



## **BY-LAW F - DISCIPLINARY PROCEDURES**

### **1. Object of the Dispute and Disciplinary Procedures**

Section 13 of the National Sport Amendment Act 18 of 2007 ("the Act") provides amongst others that: -

- (a) "every sport or recreation body must in accordance with its internal procedure and remedies provided for in its Constitution, resolve any dispute among its members.
- (b) In light of the aforesaid a Disciplinary Code Procedure is hereby established, with the object of implementing a disciplinary code procedure for adjudication, determination and decision on any disciplinary matters where it is empowered to do so in terms of the SATSA Constitution.

### **2. Introduction of tribunal hearing procedures**

The establishment and conduct of a disciplinary tribunal does not need to follow any specific legal formalities or processes. SATSA is able to determine how a tribunal hearing is formulated, who adjudicates on the tribunal, and how the process is to be conducted.

### **3. Establishment and Status of Tribunal Panel**

- a. The Panel is hereby established pursuant to the SATSA Constitution & By-Law to adjudicate all disciplinary hearings and to amongst others;
  - i. take decisions as to such disciplinary measures as shall be appropriate in the circumstances,
  - ii. make recommendations to the SATSA Executive Committee regarding the suspension, fine or termination of membership of any individual in respect of disciplinary matters;
- b. The Panel shall be empowered to determine its own rules, procedures and, make any decisions concerning their rules and procedures, to the extent that such rules and procedures are not already contained in this Disciplinary Code Procedures.
- c. The proceedings of the Panel shall not be open to the public, unless Panel orders otherwise.
- d. The Panel will observe the rules of natural justice but will have discretion regarding admissibility of evidence notwithstanding an enactment or rule of law to the contrary, relating to the admissibility of evidence in proceedings before a court of law where such admission would be appropriate and not unduly unfair or prejudicial to one or more parties to the Disciplinary proceedings.

### **4. Composition of the Tribunal Panel**

- a. The Panel shall be convened by the SATSA Executive committee to deal with complaints or allegations or disciplinary matters referred for resolution and shall consist of: -
  - i. the Chairperson of SATSA and/ or their Legal Officer to chair the proceedings;

- ii. one or more Office Bearers of SATSA as shall be designated by the SATSA Chairperson
  - iii. The Executive Secretary of SATSA or such other person designated by the Panel shall provide secretarial services to the Commission.
- b. In order to constitute a Panel for a hearing at least (3) three members must be present.

## **5. Disciplinary Code**

### **a. Purpose**

- i. The Disciplinary Code is established to regulate the exercise of disciplinary proceedings by SATSA against a Member or individual falling under the jurisdiction of SATSA. When conducting a tribunal hearing the basic principles of natural justice must be followed to ensure a fair and equitable process is achieved. The principles of natural justice include the following:

#### **1. Notification of the Charge**

- The person accused should receive a written notice clearly outlining the allegation/s in sufficient detail so as to allow the person to properly prepare and respond at the hearing. The notification should outline the rule, regulation or policy they have allegedly breached, and any possible penalty that may be imposed.
- The notification should clearly outline the date, time and venue of the tribunal hearing.
- The notification should clearly outline the expectations and rights of the accused.

#### **2. Opportunity to Respond**

- The person accused should be given the opportunity to respond to the allegations.
- The person accused must be given sufficient time to prepare and state their case, including calling any witnesses. Generally, two full clear working days will be considered to be fair, depending on the seriousness of the matter. Certainly a maximum of 4 clear working days is quite sufficient for any disciplinary matter except in the most exceptional of circumstances.

#### **3. Decision Makers to be Unbiased**

- There should not be any perceived or actual preconceived opinions, vested interests, personal involvement or conflict of interest by the tribunal members.

#### **Legal Issues and Representation**

A tribunal hearing is not required to follow any specific legal process other than that outlined in SATSA's Constitution and by-laws. A tribunal hearing is not expected to act as a court of law, but should conduct the hearing as quickly, informally and comprehensively as practicable. The tribunal hearing procedures should be clearly stated and accessible and enforceable to all members. Justice should be done and seen to be done.

To ensure that any tribunal hearing or disciplinary process remains sound and reliable SATSA should seek broad input and legal advice in drafting the initial by-law and/or policy and then regularly review the details to ensure they remain current, relevant and effective in light of experience gained from their application.

There is no absolute right to legal representation at a tribunal hearing. Most tribunal hearings, however, are given a discretionary power in their rules to allow legal representation. Tribunal rules may provide that legal representatives are not permitted to represent their clients or address the tribunal, but may attend the hearing to give guidance and advice to their clients.

Where an issue relates to a person's livelihood and/or a serious allegation, then the person should be allowed to be legally represented. If a tribunal hearing is to adjudicate on a matter that involves a person under the age of 18 years, it is strongly recommended that a parent/guardian accompany them.

### **Failure to Appear**

If a person has been correctly notified that they are required at a tribunal hearing and has chosen not to attend, the hearing may still proceed in their absence. If a valid reason is presented to the tribunal prior to the commencement or during the tribunal's deliberation on the matter, or it is determined that the person has not been correctly notified, then the hearing should be rescheduled for a later time to ensure the requirements for natural justice are met.

### **Evidence and Questioning**

A tribunal can use any information available to it which it is prepared to accept, even if it would not normally be admissible in a court of law. The tribunal should not randomly disregard relevant evidence, nor should it act upon irrelevant evidence. Hearsay evidence can be considered by the tribunal if it is considered reliable, applicable, appropriate and fair to do so. The tribunal hearing rules should determine whether the hearing will accept exclusively, or a combination of verbal or written evidence.

A tribunal can also determine if it wants to use an 'investigative' (ask questions to clarify / expand on any evidence presented by the parties) or 'adversarial' (the tribunal is a passive recipient of any evidence presented by the parties alone) approach during the hearing. There is no requirement under natural justice for cross examination of witnesses to occur during a tribunal hearing. Tribunal hearing rules may allow a discretionary power for cross examination to occur, which if permitted should be consistent for both parties. Tribunals must remember however, that because the tribunal hearing is not a court of law, there is no legal obligation for witnesses to disclose relevant information, or even to answer questions during a hearing.

### **Tribunal Decisions**

Any decisions arrived at by the tribunal should be based only on relevant evidence provided and should not be influenced by rumour, speculation or gossip. Decisions should also be arrived at on the reasonable satisfaction of the tribunal members or

on the 'balance of probabilities' (i.e. more probable than not). The tribunal rules should also indicate if a unanimous or majority decision is required by the tribunal members. Any penalty imposed must also be appropriate to the seriousness or significance of the charge.

The accused person must be promptly notified of the outcome of the tribunal hearing including any disciplinary action that may be applicable. It is considered good practice that the reasons for a decision are made available as this ensures:

- The decision is rational – all relevant information is noted, understood and appropriately considered;
- The decision is transparent – it shows that there is nothing to hide or something 'improper' has contributed to the outcome. People can see proper process has been followed; and
- The decision is consistent – similar and/or previous decisions can be compared to ensure that a 'fair and just' result has been reached.

### **Penalties**

Natural justice requires that a person be given the opportunity to address the tribunal panel when the question of penalty is to be determined. The penalty options that a tribunal can impose must be specifically outlined in the SATSA disciplinary by-law. Any discretionary penalty imposed on someone found guilty by a tribunal must be reasonable in relation to the circumstances of the issue.

If SATSA wishes to suspend a player for a longer period than four weeks, as a result of gross misdemeanour, the approval of SATSA Management Committee is required.

### **Appeals**

It is considered good practice to provide an internal process to appeal against any decisions or disciplinary sanctions imposed. The reasons allowable for an appeal can be limited by SATSA to such aspects as a denial of natural justice or an unfair or unreasonable penalty. The grounds and procedures for lodging an appeal must be outlined in the by-law. Appeals may be heard by persons on the Management Committee.



Amanda Bossenger  
Chairperson  
24 October 2023



Jan Marais  
Executive Secretary