



ESSENDON DISTRICT FOOTBALL LEAGUE

Independent Tribunal

Guidelines & Procedures

Guidelines

1. A player who has not accepted a set penalty, or Club official who has been reported by an approved umpire, umpire advisor or League official of a match controlled or authorised by the Essendon District Football League, concerning the conduct of the player or a Club official before, during or after the match, must appear before the Independent Tribunal on the Tuesday night (unless otherwise directed) following the match, at the Essendon District Football League offices, Level 1, 78A Napier Street, Essendon.
2. Any such reported player or Club official, reporting umpire/s and the alleged offender involved in the reportable incident who cannot attend a hearing of the tribunal on the Tuesday night must inform the EDFL Football Operations Officer by 12 Noon on the Monday after the match in which the relevant report was made.
3. All reported players, Club officials and witnesses MUST be represented by a person who must be an advocate nominated by the Club or a Club official. An advocate or Club official shall NOT be a qualified solicitor or barrister or another legal practitioner. It is important to note that an advocate cannot give evidence regarding the reported incident, any lead up or subsequent events or the game in general, if they believe they witnessed something relevant they should be a witness, they cannot be both.
4. In the event of an advocate or Club official failing to attend a hearing to represent for a reported player or Club official, that player or Club official may elect to continue with the hearing or request that the hearing is rescheduled to allow for an advocate/Club official to be present. In the event that the reported player or Club official seek an adjournment of the hearing due to the unavailability of an advocate or Club official, the Tribunal will adjourn the hearing and make an interim ruling that the reported player or Club official that the player or Club official shall not play or participate in any game day role until the matter is heard. In this circumstance, the EDFL will maintain a record of this ongoing interim ruling on their system until such time as the matter is finally dealt with by the Tribunal.
5. Witnesses: Any club intending to call witnesses in support of their player or Club officials are to lodge with the EDFL Football Operations Officer of the names of all witnesses, their role in relation to the Club they are supporting, and the general nature of their evidence on Club letterhead by 12 Noon on the Monday before the hearing. The Tribunal is entitled to restrict the number of witnesses called by a party to a Tribunal hearing where the Tribunal is satisfied that the evidence of a potential witness will not add to the evidence already before it or is not relevant to the issues before it.
6. The Chairman of the Tribunal may release witnesses as they see fit prior to hearing their evidence if they are satisfied that additional witnesses will not “value add” any further to current proceedings.

7. The usage of, and production of video evidence at Tribunal Hearings is permitted. If video of the alleged incident has been captured on the official EDFL Recording, then this will be made available for the hearing. If a Club has other video then they must forward such video evidence to the EDFL CEO such video evidence by no later than 5:00pm on the Monday immediately following the game in question to assist in the efficient administration of the Tribunal.
8. Where video evidence is sought to be screened as evidence the following pre conditions apply: .
 - Any person wishing to screen the video provides all equipment necessary to have the video viewed at the Tribunal hearing on a screen/display visible to all relevant persons at the Tribunal hearing.
 - Notification must be given to the reported player's Club by 5:00pm on Monday before the hearing that video evidence will be led;
 - a reasonable opportunity is provided to the reported player's Club so that the reported player and his advocate can view the video prior to the Tribunal Hearing.
 - the whole of the video relating to the whole of the reported incident will be made available to the Tribunal and to the Club of the reported player.e.g., screen shots or vision of only part of the reported incident will not comply.
9. The CEO, or their appointee, will, prima facie, determine whether any available video of the incident complies with the requirements of paragraph 8 above. Notwithstanding the above, a party to a hearing may request to view such video and the EDFL CEO shall not unreasonably refuse such request.

Procedure for all Hearings

The parties:

- EDFL Representative – may include Investigations officer and/or an EDFL Staff member.
- Reported Player or Club Official – the person who had been reported.
- Alleged Offended player - the player who was subject of the reported action.
- Reported umpire/s- the umpire who lodged the report.
- Club Advocate- the club appointed representative from either team.
- Witness- anyone other than the above who witnessed the reported incident. This may also include another umpire who may have witnessed part of the incident but did not lodge the report.

1. The Tribunal Secretary or EDFL Representative will call the following.
 - The reported player's or official's name first and their advocate
 - Any alleged offended player and their advocate
 - The umpire or umpires making the report and the umpire advocate (in the event of a report laid by multiple umpires, umpires shall give their evidence individually to the tribunal and not as a collective)
 - EDFL Representative
2. The Tribunal Chairman shall commence proceedings by asking all parties to identify themselves. The Chairman will then detail the specifics of the match and confirm with all parties that they are correct. The Chairman will then announce the charge against the player as identified on the report.
3. If video evidence has been approved in accordance with the guidelines, it will be viewed by the Tribunal prior to any other evidence being given. All parties (except for witnesses) shall remain while the video evidence is being viewed.
4. At this time the alleged offended player is requested to leave whilst evidence is taken from the umpire and the reported player. Where an EDFL Investigation has taken place then the Investigating officer or EDFL representative will provide evidence.
5. The umpire, reported player, their advocate and the alleged offended players advocate and EDFL representative, are always present.
6. The umpire is asked to deliver his/her version of the incident and is questioned by the Tribunal.
7. The advocates are then invited to question the umpire and/or EDFL Representative, if they desire.
8. The reported player then gives their evidence in front of the umpire and/or EDFL Representative may be questioned by the Tribunal, following which by both advocates if they desire. The umpire and/or EDFL Representative may ask questions, at the discretion of the Tribunal Chairman.
9. After the Tribunal Chairman has satisfied themselves that all evidence from the reported player or Club official and the umpire and/or EDFL Representative has been collected, the alleged offended player if applicable, shall be recalled to the Tribunal Room.

10. The alleged offended player will be asked to give their version of the incident and will be questioned by the Tribunal. Both advocates will be entitled to question the witness.
11. At this time any witnesses that any party may have should be called, if accepted by the Tribunal Chair. After giving evidence and being questioned by the Tribunal and advocates should they desire, the witnesses will be asked to retire and not speak to other witnesses.
12. The Tribunal Chairman will then invite the advocate of the reported player or Club official and if applicable the EDFL Representative to sum up the evidence.
13. The Tribunal will ask the parties to retire and when a decision has been reached the reported player or official and advocate, and the EDFL Representative, will be invited back to the Tribunal and the decision advised.

At this stage the Umpire and their advocate and in applicable the EDFL Investigator and alleged offended player and their advocate are excused from participating any further in the hearing.

14. If the reported player or Club official has been found guilty, the Tribunal Chairman
 - A. will then ask the Tribunal Secretary or EDFL Representative if they have an envelope with prior tribunal findings involving the reported player or Club official; and
 - B. will invite the advocate to provide any details of any mitigation on behalf of the reported player or Club official prior to any penalty being considered by the Tribunal.
15. Following this, the Tribunal will request that the reported player or Club official and their advocate and the EDFL Representative to retire so that consideration of penalty may be made by the Tribunal.
16. After the Tribunal has completed its deliberations on penalty, the Tribunal shall then invite the reported player or Club official and advocate and the EDFL Representative back to the Tribunal in order to deliver the Tribunal's decision.
17. If a reported player has been offered a set penalty and refused to take it and is subsequently found guilty, the Tribunal shall consider, whether in the proper exercise of its discretion, it should impose an additional penalty over and above the amount of the set penalty both as an acknowledgement of a lesser penalty applying to the player had that player accepted the set penalty and as a deterrent to players wasting the time of the Tribunal and all those parties involved in the administration ,e.g., umpires, EDFL staff, Investigator etc..
18. The tribunal will not give out suspended sentences.

The result of the case will also be recorded through a copy of the Independent Tribunal Report form. There will then be three copies: 1. Yellow one which remains with EDFL Operations, 2. Blue goes to the club of the player or official and 3. white goes to the player.

Reported players and club officials and alleged offended player who fail, without a reasonable explanation to attend, may be subject to other disciplinary action by the League.

Reported players and club officials as well as alleged offended players and witness, who in the opinion of the Tribunal, have delivered unsatisfactory evidence to the hearing can, and will, be dealt with at the discretion of the Tribunal or the EDFL by fine and/or suspension.

APPENDIX A

TRIBUNAL AND APPEAL BOARD PROCEDURE

1. Purpose

This document prescribes the procedures for a matter coming before the Tribunal and Appeal Board under the By-Laws.

2. Conduct of Matter

The matter before the Tribunal or Appeal Board shall be –

- (a) inquisitorial in nature; and
- (b) conducted with as little formality and technicality and with as much expedition as a proper consideration of the matter permits.

3. Procedural Obligations

At any hearing before the Tribunal or Appeal Board, the Tribunal or Appeal Board shall:-

- (a) provide any person whose interests may be directly or adversely affected by its decision an opportunity to be heard;
- (b) hear and determine the matter before it in an unbiased manner; and
- (c) make a decision that a reasonable body could honestly arrive at.

4. Rules of Evidence

The Tribunal and Appeal Board is not bound by the rules of evidence or by practices and procedures applicable to courts of record, but may inform itself as to any matter in any such manner as it thinks fit.

5. Onus of Proof

Subject to the By-Laws, no person appearing before the Tribunal or Appeal Board shall bear an onus of establishing that a person has or has not engaged in the alleged conduct.

6. Standard of Proof

The Tribunal and Appeal Board shall decide on the balance of probabilities whether a person has or has not engaged in the alleged conduct.

7. Decisions

- (a) At the conclusion of its hearing, the Tribunal or Appeal Board may make such determinations, impose such penalties, make such orders and give such directions in each case as it in its absolute discretion thinks fit.

- (b) The question before the Tribunal or Appeal Board must be decided according to the opinion of a majority of members constituting the Tribunal or Appeal Board.

8. Penalty

The Tribunal or Appeal Board may have regard to any matters which it considers relevant to the question of penalty and without limitation may consider:-

- (a) the seriousness of the reportable offence or matter sustained against the person;
- (b) the injury sustained and effect upon the person against whom the reportable offence has been committed; and
- (c) the prior record of reportable offences or conduct committed by the person.

9. Hearing on Penalty

Where a matter is sustained against the person and before imposing a penalty, the Tribunal or Appeal Board shall provide a person a reasonable opportunity to be heard on the question of penalty.

10. No Reasons

The Tribunal or Appeal Board is not obliged to give reasons for a decision made by it.

11. Questions of Law and Fact

In the hearing and determination of a matter, the Tribunal or Appeal Board shall decide all questions of law and fact without limitation shall determine;

- (a) the meaning of any words relevant to a reportable offence under the Laws of Australian Football; and
- (b) the meaning of any words contained in the Rules and By-Laws.

12. Determination of Appeal Board – Final and Binding

Any determination made by the Appeal Board shall be final and binding and a person shall not be entitled to appeal any determination of the Appeal Board.

13. Representation

- (a) At any hearing before the Tribunal or Appeal Board, a Player, Witness or Umpire may:-
 - (i) represent themselves; or
 - (ii) be represented by a registered official of the person's Affiliated Club/EDFL Umpires Association provided that person is not a legal practitioner.
- (b) For the purposes of this clause, a legal practitioner means a person duly qualified to be admitted to practice as a barrister and solicitor of the Supreme Court of Victoria or a person with equivalent qualifications in any other State or Territory of Australia.

14. Validity of Hearing

- (a) Where there is any procedural irregularity in the manner in which a matter has been brought before the Tribunal or Appeal Board, the Tribunal or Appeal Board may still hear and determine the matter unless it is of the opinion that the irregularity has caused or may cause injustice if the matter was heard.
- (b) Subject to Regulations 3 and 9 of this Annexure, any procedure or requirement regulating the function of the Tribunal or Appeal Board is directory in nature and a decision of the Tribunal or Appeal Board is not invalid by reason of that procedure or requirement not being fulfilled.