



Tribunal Advocate Training Booklet



What is a Tribunal ?

It is not a court of law nor is it a 'public tribunal' created by an Act of Parliament. A sports tribunal is 'domestic' or 'private' tribunal created by the sports body itself.

Yet it can wield significant power through a range of sanctions which include match suspensions, fines, deregistration or verbal warnings. Its *function*, *structure*, and its *powers* are created by the Leagues own rules to which all officials and players 'agree' to be bound.

Tribunal Panel?

The Tribunal panel consists of three members a Chairman, a Secretary and a Tribunal Member. The Tribunal Panel are volunteers who give up their time to assist the League by running Tribunal Hearings. The Tribunal Panel are independent of the League and all decisions made by the Tribunal are binding.



Tribunal Outcomes v Courts?

Courts will not act as an appeals court from tribunal decisions;

Courts will not review the merits of a tribunal decision;

For example, courts are not concerned that a player was found guilty when he thought that he should not have been guilty or that he received a lengthier sentence than was appropriate.

This is because players have 'agreed' to be bound by the tribunal decision and any dispute is best handled internally by the League itself.



What is 'Natural Justice' or 'Procedural Fairness' ?

Difficult to have one universal rule capable of applying to all situations. But basically there are 3 rules that must be applied:

i. The player must have knowledge of the charge:

The player must know what he is charged with;

Must be given time to prepare case;

Must be given time and place for hearing and be "**required**" to attend at that time and place;



ii. The player must be given a fair hearing including in relation to penalty:

player must be allowed to call witnesses;

Tribunal must act on relevant considerations and not capriciously or arbitrarily; in other words, the tribunal must act on the “evidence” or the materials presented to it at the hearing;

Tribunal must disclose any documents or information it may have in its possession;

Tribunal should allow cross-examination of witnesses;

Tribunal is not bound by the formal rules of evidence;



Legal representation is not permitted in the hearing

Tribunal must give the player the opportunity to call character evidence or references in an attempt to mitigate penalty (once the player has been found guilty);

Tribunal need not give reasons for their decisions



iii. Tribunal must not be biased:

Bias means deciding a case on material external to the hearing. The tribunal must base its decision on the 'evidence' or information brought before it during the hearing and not outside it.

The tribunal must be genuinely open to persuasion: it cannot act in a way which would lead a reasonable person to believe it had made up its mind before the hearing is finalised.



A tribunal should not have access to a player's 'history' prior to a finding of innocence or guilt;

A tribunal must not allow anyone in the tribunal room during the deliberation process (especially officials from the sports body or League).

Knowing of the incident from the radio, television or newspapers will not necessarily constitute bias unless the tribunal cannot bring an 'open mind';

Bias can be established even if only one tribunal member has a 'closed' mind.

The players previous history must be kept in a sealed envelope until a verdict of guilt is determined.

The Decision Making Process



The tribunal room must be cleared of *all attendees*: Only the 3 tribunal members are allowed in room during deliberation;

The tribunal members consider the evidence of each of the witnesses and evaluate the strength of that evidence.

The tribunal should consider:

- ❖ The accuracy;
- ❖ Any inconsistency in evidence between witnesses;
- ❖ Vagueness of recollection;
- ❖ Strength of the evidence;
- ❖ Video footage if available;
- ❖ Positioning of any of the witnesses including umpires;
- ❖ The distances of these witnesses from the particular incident;
- ❖ The view;
- ❖ The position of the ball;
- ❖ Treat the evidence of spectators very carefully as they may give a slant of the incident favouring the club they support.



The decision of the tribunal does not have to be unanimous;

The tribunal must ask themselves the following:

"Can we be 'reasonably satisfied' that the offence with which this player is charged has been proven?"

The more serious the charge and its consequences, the greater the need for the evidence to be clear and concise.

The Decision Making Process as to Penalty



Once found guilty, the tribunal can refer to any prior reports or offences concerning the player;

The tribunal must allow the player's advocate to address the tribunal on the player's 'football' and personal character;

The tribunal must then clear the room and consider penalty. It should consider:

- ❖ The seriousness of the offence (spitting, kicking, striking an umpire, assaulting a player);
- ❖ The seriousness of the consequences of any injury to the offended player as a result of the incident;
- ❖ The level of impact H/M/L;
- ❖ The players actions were they careless or deliberate
- ❖ Point of contact i.e. head/body
- ❖ Any prior's;
- ❖ Any provocation;



- ❖ Any 'self-defence'?
- ❖ Disruption to the play
- ❖ What the rules say about a penalty that needs to be imposed (especially if it is a player's 2nd offence during the one season etc).
- ❖ The reportable offences penalty matrix

Role of the Advocate



The advocates (either for the umpire or player) play a vital and pivotal role;

Their main task is to persuade the tribunal that their version of events should be accepted: that is to say that the “evidence” or version of events from the “other side” should not be accepted as being

- ❖ “Discredited” or
- ❖ “Unreliable” or
- ❖ “Inaccurate” or
- ❖ “Contradictory.”



Pointers to Becoming a Better Advocate

The advocates for each of the parties should take a detailed account of what occurred from the player and other creditable witnesses privy to the incident;

Having received a clear picture of the incident from their own “client”, the advocate will be able to use this ‘picture’ as a springboard for cross-examination purposes: the advocate will be able to pick inconsistencies between “the story” that he or she has been told by their own team and what the “other side” say;



Check to see that there is no weakness in your own case or any inconsistency in evidence between your own witnesses which the other side will exploit;

If need be, if there is a weakness in the player's case which cannot be overcome, player should plead guilty- it may bring about more favorable result with regard to penalty;

A player who is found guilty by the Tribunal but has pleaded not guilty to a charge will generally lose any consideration for a more lenient penalty. Players who are guilty of an incident should plead guilty and request leniency if appropriate based on previous history, matches played, guilty plea etc.



The main aim of “cross-examination” is to try and create sufficient ‘doubt’ or uncertainty on other side’s evidence. Do this by asking questions which test:

- ❖ Credibility;
- ❖ Accuracy;
- ❖ Positioning;
- ❖ Location of the ball;
- ❖ Location of umpires;
- ❖ Clear view of the other side’s “witnesses”
(list is not exhaustive)



Other Tips in Cross-Examination

If acting for the charged player, put to the umpire and his/her witnesses the player's version of the incident and see what response the umpire or his/her witnesses give;

Cross-examination is just that- a series of questions asked one at a time- it is not an occasion to make statements;

Ask one question at a time and note the response;



Ask the next witness the same question and see if you get the same response (possible source of inconsistency);

In presenting summary, highlight the points you wish the tribunal to take particular note of - don't repeat the evidence - the tribunal has heard it already;

In other words, the advocate must be prepared.

Tribunal Procedure



**EASTERN FOOTBALL NETBALL LEAGUE
INDEPENDENT TRIBUNAL PROCEDURE**

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Key Points



- Club Advocates from both clubs must attend tribunal
- The umpire does not require an advocate but they may request one.
- The tribunal panel does not look at the history of a player until after a guilty verdict has been found and the advocate has summed up their case.
- Consider your plea - it may impact any case for leniency.
- Arrive on time and be prepared for the hearing.
- Be respectful and remain calm in the hearing.
- Penalties are determined by a Reportable Offences Matrix.

General Information



- All Tribunal Hearings are held on Tuesday nights.
- Set Penalties Deadline – 15 minutes after the game or by no later than 10am on the Monday after the weekend of the match.
- Tribunal is Independent of the League
- The Appeal Process is contained in the Tribunal Advocates Manual