



Complaints Tribunal Policy
Version 1 - 2017

COMPLAINTS TRIBUNAL POLICY

1. Jurisdiction

1.1 The Judo Australia (JA) Complaints Tribunal shall, in conformity with any rules of procedure that may be prescribed in this policy, be responsible for investigating all matters provided for in Clause 8 of the Constitution and Clause 7.4 of the Member Protection Policy.

1.2 The Tribunal shall act according to equity and good conscience without regard to technicalities or legal forms and is not bound by the rules of evidence but may inform itself on any matter as it sees fit.

2. Matters which may be referred to the Complaints Tribunal

2.1 Any matter referred to in Clause 8 of the Constitution may be referred to the Complaints Tribunal.

2.2 Any appeal from an individual member of a Member State or other party who or which has received a penalty or an adverse finding in disciplinary proceedings of a Member State, if that party has first exhausted all avenues of appeal available under the Constitution of the Member State.

2.3 Any matter relating to a breach of the Anti-Doping Policy will be heard and determined in accordance with the hearing procedures as set out in that Policy not in accordance with this Policy. Matters which relate to drugs not involving a breach of the Anti-Doping Policy, will be heard under this Policy.

2.4 A complaint referred pursuant to clause 7.4 of Part A of the Member Protection Policy. Complaints referred under this section shall be heard and determined in accordance with the provisions of Attachment D4: Tribunal Procedures of the Member Protection Policy.

3. Referral to the Complaints Tribunal

3.1 The CEO shall commence or cause to be commenced any proceedings against a Member State, officer of the Company or other persons by referring the alleged breach or misconduct to the Complaints Tribunal. The Complaints Tribunal must include at least one member who is a legal practitioner and two other appropriate persons with relevant skills and knowledge to sit as members of the Complaints Panel. No member of the Board is eligible to sit on the Complaints Tribunal.

3.2 Any such referral to the Complaints Tribunal shall be in writing and accompanied by any documentary or other evidence that is available to the referring party. The referral shall be clear and unambiguous, particularising precisely the matter to be determined.

3.3 No person who is an interested party shall participate in the determination of the proceedings in any way.

3.4 On receipt of a referral, the Chair of the Complaints Tribunal shall, in consultation with the remaining members of the Tribunal, determine an appropriate date, time and place for a hearing by the Complaints Tribunal. The hearing shall be called not less than fourteen (14)

clear days from the receipt of referral, unless the matter is deemed to require urgent attention, in which case a variation of the time frame set out in this Policy may be agreed upon by the parties to the proceedings having regard to the availability of key witnesses and the timing of relevant competitions, amongst other things.

3.5 The Chair of the Complaints Tribunal shall notify all parties to the matter of the date, time and place of the hearing, and in addition shall advise that each party to the proceedings has the right:

- a) to make written submissions not less than five (5) clear days prior to the date of the hearing; and
- b) to appear at the hearing and or be represented by a person who is not legally qualified (as determined in the Complaints Tribunal's discretion).

3.6 The Complaints Tribunal may invite a legally qualified person to be present at the hearing to render advice or assistance concerning any legal issue raised in the hearing, provided that such person shall not participate in any deliberations or vote of the Complaints Tribunal in relation to its findings.

3.7 Subject to any relevant legislation, the Constitution and this Policy, the Complaints Tribunal shall conduct the hearing as it sees fit.

3.8 The parties shall be advised of the hearing procedure determined by the Complaints Tribunal at or before the commencement of the proceedings.

3.9 The Complaints Tribunal shall be entitled to call such evidence as it thinks fit and all persons shall be compelled to provide such evidence, as they are able.

3.10 If the Complaints Tribunal, having taken into account the written and verbal submissions and other evidence of the parties, considers the allegations sustained, the Complaints Tribunal may impose such penalty as it considers appropriate in accordance with Section 4 below.

3.11 If a decision cannot be given immediately after the proceedings, the relevant party or parties must be advised of the time and place at which the decision will be given. The decision, any penalty, the reason for the decision and notice of the member organisation's, officer's or person's appeal rights shall be given in writing and signed by the Chair of the Tribunal.

3.12 On exhaustion of all disciplinary procedures available (if any) to the Member State, officer of the Company or other persons whether by elapse of time or otherwise, notice of any penalty, suspension disqualification or expulsion imposed shall be given by the CEO of the Company to all Member States if relevant and shall be mutually recognised by all Member States immediately upon receipt of such notice.

3.13 Likewise, reinstatement shall be recognised by all Member States immediately upon receipt of notice to this effect by each Member State.

4. Penalties

4.1 Penalties which may be imposed include:

- a) a reprimand;
- b) suspension of such activities, on such terms and for such period as is seen fit;
- c) exclusion from a particular activity, event or events;
- d) fines, imposed in such manner and such amount as is seen fit;
- e) expulsion (subject to Clause 9 the Constitution in the case of a Member State);
- f) such combination of any of the above penalties as is seen fit; or
- g) any other penalty considered appropriate in the circumstances.

4.2 During the proceedings (including any appeal), the defendant may continue to participate in Judo, on such terms as JA thinks fit, unless JA decides (in its discretion) that such continued participation is inappropriate having regard to the matter at hand.

5. Effect of penalty

5.1 Where a Member State is suspended under this Policy its membership of, and representation rights and privileges in, the Company shall be forfeited during the period of such suspension.

5.2 Where a Member State is expelled under this Policy and Clause 9 of the Constitution its membership of, and representation rights and privileges in, the Company shall be forfeited immediately and membership shall cease.

6. Appeals

6.1 An appeal from a decision of the Complaints Tribunal may be made to the Court of Arbitration for Sport.

7. Matters referred to the Court of Arbitration for Sport (CAS)

7.1 The Complaints Tribunal, the CEO and/or the Board may direct that any dispute, complaint, allegation, appeal or other matter be heard and determined by the CAS. Such decision shall be binding on all the parties.

7.2 Any complaint or appeal to the CAS shall be conducted in accordance with the procedures of that body. Decisions made by the CAS shall be final and conclusive and not subject to review or require ratification.

7.3 Where a defendant proposes to exercise their right to appeal to the CAS they shall notify the CEO in writing within twenty one (21) days of the determination of the Complaints Tribunal specifying the grounds of appeal.