliated Association and all other relevant parties of its decision as soon as practicable after the Hearing, with best practice being within 5 business days.
- 12.2 The decision notification can be via email, text message or other electronic means
- 12.3 The advice to the Charged Person must include details of the right of appeal.
- 12.4 SWA will notify all Affiliated Associations, including Softball Australia, of decisions and penalties imposed or affirmed by a Disciplinary Tribunal.

13. Appeals

- 13.1 The decision of the Disciplinary Tribunal is binding on all members of the Affiliated Association or SWA subject to the appeal procedures provided by these Regulations.
- 13.2 The lodgement of an appeal does not suspend or defer any penalty.

14. Documents

- 14.1 Within 10 business days after it has concluded its deliberations, the Disciplinary Tribunal must lodge the following documents with the Affiliated Association and SWA for information, safe-keeping and if appropriate, further action:
- a) the Minutes of the Disciplinary Tribunal Hearing signed by the Chair of the Disciplinary Tribunal;
 - b) a detailed written report on the matter, signed by at least 2 members of the Disciplinary Tribunal;
 - c) copies of all letters and other documents given to any person by the Disciplinary Tribunal; and
 - d) all other documents relating to the matter.
- 14.2 Copies of the documents set out in Regulation 14.1 must be produced to the Appeals Tribunal upon request.

15. Suspensions

15.1 Until:

- a) a period of the suspension has elapsed; or
 - b) a suspension has been withdrawn; or
 - c) an appeal against the suspension is successful, persons suspended under these Regulations:
 - a) are not eligible for selection in a State Representative Team;
 - b) by exception, can only take part in State Representative Team fixtures if authorised by the Affiliated Association and SWA under any exceptional published policy or regulation;
 - c) cannot play, coach, officiate or otherwise take part in any fixtures in any grade in any competition or tournament conducted, authorised or sanctioned by the Affiliated Association or SWA but are eligible to participate in training sessions; and
 - d) are not eligible for a clearance or permit to another team or club.
- 15.2 When a person incurs 2 or more suspensions for offences under these Regulations those suspensions must be served on a cumulative basis except when the Disciplinary Tribunal expressly directs otherwise.
- 15.3 SWA will notify Softball Australia in writing of a suspension if SWA considers it appropriate.

16. Disqualification

- 16.1 When a disqualification is incurred or imposed under these Regulations the following procedures must be observed:
- a) SWA will notify Softball Australia in writing of the disqualification and give the person's name and address and the reasons for the disqualification; and
 - b) SWA will accord any further procedures prescribed by Softball Australia.

17. The Appeals Tribunal

- 17.1 The Affiliated Association Appeals Tribunal must comprise at least 3 persons appointed by the Affiliated Association, whether or not members of the Affiliated Association or SWA, and must not include any person who was a member of the Disciplinary Tribunal involved in the matter.
- 17.2 The Appeals Tribunal must be convened by the Affiliated Association as soon as possible after it is required and, as much as is possible, within 5 business days of the receipt of the Appeal.

- 17.3 Unless otherwise specified in these Regulations, the procedures which apply to the Disciplinary Tribunal apply to the Appeals Tribunal insofar as they can be applied to the Appeals Tribunal.
- 17.4 The Appeals Tribunal may impose a further monetary penalty to recoup any costs incurred by the Appeals Tribunal as a result of the Charged Person's actions.

18. Submission to the Appeals Tribunal

- 18.1 An appeal must be in writing and lodged with the Affiliated Association within 2 business days after notification of the Disciplinary Tribunal outcome. Where this time frame cannot be met for any good reason, the appeal must be lodged as soon as possible with an explanation why it could not be lodged sooner.

The Appeals Tribunal may dismiss an appeal if it is not satisfied by the given reason.

- 18.2 The appeal papers must contain all relevant details set out as far as possible in chronological order and must be accompanied by copies of all relevant documents.
- 18.3 All appeals lodged by or on behalf of the Charged Person must be accompanied by a lodgement fee of \$220 (including GST) payable to the Affiliated Association.
- 18.4 The lodgement fee may be refunded in full or in part by the Affiliated Association if the outcome of the Appeal Hearing is in favour of the person lodging the appeal.
- 18.5 Provisions for the remittance and reduction of lodgement fees established by sub-Regulations in Regulation 7 apply, *pari passu*, to this Regulation 18.
- 18.6 An appeal not lodged in accordance with these Regulations will not be considered.

19. Grounds for Appeal

- 19.1 An appeal lodged by or on behalf of a Charged Person or any other person against a decision of the Disciplinary Tribunal may only be made on one or more of the following grounds:
- a) fresh significant evidence is now available when it was not available to the Disciplinary Tribunal at the time of its hearing;
 - b) the penalty may be too severe in all the circumstances;
 - c) the Charged Person's previous good record was not properly considered by the Disciplinary Tribunal for purposes of determining the penalty or sanction;
 - d) failure of the Disciplinary Tribunal to provide procedural fairness or natural justice to the Charged Person;
 - e) the decision of the Disciplinary Tribunal is so unreasonable that no Disciplinary Tribunal acting reasonably could have come to that decision having regard to the evidence before it.
- 19.2 The Affiliated Association, SWAUA, SWA, the WA Chief Umpire or a relevant body or person responsible for competitions may lodge an appeal on any of the following grounds:
- a) a decision not to proceed with the charge;
 - b) a decision of the Disciplinary Tribunal to abandon a Hearing before reaching a verdict;
 - c) a "not guilty" verdict of the Disciplinary Tribunal;
 - d) a decision of the Disciplinary Tribunal not to impose a penalty where the offence has been proved at the Disciplinary Tribunal Hearing;

e) that the penalty imposed by the Disciplinary Tribunal is too lenient.

19.3 An appeal lodged under this Regulation must be supported by the reasons for the appeal and by reference to all relevant regulations, policies, by-laws and other constituent and governing documents.

20. Consideration of Appeals

20.1 When an appeal is received the Appeals Tribunal must require, as expeditiously as possible, further written evidence from the parties concerned that it considers is necessary.

20.2 The Appeals Tribunal may then convene a hearing as soon as practicably possible, noting that doing so within 5 business days of its receipt of the necessary evidence and otherwise where it considers such a hearing is warranted.

21. Powers of the Appeals Tribunal

21.1 The Appeals Tribunal may:

a) affirm, reverse, set aside, increase, reduce or otherwise vary the penalty subject to appeal; or

b) give such judgment or make such orders as, in all the circumstances, it deems fit.

22. Advice of Decisions

22.1 The Appeals Tribunal must notify the Charged Person and all other relevant parties, including the Affiliated Association and SWA, in writing of its decision as soon as possible after the Appeal is determined.

22.2 All documents relating to the appeal, together with a full detailed report of any hearing, signed by the Appeals Tribunal Chair, must be forwarded to the Affiliated Association and/or SWA within 14 days of the date of the Appeal Tribunal's decision, for information and safe keeping.

22.3 The decisions of the Appeals Tribunal are binding on all members of the Association save an appeal reviewed and amended by the Disciplinary Committee in keeping with the following.

23. Appeals to the Disciplinary Committee

23.1 Any appeal from a decision of the Appeals Tribunal must be in writing and lodged with the Board through SWA's CEO within 2 business days after notification of an Appeals Tribunal outcome.

23.2 "Disciplinary Committee" in this provision is a reference to that body established under rule 15 of the SWA Constitution.

23.3 Where the time limit cannot be met for any good reason, the appeal must be lodged as soon as possible with an explanation why it could not be lodged sooner. The Disciplinary Committee may dismiss an appeal under this provision by reason only that the appeal was lodged out of time with no good reason and, further, the Disciplinary Committee may regard as relevant how late the appeal papers were provided.

23.4 Appeal papers/documents must contain all relevant details and submissions set out in chronological order accompanied by copies of all relevant documents.

23.5 "Relevant details and submissions" for the purpose of this provision are guided by Regulation 19.1 above and must provide a view on how the decision the person is appealing was incorrect, by reference to matters either raised and reasons given, or not, in the written decision of the earlier tribunal.

23.6 All appeals lodged by or on behalf of the Charged Person must be accompanied by a lodgement fee of \$220 (including GST) payable to SWA.

- 23.7 The appeal lodgement fee is non-refundable and will for a part of “other income” to SWA.
- 23.8 The process for determining the appeal to the Disciplinary Committee shall be undertaken in accordance with Regulation 15 of the Constitution.
- 23.9 The outcome of the Disciplinary Committee is final.

24. Review of Decisions

- 24.1 Where a person has been suspended or disqualified for a period exceeding 2 years that person may after 2 years of the penalty having been served, apply in writing to the Board for a review of the penalty only. The application for review must contain all relevant material to support the application.
- 24.2 The Board may:
- a) order that the remainder of the penalty be served;
 - b) suspend all or part of the remainder of the penalty subject to the Charged Person being of good behaviour during the period that the penalty is suspended; or
 - c) strike out all or part of the remainder of the penalty.
- 24.3 A person who has a penalty suspended in accordance with Regulation 15 and who re-offends during the period the penalty is suspended will incur the applicable prescribed penalty and also be referred to the Board for consideration of re-instatement of the suspended penalty.

25. Legal Representation

- 25.1 Neither the Affiliated Association; SWA; the Disciplinary Tribunal; the Appeals Tribunal nor any person appearing before either Tribunal is entitled to legal representation by an Australian Legal Practitioner, or any other person, at the hearing without prior approval of the relevant Tribunal.
- 25.2 Where a Disciplinary Tribunal or Appeals Tribunal approves legal representation for itself; it must inform all relevant parties of such approval prior to the Hearing and provide all relevant parties sufficient time to arrange their own legal representation should they wish to have any.
- 25.3 There is no appeal against a decision of either Tribunal in this regard.

26. Costs

All parties bear their own costs, except as provided for in Regulation 11.1(d) or Regulation 17.4.

27. Records

- 27.1 All records resulting from a hearing at the Disciplinary Tribunal, the Appeals Tribunal or the Disciplinary Committee must be kept confidential and may not be provided to any other person other than as required by this Regulation.
- 27.2 The Affiliated Association and SWA will keep a complete record of all disciplinary matters presented to them.
- 27.3 These records may be made available to the Disciplinary Tribunal, Appeals Tribunal, Softball Australia and State or Australian Selectors as required.
- 27.4 The records may be used to determine whether a person is eligible for a “Clearance” so far as that expression is understood in the context in which it is put.
- 27.5 The records may be produced on such other occasions and subject to any conditions determined by the Affiliated Association or SWA.

- 27.6 Persons dealt with under these Regulations have the right of access to records relating to proceedings against them. The Affiliated Association or SWA may redact these records so as not to release:
- a) personal details of any person;
 - b) any information which is prohibited by privacy laws or other Government legislation; or
 - c) any other information or documentation it deems must remain confidential for any reason.

28. Method of Amendment

- 28.1 These Regulations may be amended as the need arises or repealed either by:
- a) the Board of SWA; or
 - b) by a resolution passed by a $\frac{3}{4}$ majority of votes cast on the resolution at a General Meeting of SWA provided:
 - i. any proposed amendment is not contrary to the Constitution; and
 - ii. notice of the proposed amendment or repeal, with reasons, is given in accordance with the rules within the Constitution.
- 28.2 Should the need arise for an urgent amendment, determination or interpretation to be made to or about these Regulations; the Board may deal with that amendment, determination or interpretation unfettered and at its discretion.
- 28.3 The Prescribed Penalties may be reviewed at any time by a panel of no less than 3 people deemed qualified and chosen by the Board of SWA no more frequently than every 6 months during the currency of these Regulations.
- 28.4 Submissions for a review of one or more Prescribed Penalty may be made through the SWA CEO and considered at the next convened panel mentioned at above Item 28.3.

29. Date of Effect

- 29.1 These Regulations or any amendment to these Regulations shall take effect at the conclusion of the meeting at which it is passed unless the General Meeting or SWA Board Meeting at which it is passed directs that it be effective from a specified later date.

Part A – Penalties for Individuals

		PRESCRIBED PENALTIES	NON-PRESCRIBED PENALTIES	
	Offence	Prescribed penalty without reference to Tribunal	MAXIMUM penalty by Tribunal for 1st Offence	MAXIMUM penalty by Tribunal for 2nd or Subsequent Offence
1	Physically attacking or spitting at an umpire	n/a	Life disqualification	Life disqualification
2	Threatening, or making a threat, verbally or otherwise, to physically harm any person	n/a	1 year suspension	2 years suspension
3	Physically attacking or spitting at an official (other than an umpire), player or spectator	n/a	Life disqualification	Life disqualification
4	Taking part in a game or being included in a team's line up while <u>suspended</u>	additional 4 games	Additional 1 year suspension	Additional 1 year suspension
5	Taking part in a game or being included in a team's line up while <u>disqualified</u>	n/a	See Part B – Club Penalties	See Part B – Club Penalties
6	Fighting, wrestling or otherwise involved in a physical altercation	2 games	1 year suspension	2 year suspension
7	Threatening an official (other than an umpire), player or spectator, verbally or otherwise	2 games	1 year suspension	2 year suspension
8	Refusing to leave game and grounds when ejected	2 games	8 games	1 year suspension
9	Knowingly circumventing or trying to circumvent a decision handed down by a Disciplinary or Appeals Tribunal	Additional 2 games	Additional 8 games	Additional 1 year suspension
10	Bringing the game or Association into disrepute by acting in a manner contrary to the spirit and codes under which the game is played	2 games	1 year suspension	Life disqualification
11	Use of foul, abusive or derogatory language towards or about an umpire, official, player or spectator	2 games	1 year suspension	Life disqualification
12	Deliberately crashing into a player with force	4 games	1 year suspension	Life disqualification
13	Equipment abuse and / or endangering others	1 game	8 games	1 year suspension
14	Failing to carry out a lawful direction of an umpire	1 game	8 games	1 year suspension

15	A player or team official: (a) Smoking / vaping in the playing or team area; or (b) consuming alcohol in the playing or team area; or (c) in the playing or team area in an intoxicated or drug induced state	1 game	8 games	1 year suspension
16	Ejection from the game as a result of any bad sportsmanship or misconduct not covered	1 game	1 year suspension	Life disqualification
17	Any person smoking /vaping in a softball venue designated as non-smoking (sign posted or not)	n/a	1 year suspension	Life disqualification
18	Any person bringing alcohol into a softball venue designated as one where he/she should not (sign posted or not)	n/a	1 year suspension	Life disqualification
19	Any person bringing a dog into a softball venue designated as one where he/she should not	n/a		
20	Any breach of a Zero Tolerance Policy	1 game	1 year suspension	Life disqualification
21	Any breach of a Member Protection Policy	1 game	1 year suspension	Life disqualification
22	Any breach of a Code of Conduct	1 game	1 year suspension	Life disqualification
23	Any breach of the Affiliated Association or SWA Constitution	n/a	1 year suspension	Life disqualification
24	Failure to abide by any decision or penalty imposed by the Disciplinary Tribunal, Appeals Tribunal or the Disciplinary Committee	Twice the original penalty	Four times the original penalty	Life Disqualification
25	Any offence not prescribed above	1 game	1 year suspension	Life disqualification

Notes:

- 1(a) Where an umpire on the game, or the WA Chief Umpire or his representative, or a member of the relevant Competition Committee, has reason to believe, based on the Balance of Probability principle, that a team member may be in an intoxicated or drug induced state, that person may be ejected from the game in accordance with offence 15(c).
- 1(b) If it cannot be determined in accordance with note (a) above that a person is in an intoxicated or drug induced state the team management will be required to remove the person from the playing and team area. (See also offence 6 in Part B of this Schedule).

Part B – Penalties for Clubs

		PRESCRIBED PENALTIES		NON-PRESCRIBED PENALTIES
	Offence	Prescribed penalty without reference to Tribunal for 1st Offence	Prescribed penalty without reference to Tribunal for 2nd or subsequent Offence	MAXIMUM penalty by Tribunal for 1st or Subsequent Offence
1	Melee	\$500 monetary sanction for each Club involved in the melee OR loss of 2 premiership points per team involved	\$2,000 monetary sanction for each Club involved in the Melee OR loss of 4 premiership points per team involved	\$5,000 monetary sanction for each Club involved in the Melee OR loss of 8 premiership points per team involved
2	A suspended or disqualified person knowingly included in a team's line-up	\$1,000 monetary sanction and forfeit of the game OR loss of 2 premiership points and forfeit of the game	\$2,000 monetary sanction and suspended for 12 months	Disqualification of the club
3	Failure to abide by any decision or penalty imposed by the Affiliated Association or SWA	\$1,000 monetary sanction OR loss of 2 premiership points for all club teams	\$2,000 monetary sanction and suspended for 12 months	\$5,000 monetary sanction and suspended for 24 months
4	Failure to abide by any decision or penalty imposed by the Disciplinary Tribunal, Appeals Tribunal or the Disciplinary Committee	\$2000 monetary sanction OR loss of 2 premiership points for all club teams	\$4000 monetary sanction and suspended for 12 months	\$10,000 monetary sanction and suspended for 24 months
5	Deliberate attempt to circumvent any decision or penalty imposed by the Affiliated Association or SWA, Disciplinary Tribunal or the Appeals Tribunal	\$1,000 monetary sanction OR loss of 2 premiership points for all club teams	\$2,000 monetary sanction and suspended for 12 months	\$5,000 monetary sanction and suspended for 24 months
6	Bringing the game or the Affiliated Association or SWA into disrepute by action in a manner contrary to the spirit and codes under which the game is played	\$1,000 monetary sanction OR loss of 2 premiership points for all club teams	\$2,000 monetary sanction and suspended for 12 months	\$5,000 monetary sanction and suspended for 24 months

7	Failure of a team to abide by a direction given under Note 1(b) to Part A of this Schedule	\$500 monetary sanction for each Club OR loss of 2 premiership points for all club teams	\$2,000 monetary sanction for each Club	\$5,000 monetary sanction for each Club
8	Any breach of a Code of Conduct	\$500 monetary sanction for each Club for 12 months OR loss of 2 premiership points for all club teams	\$2,000 monetary sanction for each Club	\$5,000 monetary sanction for each Club
9	Any breach of a Zero Tolerance Policy	\$500 monetary sanction for each Club OR loss of 2 premiership points for all club teams	\$2,000 monetary sanction for each Club OR loss of 4 premiership points for all club teams	\$5,000 monetary sanction for each Club OR loss of 8 premiership points for all club teams
10	Any breach of a Member Protection Policy	\$500 monetary sanction for each Club OR loss of 2 premiership points for all club teams	\$2,000 monetary sanction for each Club OR loss of 4 premiership points for all club teams	\$5,000 monetary sanction for each Club OR loss of 8 premiership points for all club teams
11	Any Club member or team spectator bringing alcohol into a softball venue designated as one where he/she should not (sign posted or not)	Person's will be asked to and must remove all alcohol from the complex. and The Club will be reported to Liquor and Gaming and any penalties will be passed onto the Club	Persons will be asked to and must remove all alcohol from the complex. The Club will be reported to Liquor and Gaming and any penalties will be passed onto the Club Disqualified of membership with or Affiliation to the association or SWA for 12 months.	Persons will be asked to and must remove all alcohol from the complex. The Club will be reported to Liquor and Gaming and any penalties will be passed onto the Club Disqualified of membership with or Affiliation to the association or SWA for 36 months.
12	Any Club member or team spectator smoking in a softball venue designated as one where he/she should not (sign posted or not)	Persons will be asked to and must stop smoking in the complex. The Club will be issued with an official warning.	Persons will be asked to and must stop smoking in the complex; \$500 monetary sanction for the Club; all the Club's teams will be penalised four (4) competition points.	\$2,000 monetary sanction for the Club. all the Club's teams will be penalised eight (8) competition points

13	Any Club member or team spectator bringing a dog into a softball venue designated as one where he/she should not (sign posted or not)	Persons will be asked to and must remove any dog from the complex. The Club will be issued with an official warning.	Persons will be asked to and must remove any dog from the complex; \$500 monetary sanction for the Club	Persons will be asked to and must remove any dog from the complex; \$1,000 monetary sanction for the Club
14	Any breach of the Affiliated Association or SWA Constitution	n/a	n/a	Disqualification of membership or Affiliation
15	Any offence not prescribed above	\$500 monetary sanction	\$1,000 monetary sanction	Disqualification of membership or Affiliation

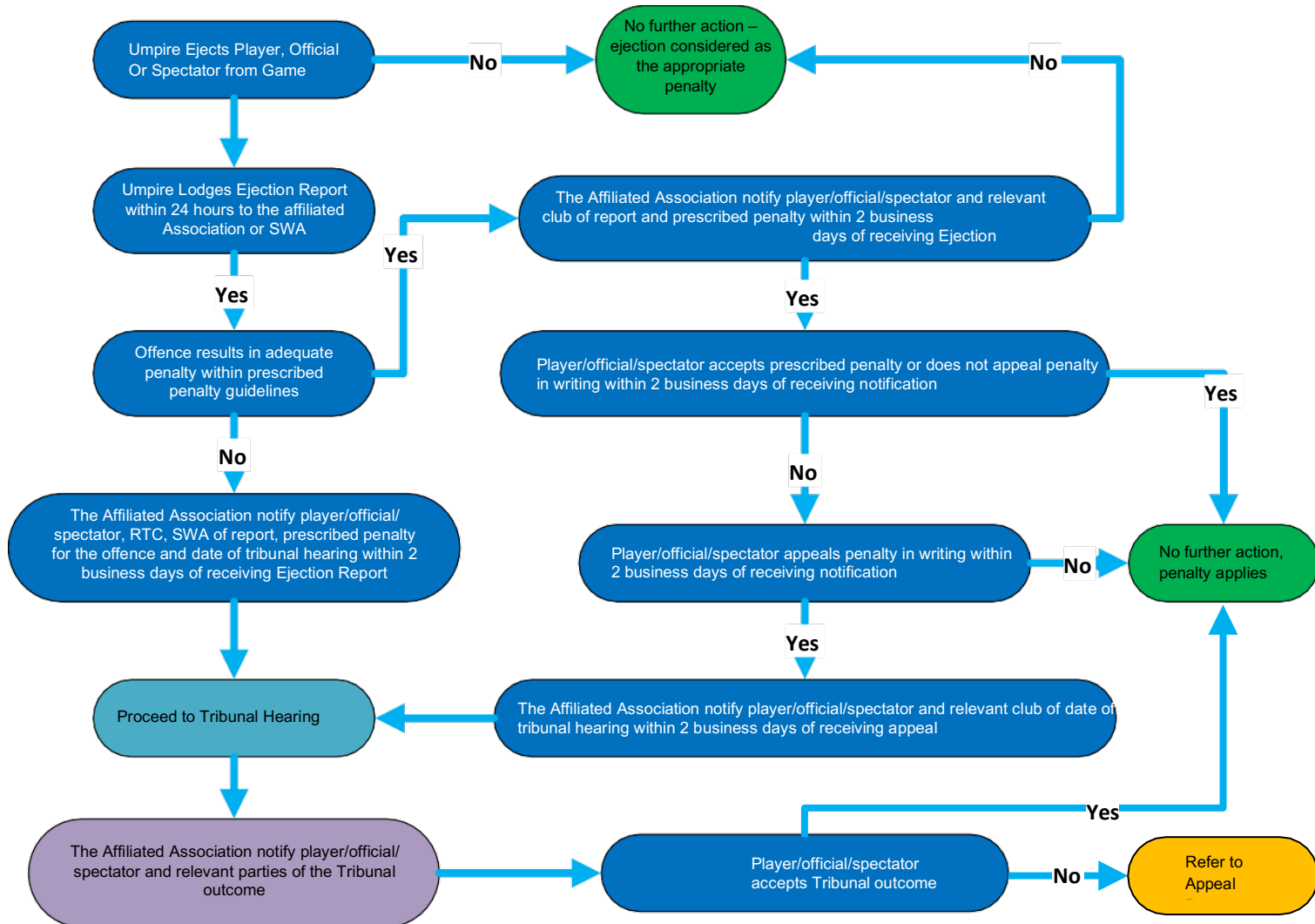
SCHEDULE 2 – DISCIPLINARY TRIBUNAL GUIDELINES

1. **In this Schedule “reporting person” includes a person making the complaint or lodging the ejection report and any advisor to that person.**
2. A hearing may be conducted by electronic means (including video conferencing and telephone) if the Disciplinary Tribunal members agree. The Tribunal may not agree if they consider convenience is outweighed by the justice accorded by an in person hearing.
3. The Disciplinary Tribunal, for its own assistance, may invite advisors to attend a Hearing.
4. The Disciplinary Tribunal Chair should, as best practice:
 - (a) identify the members of the Disciplinary Tribunal;
 - (b) confirm whether a Charged Person is present;
 - (c) advise those present of their rights and obligations under these Regulations;
 - (d) state the charge or charges to be dealt with by the Disciplinary Tribunal; and
 - (e) where relevant, ask a Charged Person whether the charge or alleged charges are admitted or will be contested.
5. If the Charged Person does not contest a charge a member of the Disciplinary Tribunal may read a short summary of the facts and admit any reports and written evidence. No witnesses need to be called unless the Disciplinary Tribunal requires them.
6. If the charge is to be contested, all witnesses and their advisers (if any) must leave the hearing room and wait to be called to give evidence. The Disciplinary Tribunal may also ask other persons to leave the room.
7. The reporting person should then give evidence followed by any witnesses to be called by the reporting person. The Charged Person (or adviser) may question the reporting person and any other witnesses but all questions must be directed through the Chair.
8. The Disciplinary Tribunal may request that witnesses remain in the waiting area after giving evidence.
9. Unless otherwise directed by the Disciplinary Tribunal, witnesses may leave the Disciplinary Tribunal Hearing after giving evidence or, with permission of the Disciplinary Tribunal, wait in the hearing room.
10. The Disciplinary Tribunal, at its sole discretion, may accept written testimony from any witness unable to attend the Hearing.
11. Where a witness is unable to attend a Hearing, the Disciplinary Tribunal, at its sole discretion, may interview that witness by telephone or similar means provided facilities are available to enable all persons at the Hearing to hear the testimony.
12. The Disciplinary Tribunal, at its sole discretion, may relieve some witnesses of the need to appear before it and give evidence.
13. Once all witnesses have given evidence, the charged person (of adviser) may then present the case for

their defence. The reporting person may question any witnesses but all questions must be directed through the Chair.

14. The Disciplinary Tribunal may question any person giving evidence.
15. When all the evidence has been given, the Disciplinary Tribunal should ask all other persons present to leave the hearing room while it considers the evidence and its decision, but may ask its own advisers to remain.
16. The Disciplinary Tribunal should announce its decision in the presence of all those invited back into the room if possible.
17. If the charge is found proven, the Disciplinary Tribunal should announce a penalty, if any, to be imposed on the charged person. The charged person may be given an opportunity to make a final statement to the Disciplinary Tribunal before the penalty is announced.
18. The Disciplinary Tribunal may reserve its decision pending the receipt of further information it may require or as it otherwise requires, with a purview to make a decision within 1 business day of the hearing.
19. The decision of the Disciplinary Tribunal should be confirmed in writing in accordance with these Regulations.
20. In arriving at its decision, the Disciplinary Tribunal should:
 - (a) remember that they are the only judges of the facts in this case; no-one else;
 - (b) decide the case upon the evidence – the oral evidence from any witnesses and any video or documentary evidence;
 - (c) not decide the case according to prejudice, bias, sympathy, gossip or anything else;
 - (d) should totally disregard any comment about the case by any coach, Club member, official or any other person not directly involved in the hearing;
 - (e) act independently and impartially;
 - (f) consider all evidence in the case and give each part the importance and weight which it thinks it should be given;
 - (g) accept what it believes is true and should be accepted, reject what it disbelieves and in accordance with the weight the Disciplinary Tribunal gives to such evidence, determine what in its judgment are the true facts;
 - (h) in assessing the evidence and determining the facts, use common sense and each member's experience in both life and softball;
 - (i) judge the evidence fairly and impartially in light of common sense and experience in both life and softball;
 - (j) must be satisfied on the Balance of Probabilities that any alleged offence has been established against the Charged Person; that is, the Disciplinary Tribunal is clearly satisfied that it is more probable than not that the Charged Person committed the alleged offence;
 - (k) although the Tribunal's verdict does not have to be unanimous, the Tribunal should endeavour to be unanimous; that is, all members agree with the final decision even if the decision has been reached via a majority vote only.

Umpire Report



EJECTION REPORT

EJECTED PERSON'S DETAILS				
Name and Playing Number				
Capacity				
Club:				
COMPETITION DETAILS				
Competition Name				
Name of Association				
Competing Teams		v		Division
Date and Time Game	/	/20	:	am/pm
Location and Diamond No				
UMPIRES				
Plate Umpire				
First Base				
Second Base				
Third Base				
Other				
EJECTION DETAILS				
Ejecting Person				
Capacity				
Innings and Time	Top/Bottom	:	am/pm	
Tribunal Recommendation: Yes/No.	Prescribed: Yes / No	Other		
PRIMARY BASIS FOR EJECTION				
Description of matters leading up to and including the incident				
DECLARATION				
I declare the contents of this report to be true and correct				
Name				
Signature				
Date				