



*BA APPEALS TRIBUNAL*

**Date adopted by BA Board**                      **23 August 2009**

**Date Policy Effective**                              **23 August 2009**

## BA APPEALS TRIBUNAL BY-LAW

1. In this By-law, terms shall have the same meaning as in the BA constitution. In addition, these words have the following meanings.

“**Appeals Officer**” means the person appointed by BA to operate the Tribunal from time to time.

“**Appeals Panel**” means panel of persons from whom the Tribunal shall be selected from time to time. The panel may comprise persons from each State and Territory. The panel shall be appointed by BA. Except for this appointment, it shall be otherwise independent from BA.

“**BA**” means BA Limited (ACN 072 484 998)

“**Tribunal**” means the BA appeals tribunal established under this By-Law.
2. Subject to clause 2A, a Member or person who or which has received a penalty or an adverse finding from BA or a Constituent Association Member may, within 14 days from date of the final determination, appeal to the Tribunal. Appeals under this clause will be determined in accordance with this By-law.
- 2A. No appeal from a decision of a disciplinary tribunal or disciplinary appeals tribunal (however described) of a Constituent Association Member or one of its affiliates or members may be brought under this By-law.
3. An appeal must be lodged in writing with the Appeals Officer setting out the:
  - (a) ground(s) on which the appeal is made; and
  - (b) reasons or circumstances supporting the alleged ground(s) of appeal; and
  - (c) must be accompanied by a non refundable appeal fee of \$250.
4. Nothing in this Policy prevents the withdrawal of an appeal at any time in writing to the Appeals Officer.
5. On receipt of an appeal in accordance with this Policy, the Appeals Officer must immediately convene a Tribunal and forward the appeal documents to the nominated chairperson of the convened Tribunal.
6. A Tribunal shall be constituted by up to three persons (but a minimum of two) available to hear the appeal from the Appeals Panel, which must include the following:
  - (a) up to two persons with a thorough knowledge of basketball; and
  - (b) a barrister or solicitor who will chair the Appeals Panel.

No member of the Tribunal may be a party to or directly interested in the matter under consideration.
7. The Tribunal has complete jurisdiction to re hear the matter in its entirety.
8. The chairperson of an appointed Tribunal shall, as soon as practical after receiving the appeal documents under **clause 5**, investigate and consider the matter and shall within seven days of receiving such notice, determine whether the:
  - (a) appeal should be dismissed, because in its determination, the matter is trifling in nature or has no merit; or
  - (b) appeal warrants further review and determination in accordance with these By-laws.

9. If the Appeals Tribunal determines the matter warrants further review under **clause 8(b)**, it shall as soon as practicable, having regard to the timing, serve a notice in writing on all relevant parties:
  - (a) stating that the parties may address the Tribunal at a hearing to be held as soon as practicable, being not earlier than four days from the date of the notice;
  - (b) stating the date, place and time of that hearing; and
  - (c) informing the parties that they may do any one or more of the following:
    - (i) attend that meeting (either personally or by their representative who, subject to **clause 11**, may not be legally trained or qualified) and bring such witnesses as they wish to rely upon in respect of the matter the subject of appeal; and/or
    - (ii) give the Tribunal, no later than 24 hours before the time of that meeting, a further written statement setting out relevant information surrounding the appeal.
10. The Tribunal may conduct a hearing convened in accordance with **clause 9** (or any adjournment) in such manner as it sees fit, but shall:
  - (a) give to all relevant parties and their witnesses every opportunity to be heard;
  - (b) give due consideration to any written statements received from any relevant party;
  - (c) allow relevant parties to be present along with their adult representative; and may request or require such parties or other witness to attend the hearing or provide such evidence as is available to enable the Tribunal to properly consider the matter.
11. Persons appearing before the Tribunal are not entitled as of right to legal representation before the Tribunal.
  - (a) Subject to **clause 11(b)**, the Tribunal may grant a right to legal representation to a party where that party has made written application to the Tribunal for such representation. Such application must be received by the chairperson of the Tribunal within seven days from the date of the notice served under **clause 9**.
  - (b) Legal representation will only be permitted by the Tribunal where the party seeking legal representation can demonstrate to the Tribunal that the matter is serious, complex or the consequences for that party proceeding without legal representation are significant from a livelihood or business perspective. The onus is on the party seeking legal representation to prove that such representation should be permitted.
  - (c) The Tribunal may refuse or grant such application in its absolute discretion. The Tribunal's decision in respect to legal representation is final and there is no appeal from such decision.
12. Following consideration of all information which the Tribunal considers relevant and which is available, the Tribunal shall arrive at a finding. The Tribunal can impose new penalties or vary an existing penalty. A decision of the Tribunal may be by a majority decision. The decision of the Tribunal is final.
13. The Tribunal shall notify all relevant parties, including BA, of its decision as soon as practicable.

14. The Tribunal has no power to award costs. That is, each party will be responsible for their own costs of the appeal.
15. The parties must exercise the right of appeal under this By-law prior to commencing any proceedings or becoming a party to any proceedings in a court of law.