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WA District Cricket Council Tribunal Procedures

Definitions

“Code of Conduct” or **“WADCC Code of Conduct”** means the WADCC Code of Conduct set out in clause 4.2.3 of the General Rules.

“Competition” or **“Competitions”** means any Junior Competition or Senior Competition.

“Competitions Manager” means the person appointed by the WACA or WADCC with responsibilities that include competition management tasks designated by the WADCC.

“Complainant” means the party bringing a complaint or action.

“Disciplinary Committee” means the committee constituted to receive all reports of infringements and offences and determine the level of such offence.

“General Rules” means the WADCC General Rules for Premier Cricket Competitions (For Affiliated Clubs).

“Management Committee” means the duly appointed Management Committee of the WADCC.

“Protest” means a protest lodged under clause 4.6 of the General Rules.

“Respondent” means the party against whom a complaint is lodged.

“Report” means a complaint lodged in relation to a contravention of the Code of Conduct.

“Tribunal” means the body established by the WADCC to settle a dispute.

“WACA” means the Western Australian Cricket Association.

“WADCC” means the Western Australian District Cricket Council, Incorporated.

Introduction

These guidelines are set by the WA District Cricket Council to assist clubs, players and their representatives in relation to various aspects of the operation of the Reporting, Protest and Tribunal processes. These guidelines support the General Rules but are not a substitute for them and may from time to time be varied or expanded to cover other matters. Clubs and players should also ensure that they are conversant with the MCC Laws of Cricket and the General Rules.

How the System Works

The Disciplinary Committee and the Tribunal

(A) Disciplinary Committee

Members: The Disciplinary Committee will comprise of the WADCC Chairman and two other members of the Management Committee, who will be elected as soon as possible after the WADCC annual general meeting, before the Season if possible.

Secretary: A WACA Staff Member shall serve as the Secretary.

Role

- To receive all reports of infringements and offences and determine the level of such offence.
- Raise a complaint against a club, player or official if it believes an act of omission or offence has occurred under the Rules.
- To refer any matter of sufficient seriousness to the Tribunal for determination.
- To decide the appropriate penalty for any matter that is not serious enough to be referred to the Tribunal.

(B) Tribunal

Members: The Tribunal will be comprised of three members, at least one of whom shall be a legal practitioner, a magistrate or a person with an approved academic qualification or corresponding academic qualification and two of whom shall be either past or present representatives of clubs affiliated with the WADCC or who are or were officials of clubs.

Secretary: A WACA Staff Member shall serve as the Secretary.

Role

- Hear appeals from penalties imposed by the Management Committee for infringements.
- Hear Code of Conduct offences.
- Hear Protests.

Reports

Lodgement of a Report

The Disciplinary Committee will assess all reports lodged in respect of Code of Conduct offences. A report may be lodged by an officiating umpire for the relevant match. The Disciplinary Committee may also raise a complaint against a club, player or official if it believes an act of omission or offence has occurred under the Rules.

Determination of Type of Offence and Appropriate Charge

Following review of each report or complaint, the Disciplinary Committee will determine whether the player is to be charged with a Code of Conduct offence and, if so, the appropriate type and level of offence. There are four levels of offences, being: Level 1, Level 2, Level 3 and Level 4.

The Disciplinary Committee will inform the player, through the player's club, whether or not that player has been charged with a Code of Conduct offence and, if so the type of offence and corresponding penalty for that charge. The Disciplinary Committee will provide reasons where it determines that a player the subject of a report or complaint is not to be charged with a Code of Conduct offence.

The Disciplinary Committee will provide a Statement of Findings that outlines:

- (a) The Code of Conduct charge
- (b) What facts must be proved for the relevant Code of Conduct charge
- (c) The Disciplinary Committee's finding that each of those facts have been proved and the evidence relied upon

Options Available to a Player Charged with a Reportable Offence

A player charged with a Code of Conduct offence may:

- Submit an early guilty plea, in which case the relevant penalty for the offence will apply subject to any reduction available as a result of the early guilty plea; or
- Contest a charge or plead guilty to a lesser charge, in which case a Tribunal hearing will be convened.

If the player elects to contest the charge or plead guilty to a lesser charge, the person must submit a Statement of Defence that outlines:

- (a) Summary of the case
- (b) What facts are accepted or rejected
- (c) Any other arguments relied upon, e.g. that the penalty was manifestly excessive
- (d) What witnesses will be called

Tribunal Hearings

The Tribunal will hear a charge for which a player has pleaded not guilty or has pleaded guilty to a lesser charge. The Tribunal may find the player guilty of the original charge or lesser charge. The Tribunal will determine the appropriate penalty for the ultimate Code of Conduct offence it finds a player to have committed (if any).

Timelines

The following deadlines will be adhered to:

Lodgement of a Report: Monday 12 Noon

Disciplinary Committee Statement of Findings: Monday 5PM

Acceptance/Rejection of Offer: Tuesday 12 Noon

Statement of Defence: Tuesday 5PM

Tribunal Hearing: Wednesday PM



Protests

A club may lodge a Protest against an opposing club in a match with respect to one or more of the following:

- The result of the match.
- Any conduct which is alleged to have been calculated to obtain an unfair advantage in the course of that match.
- The unfitness of a ground or pitch for play on any match day or part of a match day where the unfitness of the ground or pitch is alleged to have been caused either wholly or in part by act or omission of the home club, or circumstances within the control of the home club.

A Protest must be notified in writing within 3 days of the match to which the Protest relates and be signed by the President of the Protesting club. Upon receiving a Protest, the matter must be referred to the Tribunal.

If a Protest is upheld, the Tribunal may make one of the following orders:

- The result of the protested match be varied (but not in the case of a protest related to the unfitness of the ground or pitch for play).
- The protested match be replayed.
- The protested match be forfeited by the respondent club.

Guidelines for Tribunal Hearings

Introduction

The Tribunal is established pursuant to the WADCC General Rules to hear and determine charges brought before it under the Rules.

In the course of hearing or dealing with any complaint or matter referred to it the Tribunal may:

- Require the attendance of any person before it.
- Administer an oath and hear evidence.
- Re-open or rehear any complaint or matter previously dealt with by it.
- If any person fails to answer any questions or acts in an unseemly or obstructive manner, impose a fine not exceeding \$1,000 and may suspend that person from participating in a game of cricket administered by WADCC for a period not exceeding (12) months.
- Impose a fine not exceeding \$1,000 on any person or Club who has, in the opinion of the Tribunal, made a complaint which is trivial, frivolous or vexatious.
- Suspend any person from playing in a game of cricket, acting as a coach of a team or acting as a team official for any period and/or impose a fine not exceeding \$2,000 on any person or Club who has in the opinion of the Tribunal contravened these Rules, contravened the Constitution of WADCC, contravened any Laws of Cricket, brought the game of cricket into disrepute or failed to comply with any order or direction of the Tribunal.
- Order the forfeiture of a game of cricket.
- Refer any matter to another sub-committee of the WADCC, the Chairman of the WADCC or WADCC Management Committee as deemed necessary.

Pre-Hearing Procedures

The WADCC shall give notice to the Tribunal if a Code of Conduct charge or Protest is to be heard. Prior to giving notice to a Tribunal hearing, the WADCC shall arrange a date for the Tribunal to hear the matter and cause copies of the complaint or Protest to be provided to the Tribunal members, the parties and the originator of the complaint.

In any protest relating to the abandonment of a match, the WADCC shall arrange and ensure that a thorough investigation of the circumstances into the abandonment of the match is conducted and that a report be presented to the Tribunal.

The notice advising of the Tribunal hearing shall include a copy of any notice, complaint or Protest; a copy of any offer made by the Disciplinary Committee; a briefing paper and details of the date and place of the Tribunal hearing.

Hearing Procedures

In respect to a complaint with regard to a Code of Conduct offence, a WADCC representative will present the case on behalf of the WADCC as Complainant. The WADCC may be represented by a member of its Disciplinary Committee, its Management Committee or the Competition Manager.

In the case of a Protest, the protesting club will present the case as Complainant and the opposing club will be the Respondent.

A player Respondent or a club that is a Complainant or Respondent may be represented by a person other than a legal practitioner or law clerk.

The Complainant and Respondent may call witnesses to support the case. For the avoidance of doubt, the person representing a player or club may not give evidence.

The Tribunal procedure is as follows:

- The Complainant shall present its case, witnesses in support may be called and then cross-examined by the other party.
- If the Tribunal is of the opinion that the Respondent has a case to answer, then the Respondent's case may be presented, witnesses in support may be called and then cross-examined by the other party.
- At the conclusion of the hearing, the Complainant may address the Tribunal, and then the Respondent may address the Tribunal in reply.

Directions for Tribunal Jury Members

The members of the jury are the only judges of the facts in this case.

The jury does not decide the case according to prejudice, bias, sympathy, gossip or anything else.

The jury's duty is to act independently and impartially.

The jury decides the case upon the evidence – the oral evidence from any witness, documentary evidence and any other evidence admitted. The jury will assign each part of the evidence a degree of importance that the jury believes it should be given. The jury member accepts what he believes to be true and should be accepted and rejects what he believes to be untrue and should not be accepted. The jury determines what, in their judgement, are the true facts.

In assessing the evidence and determining the facts, the jury will judge the evidence fairly and impartially in the light of their common sense, their life experience and cricket experience.

Any comment or argument of an advocate or representative is not evidence. It is intended to help the jury form a view of the evidence but no more. If the jury member disagrees with the comment or argument then they should discard it.

The jury must be satisfied on the Balance of Probabilities that any alleged Code of Conduct offence has been established against the player. That is, that you are clearly satisfied that it is more probable than not that he committed the alleged offence. The player does not have to establish anything.

Verdict and Penalty

For a Code of Conduct complaint, the Tribunal must consider whether the Complainant has proved an offence under the General Rules. For a Protest, the Tribunal may dismiss the protest or uphold the Protest. To find a complaint or Protest proven, the Tribunal must be satisfied on the Balance of Probabilities – that is, it is more likely than not that the complaint or Protest occurred.

For a proven Code of Conduct offence, the Tribunal may impose such penalty or make such order as it thinks fit and, in making its order, must have regard to any recommended penalty or order in the General Rules.

When imposing a fine or penalty, the Tribunal may take into account any circumstance it considers relevant, including:

- the seriousness of the breach;
- the harm caused by the breach;
- the person's seniority and standing in the game;
- the remorse shown by the person and the prospect of further breaches;
- the person's prior record; and
- the impact of the penalty on the person.

All decisions of the Tribunal must be reported to the WADCC Management Committee and the Management Committee must give effect to the decision. Each decision shall be recorded in the minutes of the Management Committee.

The WADCC must notify all persons and clubs concerned of the Tribunal's findings and publish the nature of the complaint and the decision, unless the Management Committee considers this undesirable.

Recommended Penalties for Code of Conduct Breaches

In respect to the Code of Conduct, the following are the recommended penalties for Level 1 to 4 offences:

- (a) Level 1 – Official reprimand and/or fine of up to \$500 and/or a ban of up to 2 matches
- (b) Level 2 – A ban of 2 or 3 matches
- (c) Level 3 – A ban of 3 to 5 matches
- (d) Level 4 – A ban of 6 or more matches, or a life ban

In respect to the Code of Conduct, the following are the recommended penalties for Level 5 and 6 offences:

- (a) A ban from participating in any match
- (b) A fine for a person of any amount up to \$2,000
- (c) A reprimand

In imposing a suspension or disqualification, the Tribunal may impose that penalty by reference to: a number of cricket games in a particular Competition or grade or a time-period suspension or disqualification. Any part of a suspension may be offered as a suspended penalty.

Code of Conduct and Offences

LEVEL 1 OFFENCES

1.1 Abuse cricket equipment or clothing, ground equipment or fixtures and fittings.

Includes actions outside the course of normal cricket actions such as hitting or kicking the wickets and actions which intentionally or negligently result in damage to the advertising boards, boundary markers or any part of or the contents or any building or structure at the ground.

1.2 Show dissent at an umpire's decision.

Includes excessive, obvious disappointment with an umpire's decision or with an umpire making the decision and obvious delay in resuming play or leaving the wicket.

This Rule does not prohibit the bowler involved in the decision or a team captain from asking an umpire to provide an explanation for a decision, or the captain from commenting on the umpires' performance in their Captain's report.

1.3 Use language that is obscene, offensive or insulting and/or the making of an obscene gesture.

This includes swearing and offensive gestures which are not directed at another person such as swearing in frustration at one's own poor play or fortune.

The extent to which such behaviour is likely to give offence shall be taken into account when assessing the seriousness of the breach.

1.4 Engaging in excessive or unnecessary appealing.

Excessive shall mean repeated appealing when the bowler/fielder knows the batsman is not out, with the intention of placing the umpire under pressure. It is not intended to prevent loud or enthusiastic appealing. However, the practice of celebrating or assuming a dismissal before the decision has been given may also come within this Rule.

1.5 Point or gesture towards the pavilion in an aggressive manner upon the dismissal of a batsman.

Includes charging or running up to the batsman and "getting in his [or her] face".

1.6 Failure by a team to ensure that the condition of a ball is not changed in breach of Law 42.3.

LEVEL 2 OFFENCES

2.1 Show serious dissent at an umpire's decision.

Dissent should be classified as serious where the dissent is expressed by a specific action such as the shaking of the head, snatching cap from the umpire, pointing at pad or bat, other displays of anger or abusive language directed at the umpire or excessive delay in resuming play or leaving the crease.

This Rule does not prohibit the bowler involved in the decision or a team captain from asking an umpire to provide an explanation for a decision, or the captain from commenting on the umpire's performance in their Captain's report.

2.2 Engage in inappropriate and deliberate physical contact with other players or officials.

Without limitation, players will breach this Rule if they deliberately walk or run into or shoulder another player, official or match official.

2.3 Charge or advance towards the umpire in an aggressive manner when appealing.

2.4 Deliberately and maliciously distract or obstruct another player or official on the field of play.

This is not intended to replace Law 42(4) and (5) of the Laws of Cricket.

Without limitation, players will breach this Rule if they deliberately attempt to distract a striker by words or gestures or deliberately shepherd a batsman while running or attempting to run between wickets.

2.5 Throw the ball at or near a player or official in an inappropriate and/or dangerous manner.

This Rule will not prohibit a fielder or bowler from returning the ball to the stumps in the normal fashion.

2.6 Use language that is obscene, offensive or of a generally insulting nature to another player, official or spectator.

This is language or gestures which are directed at another person. See comments under Rule 1.3 above in relation to the seriousness of the breach.

2.7 Change the condition of the ball in breach of law 42.3.

Prohibited behaviour includes picking the seam or deliberately throwing the ball into the ground for the purpose of roughening it up and the application of moisture to the ball other than perspiration and saliva.

2.8 Without limiting Rule 8, attempt to manipulate a Match in regard to the result, net run rate, bonus points or otherwise. The captain of any team guilty of such conduct shall be held responsible.

Prohibited conduct under this Rule will include incidents where a team bats in such a way as to either adversely affect its own, or improve its opponent's performance points or net run rate.

LEVEL 3 OFFENCES

3.1 Intimidate or attempt to intimidate an umpire or referee whether by language or conduct.

Includes appealing in an aggressive or threatening manner.

3.2 Threaten to assault another player, Team official or spectator.

3.3 Use language or gestures that offend, insult, humiliate, threaten, disparage or vilify another person on the basis of that person's race, religion, colour, descent, sexuality or national or ethnic origin.

LEVEL 4 OFFENCES

4.1 Threaten to assault an umpire or referee.

4.2 Physically assault another player, umpire, referee, official or spectator.

4.3 Engage in any act of violence on the field of play.

4.4 Use language or gestures that seriously offends, insults, humiliates, intimidates, threatens, disparages, or vilifies another person on the basis of that person's race, religion, colour, descent, sexuality or national or ethnic origin.

LAWS OF CRICKET AND 'SPIRIT OF THE GAME'

5. Players must obey the 'Laws of Cricket' and play within the spirit of the game.

This is meant as a general Rule to deal with situations where the facts of, or gravity or seriousness of the alleged incident are not adequately or clearly covered by the Level 1 to 4 offences set out above.

Conduct which will be prohibited under the Rule includes time wasting and any other conduct which is considered "unfair play" under Law 42 of the Laws of Cricket.

This Rule is not intended to punish unintentional breaches of the Laws of Cricket.

Reference may be made to any statement or explanation of the Spirit of Cricket published in conjunction with the Laws of Cricket.

Nothing in this Rule or the Code alters the onus on the captain to ensure that the Spirit of the Game is adhered to as stated and defined in the preamble to the Laws of Cricket.

UNBECOMING BEHAVIOUR

6. Without limiting any other rule, players and officials must not at any time in a cricket related situation engage in behaviour unbecoming to a player or official that could bring them or the game of cricket into disrepute or be harmful to the interests of cricket.

This is also meant as a general Rule to deal with situations where the facts or, or the gravity or seriousness of the alleged incident are not adequately or clearly covered by the Level 1 to 4 offences set out above.

It is intended to include serious or repeated criminal conduct, public acts of misconduct, unruly public behaviour and cheating during play.

