

**NATIONAL
POLICY**



**DISCIPLINARY
POLICY**

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DISCIPLINARY POLICY

PART I – APPLICATION

1. Purpose

- 1.1 Tennis Australia (**TA**) is a not-for-profit organisation providing tennis and recreation services to individuals of all ages.
- 1.2 TA operates in all Australian states and territories, and provides services including social tennis, tennis coaching, competitions and tournaments, player development, local and international events, education and training.
- 1.3 The purpose of this Disciplinary Policy (**Policy**) is to set and maintain standards of conduct and behaviour within the sport of tennis and in doing so, ensure all persons are treated fairly and consistently, including those who participate in tennis activities and events delivered by TA, Member Associations, Affiliated Organisations, Member Affiliated Organisations, Regional Associations and Affiliated Clubs (**Australian Tennis Organisations**, or hereafter **ATOs**).
- 1.4 All persons bound by this Policy have the responsibility to:
 - (a) adopt the practices and behaviours set by TA as the expected standard when carrying out their roles (including those set out in this Policy); and
 - (b) report any breaches of this Policy which they become aware of to a Complaint Recipient (see Part III of this Policy).
- 1.5 If anything in this Policy is inconsistent with any relevant Federal, State or Territory law, the relevant Federal, State or Territory law prevails to the extent of the inconsistency.

2. Application

- 2.1 This Policy applies to the individuals and organisations that are bound by the Tennis Member Protection Policy (**Personnel**).
- 2.2 This Policy applies to conduct and behaviour which is not otherwise captured by TA's Member Protection Policy, Code of Behaviour, Anti-Doping Policy, Tennis Anti-Corruption Program or TA or Member Association HR Policies (**Other Tennis Policies**) as amended from time to time.
- 2.3 Typically offences captured by this Policy will relate to behaviour and conduct of Personnel which occurs off-court. In other words, behaviour and conduct of Personnel which does not occur whilst the Personnel is playing tennis but is still connected or related to the tennis activities of ATOs.
- 2.4 Where there is any inconsistency between this Policy and the Other Tennis Policies, those Other Tennis Policies shall prevail to the extent of the inconsistency.

3. Definitions

3.1 The terms below have the following meanings in this Policy:

Affiliated Clubs means those tennis clubs, which are a member of, or affiliated to, a Regional Association and/or a Member Association.

Affiliated Organisations means those organisations (other than Member Associations, Regional Associations and Affiliated Clubs) which are affiliated with Tennis Australia or an MA from time to time in accordance with the TA or MA constitution (as the case may be).

Australian Tennis Organisation (ATO) includes Member Associations, Affiliated Organisations, Regional Associations and Affiliated Clubs.

Member Association/s (MA or MAs) means members of Tennis Australia in accordance with its constitution.

Member Protection Information Officer (MPIO) means a person appointed in accordance with clause 3.2, of the Tennis Member Protection Policy to act as the first point of contact for any enquiries, concerns or complaints associated with harassment, abuse and other inappropriate behaviour.

Nominated Official is as defined in accordance with clause 6.9.

Officials includes referees, court supervisors, chair umpires, lines people and other tournament officials appointed by an ATO, and/or any other person who holds a TA officials membership.

Respondent is the person or entity alleged to have breached this Policy.

Regional Associations means those regional or metropolitan tennis associations which are members of, or affiliated to, a Member Association.

Report is as defined in clause 6.1.

Tennis Australia (TA) means Tennis Australia Limited (ABN 61 006 281 125).

4. Procedural Obligations

4.1 ATOs must:

- (a) adopt and comply with this Policy;
- (b) recognise and enforce any sanction imposed under this Policy;
- (c) publish, distribute and promote this Policy (and any amendments made to it) to their members, in the manner required by TA and upon reasonable request make this Policy available for inspection or copying;
- (d) make such amendments to their constitution, rules or policies necessary for this Policy to be enforceable; and

- (e) ensure that its members adopt this Policy (e.g. a Member Association imposes the Policy on its Affiliated Clubs, and the Affiliated Clubs in turn impose it on their individual members).

PART II – OFFENCES

5. Categories of offences

- 5.1 This Policy recognises two categories of offences: Category ‘A’ Breaches and Category ‘B’ Breaches.

Category ‘A’ Breaches

- 5.2 Any of the following if done during or in connection with a tennis tournament, competition, tour, team, function or other event or activity conducted or managed under the auspices of an ATO:
- (a) consuming or aiding and abetting the consumption of illegal or illicit drugs and/or other prohibited substances;
 - (b) improperly incurring debts (e.g. telephone or accommodation charges) on behalf of Tennis Australia or an ATO;
 - (c) committing any criminal offence or any other unlawful activity;
 - (d) acts, omissions, conduct and any other behaviour that brings, or is reasonably likely to bring, the game of tennis and/or TA and any ATO into disrepute;
 - (e) any conduct that amounts to a serious breach of the Tennis Anti-Corruption Program (located and available for download [here](#)) including, but not limited to:
 - i. any match-fixing, spot-fixing or other act or omission that may artificially, improperly, illegally or unreasonably alter the outcome of a tennis match or tournament;
 - ii. gambling, or placing any wager or bet or assisting another individual to gamble or place a wager or bet, on the outcome or details of a tennis match in respect of which the relevant individual is involved or has some specialist, confidential or insider knowledge or some other sensitive information; or
 - iii. disclosing any specialist, confidential or insider knowledge or some other sensitive information as described immediately above to any third party for the purposes of or relating to gambling, betting, match-fixing, or any act or omission designed to artificially, improperly, illegally or unreasonably alter the outcome of a tennis match or tournament.
 - (f) any conduct referred to TA by Sport Integrity Australia that amounts to a serious breach of the TA Anti-Doping Policy (located, and available for download [here](#))
 - (g) any misuse or unauthorised use of sensitive personal information (i.e. credit card details, medical history, etc.) held or stored by an ATO; or

- (h) a significant breach of clause 6.14 of this Policy.

Category 'B' Breaches

- 5.3 Any of the following if done during or in connection with a tennis tournament, competition, tour, team, function or other event or activity conducted or managed under the auspices of an ATO:
- (a) inappropriate consumption of alcohol or tobacco (including consumption of alcohol whilst under the age of 18) and/or being drunk and disorderly;
 - (b) breaching a team or tournament rule imposed by an ATO (including a failure to properly prepare for a tennis match or tournament);
 - (c) any conduct referred to TA by Sport Integrity Australia that amounts to a minor breach of the TA Anti-Doping Policy (located, and available for download [here](#));
 - (d) any conduct that amounts to a minor breach of the Tennis Anti-Corruption Program (located and available for download [here](#));
 - (e) any misuse or unauthorised use of personal information held or stored by an ATO;
 - (f) a minor breach of clause 6.19 of this Policy; or
 - (g) any other disruptive, disorderly, unreasonable, untoward or inappropriate behaviour.

PART III – MANAGEMENT OF ALLEGED BREACHES OF POLICY

6. Reports of alleged breaches of this Policy

- 6.1 If any person considers that this Policy has been breached, they may make a report to:
- (a) an MPIO of an ATO;
 - (b) the President, or in their absence the nominee, of the relevant ATO;
 - (c) a TA Integrity Officer; or
 - (d) TA's Whistle-Blower Service,
- (in each case, a **Report**).
- 6.2 TA aims to resolve all Reports in a fair, timely and effective manner. However, given their complexity, the process and timelines involved in resolving a Report may vary from time to time.
- 6.3 Following receipt, the Report must be registered with the TA Integrity and Compliance Unit (**TAICU**) in TA's online Complaint Management System (**CMS**).
- 6.4 Reports must occur within 14 days of the alleged breach. However, the TAICU may extend or waive this requirement where it is of the reasonable belief that the circumstances warrant such action. Accordingly, all Reports received should be lodged in the CMS regardless of when the alleged conduct of the Report occurred.
- 6.5 Notwithstanding the procedures outlined in this Policy, the TAICU may refer the Report to the relevant law enforcement agency/agencies at the TAICU's ultimate discretion.
- 6.6 The procedures outlined in this Policy may be suspended whilst a criminal investigation is undertaken into the Report. If a matter is referred to external law enforcement (i.e. police), the TAICU has the power to apply for a provisional suspension under clauses 7.8-7.13 of the Policy regardless of whether or not the Complaint has been categorised as Category A.

Categorising the Report

- 6.7 The Report must be assessed and categorised by a member of the TAICU (**Assessor**).
- 6.8 The Assessor must determine whether the alleged conduct in the Report amounts to a Category 'A' Breach or a Category 'B' Breach of this Policy.
- 6.9 The Assessor must base their categorisation on the information provided in the Report. The Assessor may also, at their absolute discretion, undertake further fact-finding with the Complainant, the Respondent, a witness and/or any other parties the Assessor deems appropriate if they consider such fact-finding necessary to categorise the Report.
- 6.10 In categorising the Report, the Assessor will be guided by one or more of the following non-exhaustive list of factors:

- (a) the nature of the alleged breach of this Policy;
- (b) the impact, damage or harm caused by the alleged breach of this Policy on the victim or Complainant, TA, an ATO and/or the sport of tennis generally;
- (c) the alleged intent of the Respondent;
- (d) the need for a penalty to be imposed if it were found that the alleged conduct occurred;
- (e) the appropriate level of penalty proportionate to this type of alleged conduct;
- (f) the need for general and specific deterrence from this type of alleged conduct;
- (g) the potential for the Report to escalate;
- (h) the public interest in the Report and/or the alleged conduct;
- (i) the desired outcome of the Complainant;
- (j) the complexity of the circumstances surrounding the Report; and
- (k) parity and consistency of approach to dealing with Reports generally.

6.11 If the Assessor believes the Report does not amount to either a Category 'A' Breach or a Category 'B' Breach, the matter will be discontinued and the Complainant advised of the outcome.

6.12 In the event that the conduct which is the subject of the Report consists of a number of alleged breaches of this Policy, and some of the alleged breaches (in the Assessor's opinion) involve different classifications, the Assessor may elect to either:

- (a) deal with each alleged breach separately; or
- (b) consolidate the alleged breaches into one matter and categorise the conduct as a whole.

Note that multiple alleged Category 'B' Breaches in one Report may be classified as one Category 'A' Breach if the Assessor considers appropriate.

Management of the matter

6.13 Following categorisation, the Assessor may consult with the relevant ATO/s and decide whether to continue managing the matter or refer the management of the matter to a specified personnel of an ATO (**Nominated Official**).

6.14 In determining whether to refer the matter to the relevant specified personnel of an ATO, the Assessor will consider:

- (a) whether the relevant ATO has the resources and established processes to deal with the matter in accordance with this Policy;
- (b) the appropriateness of the relevant ATO managing the matter;

- (c) the seriousness of the alleged breach; and
 - (d) whether the alleged breach has, or is, likely to affect the integrity, management, reputation or brand of TA or the sport of tennis in Australia.
- 6.15 Note that where the Personnel alleged to have breached this Policy resides in another state or territory outside of where the alleged breach is said to have occurred, the Assessor will liaise with all relevant ATOs in relation to which is most appropriate to manage the matter.
- 6.16 For the avoidance of doubt, if the Assessor decides to continue managing the matter and does not refer the matter to an ATO, the Assessor will be considered the Nominated Official for the purposes of this Policy.
- 6.17 The Nominated Official must ensure the matter is dealt with in accordance with the procedures set out in this Policy.
- 6.18 The Nominated Official has the power to downgrade or upgrade the categorisation of Reports during the management and investigation of the Report(i.e. in instances where new information is discovered during the investigation that would impact the original assessment of categorisation).

Truthful information and general cooperation

- 6.19 Any Personnel who:
- (a) as part of the processes set out in this Policy, provides information, or acts in a manner, which is in any respect false or misleading or likely to mislead; or
 - (b) falsely and deliberately accuses a person of breaching this Policy,
- shall be deemed to have committed a breach of this Policy (see Part II) and liable to a sanction as determined under this Policy.

7. Category 'A' Breaches

- 7.1 If the Assessor categorises the Report as an allegation of a Category 'A' Breach, the Nominated Official must conduct an investigation into the matter.
- 7.2 The investigation process conducted by the Nominated Official must include the following steps:
- (a) Requesting a written response from the Respondent;
 - (b) Collecting witness statements from any other parties that the Nominated Official deems necessary;
 - (c) Conducting interviews; and
 - (d) Collecting any other information, which may include video footage, photos, recordings etc. that the Nominated Official deems necessary.

- 7.3 At the commencement of an investigation, the Nominated Official must notify the Respondent in writing of the details of the Report and that:
- (a) they are alleged to have committed a Category 'A' Breach of this Policy (a copy of this Policy should be provided);
 - (b) the possible sanctions which may be imposed under this Policy;
 - (c) they may provide a statement in response to the alleged breach/es within seven days, or such period determined by the Nominated Official; and
 - (d) the Nominated Official has sought a provisional suspension from the Tribunal Chairperson (if applicable), and that the Respondent has 48 hours to make a written submission to the Tribunal Chairperson prior to the Tribunal Chairperson making their determination on the provisional suspension.

(Notice of Alleged Category 'A' Breach/es)

- 7.4 If the Respondent is a child or under the care of a recognised carer, the Notice of Alleged Category 'A' Breach/es should also be given to that child's parent, guardian or carer.
- 7.5 The Nominated Official has ultimate discretion to determine whether to extend the time by which a Respondent may respond to a Notice of Alleged Category 'A' Breach/es.
- 7.6 All Personnel must assist and cooperate with the Nominated Official in relation to any investigation into a Category 'A' Breach, including:
- (a) attending an interview, or interviews, with the Nominated Official as requested;
 - (b) fully and truthfully answering any questions asked by the Nominated Official during an investigation;
 - (c) giving information; and
 - (d) producing documents or things in their possession that is reasonably requested by the Nominated Official.
- 7.7 Notwithstanding clause 7.6, Personnel interviewed as a suspect in a criminal investigation or charged or arrested by a law enforcement agency in respect of a criminal offence shall not be required to give any information, give any evidence or make any statement to the Nominated Official pursuant to clause 7.6 if the Personnel can establish that to do so would breach any privilege against self-incrimination, or legal professional privilege. This clause does not limit any other rules or obligations on Personnel in this Policy or the Other Tennis Policies.

Provisional Suspensions

- 7.8 For a Category 'A' Breach, if the Nominated Official considers that the Respondent presents a risk to the safety and welfare of others, or may cause harm to the reputation of the ATO or the sport of tennis generally, the Nominated Official may refer the matter to the Tribunal Chairperson who may decide to provisionally suspend the Respondent.

- 7.9 A provisional suspension may cover the following for a specified period of time:
- (a) suspension from any role or duty the Respondent holds with an ATO; and/or
 - (b) a ban from any event/s or activity/activities held by or sanctioned by any ATO; and/or
 - (c) a ban from attending any venue, facility or premises of an ATO; and/or
 - (d) the imposition of a requirement on the Respondent not to contact, or in any way associate with, any person to whom the Report relates until the final determination of the matter; and/or
 - (e) restriction of any rights, privileges or any other benefits to their position.
- 7.10 The Respondent is entitled to make written submissions to the Tribunal Chairperson within the timeframe set out in the Notice of Alleged Category 'A' Breach before a decision is made with respect to any provisional suspension being sought. If the Respondent does not provide written submissions within the timeframe set out in the Notice of Alleged Category 'A' Breach, the Tribunal Chairperson may make a decision on the provisional suspension without any submissions from the Respondent.
- 7.11 If the Tribunal Chairperson imposes a provisional suspension, then the Nominated Official must provide written notification to the Respondent of the decision (including the date of commencement of the provisional suspension and that the provisional suspension shall continue until the matter is finalised by a Tribunal).
- 7.12 The Nominated Official may choose to advise the Chief Executive Officer and President of TA and the Chief Executive Officer and President of the relevant MA for the purposes of ensuring these organisations recognise the provisional suspension imposed. The Nominated Official may notify any other parties affected by the decision if the Nominated Official considers it appropriate to do so in the circumstances or if such notification is necessary to ensure the provisional suspension is enforced.
- 7.13 There is no right of appeal against a decision in relation to whether to impose a provisional suspension against a Respondent.

Referral to a Tribunal

- 7.14 Following the investigation, the matter must be referred to a Tribunal pursuant to Part IV of this Policy.
- 7.15 The Respondent and any other witnesses must be advised as soon as possible as to the date, time and location of the Tribunal hearing, and the likely composition of the Tribunal.

8. Category 'B' Breaches

- 8.1 If the Assessor categorises the Report as an allegation of a Category 'B' Breach, the Nominated Official must conduct an investigation into the matter.

- 8.2 The investigation process conducted by the Nominated Official may include any one or more of the following steps:
- (a) Requesting a written response from the Respondent and any other parties related to the matter;
 - (b) Collecting witness statements;
 - (c) Conducting interviews; and/or
 - (d) Collecting any other information, which may include video footage, photos, recordings etc. that the Nominated Official deems necessary.

- 8.3 At the commencement of the investigation, the Nominated Official must notify the Respondent in writing of the details of the Report and that:
- (a) they are alleged to have committed a Category 'B' Breach of this Policy (a copy of this Policy should be provided); and
 - (b) they may provide a statement responding to the allegations within the Report within seven days, or such other period determined by the Nominated Official,

(Notice of Alleged Category 'B' Breach/es).

- 8.4 If the Respondent is a child or is in the care of a recognised carer, the Notice of Alleged Category 'B' Breach/es should also be sent to the child's parent, guardian or carer.
- 8.5 The Respondent must provide their response within the timeframe stipulated in the Notice of Alleged Category 'B' Breach. The Nominated Official has absolute discretion to determine whether to extend the time by which a Respondent may respond to a Notice of Alleged Category 'B' Breach.

Decision by the Nominated Official

- 8.6 Following the investigation, the Nominated Official must make a decision on the balance of probabilities (i.e. more probable than not) as to whether the Respondent committed the alleged Category 'B' Breach/es.
- 8.7 If the Nominated Official considers that the Respondent has committed a Category 'B' Breach of this Policy, the Nominated Official must then also determine the sanction to be imposed on the Respondent under this Policy.
- 8.8 The Nominated Official may impose any one or more of the following sanctions on the Respondent for a Category 'B' Breach:
- (a) A formal warning;
 - (b) A censure;
 - (c) A written apology from the Respondent to any persons or entities as deemed appropriate by the Nominated Official. The Nominated Official may also impose a provisional sanction/s on

the Respondent which would become applicable if the Respondent does not apologise as directed pursuant to this subclause;

- (d) Suspension of the Respondent from an ATO activity for a maximum period of eight weeks. For the avoidance of doubt an ATO activity may include but is not limited to future tennis tournaments, competitions, tours, teams, functions, training or practice sessions, or other events conducted or managed under the auspices of an ATO;
- (e) Direct that the Respondent attends counselling, or training, or education programs to address their conduct;
- (f) A suspended sanction with any conditions attached to the suspended sanction that the Nominated Official deems necessary; and/or
- (g) Any other such penalty that the Nominated Official considers appropriate.

Appealing a Decision by the Nominated Official

8.9 A Respondent may appeal against a sanction imposed under clause 8.8 of this Policy only on the following grounds:

- (a) that the Nominated Official relied on a clear error in their decision making process;
- (b) that the Nominated Official failed to comply with the procedures outlined in Part III of this Policy;
- (c) the sanction imposed by the Nominated Official is manifestly disproportionate to the breaching conduct; or
- (d) no reasonable decision maker in the position of the Nominated Official, based on the material before them, could reasonably make such a decision.

8.10 The Respondent must, within 72 hours of the Nominated Official delivering his or her decision, give written notification of the Respondent's intention to Appeal (**Notice of Intention to Appeal**) to the TAICU and the ATO of the Nominated Official;

8.11 As soon as practicable following receipt of the Notice of Intention to Appeal, the TAICU must determine the appropriate body to convene the Appeal. The following principles apply:

- (a) *In the case of the Nominated Official being a member of the TAICU:* the Appeal will be heard by one member of the TA Tribunal Panel (see clause 9.3 for further detail on the TA Tribunal Panel); or
- (b) *In the case of the Nominated Official being someone other than a member of the TAICU:* the Appeal will be heard by one tribunal member who will be appointed by, at the discretion of the TAICU, any higher ranking ATO to that of the Nominated Official's ATO,

(in either case, **Appellant Tribunal Member**)

8.12 The Appellant Tribunal Member must be independent and unbiased, have one of the skills or qualifications referred to in clause 9.2 and not be a person of the type referred to in clause 9.4.

- 8.13 Within five days of lodging the Notice of Intention to Appeal, (or if there is urgency such shorter time as determined by the Appellant Tribunal Member) the Respondent must submit in writing the grounds of the Respondent's appeal, copies of which will be provided by the Nominated Official to the Appellant Tribunal Member.
- 8.14 If any of the timelines in clause 8.10 and 8.13 are not met, the appeal shall be deemed to be withdrawn and the decision of the Nominated Official will be deemed to be upheld.
- 8.15 The Appellant Tribunal Member shall hear and determine the Appeal in whatever manner it considers appropriate (including by way of "on the papers" or otherwise) provided that the Appeal accords with the principles of natural justice.
- 8.16 The Appellant Tribunal Member can also request up to two additional tribunal members be appointed to hear the appeal. The ATO convening the appeal will ensure such additional tribunal members are so appointed, and their appointment complies with clause 8.12 of this Policy.
- 8.17 The Appellant Tribunal Member may maintain, withdraw, amend, decrease or increase any or all of the sanction/s imposed by the Nominated Official. However, any increase in sanction must still be in accordance with clause 8.8 of this Policy.
- 8.18 The decision of the Appellant Tribunal Member is final and binding on the parties. There is no right to appeal the decision of the Appellant Tribunal Member.
- 8.19 Except as otherwise provided in this Policy, the Appellant Tribunal Member and any others present at the appeal hearing shall keep all matters relating to the hearing, other than the decision and sanction (if any), confidential. Accordingly, matters such as the nature of the conduct and the information obtained during the hearing, must not be disclosed to any person who is not a party to the matter.

PART IV – TRIBUNAL HEARINGS AND PROCEDURES

9. Tribunals

- 9.1 Upon referral of an alleged Category 'A' Breach to a tribunal, the Nominated Official shall as soon as practicable:
- (a) Determine the composition of the tribunal, as per the requirements set out in clauses 9.2 – 9.4 of this Policy (**Tribunal**);
 - (b) Send to the Respondent(s) a notice setting out:
 - (i) the provisions of this Policy which the Respondent is alleged to have breached;
 - (ii) the date, time and place for the hearing of the alleged breach/es which shall be as soon as reasonably practicable after completing the investigation,
 - (iii) a copy of the Report and brief of evidence, and
 - (iv) a Notice of Intent to Attend, requiring the Respondent to advise the Nominated Official of their intention to attend the hearing,

(Notice of Hearing).
 - (c) Send to the Chairperson of the Tribunal a copy of the Notice of Hearing; and
 - (d) Send a Notice to Attend to any witnesses required to attend the hearing for the purpose of giving evidence.
- 9.2 The Tribunal for a hearing shall be appointed by the Nominated Official and shall be comprised of the following persons:
- (a) a lawyer or, if after reasonable attempts have been made to obtain one without success, a person with considerable previous experience in the legal aspects of a tribunal (who shall be the Chairperson);
 - (b) a person with a thorough knowledge of tennis or sport, and
 - (c) one person with experience and skills suitable to the function of a sports tribunal.
- 9.3 In the case of a Tribunal convened by TA, the Tribunal must be comprised of persons on the TA Tribunal Panel.
- 9.4 For all Tribunal hearings, the following persons cannot be Tribunal members:
- (a) a person who is or was within the last 12 months an employee or director of the ATO which is convening the Tribunal; and
 - (b) a person who would, by reason of their relationship with the ATO that is convening the Tribunal or the Respondent, or otherwise, be reasonably considered to be biased (this may

include but is not limited to a person who is currently providing, or has within the last 12 months provided, services to the ATO for a fee).

Tribunal procedure

- 9.5 The Tribunal shall hear and determine the alleged breach in whatever manner it considers appropriate in the circumstances (including by way of teleconference, video conference or otherwise) provided that it does so in accordance with the principles of natural justice. The purpose of the hearing shall be to determine whether the Respondent is in breach of this Policy.
- 9.6 The Tribunal may not discuss and consider any prior breaches of Other Tennis Policies at the hearing except as set out in Section 10 of this Policy.
- 9.7 The Respondent and any witnesses sent a Notice to Attend will be required to attend the hearing before the Tribunal at the time and place notified to them (however it is conducted). If after 30 minutes of the notified time for commencement of the hearing, the Respondent or any witness is not present, the Tribunal may elect to conduct the hearing in the absence of that person or adjourn the hearing and reconvene at a later date advised to the Respondent and witnesses.
- 9.8 The parties to the hearing shall include the Respondent and the relevant ATO represented by an appointed advocate who may or may not be the Nominated Official and whose role shall be to assist the Tribunal by presenting evidence, including material facts, and to make any submissions on behalf of the ATO in relation to the alleged breach/es, including the appropriateness of sanction (if applicable).
- 9.9 The Respondent is entitled to have a support person attend a tribunal hearing.
- 9.10 A party to the hearing may be represented at the hearing by a third party as long as that third party is not a legal practitioner. A party can only be legally represented at a hearing if the Tribunal considers and determines that it is necessary in the interests of justice.
- 9.11 Each party to the hearing shall bear its own costs in relation to the hearing.
- 9.12 The Tribunal must make a decision on the balance of probabilities (i.e. more probable than not) as to whether the Respondent committed the alleged breach/es.
- 9.13 The Tribunal shall give its decision as soon as practicable after the hearing and will deliver a statement of its written reasons (together with information regarding the appeal process) to the following:
- (a) the President (or nominee) of the ATO which established the Tribunal;
 - (b) the Respondent, and
 - (c) any other party affected by the decision.
- 9.14 If the Tribunal finds the alleged breach proven on the balance of probabilities, it may impose any one or more of the sanctions set out in clause 10.3 of this Policy.

- 9.15 Each member of a Tribunal established under this Policy shall be indemnified by the ATO which appointed them from any claim or action for loss, damages, or costs made against them arising out of or in connection with their function as a member of the Tribunal under this Policy.
- 9.16 Except as otherwise provided in this Policy, all members of a Tribunal and others present at the Hearing shall keep all matters relating to the hearing, other than the decision and sanction (if any), confidential. Accordingly, matters such as the nature of the conduct and information obtained as part of an investigation and before and during the tribunal hearing, must not be disclosed to any person who is not a party to the tribunal hearing.

10. Sanctions

- 10.1 If the Tribunal considers that the Respondent has committed a Category 'A' Breach, the parties to the hearing may make submissions to the Tribunal in relation to sanctions.
- 10.2 During these submissions, the appointed advocate for the ATO may disclose any prior breaches of this Policy or Other Tennis Policies and this may be a factor for the Tribunal to consider when determining an appropriate sanction for the Category 'A' Breach.
- 10.3 The Tribunal may impose on the Respondent any one or more of the following sanctions for a Category 'A' Breach of this Policy:
- (a) direct that the Respondent attend counselling to address their conduct;
 - (b) direct the Respondent to apologise to any person considered appropriate. The Tribunal may also impose a provisional sanction/s on the Respondent which would become applicable if the Respondent does not apologise as directed pursuant to this subclause;
 - (c) recommend that the relevant ATO/s terminate the appointment of any role which the Respondent holds with those organisations;
 - (d) impose a monetary fine;
 - (e) impose a warning;
 - (f) censure the Respondent;
 - (g) in the case of a Coach, direct an ATO to suspend or cancel the Coach's accreditation or affiliation for a period or indefinitely;
 - (h) expel the Respondent from membership of an ATO;
 - (i) withdraw any ranking points, awards, placings, records won in any tournaments, activities or events held or sanctioned by an ATO;
 - (j) direct the Respondent to repay all or part of any financial assistance (excluding any fee for service, wages or expenses) given to them by the Australian Sports Commission, any Federal or State funding agency, the Australian Olympic Committee, the Commonwealth Games Committee, or an ATO or any other organisation which has provided funding to the Respondent;

- (k) suspend the Respondent from competition for such period as the Tribunals sees fit;
- (l) ban the Respondent from taking part in any tennis activity for a particular period of time determined by the Tribunal;
- (m) ban the Respondent from attending one or more tennis facilities and/or venues for a particular period of time determined by the Tribunal;
- (n) impose a fully or partially suspended sentence on the Respondent with any conditions the Tribunal considers appropriate;
- (o) cancellation of any TA or other ATO accreditation or license or coaching accreditation;
- (p) a direction that any rights, privileges and benefits provided to that individual by TA or any other ATO may be suspended for a specified period;
- (q) a direction that any funding granted or given to the individual by TA or any other ATO will cease from a specified date; or
- (r) any other such penalty or discipline that the Tribunal considers appropriate.

11. Appeals

11.1 With respect to a Category 'A' Breach, the Respondent or the ATO may appeal (**Appellant**) a decision of a Tribunal at first instance (**Original Tribunal**) on the following grounds:

- (a) that the Original Tribunal relied on a clear error in their decision making process;
- (b) that the Original Tribunal failed to comply with the procedures outlined in Part IV of this Policy;
- (c) the sanction imposed by the Original Tribunal under clause 10.3 of this Policy is manifestly disproportionate to the breaching conduct; or
- (d) no reasonable decision maker in the position of the Original Tribunal, based on the material before them, could reasonably make such a decision.

(**Appeal**).

Appellant Tribunal procedure

11.2 The process for an Appeal is as follows:

- (a) the Appellant must, within 72 hours of the Original Tribunal delivering its decision give written notification to the TAICU of the Appellant's intention to Appeal (**Notice of Intention to Appeal**);
- (b) as soon as practicable following receipt of the Notice of Intention to Appeal, the TAICU must determine the appropriate body to convene the Appeal. The following principles apply:

- (i) *In the case of the Original Tribunal being a TA Tribunal:* the Appeal will be heard by the Appeals Division of the National Sports Tribunal (which is the Australian tribunal established by the *National Sports Tribunal Act 2019* (Cth)); or
- (ii) *In the case of the Original Tribunal being any other Tribunal:* the Appeal will be heard by an appeal tribunal convened by, at the discretion of the TAICU, any higher ranking ATO to that of the ATO which established the Original Tribunal,

(in either case, the **Appellant Tribunal**).

- (c) Unless clause 11.2(b)(i) applies, the TAICU or Nominated Official (as the case may be) must appoint the members of the Appellant Tribunal (including the Appellant Tribunal Chairperson). The Appellant Tribunal shall consist of persons who comply with clauses 9.2 – 9.4 of this Policy and who were not members of the Original Tribunal. If clause 11.2(b)(i) applies, the member/s of the Appellant Tribunal will be determined by the National Sports Tribunal;
- (d) within five days of lodging the Notice of Intention to Appeal, (or if there is urgency such shorter time as determined by the Chairperson of the Appellant Tribunal) the Appellant must:
 - (i) where the Appeal will be heard by the National Sports Tribunal, pay the required fee to the National Sports Tribunal, or in all other circumstances, pay an appeal fee of \$1500 (including GST) to TA; and
 - (ii) submit to the Chairperson of the Appellant Tribunal the grounds of the appeal in writing, copies of which will also be provided to the Nominated Official; and
- (e) the Chairperson of the Appellant Tribunal must determine in his or her sole discretion whether the Appellant has satisfied the criteria for an appeal under clause 11.1 of this Policy. If so satisfied, the Chairperson (or their nominee) shall determine a place, time and date for the hearing of the Appeal and as soon as possible thereafter notify all parties to the Appeal in writing of such details.

11.3 If any of the timelines in clause 11.2 are not met, the Appeal shall be deemed to be withdrawn and the decision of the Original Tribunal will be deemed to be upheld.

11.4 The appeal fee referred to in subclause 11.2(d)(i) is refundable only in circumstances where the Appellant is successful in overturning the Original Tribunal's decision or reducing the sanction/s imposed by the Original Tribunal. TA may withhold all or part of the appeal fee to cover the costs of the Appeal.

11.5 The Appellant Tribunal shall hear and determine the Appeal in whatever manner it considers appropriate (including by way of "on the papers" or otherwise) provided that the Appeal accords with the principles of natural justice.

11.6 Following the hearing of the Appeal, the Appellant Tribunal may do any one or more of the following:

- (a) dismiss the Appeal;
- (b) uphold the Appeal;

- (c) withdraw or amend any of the sanction/s imposed by the Original Tribunal;
 - (d) impose any additional sanction/s on the Appellant (the additional sanction/s must be from the list of sanction/s set out in clause 10.3 of this Policy); and/or
 - (e) reduce, increase or otherwise vary any sanction imposed by the Original Tribunal.
- 11.7 The Appellant Tribunal has no power to award costs and each party shall bear their own costs in relation to the Appeal.
- 11.8 The decision of the Appellant Tribunal is final and binding on the parties. There is no right to appeal the decision of the Appellant Tribunal. In addition, the parties agree that once an Appeal is concluded under this Policy, the parties waive any right to commence, institute or maintain an appeal of the Appellant Tribunal's decision on administrative or civil law grounds (however this provision does not prevent any criminal proceedings in relation to the matter).
- 11.9 Except as otherwise provided in this Policy, all members of an Appellant Tribunal and others present at the Appeal hearing shall keep all matters relating to the Appeal hearing, other than the decision and sanction (if any), confidential. Accordingly, matters such as the nature of the alleged conduct and Appeal and the information obtained during the Appeal hearing, must not be disclosed to any person who is not a party to the Appeal hearing.

PART V – MISCELLANEOUS MATTERS

12. Enforcement and publication of decisions

- 12.1 The TAICU and/or the ATO that established the Tribunal or Appeal Tribunal (as the case may be) shall, as soon as possible, notify all ATOs affected by any decision and sanction/s imposed under this Policy.
- 12.2 Every organisation required to adopt this Policy shall recognise and enforce any decision and sanction imposed by a decision maker (whether that be a Nominated Official, a Tribunal or an Appeal Tribunal) under this Policy.

13. Review and Promotion

- 13.1 This Policy will be reviewed on a regular basis. In addition to this regular review, recommendations for changes to this Policy may be submitted to the TAICU via integrity@tennis.com.au for consideration. If changes are made, the Policy will be updated via Tennis Australia's website.
- 13.2 This Policy will be made available to the general public on Tennis Australia's website, and will be communicated to all Board and staff members of Tennis Australia and all ATOs.

14. Contact

- 14.1 Should a person wish to make any enquiries in relation to this Policy, please contact the TAICU via integrity@tennis.com.au.

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