

**CODE OF CONDUCT FOR TRIBUNAL MEMBERS
OF FOOTBALL NSW LIMITED**

DATE OF ADOPTION: 26 April 2012

SCOPE

This Code of Conduct was passed by the Directors of Football NSW Limited (**FNSW**) on 26 April 2012 in accordance with its By-Laws and applies to all members of any tribunal constituted by FNSW appointed from time to time by FNSW (**Members**).

PURPOSE

At FNSW our Tribunals play an integral role in maintaining lawfulness, fairness, openness and efficiency in the administration and resolution of complaints, grievances and appeals.

The proper functioning of FNSW requires that the decision-making process is ethical, robust and professional.

This Code of Conduct is intended to provide practical assistance to Members in performing their duties and in identifying and resolving matters under the jurisdiction of the Tribunals. It also sets out the standards of behaviour expected of each Member.

COMPLIANCE WITH GOVERNING RULES

In addition to this Code of Conduct, Members must act in accordance with the following statutes, By-Laws and Regulations:

- FFA's National Disciplinary Regulations;
- FFA's National Code of Conduct;
- FFA's Grievance Resolution Regulations;
- FNSW's Constitution;
- FNSW's By-Laws; and
- FNSW's Policies, Regulations and Directives.

(together the "**Governing Rules**").

To this end, Members must work with the Executive and other Members of each Tribunal to ensure:

- that Tribunal process is open and transparent;
- that the Tribunals are efficient and effective and its decisions are fair and reasonable having regard to all relevant facts and circumstances;
- proceedings to be determined in an informal, expeditious and inexpensive manner;
- the quality and consistency of the Tribunal's decision making; and
- that where practicable Members participate in various committees and working groups organised by the Executive; and
- availability to assist the Executive to implement and promote the operational and strategic goals and objectives of FNSW.

GENERAL PRINCIPLES

Drawing on core strategic ideals, FNSW has identified several major themes for Members in the performance of their duties.

In the performance of their duties, Members must demonstrate:

- fairness;
- integrity;
- impartiality;
- expertise; and
- timeliness.

FAIRNESS

At the most basic level, fairness refers to the obligation of Members to give all parties the opportunity to present their respective positions and to receive a determination or decision that diminishes the perception of bias.

More broadly all of the concepts addressed by this Code of Conduct contribute to the fairness of the process.

Members must:

- abide by the principles of natural justice and procedural fairness, in particular, by giving each party a reasonable opportunity to present their case and to answer the case against them;
- ensure the Tribunals are accessible by being aware of barriers such as language, cultural background, literacy or disability which may impede a party in presenting their case;
- control the proceedings through the Chair in order to create an environment which is courteous and respectful of all participants while ensuring respect for the Tribunal process by participants;
- communicate in a clear, plain manner which can be understood by the parties;
- ensure proceedings are conducted in a manner which is transparent and which limits the perception of bias; and
- make decisions according to the Governing Rules, with due regard to fairness and equity and the substantial merits of the case.

INTEGRITY

Members will act in a manner which upholds the status and reputation of FNSW.

In performance of their duties Members must:

- conduct hearings and make decisions with diligence and honesty;
- be patient, courteous, tolerant and treat all parties, representatives, witnesses, interpreters, staff, other Members and any other with respect;
- protect parties and their representatives from any behaviour of other parties which may be threatening, discourteous or unprofessional, including behaviour which is unnecessarily aggressive or which is racist, sexist or shows religious or other bias; and

- not disclose any confidential information otherwise than as permitted by the Governing Rules.

In their private life Members should refrain from commenting inappropriately on the operations of the other Members.

IMPARTIALITY

A Member is prohibited from sitting, chairing or observing on an Appeals Tribunal hearing if he or she had sat on the GPT or any other tribunal or committee (including at Association level) in relation to that matter.

In performance of their duties Members must:

- act impartially;
- avoiding conflicts of interest both real and apparent;
- carry out their duties as Members without bias and without yielding to external influences;
- always apply the provisions of the Governing Rules equally and without bias;
- undertake their Tribunal responsibilities independently and free from influence external to proceedings;
- advise the parties of any matter which might give rise to a perception of bias and conflict of interest and determine whether in the circumstances it is appropriate to conduct the proceedings;
- refrain, save in exceptional circumstances, from any communication (either orally or in writing) or association during the course of proceedings with a party, legal representative or witness in the absence of the other party or parties or their representatives; and
- report to the Executive any matters that may impact on perceptions of impartiality.

In addition, Members should:

- if engaged in another profession, occupation or business, take care to ensure that those activities do not undermine the discharge of their responsibilities as a Member;
- refrain from engaging in partisan political activity which is directly related to the work of the Tribunal and which may impinge upon the perception of impartiality of the Member or the Tribunal.

EXPERTISE

Members must maintain and exercise a reasonable level of skill and knowledge relevant to the discharge of their duties.

Members should:

- upon the directive of FNSW, undertake and participate in professional development and training programs offered by FNSW aimed at enhancing knowledge and skills relevant to their duties;
- keep informed of developments in substantive and procedural matters within the jurisdiction of the Tribunal;
- ensure wherever possible that decisions are consistent with previous decisions of the Tribunal and provide detailed reasons where they are not followed;

- not create any policy in its decision making. It may recommend to Executive of the adoption of policies but this must be communicated outside any decision or determination;
- support and encourage the development of colleagues;
- embrace the use of Tribunal technology and particularly and sound recording facilities.

TIMELINESS

Members must resolve matters in a timely manner in order to ensure that the Tribunals' proceedings are efficient, effective and inexpensive.

In the conduct of proceedings Members must:

- clearly identify the issues in dispute and orders sought;
- facilitate settlement of some or all of the matters in dispute;
- adjourn only when necessary;
- ensure that evidence is given as concisely as possible, while still allowing full ventilation of all relevant issues; and
- deliver reserved decisions and provide written reasons promptly in accordance with FNSW's By-Laws or as directed by the Executive.

COMPLAINTS HANDLING PROCEDURE

Complaints

An allegation that a Member has breached this Code of Conduct ("complaint") may be made by the following persons:

- a Director of FNSW;
- a member of the Executive of FNSW;
- a participant in a complaint or dispute under the Governing Rules; or
- a Member of FNSW.

(each a complainant).

Complaints Handling Process

A complaint shall be dealt with in accordance with the procedures set out below:

Written complaints

A complaint must:

- be in writing;
- specify which section of this Code of Conduct is alleged to have been breached and contain particulars of the alleged breach; and
- include any available supporting material.

Referral of complaint to Legal Counsel

A written complaint should be marked "confidential" and submitted to Legal Counsel of FNSW.

Trivial or frivolous complaints

If Legal Counsel determines that the complaint is trivial, vexatious or frivolous, Legal Counsel may dismiss the complaint without referring the complaint to the relevant Member.

Legal Counsel must promptly notify the complainant in writing of any determination to dismiss a complaint under this paragraph.

Further action

Unless Legal Counsel determines that a complaint is trivial, vexatious or frivolous, as soon as practicable after receiving the complainant, Legal Counsel:

- must notify the relevant Member of the complaint and forward a copy of the complaint to the relevant Member with that notice;
- must allow the relevant Member not less than 5 Business Days after the date of the notice to comment on the complaint; and
- may request the relevant Member to provide a written response in relation to the complaint within 7 Business Days after the date of the notice or such later date as is specified in such notice.

Initial review

After receiving and considering the relevant Member's comment or response to a complaint, Legal Counsel should either:

- dismiss the complaint (in which case Legal Counsel must promptly notify the complainant and the relevant Member of Legal Counsel's decision to dismiss the complaint); or
- refer the complaint to the FNSW Board (in which case Legal Counsel must promptly notify the complainant and the relevant Member of Legal Counsel's decision to make that referral).

Investigation by the Board

- Upon the referral by Legal Counsel to the Board of a complaint, the Board will investigate the complaint to determine whether or not in the opinion of the Board a breach of this Code of Conduct has occurred and, if so, the appropriate sanctions to be applied in the circumstances.

The Board will:

- give consideration to the serious consequences of a finding that there has been a breach of this Code of Conduct by the relevant Member; and
- make a finding whether in their opinion a breach of this Code of Conduct has occurred on the basis of the balance of probabilities.

Right to be heard

When the Board is considering whether there has been a breach of this Code of Conduct or the sanctions which are appropriate, the Board must notify the relevant Member and give the relevant Member a right to be heard by the Board; however, the Board is not obliged to allow the relevant Member to be legally represented. Following the investigation of the complaint, the Board must allow the complainant and the relevant Member a right of reply. The Board must act fairly, promptly and without bias in making decisions.

Sanctions

If the Board finds that there has been a breach of this Code of Conduct then, having regard to the severity of such a breach, the Board should then impose such sanctions as it considers appropriate which may include (but are not limited to) one or more of the following:

- remove a Member from a matter;
- suspend a Member from conducting any further matters at any Tribunal of FNSW until further notice; or
- terminate a Member's appointment on a Tribunal.

I confirm that my appointment as a Member of a Tribunal established under Football NSW's By-Laws is subject to this Code of Conduct and I agree I have read and understood this Code of Conduct and agree to act to be bound by its terms.

Name _____

Signature _____

Date _____