



## POLICY TITLE: DISCIPLINARY REGULATIONS

POLICY CLASS: GENERAL

### 1. INTRODUCTION

Bowls Australia Inc is the peak body for the organisation and administration of the sport of bowls, as it pertains to bowlers in Australia.

As the peak body, and in accordance with Rule 31 of the Bowls Australia constitution, Bowls Australia is empowered to formulate, issue, adopt, interpret and amend Regulations for the proper advancement, management and administration of the Association.

In particular, Rule 11 of the Bowls Australia constitution provides for the Discipline of Bowlers.

These Disciplinary Regulations are promulgated to ensure effective disciplinary procedures are in place.

### 2. DEFINITIONS AND INTERPRETATION

In these Regulations, unless the context otherwise requires, the following terms and expressions shall have the following meanings:

“**Bowler**” means a financial, bowling member who has paid his State Authority’s capitation fee.

“**Controlling Body**” has the same meaning as in Law 1.1 of the Laws of the sport of Bowls.

“**Laws of the Game**” means the document entitled “Laws of the sport of Bowls”.

“**Member**” means a member for the time being of Bowls Australia under Part III of the constitution, including State Authorities and Life Members.

“**State Authority**” means a Member recognised under Rule 3 of the constitution to conduct and administer bowls in a particular state.

“**President**” means the president of Bowls Australia.

All other defined terms and expressions shall have the same meaning as in the Bowls Australia constitution and the Laws of the Game. In the event of any conflict, the definition in the constitution shall prevail.

### 3. APPLICATION OF REGULATIONS

These Regulations will apply to the following parties, for the purposes of natural justice:

- (a) To any Controlling Body which has no disciplinary provisions in place, or in the opinion of the President, no adequate disciplinary provisions in place;
- (b) To Bowlers participating in events, teams or squads which are not immediately subject to the authority of Bowls Australia, subject to the relevant Bowler having exhausted all disciplinary procedures available through subordinate Controlling Bodies;
- (c) To Bowlers participating in events, teams or squads which are subject to the authority of Bowls Australia;

- (d) In respect of any disciplinary matter involving a bowler of official which is referred from a subordinate Controlling Body and which in the opinion of the President or his nominee is an appropriate matter for Bowls Australia to determine.

#### 4. DISCIPLINE OF MEMBERS

##### 4.1 Matters which may be referred to Judiciary Committee

The following matters may be referred for determination by a Judiciary Committee:

- (a) an allegation (not being vexatious, trifling or frivolous) by a complainant or otherwise referred to Bowls Australia that a Controlling Body referred to in **Regulation 3(a) or (b)** or a Bowler or Official referred to in **Regulation 3(d)** above has:
  - (i) Breached, failed, refused or neglected to comply with a provision of these Rules, the Regulations, or any policy of Bowls Australia or any resolution or determination of the Board or Council or other entity exercising delegated authority of Bowls Australia (except as provided for in the Laws of the Game);
  - (ii) Acted in a manner unbecoming of a Member or prejudicial to the objects and interests of Bowls Australia, a Controlling Body and/or the sport of bowls; or
  - (iii) Brought Bowls Australia, a Controlling Body or the sport of bowls into disrepute;
- (b) Any matter referred to Bowls Australia in accordance with **Regulation 3(d)** above;
- (c) Any disciplinary action in respect of a Bowler which may be taken in accordance with Rule 11 of the Constitution;
- (d) Any person who is a recipient of a scholarship or other assistance from Bowls Australia, whether or not that person is a Member or Bowler; and any such party ("**defendant**") will be subject to, procedures, penalties and appeal mechanisms of the Association set out in these Disciplinary Regulations.

##### 4.2 Referral to Judiciary Committee

- (a) The Board or if appropriate, the Chief Executive Officer, shall commence or cause to be commenced any disciplinary proceedings ("**proceedings**") by referring the alleged breach or misconduct to a Judiciary Committee.
- (b) Subject to these Regulations, and unless the Board in its complete discretion considers it appropriate to do otherwise the Judiciary Committee shall be comprised of 3 persons, being:
  - (i) A member of the board determined by the president of Bowls Australia
  - (ii) The national officiating director or his/her nominee; and
  - (iii) One other member of the Bowls Australia officiating committee, or member of the Bowls Australia board determined by the president.

The Judiciary Committee shall be appointed for such time and for such purposes as is required under these Regulations, one of whom shall be appointed secretary of the Judiciary Committee.

- (c) Any such referral to a Judiciary Committee shall be in writing and accompanied by any documentary or other evidence that is available to the referring party. The referral shall be clear and unambiguous, stating precisely the matter to be determined.
- (d) No person who is an interested party shall participate in the determination of the proceedings in any way.
- (e) On receipt of the referral, the secretary of a Judiciary Committee shall, in consultation with the remaining members of the Judiciary Committee, determine an appropriate date, time and place for a hearing by the Judiciary Committee. The meeting shall be no less than 14 days and no more than 21 days from the receipt of the referral, unless the matter is deemed to require urgent attention, in which case the Judiciary Committee may agree on a variation of the time frame set out in this

**Regulation 4**, having regard to matters such as the availability of key witnesses and timing of relevant competitions, amongst other things.

- (f) The secretary of the Judiciary Committee shall notify the remaining members of the Judiciary Committee, the defendant and any complainant or relevant Controlling Body of the date, time and place of the hearing, and in addition, shall advise that each party to the proceedings has the right:
  - (i) To make written submissions not less than five days prior to the date of the hearing; and
  - (ii) To appear at the hearing and/or be represented by a person who is not legally qualified (as determined in the Judiciary Committee's discretion).
- (g) The Judiciary Committee may invite a legally qualified person to be present at the hearing to render advice or assistance concerning any legal issue raised in the hearing, provided that such person shall not participate in any deliberations or vote of the Judiciary Committee in relation to its findings or its decision.
- (h) Subject to these Regulations, the Judiciary Committee shall conduct the hearing as it sees fit, and in particular shall not be bound by rules of evidence, or unnecessary formality. The defendant must be advised of the hearing procedure determined by the Judiciary Committee at or before the commencement of the proceedings.
- (i) The Judiciary Committee shall be entitled to call such evidence as it thinks fit, and all Members, Bowlers, Officials or other parties subject to these Regulations shall be compelled to provide such evidence as they are able. The Judiciary Committee may adjourn the hearing for a reasonable time if this is considered necessary.
- (j) If the Judiciary Committee, having taken into account the written and verbal submissions and other evidence of the parties, considers the allegations sustained, the Judiciary Committee may impose such penalty as it considers appropriate in accordance with **Regulation 4.3**. In all other cases, the proceedings shall be dismissed.
- (k) If a decision cannot be given immediately after the proceedings, the relevant party or parties must be advised of the time and place at which the decision will be given. The decision, any penalty, the reasons for the decision and notice of the person's appeal rights shall be given in writing and signed by the Judiciary Committee secretary, as soon as practicable following determination of the Judiciary Committee.

#### **4.3 Penalties**

Penalties which may be imposed, subject always to any limitations in the relevant legislation or the Laws of the Game, include:

- (a) A reprimand;
- (b) A fine;
- (c) Suspension, of such activities, on such terms and for such period (up to 24 months) as is considered fit;
- (d) Exclusion from a particular activity, event or events;
- (e) Disqualification, for such period as is considered fit; or
- (f) Any other penalty considered appropriate in the circumstances.

#### **4.4 Effect of Penalty**

- (a) The defendant may continue to participate in the sport of bowls (whether as a player, administrator, official or administering body) until and unless there has been an adverse determination of the Judiciary Committee which excludes the defendant and that the time limit for lodgement of appeal has expired.
- (b) Where a State Authority (as a Member) is suspended under these Regulations, its membership of, and representation rights and privileges in, Bowls Australia shall be forfeited during the period of such suspension.

- (c) Where a Controlling Body, Official or Bowler is suspended under these Regulations, all privileges in Bowls Australia and any other relevant Controlling Body shall be forfeited during the currency of the suspension.
- (d) Where a State Authority (as a Member) is expelled under these Regulations, its membership of, and representation rights and privileges in, Bowls Australia shall be forfeited immediately and membership shall cease.
- (e) The Controlling Bodies, Bowlers and other relevant parties having rights, privileges and obligations in respect of Bowls Australia through the State Authority (as a Member) which has been expelled under these Regulations shall not automatically cease to exercise all such rights and privileges or be subject to all such obligations, but shall continue to exercise the rights, privileges and obligations until a contrary determination is made by the Board.
- (f) Where a Controlling Body, Official or Bowler is expelled under these Regulations its privileges in Bowls Australia and any other relevant Controlling Body shall be forfeited immediately
- (g) Notice of any penalty, suspension or disqualification imposed shall be given by the Chief Executive Officer to all State Authorities, and shall be mutually recognised by all State Authorities immediately upon receipt of such notice. The State Authorities shall immediately forward such notice on to Controlling Bodies within its jurisdiction, and on receipt of the notice, the relevant penalty, suspension or disqualification shall be mutually recognised by the Controlling Bodies.
- (h) Reinstatement of any Member, Bowler, Official or other party subject to these Regulations by Bowls Australia shall be recognised by the State Authorities immediately upon receipt of notice to this effect by the relevant State Authority. The State Authorities shall immediately forward such notice on to the Controlling Bodies within its jurisdiction, and reinstatement of any Member, Bowler, Official or other party subject to these Regulations shall be recognised by the Controlling Bodies immediately upon receipt of notice to this effect by the relevant Controlling Body.

#### 4.5 Matters referred to appeals committee

- (a) There shall be an appeals committee, comprised of three persons, being:
  - (i) A legally qualified person, appointed by the President; and
  - (ii) Two members of the board or council of Bowls Australia nominated by the president.
- (b) No person who is an interested party shall participate in the determination of the appeal in any way.
- (c) The available grounds of appeal are:
  - (i) Where a decision is wrong having regard to the application of the relevant Rule, Regulation, policy or Law of the Game or where new evidence becomes available;
  - (ii) Where natural justice has been denied; or
  - (iii) In respect of the penalty imposed.
- (d) Subject to Regulation 4.5 (e) the following matters notified in writing to the Chief Executive Officer or his nominee and specifying the grounds of appeal relied upon (Notice of Appeal) shall be referred to the Appeals Committee for determination:
  - (i) An appeal lodged within 14 days of receipt of notice of the determination of the Judiciary Committee, by a party who or which has received a penalty or is the subject of an adverse finding by the Judiciary Committee;
  - (ii) Any appeal lodged with the Chief Executive Officer within 14 days of receipt of notice of the relevant determination from a Controlling Body, Official or Bowler which or who has received a penalty or an adverse finding in disciplinary proceedings of a subordinate Controlling Body, if that party has first exhausted all avenues of appeal available under the rules of all relevant subordinate Controlling Bodies in accordance with **Regulation 3(b)** above; or

- (e) A person or body who wishes to appeal a decision of the Judiciary Committee shall at the time of lodging the Notice of Appeal lodge with the Chief Executive Officer the sum of \$1,000.00 in clear funds (Bond)
- (f) The decision of the Appeals Committee shall be final and not subject to further appeal.
- (g) Subject to this sub-paragraph, the proceedings of the Appeals Committee in determining the appeal shall be the same as or similar to those in respect of the Judiciary Committee set out in **Regulation 4.2** above, with such incidental variations as are appropriate or necessary to give full effect to these Regulations. The hearing of the Appeals Committee is not a rehearing of the matter, but a hearing of the issue under appeal only. Legal representation shall be available to any party to the appeal. Any dispute as to the application of this Regulation shall be determined by the Appeals Committee in its discretion.
- (h) In the matter of an appeal under **Regulation 4.5(d)**, the Appeals Committee may in its discretion confirm the penalty or adverse finding of the Judiciary Committee, or may decide not to confirm such penalty but instead impose an alternate penalty available under **Regulation 4.3** (with such incidental variations as are necessary or appropriate to give full effect to these Regulations), or may revoke the penalty or adverse finding of the Judiciary Committee.
- (i) The effect of the penalty imposed by the Appeals Committee shall be the same as set down in **Regulation 4.4** above, with such incidental variations as are necessary or appropriate to give full effect to these Regulations.
- (j)
  - (i) If the Appeals Committee revokes the penalty or adverse finding of the Judiciary Committee the Bond shall be refunded in full to the person appealing within 14 days of the determination of the Appeals Committee.
  - (ii) In all other appeals the Appeals Committee may in its complete discretion determine that one half of the Bond shall be refunded to the person appealing within 14 days of the decision of the Appeals Committee if it is satisfied that the appeal was not frivolous.

#### RELATED POLICIES

- Bowls testing policy

#### RESPONSIBLE OFFICERS

- High performance manager
- Development manager
- CEO

#### AUTHORITY

- Board of Bowls Australia

#### REVIEW DATE

- July 2009