

Disputes and Disciplinary Committee Addendum

General Principles

Pursuant and subject to By-Law 70;

1. At the State Executive Committee (SEC) meeting, or other approved forum (eg Core Executive Committee {CEC}), a motion directing a complaint to be heard by a Disputes and Disciplinary committee (DDC) will be tabled. The complaint must have been notified to the ACTEBA Secretary for inclusion on the SEC meeting agenda (See meeting procedures and etiquette doc), or be of such importance that delay would be inappropriate for the members involved or ACTEBA as a whole (as decided by CEC). A simple majority of the forum will be sufficient for pass the motion.
2. Formation of the DDC shall not imply a particular outcome.
3. The DDC shall meet at the close of the SEC Meeting, or other mutually acceptable time, prior to the next SEC meeting.
4. The Secretary shall, prior to the meeting, make all reasonable attempts to, advise the relevant parties involved in the complaint (excluding the DDC members) of the DDC date.
5. The chair of the DDC, after consultation with the CEC, will determine whether the complaint is valid for hearing (ie. is not obviously frivolous, vexatious or able to be resolved by the Head Umpire, Tournament Director or other qualified member). He/she will then inform the relevant parties (plaintiff and respondent) whether the complaint will be heard or dismissed.
6. A complaint shall refer to a specific event, which shall have occurred not more than sixty (60) days prior to the making of the complaint.
7. A single DDC may hear multiple complaints, as long as all principles set out in this addendum are adhered to.
8. For the purposes of this addendum;
 - i. the person(s), team or venue about which the complaint is made shall be referred to as the respondent;
 - ii. the person(s), team or venue making the complaint shall be referred to as the complainant;
 - iii. the Core Executive Committee consists of President, Vice-President, Treasurer, Secretary, Tournament Director and other Executive Committee office holders present.

- iv. the term “members” shall refer to those that hold voting rights, either in person or by proxy, for the SEC meeting in which the DDC was formed. Exception as stated in section 9.a.ii of this addendum.

Forming the DDC

9. The DDC shall be formed by the following process;

a.

i. At a SEC:

1. 4 members shall be appointed;
2. any member, not directly involved in the complaint, may volunteer to be a member of the DDC;
3. Should more than 4 members wish to stand for the DDC selection will be by ballot;
4. Both the plaintiff and the respondent shall be allowed veto of one (1) selected member. This shall result in another name being selected. No reason needs to be provided for this veto. This veto may not include the Chair.

ii. Between SEC meetings for matters of urgency, as determined by the CEC:

1. at each SEC a member will be sought from each division willing to stand for emergency DDC;
2. in addition to the definition stated in s.8.iv members of this panel may also include, at the discretion of the CEC by majority vote, any financial member of ACTEBA nominated by their team captain for this role;
3. From this pool of DDC members a list of 4 names shall be selected, taking into consideration availability and conflict of interest, the fifth member shall be a reserve pending veto.
4. Both the plaintiff and the respondent shall be allowed veto of one (1) selected member. This shall result in another name being selected. No reason needs to be provided for this veto. This veto may not include the Chair.

b. The chair of the DDC shall be the ACTEBA President or a member of the core or appointed by the President. They may choose to accept or decline this appointment.

i. The chair shall hold the casting vote.

- ii. The President shall endeavour to ascertain any pecuniary interests of the chair relevant to the complaint prior to the DDC meeting, and take all reasonable efforts to address these.
- c. A Secretary to the DDC may be appointed by the CEC at the time of creation of the DDC:
 - i. this position holds no voting rights for this committee;
 - ii. may seek clarification for the purposes of the Minutes;
 - iii. shall be present for the entirety of the meeting/s;
 - iv. during the deliberations only the motions and outcome shall be minuted;
 - v. should a Secretary not be appointed by the CEC, a member of the DDC may fulfil this role, and subject to the conditions listed above **excluding** condition i.

Operation of the DDC

- 10. While the DDC is to have 5 members, and all reasonable attempts shall be made to ensure that a full DDC is formed, where the situation is unavoidable, complaints may be heard by a 3 or 4 member panel:
 - a. The respondent and complainant shall be advised of the change to DDC panel numbers. If either party wishes, the SEC rather than a reduced member DDC will hear the complaint. If no complaints are raised then the DDC shall progress as normal, and a reduced member DDC is not grounds for appeal.
- 11. The chairperson of the DDC shall read the complaint in the presence of all involved, and then take individual statements, including witnesses/supporting statements (if any).
 - a. Witness/supporting statements shall be presented in the presence of the complainant, the respondent and the DDC only. **All** other parties shall be asked to leave.
 - b. Written submissions may be presented, assuming all reasonable attempts by the plaintiff and/or respondent have been made to have the witness present, but only if the validity of these can be ensured, all such submissions shall once tabled become the property of ACTEBA and shall be passed to the ACTEBA secretary along with the minutes of the DDC.
 - c. The committee may recall a person to clarify a point raised by subsequent statements by other parties, or prior statements by that person.
 - d. Once all committee members are satisfied that all relevant information has been obtained the chair shall table a motion to uphold or reject the complaint.

- e. All parties present shall be immediately advised of the result of this vote. If either the plaintiff or respondent are not present when the matter is concluded, they shall be advised of the outcome in writing.
12. Should the complaint be upheld, the DDC will hear from those present (plaintiff, respondent, witnesses (if any)) as to what sanctions, if any, should be imposed. After sufficient discussion a motion shall be tabled and the sanction determined.
- a. All parties present shall be immediately advised of the sanction outcome. If either the plaintiff or respondent are not present when the matter is concluded, they shall be advised of the sanction in writing.

Outcomes

13. The Secretary of the DDC (appointed or otherwise) shall advise the Secretary of ACTEBA of the outcome within 2 days of the close of the DDC.
14. The Secretary of the DDC shall table the minutes of this meeting at the next State Executive Committee meeting.
15. The Secretary of ACTEBA, shall advise the complainant and the respondent in writing, within 7 days of notification of outcome, of the outcome of the DDC. Included in this notification shall be details of the relevant By-Laws relating to appeals. The date of the written notice shall be used in any subsequent matters as the date of notification.

Other

16. In the conduct of making enquiries, the DDC shall be mindful of the privacy of the parties involved. Notwithstanding this, the DDC shall make such enquiries as are needed to satisfy due process.
17. The onus is on all parties to make themselves available, and to have all relevant material available.
18. If mutually agreed between the complainant, the respondent **and** the DDC, the complainant may withdraw the complaint at any stage of the proceedings. Once withdrawn, the same complaint shall not be brought again unless the plaintiff can show cause why it should be re-instated, and such cause is accepted by a majority vote of the core executive.
19. The hearing of a complaint, and the outcome of the process described herein, is purely an internal ACTEBA process, and shall not be construed as an admission or proof of any wrongdoing or negligence by ACTEBA, its agents or members for any external proceedings.

20. The making of several complaints by separate parties about the same incident shall be heard as one complaint.
21. Under anti-discrimination laws, it is only necessary for complainants to prove, **on the balance of probabilities**, that the respondent discriminated against them or harassed them on the basis of an attribute covered by the relevant legislation. There is no need to prove this 'beyond reasonable doubt', as is the case in criminal law. This does not preclude the presumption of innocence, and still requires sufficient evidence to satisfy the DDC of any complaint.