



## **MACARTHUR FOOTBALL ASSOCIATION Inc.**

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Website [www.macarthurfootball.com.au](http://www.macarthurfootball.com.au)

ABN 82 138 352 399

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### **The MFA Special Purposes Committee Hearing Procedures & Information Sheet**

#### **THE SPECIAL PURPOSES COMMITTEE**

The Special Purposes Committee SPC has the authority to investigate and determine any breach of Macarthur Football Association Inc. Constitution, By-Laws, Regulations or Competition Rules by any member, Football Club and/or Participant referred to it by the Management Group or the Directors. The SPC is not a Court of Law. The SPC is not bound by the laws of evidence. The SPC is required to apply the common law of procedural fairness. The SPC does not operate on proof beyond reasonable doubt. Allegations are determined on the balance of probability; that is the alleged conduct is more probable than not to have occurred.

#### **SHOW CAUSE NOTICE**

The Show Cause Notice issued in advance of the hearing specifies the individuals who are required to appear before the SPC to answer the allegations. This can include people who were acting as Match Day Officials, players, coaches, managers, representatives of the Club's Board of Directors or Executive Committee, spectators or other witnesses. Even if not specifically named in the Show Cause Notice, you must exercise a degree of common sense, anticipate the people who might have relevant evidence to assist the SPC, and bring them to the hearing. For example, if an incident occurs near your club's bench/technical area, you should bring the people who were present in the technical area at the time of the alleged incident. You should also bring along witnesses who may be able to assist in the SPC investigation of the allegations.

It is always best to provide a written statement from each witness in advance of your attendance at the hearing. In the case of opposing clubs/parties, you should be aware that any document placed before the SPC will also be published to the opposing party involved the hearing.

#### **INTERIM SUSPENSION**

In some cases, the matters reported to the Management Group are deemed to be extremely serious. In those cases, in the best interests of the administration of football and for the immediate protection of other participants, the Management Group may direct that one or more involved people be 'stood down' on an interim basis from the date of issue of the Show Cause Notice until the date of hearing or further direction by the SPC. The authority to do so is found in Macarthur Football Association Constitution.

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### **PROCEDURE**

The Macarthur Football Association shall review all reports and resolve if the matter shall be heard by the SPC or referred to the LCC for deliberation. The Management Group shall ask for further reports from other parties if the initial reports are not satisfactory for the purposes of establishing an SPC hearing. Once all reports have been received a NOTICE TO APPEAR shall be issued giving the relevant parties a minimum of seven (7) day's notice.

### **NOTICE OF RESPONSE**

Clubs and others subject of allegations are required to provide a written Notice of Response prior to the hearing date. This written notice should include:

- Whether or not the particulars of complaint are admitted, denied or alternatively the specific details of any counterclaim;
- Who will be attending the hearing and their contact details;
- Copies of all witness statements or other evidence you have been directed to provide or otherwise intend to rely upon during the hearing.

It is a good idea to take this opportunity to detail in writing any action already taken by you/your club in respect of the alleged misconduct. For example, explain the nature of any internal investigation undertaken, any findings and outcomes etc. Failure to provide this type of response prior to the hearing may result in the rejection of evidence presented.

### **SPC PROCEDURES**

The Chair of the SPC and all SPC panel members introduce themselves and explain their football affiliations. Each person in attendance will be asked to introduce themselves, state their position within the Club, and whether or not they were witnesses to the incident subject of allegations. The Chair will determine the order of witnesses and will lead all questioning. The SPC generally uses an 'inquisitorial' approach during the hearing. The Chair will ask questions to clarify / expand on any evidence presented by the parties. The Chair will provide each SPC member with an opportunity to separately question individual witnesses. Opposing parties are generally not permitted to directly cross examine witnesses. The Chair instead allows evidence to be tested by having questions or challenges to evidence 'put' through the Chair. The Chair reviews the question, determines relevance, and either allows the question to proceed or re-frames it to properly test the evidence. The Chair alone rules on the admissibility or relevance of questions posed during the hearing.

### **REQUIREMENT TO PARTICIPATE AND ACT HONESTLY**

If a person or entity fails or refuses to give evidence to the SPC, the SPC may request the Board to suspend the person or entity until they give evidence.

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The SPC infers that there is no right to remain silent.

All parties must behave with decorum and respect for each other and the SPC members during the hearing. The Chair has the authority to eject any person at any time for failure to maintain appropriate standards of behaviour during the hearing. All people giving evidence before an SPC are expected to exercise the strictest honesty and truthfulness when giving evidence either in person or in writing. If the SPC were to form a view that a witness or participant had wilfully or negligently, directly or indirectly mislead the SPC, the matter would be reported to the Board for consideration of fresh proceedings for contempt of the SPC. In cases where contempt has been proven, significant penalties have been imposed including fines, suspensions, and loss of club competition points.

### **PENALTY DISCOUNTS FOR EARLY PLEA**

Where parties subject of complaint make an admission of guilt at the earliest opportunity before commencement of the hearing, a penalty discount of up to 25% may be considered by the SPC. Where the party admitting guilt is additionally accepted as having an exemplary disciplinary history, a further 25% discount may be considered by the SPC. Prior good conduct coupled with a plea of guilty at the earliest opportunity can lead to up to 50% discount on penalties that might ordinarily be imposed. Discounts are applied at the discretion of the SPC.

### **DETERMINATION**

The SPC has the authority to impose a range of penalties under MFA Constitution. Parties to the hearing will receive written reasons for decision as soon as practicable after the hearing.

### **APPEAL**

Aggrieved parties may have a right of appeal under MFA Constitution. Appeals must be lodged within 7 days of the date after the resolution has been served on the member. An appeal must conform with the following reasons for appeal.

- (a) Failure to afford procedural fairness;
- (b) Lack of jurisdiction;
- (c) Insufficient evidence;
- (d) Incorrect interpretation of the Constitution;
- (e) Involves a question or principle of importance to MFA;
- (f) Severity.

Lodging an appeal does not automatically stop or suspend the penalty imposed by the SPC. The Board of Directors has an established 'policy' of requiring that penalties imposed by the SPC are complied with in full before allowing an appeal to proceed. Any fines or fees imposed by the SPC must be paid by their due dates to ensure the appeal can proceed at the earliest opportunity. If the

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appeal is upheld, appropriate financial adjustments will be made by the MFA Management Group as directed by the Board of Directors.

### **ENQUIRIES PRIOR TO THE HEARING**

In the event of any issues or concerns before the hearing, it is recommended that you act quickly to obtain advice or assistance.

You should firstly contact Salv Carmusciano, General Manager Macarthur Football Association Ph. 4625 1499; email [salv@macarthurfootball.com.au](mailto:salv@macarthurfootball.com.au)

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