


# *Disciplinary Policy*

Effective 11 September 2011

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# Disciplinary Policy

## 1. Application and Administration

- 1.1 This Policy applies to conduct and behaviour which is not otherwise captured by TA's Code of Behaviour, Member Protection Policy or Anti-Doping Policy ("**Other TA Policies**"). Typically, the offences captured by this Policy will relate to behaviour and conduct that occurs 'off-field'. Where there is any inconsistency between this Policy and the Other TA Policies, those Other TA Policies shall prevail to the extent of such inconsistency.
- 1.2 The Policy applies to and binds all individuals described in clause 2.1 of TA's Member Protection Policy and Code of Behaviour for Tournaments.
- 1.3 Subject to this paragraph 1.3, the administration of an alleged offence under this Policy is at first instance the responsibility of the Member Association in the state or territory in which the alleged offence occurred, except where:
- (a) the relevant individual that is alleged to have contravened or breached this Policy is a national academy or other representative player, official (including tournament directors), coach or other tennis participant pursuant to a separate agreement or arrangement with TA, in which case TA may elect to deal with and prosecute the alleged contravention or breach separately pursuant to the terms of that agreement or arrangement; and
  - (b) TA otherwise notifies that Member Association that TA itself will assume responsibility for the administration of the relevant alleged offence. TA will only assume control of the administration of an alleged offence where it considers that the relevant alleged offence affects or is likely to affect the integrity, management, reputation or brand of TA or the sport of tennis in Australia, or where it believes that the relevant alleged breach is otherwise sufficiently serious to warrant TA assuming administration of the alleged breach,
- and in such circumstances applicable references in this Policy to a Member Association or its Nominated Officer shall be deemed to be a reference to TA.
- For the avoidance of doubt, all appeals against a Tribunal decision under paragraph 5 shall be administered by TA or the Court of Arbitration for Sport (CAS) in accordance with paragraph 5.
- 1.4 Any penalty imposed upon a person under this Policy must be recognised and respected by all Australian Tennis Organisations. A player is not permitted to play or participate in any tennis tournament, competition, tour, team, function, training or practice sessions or other event conducted or managed by or under the auspices of an Australian Tennis Organisation during the time of any suspension imposed under this Policy.
- 1.5 Unless otherwise indicated, capitalized terms used in this Policy shall have the meaning given to them in TA's Member Protection Policy.
- 1.6 All parties to any matter dealt with pursuant to this Policy shall bear their own costs.

## 2. Categories of Offences

- 2.1 This Policy recognises two categories of offences: minor offences and serious offences. Without limiting the discretion of TA, Member Associations and their nominated officials pursuant to paragraphs 2.2 and 2.3, the following is an indicative, although non-exhaustive, classification of what may constitute a minor or serious offence. TA may at any time add to or amend this list of offences.

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## Minor offences

Any of the following if done during or in connection with a tennis tournament, competition, tour, team, function or other event conducted or managed under the auspices of an Australian Tennis Organisation:

- (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 curfew or other team or tournament rule imposed by an Australian Tennis Organisation (including a failure to properly prepare for a tennis match or tournament); and
- (c) any other disruptive, disorderly, unreasonable, untoward or inappropriate behaviour.

## Serious offences

Any of the following:

- (a) consuming or aiding and abetting the consumption of illegal or illicit drugs and other prohibited substances;
- (b) improperly incurring debts (e.g. telephone or accommodation charges) on behalf of Tennis Australia;
- (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 Tennis Australia and any Australian Tennis Organisation into ridicule or disrepute;
- (e) any "match-fixing" or other act or omission that may artificially, improperly, illegally or unreasonably alter the outcome of a tennis match or tournament;
- (d) 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, "insider" or other sensitive information;
- (f) disclosing any specialist, confidential, "insider" or 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; and
- (g) underage or inappropriate sexual activity;
- (h) inappropriate use of social media and technology, including:
  - (i) posting or distributing actual or potentially defamatory, offensive, derogatory, private or otherwise sensitive photos, videos, comments or other information of or relating to another person or Australian Tennis Organisation; and
  - (ii) recording and/or photographing another individual without their consent; and
- (i) any other disruptive, disorderly, unreasonable, untoward or inappropriate behaviour, that is of a serious nature (even if such behaviour or conduct is capable of being classified as a "minor offence").

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- 2.2** The appointed Disciplinary Officer of the applicable Member Association (or if there is no such officer, an appropriate person nominated by that Member Association), or such other officer nominated by that Member Association from time to time ("**Nominated Official**"), shall be solely responsible for characterising any alleged breach of this Policy by an individual referred to in clause 1.2. That Nominated Official must in his/her absolute discretion characterise the alleged offence as either a minor or serious offence in accordance with clause 2.3.
- 2.3** The relevant Nominated Official may be guided in the characterisation of an offence/s by one or more of the following non-exhaustive list of factors:
- (a) the categories of offences outlined in paragraph 2.1;
  - (b) the impact or damage caused by the alleged offence upon TA, an Australian Tennis Organisation, the sport of tennis, and/or the victim;
  - (c) the intent of the alleged offender;
  - (d) the need for a penalty to be imposed;
  - (e) the appropriate level of penalty proportionate to the offending conduct;
  - (f) the need for general and specific deterrence; and
  - (g) parity and consistency of approach.
- 2.4** This Policy sets out the disciplinary procedures for hearing both minor and serious offences and the penalties applicable to each category of offence.
- 2.5** In the event that the alleged offending conduct consists of both types of offences, the relevant Nominated Official may elect to deal with each category of offence separately according to the procedures provided for in this Policy, or alternatively, consolidate the matters into the one disciplinary procedure to be dealt with according to the procedures set out in this Policy for dealing with serious offences.
- 2.6** If a hearing is convened to determine both serious and minor offences, as provided for under paragraph 2.5 of this Policy, the Tribunal is limited in the scope of penalties it may impose in the following manner:
- (a) in relation to minor offences the Tribunal is limited to those penalties provided for in paragraph 3.6; and
  - (b) in relation to serious offences the Tribunal may penalise an offender in accordance with paragraph 4.10.

## 3. *Minor offences*

- 3.1** Minor offences are less serious offences which attract penalties reflecting this fact.
- 3.2** Minor offences will be dealt with as expeditiously as possible but always adhering to the procedures set out in this Policy.
- 3.3** The alleged offender will be notified in writing by the Nominated Official of the following:
- (a) details of the alleged offence; and
  - (b) confirmation that this Policy applies (a copy of this Policy should be provided).

If the alleged offender is under the age of 18 years old notification should be given to that person's parent / guardian as well as the alleged offender.

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- 3.4** The alleged offender shall have 7 days (or such other longer period determined by the Nominated Official) from receipt of the notice in clause 3.3 to provide a written response to the alleged offence/s.
- 3.5** The Nominated Official will consider relevant facts and information concerning the alleged offence (including statements from witnesses and any response from the alleged offender) and must then make a determination on the balance of probabilities (i.e. more probable than not) as to whether the alleged offender committed the applicable minor offence. The Nominated Official shall then determine the sanction to be imposed under this Policy. Where possible in the circumstances, the alleged offender should be given the opportunity to address the Nominated Official regarding the penalty to be imposed for the alleged offence.
- 3.6** In imposing a penalty for a minor offence the Nominated Official may choose from one or more of the following range of penalties:
- (a) impose a warning;
  - (b) the requirement for a written apology from the offender to specified persons/organisations;
  - (c) a reprimand; and/or
  - (d) suspending the alleged offender from a current or future tennis tournament, competition, tour, team, function, training or practice session, or other event conducted or managed under the auspices of an Australian Tennis Organisation (or any part); and
  - (e) sending the alleged offender home from a tour (if such offence is committed and administered on tour).
- 3.7** The Nominated Official will notify the offender in writing of any penalty imposed and will notify the Chief Executive Officer and President of TA and the Chief Executive Officer and President of the relevant Member Association which will immediately recognise the penalty imposed upon the offender. Such notification must be made within seven (7) days of the determination of the matter, or in the event the matter is dealt with on tour, within seven (7) days of return.
- 3.8** An offender may only appeal against a conviction or penalty for a minor offence on the grounds that:
- (a) the Nominated Official displayed bias or relied upon a manifest error in their decision making process;
  - (b) paragraphs 3.3 or 3.7 of this Policy have not been complied with; or
  - (c) the penalty imposed by the Nominated Official is manifestly disproportionate to the alleged offence.
- Any appeal against a conviction or penalty for a minor offence must otherwise follow the procedure outlined in paragraph 5.
- 3.9** Subject only to paragraphs 3.8 and 5:
- (a) the determination by the Nominated Official will be final and binding on all parties; and
  - (b) no further right of appeal exists within TA, or to an external tribunal or any civil court of law.

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## 4. Serious offences

**4.1** Any person bound by this Policy must report conduct they consider to be a serious offence to the Disciplinary Officer of the applicable Member Association as soon as possible in the circumstances. A brief report setting out the circumstances surrounding the alleged offence as well as identifying material witnesses and a summary of the evidence those material witnesses can give must be submitted with the report. Without limiting to paragraph 2, a failure to report an offence under this paragraph 4.1 is not generally itself an offence.

**4.2** The alleged offender will be notified in writing of the following by the Disciplinary Officer of the Member Association responsible for hearing an offence:

- (a) details of the alleged offence, and possible penalties that may be imposed by the Tribunal;
- (b) confirmation that this Policy applies (a copy of this Policy should be provided);
- (c) the date, time and place of the Tribunal hearing, and the likely composition of the Tribunal; and
- (d) the alleged offender's right to accept the penalty proposed by the Nominated Official pursuant to paragraph 4.19 (if the alleged offender accepts this option, there shall be no need for a hearing, and the nominated penalty shall apply, if the Tribunal ratifies the Nominated Official's proposed penalty, once notice is given by the Tribunal pursuant to paragraph 4.19. If the Tribunal does not ratify the Nominated Official's proposed penalty, the Tribunal must itself issue a notice to the alleged offender, such notice which must be in the form required by this clause 4.2 and which shall be dealt with in accordance with this clause 4.2).

If the alleged offender is under the age of 18 years old notification should be given to that person's parent / guardian as well as the alleged offender.

**4.3** The Board of Directors of the Member Association responsible for hearing an offence will appoint a Tribunal of three members to hear and determine the matter, such Tribunal which shall be comprised of the following persons.

- (a) a lawyer or, if after reasonable attempts have been made to obtain one without success, then a person with considerable previous experience in the legal aspects of a disciplinary tribunal (who shall be Chairperson);
- (b) a person with a thorough knowledge of tennis; and
- (c) one other person of experience and skills suitable to the functions of a disciplinary tribunal, in each case as determined by the relevant Member Association's Board of Directors in their sole discretion. However, the following cannot be Tribunal members:
- (d) a person who is a member of the Board of Directors; or
- (e) a person who would, by reason of their relationship with the alleged offender, or otherwise, be reasonably considered to be other than impartial.

**4.4** The Tribunal must allow the alleged offender and the applicable Member Association's representative reasonable opportunity to speak and state their case. The alleged offender and the applicable Member Association's representative may each elect to provide written submissions instead of oral submissions, in which case any party who elects to provide written submission shall not also be entitled to provide verbal submissions at the hearing, other than in accordance with paragraph 4.7 or if the Tribunal so permits. The Tribunal shall otherwise:

- (a) hear and determine the alleged offence 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;

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(b) not be required to adhere to any specific legal rules, formalities or processes (including any rules of evidence), and shall be free to hear and consider any materials, information or evidence whatsoever that it considers appropriate (including evidence of past indiscretions, breaches or convictions); and

(c) make its decision on a matter by majority vote.

The purpose of the hearing shall be to determine whether the alleged offender has committed a serious offence. If the tribunal determines that on the balance of probabilities (i.e. more probable than not) a serious offence has been committed, it may impose any one or more of the penalties set out in paragraph 4.10.

- 4.5** If within 30 minutes of the notified time for commencement of the hearing, the alleged offender is not present, the Tribunal may elect to conduct the hearing in the absence of the alleged offender or adjourn the hearing and reconvene at a later date advised to the alleged offender. The time and place of the tribunal hearing will be determined at the sole and reasonable discretion of the Disciplinary Officer.
- 4.6** The parties may be represented at the hearing by any person who is not a legal practitioner save that the Tribunal may give leave for the parties to be legally represented where it considers it is necessary in order to do justice to both parties. One observer may be present with the alleged offender in the hearing room however this person may not involve themselves in the hearing in any manner. If the alleged offender is under the age of 18 years old, two observers may be present.
- 4.7** If the charge is proven the offender will be given an opportunity to be heard in relation to mitigation of penalty only. This is not an opportunity for the offender to re-argue his/her case and any attempt to do so will be immediately halted.
- 4.8** The relevant Member Association's representative will also be afforded the opportunity to make submissions to the Tribunal on the appropriate penalty to be imposed in the circumstances. The offender will not be given the opportunity to respond to these submissions.
- 4.9** Prior convictions of a disciplinary tribunal may be disclosed to the Tribunal who may give weight to prior convictions of a similar nature.
- 4.10** In imposing a penalty for a serious offence, the Tribunal may impose any of the following range of penalties:
- (a) in extreme circumstances, permanent suspension from all competitions;
  - (b) suspension from all competitions for a period reasonably determined by the Tribunal;
  - (c) suspension from competition at international level only for a period reasonably determined by the Tribunal;
  - (d) suspension from competition at national level only for a period reasonably determined by the Tribunal;
  - (e) suspension from competition at state level only for a period reasonably determined by the Tribunal;
  - (f) suspension from competing in one or more specified championships, tournaments, team events or challenge matches;
- and may also impose any one or more of the following penalties:
- (g) suspension from attending or participating in tours, teams, functions, training or practice sessions, or other functions or events conducted by or under the auspices of TA and/or another Australian Tennis Organisation for a period reasonably determined by the Tribunal;



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- (h) directing the offender to attend counselling to address their conduct;
- (i) recommending termination of any appointment of any role the offender holds with a tennis organisation;
- (j) imposing a monetary fine;
- (k) in the case of a coach or other tennis official or administrator, suspending or directing relevant bodies not to renew that person's TA or Member Association accreditation or membership for a period or indefinitely; and
- (l) any other such penalty the Tribunal considers appropriate in the circumstances (including any penalty that may be imposed on an offender under clause 12 of the Member Protection Policy).

In considering the length of any suspension, the Tribunal must consider what is reasonable in the circumstances. Without limiting the Tribunal's powers, the Tribunal should also note that any suspension in excess of one year is likely to have a materially adverse effect upon the career of a tennis player.

- 4.11** The findings of the Tribunal will be delivered orally and there is no obligation on the Tribunal to publish reasons for its decision.
- 4.12** The Chairperson of the Tribunal will confirm in writing with the offender any penalty imposed and will notify the Chief Executive Officer and President of TA and the Chief Executive Officer and President of any relevant Member Association which will immediately recognise the penalty imposed upon the offender. Such notification must be made within seven (7) days of the determination of the matter, or in the event the matter is dealt with on tour, within seven (7) days of return.
- 4.13** Subject only to the appeals process outlined in paragraph 5:
  - (a) the determination by the Tribunal will be final and binding on all parties; and
  - (b) no further right of appeal exists within TA, or to an external tribunal or any civil court of law.

## 5. Appeals procedures

**5.1** Appeals may only be lodged against:

- (a) a minor offence on the grounds listed in paragraph 3.8; and
- (b) subject only to (a), Tribunal decisions relating to serious offences. Where a matter for determination involves both minor and serious offences, an appeal can only be lodged in relation to those offences categorised and dealt with by the Tribunal as serious.

**5.2** An appeal may only be lodged:

- (a) in the case of appeals from a Tribunal established by a Member Association – to an Appeal Tribunal established by TA in accordance with this paragraph 5, in which case an appeal is only validly lodged where:
  - (i) an appeal notice in the prescribed form (Schedule 1) is lodged with the applicable Disciplinary Officer of that Member Association within seven (7) days of the Tribunal's decision;
  - (ii) the appeal notice is accompanied by a written submission as specified in paragraph 5.6 and an appeal application fee of \$1,000 (in the form of a bank cheque) refundable only at the discretion of the Appeal Tribunal (as defined below) and in circumstances where the offender is successful in overturning the Tribunal's finding of guilt and/or reduces the penalty

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imposed. The Appeal Tribunal may withhold all or part of the amount to cover the costs of the Appeal Tribunal hearing and deal with those monies and any fines payable by an offender as it considers appropriate (including by donating those monies into the Australian Tennis Foundation); and

(b) in the case of an appeal from a Tribunal established by TA – to the appeal Division of the Court of Arbitration for Sport (Oceania Registry) (“CAS”), in which case an appeal is only validly lodged where an application is competed and filed in accordance with the Code of Sports Related Arbitration and other relevant requirements of CAS.

Both the CAS, and an Appeal Tribunal established by TA, shall be the “**Appeal Tribunal**” for the purposes of this paragraph 5.

- 5.3** For all appeals, other than appeal to CAS, the Disciplinary Officer of the applicable Member Association shall immediately refer the appealed matter to TA’s own Disciplinary Officer, and immediately provide to TA’s Disciplinary Officer:
- (a) the written submissions and appeal application fee referred to in paragraph 5.2; and
  - (b) all such other information, materials and other assistance requested by TA’s Disciplinary Officer in relation to the offence, the Tribunal’s initial decision and/or the appeal of that initial decision.
- 5.4** An appeal against the findings of the Tribunal and/or the imposition of a penalty shall be conducted:
- (a) in the case of appeals that proceed under paragraph 5.2(a) – within 21 days of receipt by TA’s Disciplinary Officer of the notice of appeal, although TA shall have the discretion to convene an appeal hearing outside of the 21 day period but only after it has been established that it would be impossible to hear the appeal any earlier; and
  - (b) in the case of appeals that proceed under paragraph 5.2(b) – in accordance with the Code of Sports Related Arbitration and other relevant prescribed processes and timelines of CAS.
- 5.5** The Appeal Tribunal shall:
- (a) in the case of appeals that proceed under paragraph 5.2(a) – consist of three members appointed by TA’s Board of Directors who comply with paragraph 4.3, none of which has had a prior involvement in the matter. An Appeal Tribunal Chairman shall be appointed by TA’s Board of Directors. The Appeal Tribunal will have the discretion to conduct proceedings at their discretion and in accordance with the powers described in paragraph 4.4, subject always to the procedures set out in this Policy. A majority decision will determine the matter; and
  - (b) in the case of appeals that proceed under paragraph 5.2(b) – be constituted in accordance with the Code of Sports Related Arbitration and other relevant rules of CAS, in which case paragraph paragraphs 5.6 to 5.9 (inclusive) of this Policy will not apply to that appeal.
- 5.6** In order for a matter to proceed to an appeal, the offender must establish on the balance of probabilities that it is more likely than not that s/he has an arguable case. This shall be done by written submissions only, lodged pursuant to paragraph 5.2(b). TA’s Disciplinary Officer will have the right of reply to any submissions lodged by the offender, such submissions in reply which must be lodged with the Appeal Tribunal and served upon the offender within seven (7) days of receipt by TA’s Disciplinary Officer of the offender’s submissions. The Appeal Tribunal Chairman alone shall determine whether the offender has sufficiently made out one or more ground/s of appeal within seven (7) days of receiving TA’s Disciplinary Officer’s submissions. There is no right to appeal against this decision. The Appeal Tribunal Chairman’s decision will be conveyed to each of the parties.

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- 5.7** If it is determined by the Appeal Tribunal Chairman on the balance of probabilities that the offender has an arguable case and the appeal is in relation to penalty only, the matter will proceed by way of written submissions only.
- 5.8** Each party will be required to submit in writing their arguments with the offender obliged to lodge their written arguments no less than three (3) business days before the matter is scheduled to proceed. A copy of the submissions of the offender will be provided to TA's Disciplinary Officer who will then have a further 48 hours to submit their own reasons.
- 5.9** If the appeal is against both conviction and penalty, the appeal will proceed according to the procedures set out in paragraph 4 of this Policy (to the extent applicable, as determined by the Appeal Tribunal's Chairman).
- 5.10** An appeal against conviction is a re-hearing of the matter and the parties may recall any earlier relevant witnesses and may submit fresh evidence, provided that the Appeal Tribunal is satisfied that the new evidence is relevant to the matter. The Appeal Tribunal has the power to dismiss the appeal, grant the appeal, impose any of the penalties provided for in paragraph 4.10, and/or impose a new penalty as provided for in paragraph 4.10 of this Policy, the new penalty which may be greater than the penalty handed down by the original Tribunal.
- 5.11** The determination by the Appeal Tribunal will be final and binding on all parties. No further right of appeal exists within TA, or to an external tribunal or any civil court of law.
- 5.12** The Disciplinary Officer in each Member Association and TA's own Disciplinary Officer will keep a register of all penalties imposed for serious offences.
- 5.13** If the offender is suspended by the Tribunal, this suspension shall remain in force pending the determination of the matter by way of appeal.
- 5.14** The Appeal Body has no power to award costs and each party shall bear their own costs in relation to the appeal.

I, .....[insert name]

of.....[insert address]

wish to lodge an appeal against my conviction only / penalty only / conviction and penalty [strike out inapplicable portion] in accordance with *paragraph 5.2* of the Tennis Australia Disciplinary Policy.

In lodging an appeal I acknowledge that:

- 1.** An appeal may only be lodged in relation to an offence described in para. 5.1 of the Tennis Australia Disciplinary Policy.
- 2.** This Notice must be lodged with the applicable Disciplinary Officer within 7 days of the Tribunal’s decision (para 5.2).
- 3.** The Notice will not be considered unless it is accompanied by an appeal application fee of \$1,000 (in the form of a bank cheque) refundable only at the discretion of the Appeals Tribunal (para 5.2).
- 4.** An appeal hearing is not automatic. I must establish by written submission lodged with the Disciplinary Officer with this Appeal Notice the reason why I have an arguable case. This issue will be determined by the Appeal Tribunal Chairman (para 5.6).
- 5.** An appeal against penalty only will be dealt with by way of written submissions lodged with the Appeal Tribunal at least 3 business days before the matter is scheduled to proceed (para 5.8).
- 6.** An appeal is a rehearing of the matter and the Appeals Tribunal has the power to increase the penalty (para 5.10).
- 7.** The finding of the Appeals Tribunal will be binding on all parties and no further right of appeal exists within TA or to an external tribunal or any civil court of law (para 5.11).
- 8.** My suspension (if any) remains in place until the Appeal Tribunal reaches its finding (para 5.13).

.....  
Applicant’s signature acknowledging the above

.....  
Date

Send to: The Disciplinary Officer  
[insert relevant Member Association]

By post                                    [insert postal address]

By fax                                      [insert fax number]