



BOWLS
SA

PROTESTS
HEARINGS & APPEALS
POLICY

Adopted
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PROTESTS, HEARINGS & APPEALS POLICY

This Policy has a specific complaints procedure that is to be followed and which is intended to be easy to use, confidential and fair to all parties.

So as to maintain the integrity of the complaints process it is a breach of the policy to knowingly make a false, malicious or vexatious complaint.

1. PROTESTS, DISPUTES & COMPLAINTS

1.1 Disputes with Bowls SA

- 1.1.1 Any dispute between Bowls SA, an Association, Member Club, Affiliated Club or member of a Member Club or Affiliated Club, shall be dealt with by an independent arbitrator or panel whose appointment shall be arranged by the Chief Executive Officer or their representative within seven days of receipt of notification of the dispute.
- 1.1.2 Notification of a dispute must be accompanied by a lodgement fee in accordance with the Schedule of Fines and Penalties. Such fee shall be refunded if the dispute is resolved in favour of the party that raised it.
- 1.1.3 The Chief Executive Officer shall forward a copy of such notice to all relevant Associations and to the secretaries of all other parties involved.
- 1.1.4 The arbitrator or panel shall commence proceedings within fourteen days of appointment, or at the arbitrator or panel's earliest convenience.
- 1.1.5 The arbitrator or panel shall resolve the matter by adjudication according to the laws of South Australia and the Laws of the Sport, and shall not be bound by the laws of evidence or any form of procedure beyond the requirements of natural justice.
- 1.1.6 The decision of the arbitrator or panel shall be final and binding on all parties involved.
- 1.1.7 All legal and administration costs incurred in any dispute resolution or appeal process between Bowls SA and an Association, Member Club, Affiliated Club or member of a Member Club or Affiliated Club shall be borne by the losing party or by agreement.

1.2 Disputes between Memberships

- 1.2.1 Notice of any complaint, dispute or protest between Associations, Member Clubs, Affiliated Clubs or members of a Member Club or Affiliated Club, or any protest by any Association, Member Club, Affiliated Club or member of a Member Club or Affiliated Club, must be lodged, in writing, with the Chief Executive Officer within seven days from the time the complaint, dispute or protest arises, accompanied by a lodgement fee in accordance with the Schedule of Fines and Penalties.
- 1.2.2 Within two days the Chief Executive Officer or their representative will appoint a Hearing Panel from members of a Protests Tribunal appointed by the Board of Bowls SA, to hear any complaint, dispute or protest that has been referred to the Chief Executive Officer.



1.3 Powers of the Board, Hearing Panel and Appeals Tribunal

- 1.3.1 In addition to the power delegated to the Hearing Panel to impose fines, suspensions, disqualifications or other penalties in accordance with the Bowls SA Schedule of Fines and Penalties, or as deemed appropriate, the Board shall have the power to fine, suspend, disqualify, or otherwise penalise, any party involved in a dispute found in breach of any Bowls SA policy, Law of the Sport, rule or condition of play, or of having brought the sport of bowls into disrepute.
- 1.3.2 The principles of natural justice shall be applied to all disputes and protests, and the decisions made by the Hearing Panel and Board.
- 1.3.3 No member of a Hearing Panel shall adjudicate upon a complaint, dispute or protest concerning any party where they are connected by an alliance or by membership.
- 1.3.4 No Director of the Board shall adjudicate upon an Appeal concerning any party in dispute where they are connected by an alliance or by membership.

1.4 Hearings and Appeals Recording

Bowls SA reserves the right to record Hearings and Appeals by any appropriate means including voice recording.

1.5 Suspension or Expulsion of a Member of a Member Club

Every suspension or expulsion of a Member of a Member Club or Affiliated Club by an Association, or Member Club, shall be reported to the Chief Executive Officer of Bowls SA and, concurrently to the Association.

2. HEARING PANEL PROCEDURE

- 2.1 The Chief Executive Officer shall forward a copy of the notice of complaint, dispute or protest to all other relevant parties involved, including relevant Association, Member Club and Affiliated Club secretaries, if deemed appropriate.
- 2.2 The number of Protest Tribunal members required to be present throughout the Hearing will be determined by the Board of Bowls SA and will not include any person who has any actual or perceived conflict of interest, or bias regarding the matter. The Hearing Panel is to include at least one person with knowledge or experience of the relevant law, rule, condition of play, or policy adopted by Bowls SA;
- 2.3 The Hearing Panel members will be provided with a copy of all the relevant correspondence, reports or information received and sent by the Chief Executive Officer relating to the complaint, dispute or protest.
- 2.4 The Hearing will be scheduled as soon as practicable, but must allow adequate time for the complainant and respondent to prepare their case.
- 2.5 Pending the decision of the Hearing Panel and including any time allowed for an appeal, the respondent will be allowed to participate in all Bowls SA activities and events, unless the Chief Executive Officer believes, after considering the nature of the complaint, that it is necessary to exclude the respondent from all or some Bowls SA activities and events.
- 2.6 The Chief Executive Officer will inform the complainant and respondent in writing that a Hearing will take place and the notice will outline:
 - 2.6.1 that the respondent has a right to appear at the Hearing to defend the complaint or allegation;
 - 2.6.2 details of the complaint or allegations, copies of investigation report findings and the clauses of any policy, condition of play or rule allegedly breached;



- 2.6.3 if the complainant believes the details of the complaint or allegations are incorrect or insufficient the Chief Executive Officer is to be advised as soon as possible so that the respondent and the Hearing Panel members can be properly informed of the complaint or allegations;
 - 2.6.4 the date, time and venue of the Hearing;
 - 2.6.5 that the complainant and the respondent may make verbal and or written submissions to the Hearing Panel;
 - 2.6.6 that the complainant and the respondent may arrange for witnesses to attend the Hearing in support of their position;
 - 2.6.7 an outline of any possible fines or penalties that may be imposed if the complaint or allegations are found to be true;
 - 2.6.8 that the complainant and the respondent may have a support person, who may attend the Hearing, but not speak;
 - 2.6.9 that legal representation will not be allowed; and
 - 2.6.10 a complainant or respondent that is a minor, must by law, have a parent or guardian present.
- 2.7 The following will be allowed to attend the Hearing:
- The Hearing Panel members;
 - The respondent;
 - The complainant;
 - Any witnesses called by the respondent;
 - Any witnesses called by the complainant;
 - Any parent/guardian or support person required to support the respondent or the complainant.
- 2.8 The Chief Executive Officer will appoint a member of the Hearing Panel to act as Chairperson for the duration of the Hearing.
- 2.9 If the respondent is not present at the set hearing time and the Chairperson considers that no valid reason has been presented for their absence, the Hearing will continue subject to the Chairperson being satisfied that all Hearing notification requirements have been met.
- 2.10 If the Chairperson considers that a valid reason for the non-attendance of the respondent has been presented, or the Chairperson does not believe the Hearing notification requirements have been met, then the Hearing will be rescheduled to a later date.
- 2.11 The Chairperson will inform the Chief Executive Officer of the need to reschedule, and the Chief Executive Officer will organise for the Hearing Panel to reconvene.
- 2.12 The Chairperson will read out the complaint or allegations, ask the respondent if they understand the complaint or allegation and if they agree or disagree with the complaint.
- 2.13 If the respondent agrees with the complaint or allegations, they will be asked to provide any evidence or witnesses that should be considered by the Hearing Panel when determining any disciplinary measures, fines or penalties.
- 2.14 If the respondent disagrees with the complaint, the complainant will be asked to describe the circumstances that lead to the complaint being made. Reference may be made to brief notes.



- 2.15 The complainant may call witnesses and the respondent may question the complainant and witnesses.
- 2.16 The respondent will then be asked to respond to the complaint. Reference may be made to brief notes.
- 2.17 The respondent may call witnesses and the complainant may question the respondent and witnesses.
- 2.18 Both the complainant and respondent may be present when evidence is presented to the Hearing Panel.
- 2.19 Witnesses may be asked to wait outside the Hearing until required.
- 2.20 The Hearing Panel may:
 - Consider any evidence, and in any form, that it deems relevant.
 - Question any person giving evidence.
 - Limit the number of witnesses presented to those who provide any new evidence.
 - Require the attendance of any witness it deems relevant;
 - Act in an inquisitorial manner in order to establish the truth of the issue before it.
 - Consider video evidence, if presented. The arrangements must be made entirely by the person wishing to offer this type of evidence.
- 2.21 If the Hearing Panel considers that at any time during the Hearing any person is displaying unreasonable or intimidating behaviour the Chairperson may determine that the person shall have no further involvement in the Hearing.
- 2.22 After all evidence has been presented the Hearing Panel will adjourn to make their decision in private and decide whether the complaint has been substantiated on the balance of probabilities, that is, more probable than not.
- 2.23 As the seriousness of the allegation increases, so too must the level of satisfaction of the Hearing Panel that the complaint has been substantiated.
- 2.24 The respondent will be given an opportunity to address the Hearing Panel on disciplinary measures which might be imposed.
- 2.25 Disciplinary measures, fines and penalties imposed must be seen as appropriate in the circumstances.
- 2.26 All Hearing Panel decisions will be by majority vote.
- 2.27 The Chairperson will announce the decision in the presence of all persons involved in the Hearing and will declare the Hearing closed, or may advise those present that the decision is reserved and will be handed down in written form.
- 2.28 Within 48 hours of the Hearing being declared closed, the Chairperson will:
 - Forward to the Chief Executive Officer, in writing, details of the Hearing, reasons for the decision of the Hearing Panel and any disciplinary measures, fines or penalties imposed.
 - Forward a letter to the complainant and respondent reconfirming the decision of the Hearing Panel and any disciplinary measures, fines or penalties imposed.
 - If an appeal is to be allowed, the letter to the complainant and respondent should also outline the process and grounds for such an appeal.



- Where the matter is of unusual complexity or importance, the Chairperson may inform the parties in writing within 48 hours that the decision will be delayed for a further 48 hours.
- All decisions of the Hearing Panel shall not take effect until the expiration of the seven day period within which the parties in dispute may appeal the decision of the Hearing Panel.
- The lodgement fee shall be refunded if the complaint, dispute or protest is resolved in favour of the party that lodged it and, in these circumstances, an amount equivalent to the lodgement fee refunded shall be charged against the losing party.
- All legal and administration costs incurred by Bowls SA in any complaint, dispute or protest Hearing shall be borne by the losing party or by agreement.

3. APPEAL TRIBUNAL PROCEDURE

- 3.1 A complainant or a respondent who is not satisfied with the decision of a Hearing Panel can lodge one appeal to Bowls SA on one or more of the following basis:
- That a denial of natural justice has occurred; or
 - That the disciplinary measures imposed are unjust and or unreasonable.
 - That the decision was not supported by the information or evidence provided to the Chief Executive Officer or Hearing Panel;
 - The hearing of an Appeal is not a re-hearing of the matter but a hearing of the issue under appeal only.
- 3.2 A complainant or a respondent wanting to appeal in accordance with By-Law 3.1 must lodge a letter with the Chief Executive Officer within seven days of the relevant decision of the Hearing Panel, setting out the basis for their appeal or as applicable in the relevant competition conditions of play/rules.
- 3.3 Lodgement of an appeal must be accompanied by an Appeal fee as may be determined by the Board of Bowls SA from time to time.
- 3.4 If the letter of appeal or the lodgement fee is not received by the Chief Executive Officer within the seven day time period the right of appeal lapses.
- 3.5 The letter of appeal and copy of the Hearing Panel decision will be reviewed by the Chief Executive Officer who will decide whether there are sufficient grounds for the Appeal to proceed.
- 3.6 The Chief Executive Officer may invite to the Appeal any witnesses which are considered to have information necessary for the Appeals Tribunal to make an informed decision.
- 3.7 If the appellant has not shown sufficient grounds for appeal in accordance with By-Law 3.1, then the appeal will be rejected. The appellant will be notified in writing with reasons given for the rejection.
- 3.8 If the appeal is accepted an Appeal Tribunal consisting of Bowls SA Board Directors will be convened to adjudicate the appeal. The number of Appeal Tribunal members required to be present throughout the Appeal will be determined by the Board of Bowls SA and will not include any Director who has any actual or perceived conflict of interest, or bias regarding the matter.
- 3.9 The Appeal Tribunal Procedure shall follow the procedure set down for the Hearing Panel Procedure in these By-Laws.
- 3.10 The decision of an Appeal Tribunal will be final and binding on all parties concerned.
- 3.11 The Appeal fee is returned only if the appeal is upheld.



- 3.12 All legal and administration costs incurred by Bowls SA in any Appeal process shall be borne by the losing party or by agreement.

Complaints/Protests Tribunal and Appeal Policy – Adopted

Protests – Hearings & Appeals Policy – Adopted as Amended March 2018