



# GOLF AUSTRALIA (GA) CODE OF CONDUCT & DISCIPLINARY PROCEDURE – Complete Version

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## I. EXECUTIVE SUMMARY

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This Code is designed to help the management of GA and Participants in GA events. It sets out the conduct and ethics that are expected of Participants. The Disciplinary Procedure sets out the procedure to be followed when there may have been a breach of this Code.

### STEP-BY-STEP SUMMARY OF THE DISCIPLINARY PROCEDURE IN OPERATION

1. A person bound by the Code performs an action that (if officially assessed) has the potential to be classified as a breach of the Code.
2. The action is brought to the attention of GA in any way. GA will promptly determine whether it is appropriate to officially investigate the incident. GA is not obliged to investigate.
3. If an official investigation is conducted, it is performed by an authorised GA official/s. In most cases the investigation may be limited to consideration of brief verbal witness reports. In most cases there will be no requirement for the person who performed the action being investigated (ie the Respondent) to be consulted as a part of the initial investigation, although in some cases it may be useful to do so. (The Respondent will have the opportunity to present additional information should they decide to contest the initial assessment of the incident once it has been made.)
4. The findings of the official investigation will be reported to the Incident Assessment Panel. In most cases it will be appropriate that this report be a very brief written summary. The Incident Assessment Panel should promptly consider and discuss the findings of the official investigation. This discussion may take place for example in person, or by phone, or text message, or email, or skype, etc.
5. If the Incident Assessment Panel considers that a Minor Breach or a Serious Breach has been committed, it will promptly categorise the Breach, and assess a penalty with reference to the table of guidelines. The Incident Assessment Panel has the flexibility and discretion to assess sanctions that differ from the table of guidelines.
6. The evaluation of the Incident Assessment Panel will be promptly communicated in writing to the Respondent (using a template communication), together with a description of the Respondent's options and potential sanctions. This communication will be copied to the Respondent's Member Association (or national association if the Respondent is not an Australian golfer), and to any club of which GA knows the Respondent to be a member.
  - The Respondent may choose to accept the evaluation of the Incident Assessment Panel. If they do, the penalty will be discounted; OR
  - The Respondent may choose to contest the evaluation of the Incident Assessment Panel at a tribunal hearing. If they do and if the committee that hears the case decides to uphold the evaluation of the Incident Assessment Panel, the Respondent will be subject to the full sanction. Once the matter has been determined by the tribunal hearing, it is concluded and neither party will have any further right of appeal.

Note 1: When a Respondent is sanctioned there are two concurrent penalties. First, they are suspended for the designated number of days from all GA and Member Association events; and secondly (for members of Australian clubs only) their GA Handicap is suspended for the designated number of days. Sanction penalties are extended when a Respondent has an Eligible Prior Breach.

Note 2: In unusual cases, the Incident Assessment Panel may at its absolute discretion decide that the most appropriate course of action is to refer a matter directly to a tribunal hearing. The committee that hears the matter will make an assessment. The Respondent may contest this assessment at a further tribunal hearing which will be handled by a different committee – in such a case, once this different committee makes its determination, the matter is concluded and neither party will have any further right of appeal.

## II. DICTIONARY OF TERMS

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### **Appeals Committee**

The Appeals Committee is a 3-person committee comprised as set out in the Disciplinary Procedure. If it is the Disciplinary Committee (and not the Incident Assessment Panel) that made the initial assessment of 'Official Assessment: Breach', and the Respondent wishes to contest this assessment, the matter is resolved by the Appeals Committee.

### **Code**

The code of conduct set out in this document.

### **Disciplinary Committee**

The Disciplinary Committee is a 3-person committee comprised as set out in the Disciplinary Procedure. A hearing of the Disciplinary Committee may be conducted either:

- i. To resolve a case where the Respondent wishes to contest an assessment of the Incident Assessment Panel, or
- ii. When the Incident Assessment Panel has referred a matter to the Disciplinary Committee for initial assessment.

### **Disciplinary Procedure**

The disciplinary procedure set out in this document.

### **Eligible Prior Breach**

A breach is an Eligible Prior Breach when the Respondent has been sanctioned for a same-category breach (or for a breach of a more serious category) of the Code during the 18 months that immediately precedes the date on which the new incident is alleged to have occurred. (This includes when a sanction has been applied under a Code of Conduct that is operated by a Member Association of GA where the Member Association has adopted the GA Code.) Examples:

- If breach B occurs before the Respondent has been notified of breach A, then breach A is not considered an Eligible Prior Breach under this clause when determining the sanction for breach B.
- If the Respondent commits breach B after they have officially lodged an appeal against a sanction for breach A, and the appeal is unresolved at the time of breach B, breach A will not be considered an Eligible Prior Breach for the purposes of this clause.
- If the Respondent commits breach B after they have been notified of a sanction for breach A and they have not officially appealed against the sanction for breach A but decide to do so after they commit breach B, breach A is considered an Eligible Prior Breach for the purposes of this clause unless any subsequent appeal against breach A is officially upheld.

### **Event**

A competition conducted under the auspices of GA.

### **Final Assessment: Breach**

Where an assessment of 'Official Assessment: Breach' has been contested by the Respondent and where the committee that resolved the matter in accordance with the Disciplinary Procedure has upheld the original assessment. Where applicable, this decision may also incorporate a decision in accordance with the Disciplinary Procedure to reduce or eliminate the original sanction, including for example in cases where the breach has been recategorised.

**Final Assessment: No Breach**

Where an assessment of 'Official Assessment: Breach' has been contested by the Respondent and where the committee that resolved the matter in accordance with the Disciplinary Procedure has determined that no breach of the Code has occurred.

**GA**

Golf Australia.

**Incident Assessment Panel**

The Incident Assessment Panel is a two-person panel which is comprised of GA's Championships Director and Championships & Rules Manager. In the event that one of these two officials is not immediately available, they may be replaced by GA for a specific case by any of the following GA officials: the Chairman, CEO, Rules & Handicapping Director, or High Performance Director. The function of the Incident Assessment Panel is to consider the findings of an investigation into a potential breach of the Code. The GA official who conducted the investigation is not precluded from being one of the GA officials on the Incident Assessment Panel for that incident.

**Official Assessment: Breach**

Where the assessment of the first entity to make an official determination on a matter under the Disciplinary Procedure is that the Respondent is in breach of the Code. Where applicable, this assessment also incorporates any consequent sanction in accordance with the Disciplinary Procedure.

**Official Assessment: No Breach**

Where the assessment of the first entity to make an official determination on a matter under the Disciplinary Procedure is that the Respondent has not breached the Code.

**Participant**

A Participant in an Event is a person who has engaged with that Event as any of the following: a competitor, a caddie (as defined in the Rules of Golf as approved by R&A Rules Limited), a family member or friend or supporter or associate of a competitor or caddie, a non-playing captain or manager, a team official or support official, a spectator, a person who comments digitally or otherwise in a public domain on an Event or on another Participant of an Event, and anyone else considered by GA at its absolute discretion to be a Participant.

**Respondent**

A Participant whose action/s are the subject of consideration and/or a decision under this Code and Disciplinary Procedure.

### III. CODE OF CONDUCT

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#### A. GENERAL

By agreeing to be bound by the conditions of an Event (and where the Conditions of the Event include the Code and Disciplinary Procedure), or by accessing the property of a venue club for an Event on either an official practice day or an official competition day, or by commenting digitally or otherwise in a public domain on an Event or on another Participant of an Event, or by such other mechanism as may be in effect from time to time, each Participant submits that:

1. They agree to be bound by this Code and Disciplinary Procedure.
2. Any actions taken by them up until midnight on the day after the final day of the Event will be actionable under this Code and Disciplinary Procedure.
3. Any actions taken by them that are directly relevant to the Event will be actionable under this Code and Disciplinary Procedure for a period of 12 months after the conclusion of the Event.

It would be impossible to define exactly the standard of conduct expected from a Participant in all circumstances or to list all acts that would amount to a breach of the Code and lead to disciplinary sanction. In most cases common sense should tell the Participant the standard of behaviour that is required. Any Participant who has any doubts as to the conduct which is expected of them should consult a GA official for guidance.

#### B. GUIDELINES

In most circumstances the following acts or omissions by a Participant will be considered to be breaches of the Code and will lead to a sanction being imposed upon the Participant where a breach notice is accepted or unsuccessfully defended.

1. **Best Efforts** – Failure to give their best efforts in competition.
2. **Etiquette** – Failure to comply with normally accepted standards of courtesy and golf etiquette.
3. **Misbehaviour** – Misbehaviour of a personal nature that is generally unacceptable by normal social standards and which GA at its sole discretion considers to be harmful to the reputation of GA, or a Member Association of GA, or a venue club/facility, or an Event, or another Participant.
4. **Injurious Conduct** – Conduct likely to injure or discredit the reputation of GA, or a Member Association of GA, or a venue club/facility, or an Event, or another Participant.
5. **Failure to Report a Breach of the Code** – Failure by a Participant to:
  - (i) Report a breach of the Code by another Participant when the breach is known to that Participant or in circumstances where they should reasonably have realised that a breach of the Code may have occurred; or
  - (ii) Fully cooperate in any enquiry or proceedings relating to a breach or suspected breach of the Code.
6. **Rules of Golf** – Failure to comply with the Rules of Golf, Local Rules, or Conditions of Competition.

## IV. DISCIPLINARY PROCEDURE

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### A. FORMAL INVESTIGATION OF AN INCIDENT

Where a Participant may have committed a breach of the Code, the conditions for conducting a formal investigation are:

- A formal investigation may only be conducted if it is initiated by any member of the GA Handicapping, Rules & Competitions Policy Committee (or one of its successors) or the Company Secretary of GA. If any of these officials instructs that an investigation be conducted, no other official can change that decision. If one of these officials does not consider an investigation is warranted and another official does consider an investigation is warranted, an investigation will be conducted.
- The investigation will be conducted by any GA official/s as determined by either the GA Chairman, Chief Executive Officer, Championships Director, Rules & Handicapping Director, or Company Secretary.
- There is no requirement for a formal complaint to be lodged in order for an investigation to be initiated. It is entirely at the discretion of GA as to whether an incident is to be formally investigated.
- It will be entirely at GA's discretion to determine the nature and scope of the investigation. Investigations should ideally be conducted in a prompt manner. In most cases the investigation will be limited to prompt consideration of verbal reports by witness/s to the incident. In most cases there will be no requirement for the Respondent to be consulted as a part of the official investigation, although in some cases it may be helpful to do so. The Respondent will have the opportunity to present additional information should they choose to contest the assessment of the Incident Assessment Panel.
- The findings of the investigation must be reported to the Incident Assessment Panel for official assessment. In most cases it will be appropriate that this report be a very brief written summary.

### B. CONSIDERATION OF FINDINGS OF FORMAL INVESTIGATION

Following the investigation and the gathering of evidence, the members of the Incident Assessment Panel should promptly consider and discuss the findings of the official investigation. This discussion may take place for example in person, or by phone, or text message, or email, or skype, etc. The Incident Assessment Panel will have three options:

- Official Assessment: No Breach.
- Official Assessment: Breach.
- The Incident Assessment Panel may at its absolute discretion decide that the most appropriate course of action is to refer the matter to a hearing of the Disciplinary Committee for determination.

If the matter is referred by the Incident Assessment Panel to the Disciplinary Committee for initial assessment, a hearing of the Disciplinary Committee will take place as set out in this document. The Disciplinary Committee must make an assessment and it will have two options as follows:

- Official Assessment: No Breach.
- Official Assessment: Breach.

Where the outcome has been assessed by either the Incident Assessment Panel or the Disciplinary Committee as 'Official Assessment: No Breach', the matter is completed and no action is taken against the Respondent.

If any evidence comes to the attention of GA subsequent to the initial investigation and/or the decision as to whether an alleged incident is considered to constitute a Nominal Breach, a Minor Breach, a Serious Breach, or No Breach for the purposes of this Disciplinary Procedure, then GA will be entitled to re-categorise the incident as it considers appropriate taking into account such evidence.

### C. CATEGORISING A BREACH OF THE CODE

Where the outcome has been assessed as 'Official Assessment: Breach', there are three options available to categorise the action, or actions, of the Respondent, and the Incident Assessment Panel (or the Disciplinary Committee if the matter is referred by the Incident Assessment Panel to the Disciplinary Committee for initial assessment) must choose one of these options. The three options are:

- A Nominal Breach of the Code has occurred, or
- A Minor Breach of the Code has occurred, or
- A Serious Breach of the Code has occurred.

These three options are defined as follows.

1. **Nominal Breach of the Code** – A breach of the Code that does not warrant any further sanction against the Respondent, other than any sanction that might already have been imposed under the Rules of Golf, Local Rules, or Conditions of Competition. A matter that technically qualifies as a Minor Breach of the Code may be considered by the Incident Assessment Panel (or the Disciplinary Committee if the matter is referred by the Incident Assessment Panel to the Disciplinary Committee for initial assessment) to be insubstantial enough to be classified as a Nominal Breach of the Code.
2. **Minor Breach of the Code** – (includes any of the following where GA at its absolute discretion considers an action/s to be significant enough for it to be inappropriate to be categorised as a Nominal Breach of the Code, but not significant enough for it to be categorised as a Serious Breach of the Code)
  - (i) **Best Efforts:** Playing in a manner (with no ulterior motive) that creates negative exposure for GA or the Event, or upsets or distracts fellow Participants.
  - (ii) **Etiquette:** Examples of actions that may warrant such consideration include but are not limited to any of: non-raking of a bunker, dropping litter on the course, lack of verbal warning when hitting a ball close to spectators.
  - (iii) **General Misbehaviour:** General abuse of Event, course, or golf equipment or the like, use of audible obscenities, minor incidents resulting from drunken or otherwise socially unacceptable behaviour by a Participant, repeated breach of practice regulations. A display of clear but minor abusive behaviour towards, or clear but minor disrespect of, another Participant or of an official of any of the following: GA, the event, a Member Association of GA, a venue club/facility, another Participant. Repeated breach of dress, smoking, alcohol or other event policies. (Note: Any sanctions that may be applied to the player for causing damage to something which is not their own property should not preclude consideration of the player being invoiced for the cost of repairs.)
  - (iv) **Injurious Conduct:** Actions or comments that may harm or discredit officials, fellow Participants, sponsors, promoters, volunteers, third-party contractors, GA, a venue facility/club, or the Event generally but which does not or is unlikely to create significant or long-term damage (reputational or otherwise) to any of the aforementioned entities.
  - (v) **Failure to Report a Breach of the Code:** A failure to report a breach of the Code by a fellow Participant or to fully and properly assist in an enquiry regarding such a breach.
  - (vi) **Rules of Golf:** A breach of the Rules of Golf which is found to be a careless or negligent infringement of the Rules of Golf and where it is considered that disqualification from the Event at which such breach has taken place is not a sufficient sanction on the Participant.
3. **Serious Breach of the Code** (includes any of the following where GA at its absolute discretion considers an action/s to be significant enough for it to be inappropriate to be categorised as a Minor Breach of the Code)
  - (i) **Best Efforts:** Failure to give best efforts in an attempt to contrive a result.
  - (ii) **Etiquette:** An example of an action that may warrant such consideration is dangerous play leading to, or which could have led to, material third-party injury.



- (iii) Significant Misbehaviour:** Significant abuse of Event, course, or golf equipment or the like. Significant use of audible obscenities, material incidents resulting from drunken or otherwise socially unacceptable behaviour by a Participant. A display of significant abusive behaviour towards, or significant disrespect of, another Participant or of an official of any of the following: GA, the Event, a Member Association of GA, a venue club/facility, another Participant. Significant breaches of dress, smoking, alcohol, or other event policies. (Note: Any sanctions that may be applied to the player for causing damage to something which is not their own property should not preclude consideration of the player being invoiced for the cost of repairs.)
- (iv) Injurious Conduct:** Actions or comments that may harm or discredit officials, fellow Participants, sponsors, promoters, volunteers, third-party contractors, GA, a venue facility/club, or the Event generally and that does cause or is likely to cause significant or long-term damage (reputational or otherwise) to any of the aforementioned entities.
- (v) Rules of Golf:** A breach of the Rules of Golf which is found to be a deliberate infringement of the Rules of Golf or where the Participant's actions or omissions to act are reckless to the extent that they should have known that a breach of the Rules of Golf would occur.

The above list is for guidance and for illustrative purposes only and does not prejudice GA's discretion to determine the seriousness of an alleged breach of the Code on a case by case basis in accordance with the relevant facts and evidence obtained.

## D. CONTESTING THE ASSESSMENT OF AN INCIDENT

### 1. General

If the action/s of a Respondent is assessed to be 'Official Assessment: Breach', the Respondent will have the option to contest this assessment in a committee hearing. The Respondent may contest the assessment once.

The relevant committee may:

- uphold the original decision in entirety (including the length of sanction) and make a determination of 'Final Official Assessment: Breach'; or
- uphold the original decision in part by making a determination of 'Final Official Assessment: Breach', but decide to reduce (which may include by recategorising a breach) or to eliminate the assessed sanction. It may not increase the assessed sanction. Or
- overturn the original decision in entirety and make a determination of 'Final Official Assessment: No Breach'.

Once the matter has been determined by the relevant committee, it is concluded and neither party will have any further right of appeal.

### 2. Committees that will Resolve Contested Assessments of Incidents

- (i) **DISCIPLINARY COMMITTEE.** If it is the **Incident Assessment Panel** that has made the assessment 'Official Assessment: Breach', it is the Disciplinary Committee that will resolve a case where the Respondent chooses to contest this assessment.
- (ii) **APPEALS COMMITTEE.** If it is the **Disciplinary Committee**, and not the Incident Assessment Panel, that has made the assessment 'Official Assessment: Breach', it is the Appeals Committee that will resolve a case where the Respondent chooses to contest this assessment.

### 3. Process for Respondent to Instigate a Hearing to Resolve a Contested Incident Assessment

In order for a Respondent to initiate a hearing to resolve a contested incident assessment, the Respondent must lodge in writing (either electronically or on paper) with GA that they wish for a hearing to take place. This notice must be received by GA by no later than 7 days (ie 168 hours) after the notice of 'Official Assessment: Breach' was officially communicated to the Respondent. The Respondent is not obliged to provide any reasons to support their request for a hearing to determine the matter.

## E. SANCTIONS FOR BREACH OF CODE

### 1. Extension of Sanction Period Due to Eligible Prior Breach/es

Sanction penalties are extended (as set out in the below sanction tables) when a Respondent has an Eligible Prior Breach.

### 2. Sanction Periods (including commencement date and time) and Sanction Penalties

Any sanction will take effect on the date and time which is seven days after the assessment of the incident/s has been officially communicated to the player, unless the Respondent officially communicates a decision to contest this assessment. In such case any sanction will not be eligible to take effect until the matter has been formally resolved under this Disciplinary Procedure.

Exception: In circumstances considered to be exceptional by GA, GA may determine to have a sanction take immediate effect. Such a decision must be made by at least two of the following GA officials: Chairman of GA, Chief Executive Officer, Championships Director, and the Rules & Handicapping Director.

**Sanction Penalties (\*).** When a Respondent is sanctioned there are two concurrent penalties. Firstly, they are suspended for the designated number of days from all GA and Member Association events; and secondly (for members of Australian clubs only) their GA Handicap is suspended for the designated number of days.

In cases where both of the following criteria have been met:

- Where the current matter is considered resolved under the terms of this Code, and
- Where it has been determined that the Respondent is in breach of this Code,

the following sanction periods will apply:

- (i) **Nominal Breach of the Code.** The matter is completed, no further action is taken against the Respondent, and no communication is provided to the Respondent unless the Respondent requests some communication.
- (ii) **Minor Breach of the Code.** The Respondent has two options. They can either contest the charge and have the matter resolved in a hearing, or they can accept the charge. The sanction is discounted if the Respondent accepts the charge. The respective sanctions are as follows:

Number of Eligible Prior Breaches (not including current breach)	Charge contested by Respondent & then upheld at hearing	Discounted sanction when charge accepted by Respondent
0	7 days*	Warning only
1	14 days*	7 days*
2	30 days*	20 days*
3	60 days*	40 days*
4	120 days*	80 days*
5	240 days*	160 days*

Note: If in its absolute discretion the Incident Assessment Panel (or the Disciplinary Committee if the matter was referred by the Incident Assessment Panel to the Disciplinary Committee for initial assessment) considers such action to be warranted, it may choose to either extend the time period for these sanctions, or to have the sanction be served during a specific upcoming event/s. In such a case it will be for the Incident Assessment Panel (or the Disciplinary Committee if the matter was referred by the Incident Assessment Panel to the Disciplinary Committee for initial assessment) to establish any discount to the sanction that will apply if the initial assessment is accepted by the Respondent.

- (iii) **Serious Breach of the Code.** The Respondent has two options. They can either contest the charge and have the matter resolved in a hearing, or they can accept the charge. The sanction is discounted if the Respondent accepts the charge. The respective sanctions are as follows:

Number of Eligible Prior Breaches (not including current breach)	Charge contested by Respondent & then upheld at hearing	Discounted sanction when charge accepted by Respondent
0	30 days*	15 days*
1	63 days*	42 days*
2	126 days*	84 days*
3	252 days*	168 days*
4	504 days*	336 days*
5	1008 days*	672 days*

Note: If in its absolute discretion the Incident Assessment Panel (or the Disciplinary Committee if the matter was referred by the Incident Assessment Panel to the Disciplinary Committee for initial assessment) considers such action to be warranted, it may choose to either extend the time period for these sanctions, or to have the sanction be served during a specific upcoming event/s. (Examples of actions that may warrant such consideration include but are not limited to any of: bullying or threatening behaviour, vilification on the basis of gender or race or sexual orientation, acts of violence against another person, seeking to manipulate the result of a competition, cheating, acting with considered intent to cause damage to the course or to equipment of the Event or the venue facility or the like, criminal acts or the like.) In such a case it will be for the Incident Assessment Panel (or the Disciplinary Committee if the matter was referred by the Incident Assessment Panel to the Disciplinary Committee for initial assessment) to establish any discount to the sanction that will apply if the initial assessment is accepted by the Respondent.

## F. COMMUNICATION TO RESPONDENT OF ASSESSMENT BY INCIDENT ASSESSMENT PANEL

When it has been officially assessed that a Respondent's action/s constitute a breach of the Code, GA's Director of Championships shall be responsible for officially communicating the assessment to the Respondent. This communication:

- Should occur as soon as possible after the determination has been made; and
- It should include a listing of the aspect of the Code that the Respondent has been assessed to be in breach of; and
- Should set out the sanction (where applicable) and any potential sanction discount (where applicable), including the date and time at which the sanction will take effect and cease; and
- Should include advice of the Respondent's right to contest the assessment; and
- Must be copied to the Respondent's Member Association (or national Association in the event the Respondent is not an Australian golfer), and to any club of which GA knows the Respondent to be a member; and
- Must occur by email (or such other electronic means as it is believed that the Respondent regularly uses) – this is the primary communication. The primary communication must, for the Respondent only, be supported by a secondary communication to advise that an email has been sent. The secondary communication may be via text message or verbally.

## G. DISCIPLINARY COMMITTEE

### 1. General

A hearing of the Disciplinary Committee may be conducted either:

- To resolve a case where the Respondent wishes to contest an assessment of the Incident Assessment Panel, or

- When the Incident Assessment Panel has referred a matter to the Disciplinary Committee for initial assessment.

The operating procedures at a hearing of the Disciplinary Committee are the same in either case.

A hearing of the Disciplinary Committee should take place as soon as possible after it is established that a hearing is required. It must take place at a time and place that in the sole opinion of the chairperson is not notably unreasonable for the Respondent.

A hearing of the Disciplinary Committee is an informal internal inquiry. The purpose of the hearing before the Disciplinary Committee is to dispose of the matter as speedily and informally as possible consistent with a fair hearing, in good faith and the rules of natural justice. The rules of evidence do not apply to a hearing.

The hearing shall take place before three members of the Disciplinary Committee. GA shall select three people such that the Disciplinary Committee consists of one of each of the following:

- A legally qualified person (of at least 6 years post-qualification experience) who is not a GA official, who will be the chairperson of the Disciplinary Committee. [GA will maintain on file a list of at least two people eligible under this requirement who are willing to serve on the Disciplinary Committee at a hearing, subject to availability on a specific hearing date.]
- An experienced golf administrator.
- A member of the PGA of Australia, or a member of the ALPG.

Where the Chairperson of the Disciplinary Committee considers it necessary, the Disciplinary Committee will be entitled to appoint external experts or lawyers to advise the Disciplinary Committee, subject to the prior written approval of GA as to the cost of obtaining such external advice.

No person who was involved in the events relating to, or the investigation of, the alleged breach of the Code, or who has a clear vested interest in the outcome of the hearing, or who has made strong statements in the public domain either way on a directly relevant matter, should sit on the Disciplinary Committee. Each person who is approached to sit on the Disciplinary Committee for a matter will be required to make a declaration of any vested interest or involvement in the alleged breach prior to sitting on the Disciplinary Committee.

## **2. Communication of the Charge and Details of the Matter, and Notification of the Hearing Date, Time, and Venue**

GA will communicate as follows to the Respondent and to all members of the Disciplinary Committee at least five days (ie 120 hours) prior to the starting time for the hearing:

- The date, time, and venue for the hearing.
- A listing of the aspect of the Code that is relevant to the Respondent's action/s.
- A listing of the potential sanctions (where applicable) and any potential sanction discount (where applicable), including the date and time at which the sanctions would take effect and cease.
- Advice of the Respondent's right to contest the assessment of the incident (where applicable).
- The communication must be copied to the Respondent's Member Association (or national Association in the event the Respondent is not an Australian golfer), and to any club of which GA knows the Respondent to be a member.
- The communication must occur by email (or such other electronic means as it is believed the Respondent regularly uses) – this is the primary communication. The primary communication must, for the Respondent only, be supported by a secondary communication to advise that an email has been sent. The secondary communication may be for example via text message or verbally.

- The communication must include a brief summary document of the findings of the investigation into the matter, and anything else that is considered relevant (it is the responsibility of GA to prepare this document).
- The communication must include a current copy of the GA Code of Conduct and Disciplinary Procedure with a note to the Respondent drawing their attention to the regulations relating to a hearing of the Disciplinary Committee.
- The communication must include (or be subsequently followed by) a list of all witnesses approved by the chairperson. Note that the list of witnesses must be communicated to the Respondent and to all members of the Disciplinary Committee at least two days (ie 48 hours) prior to the starting time for the hearing unless otherwise approved by the chairperson. See also clause IV(G)(3)(vii).

### 3. Hearings

- (i) The following people will be allowed to attend the hearing (and they may appear either in person or via phone hook-up, or via video or skype or the like):
  - Members of the Disciplinary Committee.
  - The Respondent.
  - Any witnesses called by the Respondent.
  - Any witnesses called by GA.
  - The Respondent may be accompanied and supported by up to two people (for example, a parent/s, or a club official, or a State/Territory official, etc). The representatives of the Respondent may speak on behalf of the Respondent during the hearing. The Respondent is not limited in who they may choose to have accompany them at the hearing.
- (ii) If the Respondent is not present at the set hearing time and the chairperson considers that no valid reason has been presented for their absence, the hearing will continue subject to the chairperson being satisfied that all notification requirements have been met.
- (iii) If the chairperson considers that there is a valid reason for the non-attendance of the Respondent, or the chairperson does not believe the notification requirements have been met, then the hearing will be rescheduled to a later date or time.
- (iv) If the chairperson wishes to reschedule the hearing date or time, the chairperson will inform an appropriate staff member of GA of the need to reschedule the hearing and that staff member will arrange for the hearing to be reconvened.
- (v) The chairperson will read out the complaint, the assessment of the incident (where applicable), and the potential sanctions, and ask the Respondent if they understand the complaint and the potential sanctions.
- (vi) If the Respondent agrees with the complaint but disagrees with the categorisation (where applicable), they will be asked to provide any evidence or witnesses that should be considered by the Disciplinary Committee when determining any sanctions.
- (vii) The Respondent will present whatever relevant information they wish to the Disciplinary Committee, and may have witnesses appear. GA will present whatever relevant information it wishes to the Disciplinary Committee, and may have witnesses appear. A list of all requested witnesses for GA and for the Respondent must be presented to the chairperson at least 54 hours prior to the hearing – a witness may not appear at the hearing if their name has not been submitted to the chairperson prior to this time unless the chairperson believes the circumstances are warranted to make an exception.
- (viii) Witnesses may be asked to wait outside the hearing until they are required.
- (ix) The Disciplinary Committee may:
  - consider any evidence, and in any form, that it deems relevant.
  - ask questions of any person giving evidence.

- limit the number of witnesses (including limiting witnesses to those persons who only provide new evidence).
  - require (to the extent it has power to do so) the attendance of any witness it deems relevant.
  - act in an inquisitorial manner in order to establish the truth of the issue/case before it.
- (x) Video evidence, if available, may be presented. Arrangements must be made entirely by the person(s) wishing to offer this type of evidence.
- (xi) If the Disciplinary Committee considers that at any time during the hearing there is any unreasonable or intimidatory behaviour from anyone, the chairperson may deny further involvement of that person in the hearing.
- (xii) After all of the evidence has been presented, the Disciplinary Committee will make its decision in private. The Disciplinary Committee must decide whether the complaint has, on the balance of probabilities, been substantiated.
- (xiii) The Respondent will have the opportunity to make submissions to the Disciplinary Committee in relation to any breach categorisation or sanctions that may be imposed.

#### **4. Decisions**

- (i) All Disciplinary Committee decisions will be by majority vote.
- (ii) The chairperson will announce the decision at the conclusion of the hearing. Alternatively, they may advise those present that the decision is reserved and will be handed down in written form at a later time.
- (iii) Where applicable, the Disciplinary Committee may decide to reduce (which includes by recategorising a breach) or eliminate a sanction determined by the Incident Assessment Panel, but it may not increase a sanction determined by the Incident Assessment Panel.
- (iv) Within 48 hours, the chairperson will:
- forward a notice of the Disciplinary Committee's decision to the CEO of Golf Australia, and to the Respondent's Member Association (or national Association in the event the Respondent is not an Australian golfer), and to any club of which GA knows the Respondent to be a member, including any sanction imposed.
  - forward a letter reconfirming the Disciplinary Committee's decision to the Respondent, including any sanction imposed. The letter should also outline the process and grounds for an appeal, if applicable.
- (v) The Disciplinary Committee does not need to provide written reasons for its decision.

#### **5. Costs**

Any costs incurred by the Respondent in relation to preparing for and attending the hearing, as well as any costs arising in connection with the attendance of any witnesses requested by the Respondent at such hearing, shall be borne by the Respondent unless otherwise agreed in writing by GA.

Notwithstanding the foregoing, the Disciplinary Committee may in its absolute discretion award travel and accommodation costs to a Respondent whose case is successful out of GA funds in such amount and on such terms as to payment as it considers appropriate.

## **H. APPEALS COMMITTEE**

### **1. General**

A hearing of the Appeals Committee may only be conducted to resolve a case where the Respondent chooses to contest an initial assessment of an incident/s where that initial assessment was made by the Disciplinary Committee.

For the avoidance of doubt, a hearing of the Appeals Committee may not be conducted to serve as an appeals mechanism for an assessment of the Disciplinary Committee when the Disciplinary

Committee's involvement in an incident had been to resolve a contested assessment by the Incident Assessment Panel.

A hearing of the Appeals Committee should take place as soon as possible after it is established that a hearing is required. It must take place at a time and place that in the sole opinion of the chairperson is not notably unreasonable for the Respondent.

A hearing of the Appeals Committee is an informal internal inquiry. The purpose of the hearing before the Appeals Committee is to dispose of the matter as speedily and informally as possible consistent with a fair hearing, in good faith and the rules of natural justice. The rules of evidence do not apply to a hearing.

The hearing shall take place before three members of the Appeals Committee which shall be comprised as follows:

- A legally qualified person (of at least 6 years post-qualification experience) who is not a GA official, and who was not involved in the Disciplinary Committee hearing of the matter, and who will be the chairperson of the Appeals Committee. [GA will maintain on file a list of at least two people eligible under this requirement who are willing to serve on the Appeals Committee at a hearing, subject to availability on a specific hearing date.]
- An experienced golf administrator who was not involved in the Disciplinary Committee hearing of the matter.
- A member of the PGA of Australia, or a member of the ALPG, who was not involved in the Disciplinary Committee hearing of the matter.

Where the Chairperson of the Appeals Committee considers it necessary, the Appeals Committee will be entitled to appoint external experts or lawyers to advise the Appeals Committee, subject to the prior written approval of GA as to the cost of obtaining such external advice.

No person who was involved in the events relating to, or the investigation of, the alleged breach of the Code, or who has a clear vested interest in the outcome of the hearing, or who has made strong statements in the public domain either way on a directly relevant matter, should sit on the Appeals Committee. Each person who is approached to sit on the Appeals Committee for a matter will be required to make a declaration of any vested interest or involvement in the alleged breach prior to sitting on the Appeals Committee.

## **2. Communication of the Charge and Details of the Matter, and Notification of the Hearing Date, Time, and Venue**

GA will communicate as follows to the Respondent and to all members of the Appeals Committee at least five days (ie 120 hours) prior to the starting time for the hearing:

- The date, time, and venue for the hearing.
- A listing of the aspect of the Code that is relevant to the Respondent's action/s.
- A listing of the potential sanctions (where applicable) and any potential sanction discount (where applicable), including the date and time at which the sanctions would take effect and cease.
- The communication must be copied to the Respondent's Member Association (or national Association in the event the Respondent is not an Australian golfer), and to any club of which GA knows the Respondent to be a member.
- The communication must occur by email (or such other electronic means as it is believed that the Respondent regularly uses) – this is the primary communication. The primary communication must, for the Respondent only, be supported by a secondary communication to advise that an email has been sent. The secondary communication may be for example via text message or verbally.
- The communication must include a brief summary document of the findings of the investigation into the matter, and anything else that is considered relevant (it is the responsibility of GA to prepare this document).

- The communication must include a current copy of the GA Code of Conduct and Disciplinary Procedure with a note to the Respondent drawing their attention to the regulations relating to a hearing of the Appeals Committee.
- The communication must include (or be subsequently followed by) a list of all witnesses approved by the chairperson. Note that the list of witnesses must be communicated to the Respondent and to all members of the Appeals Committee at least two days (ie 48 hours) prior to the starting time for the hearing unless otherwise approved by the chairperson. See also clause IV(H)(3)(vii).

### 3. Hearings

- (i) The following people will be allowed to attend the hearing (and they may appear either in person or via phone hook-up, or via video or skype or the like):
  - Members of the Appeals Committee.
  - The Respondent.
  - Any witnesses called by the Respondent.
  - Any witnesses called by GA.
  - The Respondent may be accompanied and supported by up to two people (for example, a parent/s, or a club official, or a State/Territory official, etc). The representatives of the Respondent may speak on behalf of the Respondent during the hearing. The Respondent is not limited in who they may choose to have accompany them at the hearing.
- (ii) If the Respondent is not present at the set hearing time and the chairperson considers that no valid reason has been presented for their absence, the hearing will continue subject to the chairperson being satisfied that all notification requirements have been met.
- (iii) If the chairperson considers that there is a valid reason for the non-attendance of the Respondent, or the chairperson does not believe the notification requirements have been met, then the hearing will be rescheduled to a later date or time.
- (iv) If the chairperson wishes to reschedule the hearing date or time, the chairperson will inform an appropriate staff member of GA of the need to reschedule the hearing and that staff member will arrange for the hearing to be reconvened.
- (v) The chairperson will read out the complaint, the assessment of the incident, and the potential sanctions, and ask the Respondent if they understand the complaint and the potential sanctions.
- (vi) If the Respondent agrees with the complaint but they disagree with the categorisation, they will be asked to provide any evidence or witnesses that should be considered by the Appeals Committee when determining any sanctions.
- (vii) The Respondent will present whatever relevant information they wish to the Appeals Committee, and may have witnesses appear. GA will present whatever relevant information it wishes to the Appeals Committee, and may have witnesses appear. The Appeals Committee will not necessarily be aware of any information presented at the Disciplinary Committee hearing – any information that either GA or the Respondent wishes the Appeals Committee to consider must be presented directly to the Appeals Committee. A list of all requested witnesses for GA and for the Respondent must be presented to the chairperson at least 54 hours prior to the hearing – a witness may not appear at the hearing if their name has not been submitted to the chairperson prior to this time unless the chairperson believes the circumstances are warranted to make an exception.
- (viii) Witnesses may be asked to wait outside the hearing until they are required.
- (ix) The Appeals Committee may:
  - consider any evidence, and in any form, that it deems relevant.
  - ask questions of any person giving evidence.
  - limit the number of witnesses (including limiting witnesses to those persons who only provide evidence that is new to the Appeals Committee).



- require (to the extent it has power to do so) the attendance of any witness it deems relevant.
  - act in an inquisitorial manner in order to establish the truth of the issue/case before it.
- (x) Video evidence, if available, may be presented. Arrangements must be made entirely by the person(s) wishing to offer this type of evidence.
- (xi) If the Appeals Committee considers that at any time during the hearing there is any unreasonable or intimidatory behaviour from anyone, the chairperson may deny further involvement of that person in the hearing.
- (xii) After all of the evidence has been presented, the Appeals Committee will make its decision in private. The Appeals Committee must decide whether the complaint has, on the balance of probabilities, been substantiated.
- (xiii) The Respondent will have the opportunity to make submissions to the Appeals Committee in relation to any breach categorisation or sanctions that may be imposed.

#### **4. Decisions**

- (i) All Appeals Committee decisions will be by majority vote.
- (ii) The chairperson will announce the decision at the conclusion of the hearing. Alternatively, they may advise those present that the decision is reserved and will be handed down in written form at a later time.
- (iii) The Appeals Committee may decide to reduce (which includes by re-categorising a breach) or eliminate the sanction determined by the Disciplinary Committee, but it may not increase the sanction determined by the Disciplinary Committee.
- (iv) Within 48 hours, the chairperson will:
- forward a notice of the Appeals Committee's decision to the CEO of Golf Australia, and to the Respondent's Member Association (or national Association in the event the Respondent is not an Australian golfer), and to any club of which GA knows the Respondent to be a member, including any sanction imposed.
  - forward a letter reconfirming the Appeals Committee's decision to the Respondent, including any sanction imposed.
- (v) The Appeals Committee does not need to provide written reasons for its decision.
- (vi) There is no right of appeal against a decision of the Appeals Committee.

#### **5. Costs**

Any costs incurred by the Respondent in relation to preparing for and attending the hearing, as well as any costs arising in connection with the attendance of any witnesses requested by the Respondent at such hearing, shall be borne by the Respondent unless otherwise agreed in writing by GA. Notwithstanding the foregoing, the Appeals Committee may in its absolute discretion award travel and accommodation costs to a Respondent whose case is successful out of GA funds in such amount and on such terms as to payment as it considers appropriate.

#### **I. WAIVER OF MINOR PROCEDURAL IRREGULARITIES**

If there is a breach of any aspect of the Disciplinary Procedure by any party other than the Respondent, this will not invalidate the proceedings (or any part of them) unless any such breach is so serious that the Respondent's position is unfairly prejudiced by such procedural breach to the extent that it would not be possible for the Respondent to be given a fair hearing.

#### **J. VARIATION**

GA may amend the Code and/or the Disciplinary Procedure from time to time in its absolute discretion and any such amendments shall come into force on the date determined by GA.