



DISCIPLINARY COMMITTEE GUIDELINES

INTRODUCTION

This document is an introduction to the Kalamunda & Districts Basketball Association (KDBA) Disciplinary Committee (DC), which KDBA has appointed to conduct Disciplinary Hearings under Rule 12 (c) of the KDBA Rules of Association (Rules). A Disciplinary Committee Hearing (Hearing) may be convened against any KDBA member in certain circumstances as outlined in the Rules and this document.

The Disciplinary Committee shall operate under the principles outlined in this document, which have been adapted from the Basketball WA (BWA) 'Hearings' documentation. This can be accessed publicly via

<https://basketballwa.asn.au/Hearings/>.

DISCIPLINARY COMMITTEE

What is the Disciplinary Committee?

The Disciplinary Committee's role is to enforce the Club's behavioural standards in relation to referred complaints. Upon receipt of a complaint, the DC will consider the presented facts and form a view on whether there is a credible case to be answered.

In its discretion, the DC may delegate the resolution of a complaint or certain types of complaints to other KDBA forums or oversight mechanisms (e.g. Management Committee, Domestic Tribunal, etc.), or to the relevant Program Director (e.g. WABL, NBL1, etc.) for their direct determination. Such delegations will be made in writing.

Composition of the Disciplinary Committee

The DC will generally comprise of three members, including one designated as chairperson, and are chosen by the KDBA Management Committee. There are no formal requirements to be a DC member, however KDBA will try to ensure members have a basketball background or knowledge to ensure the DC runs fairly and smoothly. DC members are required to act impartially without bias and before any hearings, must disclose any conflict of interest with the person/s involved and/or the matter itself. In the event of a regular DC member being absent for a given hearing, the chairperson may appoint a guest member for that hearing.

Who does the Disciplinary Committee have jurisdiction over?

The DC is empowered to deal with misconduct complaints against any KDBA member including players, coaches, officials, teams or supporters, as well as other persons or organisations that submit themselves to the jurisdiction of KDBA.

What type of behaviour can be reported?

Any incident arising from a basketball activity (such as a game or training, including domestic, WABL and NBL1 activities) that may reasonably be considered as misconduct. Examples of misconduct are listed later in this document.

The incident may have occurred before, during or after the activity within the stadium or its immediate surroundings, or elsewhere (including technological forums) if related to the basketball activity. For example, abusive language towards an official on social media or electronic messages about the game can be reported, but abusive language not related to basketball delivered more generally towards someone who happens to be an official is not within KDBA jurisdiction.



Complaints may be referred to the DC by any KDBA committee member, staff member or general member. For example, a Suns parent or other spectator may have witnessed a code of conduct breach that KDBA or other Association officials did not see and bring the matter directly to KDBA.

The DC may also act on matters referred to the Club by BWA. This may take the form of a request from BWA, or advice from BWA of its own investigation and/or sanction.

Complaints raised by competing clubs concerning on-court WABL and NBL1 incidents will ordinarily be referred to BWA for their consideration and, if appropriate, investigation and adjudication. This ensures that such complaints are dealt with impartially and mitigates any real or perceived conflict-of-interest risk. At its discretion however, the DC can subsequently choose to take further action following BWA's investigation and/or sanction, if it considers it appropriate to do so.

What happens when a complaint is referred?

The complaint must be specific, and name the person alleged to have committed the offence and any witnesses. The DC will generally not look for evidence beyond what is provided in the complaint, except in response to rebuttal statements tendered in evidence by a charged person or witness.

Is the Disciplinary Committee like a court of law?

No. A court of law as we know it in Australia is an adversarial system where witnesses and evidence are lodged by both a prosecution and a defence and tested before a judge or jury. In contrast, committees are not usually bound by formal legal rules of evidence, unlike courts. They are entitled to hear material from any source and determine themselves what weight to place on the material.

The DC is also both investigator and judge, taking a more active role in assessing evidence and questioning witnesses. The DC's role is to ensure fairness and impartiality in the proceedings, interrogate alleged facts, arbitrate truth, and determine sentences (where applicable). When deciding on the true facts of an incident, the Committee applies the civil standard of proof or "balance of probabilities" test - i.e. *"is it more likely than not that the alleged facts occurred?"*

HEARINGS – GENERAL INFORMATION

Conduct of KDBA Disciplinary Committee hearings

The DC attempts to ensure fair, timely and orderly procedures in all referred complaints. To provide for this, KDBA has adopted several procedural protections that govern the Disciplinary Committee process.

- The DC has the authority to deem whether a referred complaint is a matter to be heard or not.
- If the matter is to be heard by the DC, then the Committee will translate the complaint into specific chargeable offences (as outlined later in this document).
- The charged person will be notified in writing of the Hearing details at least 48 hours before the scheduled hearing date. This notice will include the specific charges, the relevant code(s) of conduct allegedly breached and the prevailing penalty guidelines.
- A charged person can request an adjournment if they are unable to make the scheduled time and venue – see *Hearings – Adjournments* for further information.
- The charged person may, at their discretion, plead guilty to the charges without a hearing. If the charged person chooses not to do so, the matter will proceed to a full Hearing.



- Wherever possible, matters will be heard by three members, however the quorum is two members.

When are Hearings held?

At the discretion of KDBA, usually on a weeknight after normal business hours. All reasonable efforts will be made to hold the hearing prior to the charged person's next scheduled fixture, or if not, as soon as practical. The Club acknowledges that this will not always be possible.

Are Hearings recorded?

All proceedings before a hearing group will be recorded unless there is a reasonable objection to doing so. Recording of hearings is at the discretion of the DC chairperson. All information provided during a DC hearing will remain private.

Can a member continue their usual Association activities in the period between the incident and Hearing?

Yes. KDBA will not impose an interim suspension on members who have not had a full Hearing. This is why KDBA will endeavour to schedule any Hearing as soon as practicable after being notified of an incident.

Who else can attend a Hearing?

- Any KDBA official such as the President or Management Committee member, however any such attendance is to be in an observational capacity only
- The president, secretary or other delegate representing a charged team or club
- Any player of a charged team
- A support person for the charged individual, noting that the role of that individual is provide emotional support to the charged individual, not to participate in proceedings or act as a representative

Non-attendance at Hearing

Charged person

The DC will hold the Hearing as scheduled and inform those present of the steps taken to inform the charged person of the Hearing details, any attempts to contact the charged person, and any responses from the charged person. Based on this information, the Hearing will decide whether to proceed or if they are not satisfied KDBA has affected reasonable notice procedures, they can adjourn to allow the charged person the opportunity to attend.

Reporting persons and witnesses

The reporting person and key witnesses should ideally be contactable during the course of a scheduled hearing, to enable the DC to pose questions arising during the hearing. Acceptable contact methods are at the discretion of the DC. On request to the DC, a reporting person or witness may be permitted to submit their evidence solely in writing.

While the identity of a reporting person or witness must be disclosed to the DC, the DC is under no obligation to reveal that person's identity to the charged person. Such disclosures are entirely at the DC's discretion.

HEARINGS – ADJOURNMENTS

Adjournments

A charged person, team, club or reporting person may apply to have a hearing adjourned if there are compelling circumstances which warrant such steps being taken to avoid costs, hardship or significant inconvenience to the charged person, team, club or reporting person. If the adjournment request is made prior to the hearing, it is at the



discretion of the DC. If the adjournment request is made at the hearing, it is at the discretion of the DC chairperson.

Remote Hearings

The preference is for all participants to attend in person, however a charged person, team or club may apply to attend a Hearing by telephone, video conference or other suitable technology if there are compelling circumstances which warrant such steps being taken.

Proceeding on this basis is preferred to an adjournment, however doing so will be at the DC's discretion. The DC itself can also opt for a Hearing by such means, at its discretion.

HEARINGS – PROCEEDINGS

What happens at a Hearing?

At a DC Hearing the charged person initially has the opportunity to accept or deny the relevant facts and charges.

If the charge/s are accepted, the matter can proceed straight to penalty determination, and the charged person/s can outline any relevant mitigating factors to the Hearing and/or provide character references. If the charge/s or facts are denied, the matter will proceed to a full Hearing where the DC will ask questions and review evidence from relevant parties. Legal rules of evidence do not apply however the DC will ensure the Hearing processes are conducted in a fair, clear and efficient manner.

Ordinarily, the facts giving rise to the charges will first be put to the charged person, together with an overview of the types of evidence supporting the charge. The charged person is then entitled to give their version of events and call any witnesses or tender evidence supporting their version of events. The DC can ask questions of the charged person or their witnesses. If that testimony purports to rebut evidence previously supplied by the reporting person or witness, the DC may briefly adjourn the meeting to contact the reporting person or witnesses and assess those rebuttal statements. The charged person has no right to directly cross-examine a witness.

Hearing outcome determination and notifications

The DC will use a 'more likely than not' standard (preponderance of the evidence) to determine if a KDBA or BWA policy, standard, or regulation was violated (i.e. is it more likely than not that the incident occurred as reported?). This excludes administrative regulations, standards & policies, which are outside the DC's remit.

If the charge/s are denied, the first step is for the DC to decide whether the charge/s are proven or not proven. The DC can vary the charges if deemed necessary, however the charged person will be given the opportunity to adjourn the hearing if the charge/s are amended.

A charged person shall also have the right to make submissions on penalty and any relevant mitigating factors. The DC then once again deliberates in private before informing the charged person of their decision. Hearing outcomes shall be communicated in writing to the charged person as soon as practically possible. This will often occur the following day.

Where BWA advises that a given set of facts or a charge has been investigated by them and substantiated, that finding shall be binding on the Disciplinary Committee. No further contest of fact shall be entered into.

A representative of the DC will be responsible for notifying the charged person in writing of the decision of the hearing group regarding responsibility and any outcomes deemed appropriate.



A copy of the hearing outcome and penalties (if applied) will be retained in accordance with KDBA records retention practices.

Penalty

The DC has the power to suspend, disqualify, reprimand, ban or otherwise deal with a charged person, however most penalties will involve a suspension from participating in playing, coaching, officiating or spectating at KDBA or other Affiliated Associations. If other penalties are considered, the DC will discuss these with the KDBA Management Committee to determine appropriateness and the Association's ability to monitor or enforce the alternative sanction.

The DC will generally follow BWA's Sentencing Guidelines when determining an appropriate penalty – refer to *Penalty Guidelines & Severity Factors* for more information.

Where does suspension take effect?

If a suspension is imposed, the penalty takes effect at every Affiliated Association in WA unless specified otherwise. The Association should inform BWA and other Affiliated Associations of the person charged and the penalty, so it can be enforced across associations. At the discretion of the Disciplinary Committee, suspension may be applied in respect of any or all basketball-related roles – coaching, playing, spectating, and/or officiating.

Suspensions may also be split into immediate and suspended components. The Committee has full discretion on how these are defined.

APPEALS

How can a Hearing decision be appealed?

A request for appeal of a decision delivered through the KDBA Disciplinary Committee process must be submitted in writing to the KDBA Appeals Officer by the charged person within fourteen calendar days of the official notification of the decision.

An appeal request should indicate what is being appealed – the finding(s) of responsibility, the outcome(s), or both – as well as the basis for the appeal itself.

The basis of an appeal will be limited to one or more of the following cases:

- A gross procedural error that materially affected the outcome;
- The outcome(s) imposed were not commensurate with the violation(s) of Association standards for which the respondent(s) were found responsible;
- The finding was not consistent with a preponderance of the evidence;
- New information, which was unavailable at the time of the hearing, that merits re-consideration of the final disposition.

An organisation can also appeal a decision on the basis that the penalty imposed is inadequate. The Appeals Officer will review the written appeal request and determine whether, in their judgment, sufficient grounds exist for at least one basis of appeal to be further explored through an Appeal Hearing. In receiving an appeal, the Appeals Officer may, at their discretion, meet with individuals and review information relevant to the bases of the appeal.

Who is the Appeals Officer?

At KDBA, the President fulfills the role of Appeals Officer.



Appeal Hearing

If the Appeals Officer deems that an appeal has merit, proceedings will commence for an independent Appeal Hearing to be conducted through BWA. An Appeal Hearing may be conducted as a full re-hearing or limited to consideration of the grounds of appeal (i.e., hearing from the person why they believe the penalty is excessive, or detailing the new evidence). The Appeal Hearing may decide to uphold the appeal and adjust or remove the penalty or dismiss the appeal whereby the original decision and penalty would stand.

Can a charged person play/coach/attend games whilst awaiting appeal?

No, they must continue serving the suspension, unless they apply to and are granted a stay by the Hearing on the basis that:

- There are exceptional and compelling circumstances that make it harsh and unconscionable if an order was not made, with regard to:
 - The merits of appeal and prospects of success
 - Interests of other teams, clubs and players
- The effect on the results of the competition

The Association should take all steps to ensure the Appeal process is resolved as soon as possible.

Are there any further avenues of appeal?

Not under the BWA by-laws. This does not limit an individual or organisation's right to seek legal advice on other appeal avenues they may have available to them.

PENALTY GUIDELINES & SEVERITY FACTORS

Basketball WA maintains a table of common offences that may be subject to a Disciplinary Committee Hearing as well as guidelines on penalties and factors relevant to severity determinations. BWA Sentencing Guidelines can be found at <https://basketballwa.asn.au/wp-content/uploads/2022/09/Sentencing-guidelines.pdf>.

The KDBA DC will ordinarily have reference to BWA guidelines in imposing penalties however it may also depart from them in its discretion. Where the DC does depart significantly from BWA guidelines, the reasons for doing so shall be articulated in writing to the charged person.

In addition to the types of misconduct identified by BWA in the above document, KDBA also recognises an offence of Conduct Detrimental to the Club. This is intended to cover harm caused to the Club by malicious off-court actions – examples could include (but are not limited to) vandalism or theft of Club property, hacking of Club social media accounts, or acts of off-court violence by a Suns member at the Ray Owen stadium.

Offence	Criteria	Maximum	Low	Moderate	Severe
Conduct detrimental to the Club	Incidents which otherwise cause harm or detriment (real or perceived) to the Club	Lifetime suspension	1-12 weeks	13-26 weeks	27-52 weeks