

River City Squash

JUDICIARY TRIBUNAL Procedures and Guidelines

1. The Task of the Judiciary Tribunal

- 1.2 The Judiciary tribunal has been established under River City Squash Inc to hear reported cases of:
 - 1.2.1 *Misconduct before, during the progress of, or after any game or match under the control of River City Squash Inc. or in any event sanctioned by River City Squash Inc.(this include ALL Conduct Match incidents);*
 - 1.2.2 *Conduct in the opinion of River City Squash Inc. likely to bring the game into disrepute*
 - 1.2.3 *Knowingly give false evidence at a hearing of the Judiciary Tribunal or the Appeals Board;*
 - 1.2.4 *Failing, without reasonable excuse, to appear at a hearing of the Judiciary Tribunal or the Appeals Board, provide at least seven (7) days notice of the hearing has been given*
- 1.3 The Tribunal has to decide after hearing the case whether the “Accused Person” has committed the offence with which they have been charged.
- 1.4 If the decision is that the accused person is guilty, the Tribunal has to decide which penalty to impose;
 - 1.4.1 *a caution;*
 - 1.4.2 *a reprimand;*
 - 1.4.3 *a probationary period;*
 - 1.4.4 *suspension from participation in the game of squash;*
 - 1.4.5 *disqualification from participation in the game of squash; and/or*
 - 1.4.6 *a fine not exceeding \$500*

2. The First Principle - Fairness

- 2.1 The Tribunal must act fairly. It must give the complainant and the “Accused Person” reasonable opportunity to put their cases, to ask relevant questions of the other party, and to call other persons to give evidence on their behalf. Neither party should be shown any favour.
- 2.2 It is not fair to use the prior knowledge of the Tribunal members as to the character or previous behaviour of the complainant or the “Accused Person”, particularly the latter, in arriving at a decision of guilt or no guilt unless evidence is given to that effect before the tribunal in the presence of both parties. The “Accused Person” is entitled to know all the evidence, which is going to count against them (unless they have elected not to appear at the hearing and consequently the hearing is proceeding in their absence).
- 2.3 The principles of **natural justice** must apply which incorporates;
 - 2.3.1 a person who is the subject of a complaint must be fully informed of the allegations against them
 - 2.3.2 a person who is the subject of a complaint must be given full opportunity to respond to the allegations and raise any matters in their own defence
 - 2.3.3 all parties need to be heard and all relevant submissions considered irrelevant matters should not be taken into account
 - 2.3.4 no person may judge their own case
 - 2.3.5 the decision maker/s must be unbiased, fair and just
 - 2.3.6 the penalties imposed must not outweigh the ‘crime’

3. The Second Principle - Truth

- 3.1 Justice cannot be done unless persons giving evidence tell the truth. It is the responsibility of each person giving evidence to tell the truth, whether the complainant, the “Accused Person”, or someone else. An “Accused Person” may elect not to give evidence, but if they do give evidence, then the whole truth must be told. A witness should not give false evidence under any circumstances, however noble the witness’s motives may appear to be, for example, helping a friend or teammates.
- 3.2 To assist the tribunal in arriving at the truth, it is necessary for a person who is to give evidence (other than the “Accused Person”) to be excluded from the room where the hearing is being conducted until it is that person’s turn to give evidence, and then for that person on completion of their evidence to take a seat at the rear of the hearing room so that they cannot tell those who are yet to give evidence what they have said in evidence.

- 3.3 It is the duty of the Tribunal to explain at the beginning of the hearing, and again when a person is starting to give evidence for the first time at the hearing, the obligation of all persons giving evidence to tell the truth and the possible consequences if a person knowingly gives false evidence.
- 3.4 It is the Tribunal's responsibility to try to arrive at the truth. If the Tribunal considers it necessary to call further evidence from others, it should not hesitate to adjourn the hearing until a later date and call other witnesses. It is appreciated that this is sometimes an inconvenience to the complainant and the accused person as well as some of the witnesses who may be required to return for the adjourned hearing.
- 3.5 If the Tribunal is satisfied that a person has given false evidence at a hearing, it should not hesitate to report the person and ask the Board of River City Squash Inc. to make a complaint, which would be heard by the Tribunal at a later date.

4. The Third Principle - Justice Must Be Seen To Be Done

- 4.1 The Tribunal should reach its decision as to the guilt or not only on matters brought out at the hearing. This has been touched on in "Fairness" above. Members of the Tribunal may make whatever enquiries they like before a hearing (this is often done to see whether there is a need for a formal hearing or whether the matter can be resolved by mediation); but unless the results of these enquiries are brought out at the hearing and the "Accused Person" (or the complainant) is given the opportunity to question or rebut the evidence, then justice will not be done or seen to be done.
- 4.2 Any knowledge acquired by the Tribunal outside the hearing but relevant to it must be ignored when reaching a decision as to the guilt or not unless evidence to that effect is given during the hearing.

5. Before The Hearing

- 5.1 When the complaint is received by at River City Squash offices please refer to River City Squash JUDICIARY PROCEDURES (Administration).
- 5.2 The Chairperson, in consultation with the River City Squash office, must allocate a person to be responsible for taking any handwritten notes and the function of the tape recorder.
- 5.3 The Board of Squash Brisbane has determined that all Judiciary Hearing will be tape recorded and a recorder has been provided for this use.

6. The Hearing

- 6.1 The Chairperson should:
 - 6.1.1 introduce the members of the Judiciary Tribunal;
 - 6.1.2 welcome the others present
 - 6.1.3 explain the procedures to be followed
 - 6.1.4 stress the necessity for telling the truth; and the possible consequences if the truth is not told;
 - 6.1.5 make a list of names of those present and intending to give evidence, and for which party they are giving evidence, noting in each case whether the person is giving direct evidence or not (in other words, whether the person actually saw and/or heard the incident).
 - 6.1.6 Arrange the seating so that the complainant and the "Accused Person" are facing the Tribunal members, so that there is a chair to one side of the Tribunal for the person currently giving evidence, so that there is a row of chairs being the complainant for the observers (these will not allowed to be given evidence) and for the witnesses after they have given their evidence (a suggested seating plan is shown in Appendix C)
- 6.2 A suggested introductory speech is given in Appendix A

7. The Hearing - Evidence

- 7.1 The Chairperson should read the complaint as notified to the complainant and the "Accused Person"
- 7.2 The Chairperson should ask the "Accused Person" whether they admit to the complaint. If "No", or if "Yes" but the "Accused Person" qualifies the admission in any way or attempts to explain how the incident arose, this should be recorded as a "No". If an unqualified "Yes", the Tribunal should try and find out the facts and then decide on the appropriate penalty.
- 7.3 If a "No" is recorded, the Tribunal's task is to listen to the evidence.
- 7.4 Except for:

- 7.4.1 the "Accused Person";
 - 7.4.2 any person who is observing and will NOT be giving evidence; and
 - 7.4.3 the person who is the first witness; everyone should be asked to wait out of hearing, either in a separate room, outside or at least outside the hearing room (out of hearing).
- 7.5 Before any person gives evidence a warning should be given as to the requirement that only the truth be told and the possible consequences if false evidence is given.
 - 7.6 While a person is giving evidence, interruptions from the other side should not be allowed. Members of the Tribunal are allowed to ask questions, even interrupt if necessary to clarify a point or seek further information. But generally questions should only be asked on completion of the person's initial evidence; this is the only time the other party should ask questions.
 - 7.7 Video evidence, if available, may be presented. The arrangements must be made entirely by the person/s wishing to offer this type of evidence.
 - 7.8 If the Tribunal considers that at any time during the Tribunal Hearing that there is any unreasonable or intimidatory behaviour from anyone allowed to be present, the Tribunal Chairperson shall have the power to stop any further involvement of the person in the Tribunal Hearing.
 - 7.9 Members of the Tribunal must be careful not to prejudge the matter (and also not to appear to prejudge the matter). The members of the Tribunal should be careful not to make any comment which might indicate that they have made up their mind on the matter until after all the evidence has been heard.
 - 7.10 Similarly tribunal members should not make any judgemental comment on any matter brought up in evidence, whether directly or indirectly, until after all the evidence has been heard; this includes any comment which might criticise or support one side or the other, or any comment on the marking or refereeing. The Tribunal should endeavour not to ask leading questions.
 - 7.11 The complainant should be asked to give evidence first, followed by anyone who is giving evidence on behalf of the complainant.
 - 7.12 The "Accused Person" should be told that they may decline to give evidence if they wish; but if they give evidence, then the same rule as to truth applies and both members of the Tribunal and the complainant may ask questions.
 - 7.13 Anyone who wishes to give evidence of the accused person may then do so.
 - 7.14 The complainant may sum up, followed by the "Accused Person"; if anything new is brought up at this stage, members of the Tribunal may ask questions of either party.
 - 7.15 At any time, the Tribunal may adjourn the hearing to a later time and date, and the same or other place.

8. The Hearing - Decision

- 8.1 The Chairperson should ask all persons to wait outside while the Tribunal considers the matter. The Tribunal may reach a decision immediately or it may wish to consider the matter further and give a decision at a later date.
- 8.2 After all of the evidence has been presented the Tribunal Panel will make its decision in private. If the Tribunal believes the complaint has been substantiated on the balance of probabilities (i.e. more probable than not) the "Accused Person" will then be given an opportunity to address the Tribunal and make a submission on any disciplinary measures that may be imposed.
- 8.3 Only those disciplinary measures such as;
 - a) misconduct before, during the progress of, or after any game or match under the control of River City Squash
 - b) Or in any event sanctioned by River City Squash and of conduct in the opinion of the River City Squash likely to bring the game or River City Squash into disrepute.
 - c) River City Squash may impose a penalty mentioned below on any person who knowingly gives false evidence at a hearing of the Judiciary Tribunal or Appeals Board
 - d) or on any person, other than the person against whom a complaint has been made, who fails without reasonable excuse, the onus of which is on that person, to appear at a hearing of the Judiciary Tribunal or Appeals Board provided that the person has been given an least seven days notice of the hearing

8.4 PENALTIES - River City Squash may impose a penalty by way of caution, reprimand, probationary period, suspension or disqualification from participation in the game of squash rackets or fine [not exceeding \$500.00] on

- a) a Club or a person affiliated with a Club or a person nominated for or entered in a competition, event or tournament by a Club; or
- b) on an Office Bearer or Delegate or alternate Delegate of a club.

found guilty of a breach referred to at 8.3 above. Any disciplinary measure imposed must be reasonable in the circumstances

8.5 A decision should either:

- 8.5.1 the "Accused Person" against **HAS NOT** committed an offence provided for as listed in paragraph 8.3 of these guidelines; or
- 8.5.2 the "Accused Person" against **HAS** committed an offence provided for as listed in paragraph 8.3 of these guidelines and what the penalty will be with reference to paragraph 8.4 of these guidelines.

8.6 The Chairperson should recall all the persons involved in the hearing, and announce the Tribunal's decision or announce an adjournment to a later, time, date and place when the decision will be announced.

8.7 Generally, a player's history should not be a factor in determining whether they have committed a particular offence; that should be decided on the evidence presented in the particular case. On occasions, however, evidence may be given as to behaviour at other times to establish that the player is in the habit of behaving in a particular way; but this alone is not sufficient to establish guilt in the case being heard. A player's record in Tribunal cases **should only** be a factor in determining the penalty, once the guilt has been established (their record before other similar tribunals can be taken into account for this purpose).

8.8 When determining the penalty for persons found guilty, the Tribunal must make its decision on the merits of the particular case, modified perhaps by the player's record as mentioned in the previous paragraph. To establish some consistency in penalties, the Chairman should discuss with other members penalties for the various types of offences and establish broad guidelines for the tribunal. The Chairman, or convenor of a particular Judiciary Hearing should make contact with the Squash Brisbane office (phone: 3849 5751) to obtain advice on recent hearings, (including other associations or State Bodies), penalties and any other information relevant to their duties as convenor of a Judiciary hearing.

8.9 At the time of giving its decision, the Tribunal may, if it so wishes, comment on the case, the evidence, the behaviour of the parties involved and the reason for the decision and penalty, if any.

8.10 The Chairperson, if a penalty has been imposed, must advise the "Accused Person" that the River City Squash Inc., provide for appeals against the Tribunal's decision. Any Appeal should be heard by a Panel instigated by the River City squash Management Committee. It should be pointed out that if the appeal is properly lodged, action on the Tribunal's decision shall be stayed until the appeal is heard.

9. The Hearing - Conclusion

9.1 The Chairperson should thank those present for attending and close the meeting.

10. After The Hearing

10.1 Within 48 hours, the Tribunal Chairperson will forward to the Administrator of River City Squash a copy of the tribunal decision including any disciplinary measures imposed.

10.2 The Tribunal Chairperson will also liaise with the Administrator of River City Squash to ensure that a letter to the respondent(s) reconfirming the Tribunal's decision and any disciplinary measures imposed. The letter should also outline, if allowed, the process and grounds for an appeal to be made