

WEST BRUNSWICK TENNIS CLUB INC.

Processes for dealing with misconduct or disputes

Introduction

There are two potential sources of discontent, which must be resolved according to the Rules:

- i) the more common “misconduct” situation, which might only involve one incident, one person, and even no victim eg property damage. The Committee deals with this under Rule 7, which is effectively “disciplinary action”.
- ii) The less common dispute among members, which may or may not involve the Committee, eg a dispute over an election result, dealt with under Rule 8, which is effectively a “grievance procedure”.

So it is primarily the Club’s own rules which govern how these situations are dealt with, as summarised on the attached pages. The procedures are simple and based on model rules. These are referred to in the Club manual but not elaborated on. Beyond this, we are bound by the rules of Tennis Victoria and Tennis Australia by virtue of our affiliation. Beyond that, the Associations Incorporation Act 1981 (administered by Consumer Affairs Victoria), the ordinary common law and litigation/Court rules may apply if the matter goes that far.

The all important “Member Protection By-Law” of Tennis Australia, to which WBTC is bound by virtue of its affiliation to Tennis Victoria, covers discrimination, harassment and a host of other issues – its procedures are also summarised on the attached page. The By-law contains five separate codes of conduct, which apply respectively to coaches, members and players, parents and guardians, administrators and a general code for all. A copy is in the Committee Room. Under this By-law, the WBTC is bound to appoint a “Member Protection Officer”, who is Greg Thomas (contact details?). His role is detailed in the By-Law.

The WBTC also has its own by-laws and code of conduct, any breach of which may be dealt with by the Committee under Rule 7 (“misconduct”).

Basic Procedure

There is a fairly common procedure for dispute resolution, grievance procedure or whatever, and it is reflected in our Rules, coach licence agreement and elsewhere, consisting:

1. If a person (coach, member, or the Club as a whole) has a grievance or dispute in relation to any matter arising out of the Rules, the Act or any Agreement, then that person will engage in discussions (with the other member, liaison person etc) to resolve it amicably if possible among themselves. The Committee may order this.
2. If the parties cannot resolve the grievance or dispute within a set period of usually two (2) weeks after discussions have commenced, then all the parties may have a formal meeting to resolve the matter, eg with the Committee at its normal meeting.
3. If the grievance or dispute has not then been resolved within a set period of usually ten (10) days after the meeting, then the parties usually refer the matter to an independent Mediator (who cannot make a decision but just tries to get the parties to agree on an outcome) or an Arbitrator (who usually does have power to make a decision if parties don’t agree). If the parties cannot agree upon such appointment, if not otherwise specified, then a default appointment procedure usually applies.
4. The parties may agree, or even be bound, to abide by the decision of an appointed Arbitrator. But if only a mediation is required, they are bound to just act in good faith.
5. Whatever Rules apply must be followed. There may be an issue of precedence, such as whether an agreement or the Act or other Rules prevail over the Rules of the Club.
6. If no agreement can be reached then the matter can usually be litigated in the Courts.

RULE 7 – DISCIPLINE OF MEMBERS

Step	Process	Timeframe	Reference
1	Committee becomes aware of breach of rules or misconduct eg someone complains	The less often the better	Rule 7
2	At Committee meeting, pass Resolution to suspend, expel or fine member up to \$500, and set date for further meeting 14 to 28 days later (usually next committee meeting)	Next possible committee meeting	Rule 7(1)
3	Secretary gives member written notice that: <ul style="list-style-type: none"> - Sets out the resolution and grounds it is based on, ie the reason for it - State time, place and date of next meeting of Committee - Allows member or their representative to attend the meeting and address it OR give committee a written statement seeking revocation of the resolution - Informs member of right to appeal to whole club within 48 hours if committee confirms the resolution 	Asap, no more than 7 days suggested	Rule 7(4)
4	At next Committee meeting, confirm the Resolution or otherwise after considering: <ul style="list-style-type: none"> - statements of member if in attendance at the hearing, and / or - written statement of member if received beforehand 	14 to 28 days after notice given	Rule 7(5)
5	If committee confirms the resolution, the member may then appeal within 48 hours in writing to Secretary to have a general meeting of the whole club	Within 48 hours of meeting	Rule 7(6)
6	If appeal received, Committee must convene general meeting of members to be held within 21 days	Asap, 7 days should be enough for notices etc.	Rule 7(1)
7	General meeting is held, member must have right to be heard, no other business may be transacted at that meeting, and secret ballot of members present determines whether to confirm the committee resolution or not, and must be passed by 2/3 majority or is revoked	Within 21 days of receipt	Rule 7(1)

RULE 8 – DISPUTE BETWEEN MEMBERS

Step	Process	Timeframe	Reference
1	Dispute arises between member and either another member or the Club itself		Rule 8(1)
2	Parties must meet and try to resolve dispute (Committee need not be involved)	Within 14 days	Rule 8(2)
3	If not resolved or one fails to attend, must try to resolve with a mediator present (should have come to committee attention, mediator should be the club Member Protection Officer)	Within 10 days	Rule 8(3)
4	Mediator can be another person agreed by the parties but must be Government (Victorian Disputes Resolution Centre) appointed if dispute is with the Club/Committee itself		Rule 8(4)
5	Parties must act in good faith and mediator must accord natural justice, give the parties an opportunity to be heard and must NOT determine the dispute by self		Rule 8(5) - (9)
6	If not resolved by mediation, one party can issue complaint in Magistrates Court Victoria		Rule 8(10)
	Associations Incorporation Act gives extensive powers to the Court to give directions, declarations, injunctions, judgments etc		Section 14A
	Associations Incorporation Act governs the grievance procedures that must be (and are) present in our Club Rules		Section 14B
	A recent section in the Associations Incorporation Act gives members a right to complain to the Magistrates Court if the Club engages in “oppressive conduct” (defined in the Act), and wide powers to Magistrate who may refer it way up to the Supreme Court!		Section 14C

TENNIS AUSTRALIA MEMBER PROTECTION BY-LAW

Step	Process	Timeframe	Reference
1	A complaint is made alleging harassment, discrimination, abuse or “other misconduct” (which includes breach of the codes of conduct). These are all extensively defined in the By-Law.		Clause 14 Clause 9, 10, and 11
	The complaint must be in writing to the President or Member Protection Officer (MPO) of Tennis Victoria (TV) or Tennis Australia (TA)		Clause 14
	Even if no actual complaint is received, a matter may be investigated and the same procedure followed as if a complaint had been received		Clause 16
	Certain complaints (sexual and discrimination) ... The MPO requests complainant what they want to do, and may then mediate the matter, refer it to Disciplinary Officer (DO) for hearing under cl 17		Clause 15.1
	Other complaints – are all referred to Disciplinary Officer TV or TA and heard under Clause 17		Clause 15.6
	Hearing procedure – a Disciplinary Tribunal of 3 persons is convened by TV or TA and hears the complaint. Parties may be represented, have a right to be heard, pays own costs etc. A determination is made with reasons in writing.		Clause 17
	Penalties – a wide range may be applied including fines, suspension, withdrawal of awards, warnings, compensation, attend counselling etc.		Clause 18
	Appeals may be instituted on any decision to a higher body within 72 hours of the decision. An extensive procedure and a possible fee applies		Clause 19
	Frivolous, vexatious or malicious complaints can be summarily dismissed but these decisions can be appealed within 48 hours of the determination		Clause 14.4, 17.4