



Newcastle Basketball

Judiciary & Disciplinary By-Laws

Adopted April 2017

Part 1 Jurisdiction and Establishment of Judiciary

- 1 Any and all by-laws of Newcastle Basketball previously made concerning judiciaries are expressly rescinded. For the avoidance of doubt, all penalties handed down under previous disciplinary by-laws will continue to be recognised by the association.
2. **Authority of Judiciary**
 - 2.1 The association has the power under its constitution to hear and determine charges made against persons, affiliated associations, teams or clubs arising from or related to basketball activities, matches and competitions conducted by:
 - (a) the association itself; or
 - (b) its affiliated associations
 - 2.2 The association and each affiliated association has the right to delegate the power of hearing and determining charges to the association or affiliated association judiciary in accordance with the provisions of this by-law.
 - 2.3 The judiciary has the power to suspend, disqualify, reprimand, fine, bond, ban or otherwise deal with any person involved with both the association and its affiliated clubs in accordance with this by-law, regarding any incident arising from an activity conducted by an association and its affiliated clubs. The incident may have occurred before, during or after the conduct of the activity, within the confines of the stadium, activity venue or its immediate surrounds, or elsewhere if directly related to a basketball activity of any sort.
 - 2.4 In particular, the judiciary has the power to deal with behaviour under this by-law that is basketball related and occurs or utilises a technological medium such as:
 - 2.4.1 mobile phones;
 - 2.4.2 email or instant messaging services (including SMS);
 - 2.4.3 internet forums;
 - 2.4.4 social networking sites
 - 2.4.5 other technologies that are a means of communication.
 - 2.5 The judiciary may also deal with any other disciplinary matter delegated to it for adjudication by the relevant association and its affiliated clubs.
 - 2.6 The judiciary must at all times act independently and impartially in carrying out its duties in accordance with this by-law.

3 Convening Judiciary Hearings

- 3.1 The judiciary will be convened to hear charges arising from a match as soon as is practicable, preferably prior to the next round of matches.
- 3.2 The association must give reasonable notice to persons charged, including the charge, details of the event occasioning the charge, date, time and place of the judiciary hearing to be heard.

Part 2 Reports and Notifications

4 Reports by Officials

- 4.1 Any Newcastle Basketball official may report any person, team or club which, in the opinion of the official, has committed an offence under this by-law.

5 Investigations

- 5.1 Where no report has been made, but an association or an official of an association believes an offence may have been committed or the association receives a letter of complaint, the association may investigate, or appoint a person to investigate, the alleged offence. If after the investigation there is a recommendation that a report should be made, the association or the person appointed may make a report. Such a report must be made within a reasonable time of the alleged offence.

6 Duties of officials making a report

- 6.1 Any official who makes a report must ensure that the charged person, team, club, or any other person involved in the report, and other match officials are notified promptly after the report is made.



- 6.2 An official who makes a report must enter the details of the alleged offence(s) on the report form issued by the association as soon as possible after the match or other activity, noting all the particulars in connection with the report so that a clear account can be given to the judiciary when the report is to be dealt with.
- 6.3 An official who makes a report must lodge a report form with the person nominated by the association to take charge of reports, or if that is not possible, to leave the report at the stadium or association office, marked to the attention of that person, as soon as possible after the activity.

7 Duties of Organising Body Receiving a report

- 7.1 The General Manager of Newcastle Basketball is the appointed judiciary administrator who will receive all reports, either on the report forms supplied or via email.
- 7.2 Each team entered in a Newcastle Basketball competition must designate a contact person for notification of reports on the entry form.
- 7.3 The judiciary administrator has the following duties:
- (a) to organise the venue, time and day of hearings of the judiciary;
 - (b) to convene hearings of the judiciary;
 - (c) to ensure that members of the judiciary are present to deal with any matters referred to it for determination;
 - (d) to receive and refer to the judiciary all material relating to any reports made under this by-law;
 - (e) to ensure the availability of all forms required to be used in any proceedings of the judiciary;
 - (f) to notify the charged person, team or club, through their designated person (team secretary or manager), of the date, time and place of any judiciary hearing;
 - (g) if the charged person is under the age of 18 years, or otherwise unable to represent him or herself, they need to be advised that they have the right to have an adult (not being a legal practitioner) with them at the judiciary hearing, as an advise;
 - (h) to provide the charged person, team or club with a copy of the report form upon request.

8 Period Between Report & Judiciary Hearing

- 8.1 A charged person, team or club is entitled to participate in basketball competitions conducted by the association until such time as the judiciary has heard and determined the report.

Part 3 Conduct of Judiciary Hearing

9 Attendance at Judiciary Hearings

- 9.1 The following people are required to attend a judiciary hearing conducted under this by-law:
- (a) the charged person;
 - (b) the president, secretary or other delegate representing a charged team or club;
 - (c) any other person involved in the report;
 - (d) witnesses as indicated by the reporting official or charged person;
 - (e) any witness required by the judiciary or the association.
- 9.2 The following persons shall be entitled to attend a judiciary hearing as appropriate:
- (a) any player of a charged team or club;
 - (b) witnesses called to give evidence by a charged person, team or club;
 - (c) witnesses called to give evidence by the reporting official(s);
 - (d) any adult adviser to a charged person or reporting official;
 - (e) the reporting official.
- 9.3 Legal representatives or advocates are permitted to attend the judiciary hearing but cannot speak on behalf of the charged person, they can only advise the charged person or witness.

10 Non-Attendance at Judiciary Hearings

- 10.1 If any charged person (or representative of a charged team or club) fails to attend a judiciary hearing without reasonable cause, the hearing may proceed and a determination made by the judiciary in the absence of the charged person, team or club, provided that the judiciary is satisfied that all notification procedures under this by-law were followed.
- 10.2 A charged person, team or club or reporting official may apply to the judiciary administrator for an adjournment if there are compelling circumstances which warrant such steps being taken to avoid costs, hardship or significant inconvenience to the charged person, team or club. This will be at the discretion of the judiciary administrator.



- 10.3 A charged person who is unable to attend a judiciary hearing is entitled to appoint a representative (who is not a legal practitioner) to appear in their place if that charged person has entered a guilty plea in written form via letter or email.
- 10.4 If any witness fails to attend a judiciary hearing, the hearing may continue in their absence.
- 10.5 If a reporting official fails to attend a judiciary hearing without reasonable cause, the hearing may proceed and a determination made by the judiciary in the absence of the reporting official, provided that the tribunal is satisfied that all notification procedures under this by-law have been followed.
- 10.6 If a reporting official or association official inadvertently fails to carry out any duties the charges will not be dismissed, but the hearing may be adjourned to allow the omission to be rectified. Where appropriate, the judiciary will take the failure into account and make suitable allowance.

11 Judiciary Hearing Conducted Via Teleconference

- 11.1 A charged person, team, club or the reporting official may apply to the judiciary administrator to have a hearing conducted by telephone conference call or other technology if there are compelling circumstances which warrant such steps being taken to avoid costs, hardship or significant inconvenience to the charged person, team or club. In all other respects the procedure of the judiciary hearing will be conducted in accordance with this by-law.

12. Procedures of the Judiciary

- 12.1 For the purpose of this clause 12, reference to a charged person includes reference to the representative(s) of a charged team or club.
- 12.2 In the event of a team or club being reported, one (1) member of the team or club will act as spokesperson for the team or club provided that an individual member of that team or club may elect to speak on their own behalf.
- 12.3 At the commencement of a hearing, the chairperson shall identify the members of the judiciary and determine whether the charged person is present to answer the charge(s) set out in the report.
- 12.4 The charged person will be asked whether they accept the members of the judiciary as impartial and independent, or whether they wish to raise any objection in relation to any member. If the objection is found by the judiciary to be valid, then the judiciary member will stand down for the duration of the hearing.
- 12.5 The charged person and the reporting official(s) will be notified of their right to remain in the hearing until all evidence is presented but not to be present whilst the judiciary considers its findings and determines an appropriate penalty (if any).
- 12.6 The chairperson will advise all present of the method of recording the hearing.
- 12.7 The charge(s) as contained in the report will be read out in the presence of all people eligible to be present.
- 12.8 The charged person will be asked if the charge is understood and the reporting official asked if the charge correctly represents their intention.
- 12.9 The charged person will be asked to indicate whether they:
 - a) admit the charges;
 - b) admit part of the charges but wish to bring other evidence;
 - c) deny the charges.
- 12.10 If the charged person admits to the charge(s), the chairperson may read a short summary of the facts, admit the reporting official's evidence (written/verbal) and no witnesses need be called to give evidence unless the judiciary requires it.
- 12.11 If the charged person admits part of the charges the chairperson may read a short summary of the facts and ask the charged person to identify what is admitted. Those facts will then be accepted by the judiciary and no witnesses need be called to give evidence on those matters unless the judiciary requires it.
- 12.12 If the charged person denies the charges then the chairperson will ask all witnesses except the reporting official(s) and the charged person (and their advisers if appointed in accordance with this by-law) to leave the room and to wait to be called to give their evidence. An adviser may not also be a witness.
- 12.13 The reporting official (or the adviser if the reporting official is a minor) will proceed to give evidence and the witnesses of the reporting official(s) can be called upon to give his/her evidence in turn, subject to the approval of the number of witnesses to be called by the judiciary at its discretion. The charged person or his/her adviser may ask questions of the reporting official or any witness called.
- 12.14 Each witness is entitled to leave the judiciary hearing after giving evidence unless otherwise directed by the chairman. Witnesses are entitled to remain in the hearing room after giving evidence with the permission of the chairman.
- 12.15 The charged person is then entitled to present their defence. Witnesses may be called subject to the approval of the number of witnesses to be called by the judiciary at its discretion.
- 12.16 The judiciary is empowered to question any person giving evidence.



- 12.17 Where a person exercises their right to have an adult adviser present in accordance with this by-law, an opportunity for consultation shall be provided.
- 12.18 Video evidence may be presented at the discretion of the judiciary.
- 12.19 At the conclusion of all of the evidence and submissions the chairperson will ask the charged person, the reporting official and all other people present to leave the hearing room while the judiciary considers its findings.
- 12.20 If the judiciary is not satisfied that a particular charge has been proved, but is satisfied that a lesser charge has been established, then the judiciary may find such lesser charge established and will apply a penalty applicable to the lesser charge.
- 12.21 Where it appears to the tribunal that the reporting official has made an error in laying the wrong charge or omitted charges that should have been laid, the judiciary may amend the charges and proceed to make a finding. Further, the tribunal has the right to direct that a person, other than the charged person, be charged with an offence under this by-law on the basis of evidence presented before it during the course of conducting a hearing.
- 12.22 Where charges have been amended under clause 12.21, the judiciary will adjourn the hearing unless the charged person consents to it proceeding at that time.
- 12.23 The charged person, reporting official and any witnesses may be present when the decision of the judiciary is given by the chairperson. If the charged person is not present the chairperson must ensure the decision is conveyed to the charged person by the most expedient means.
- 12.24 The charged person is given the right to make a final statement in relation to previous convictions or other mitigating circumstances before being asked to leave the room a second time. The charged person may, with the consent of the chairman, call witnesses or submit written statements or references for consideration by the judiciary on the decision of penalty.
- 12.25 The judiciary will then determine the penalty to be imposed (if any) and will recall the charged person to advise the penalty.
- 12.26 The judiciary is not obliged to give reasons for any decision made by it under this by-law.
- 12.27 A charged person who has been convicted of an offence and received a penalty under this by-law must not play, coach, referee or otherwise take part in basketball activities as directed by the judiciary until the penalty has been served to the satisfaction of the association. However a decision of the judiciary does not prevent a person carrying out duties directly related to their employment.

Part 4 Offences and Penalties

1. Failure to attend judiciary without proper cause when notified – Maximum 20 weeks
2. Failure to co-operate with, or hindering an investigation or hearing under these by-laws – Maximum 20 weeks
3. Participating in the game of basketball whilst under suspension – Maximum 6 weeks, plus the suspension
4. Disputing decisions of a referee – Maximum 6 weeks
5. Unsportsmanlike behaviour – Maximum 10 weeks (throwing water bottle, kicking stand or bin for example)
6. Code of conduct breach – Maximum 6 weeks
7. Conduct that brings the game of basketball into disrepute – Maximum of 20 weeks – Audible/constant swearing and/or aggressive behaviour and could also include a melee/brawl/fight
8. Obscene gestures – Maximum 10 weeks
9. Obscene language (which may include abusive or insulting language or language that vilifies – comments regarding race, sexuality or religion) – Maximum 20 weeks
10. Putting a person in fear of impending danger/violence – Maximum 104 weeks
11. Intimidating or bullying a person or attempting to do so – Maximum 52 weeks
12. Public criticism of officials, coaches or players related to basketball activities – Maximum 20 weeks
13. Attempting to trip – Maximum 20 weeks
14. Tripping – Maximum 52 weeks
15. Attempting to strike (fist, hand, object, head, this includes pushing, chesting up, elbowing, kicking, hiping and kneeing) – Maximum 52 weeks
16. Striking (fist, hand, object, head, this includes pushing, chesting up, elbowing, kicking, hiping and kneeing) – Maximum Life Ban
17. Fighting – Maximum 20 weeks



- 18 Spitting – Maximum 52 weeks
- 19 Moving under an air borne player (tunnelling) – Maximum 104 weeks
- 20 Deliberately endangering the safety, health, of the players, spectators, officials (incidents involving blood or body fluids) – Maximum Life Ban
21. Melee
Fighting involving three or more players – Maximum 52 weeks
22. Coaching, refereeing, playing, score bench duties while under suspension – Maximum 5 weeks per game, plus suspension.

Part 5 Miscellaneous

Relationship with criminal matters

If during a Tribunal hearing an investigation under this By-law it becomes known that criminal charges have been brought (as opposed to merely the subject of police investigation) arising out of the actions, the subject of the hearing or investigation, the Tribunal and / or the Association may rule that further action be deferred until completion of the criminal charges, unless the police or other prosecuting authority advise they have no objection to the matter proceeding.

Natural Justice

To the extent that the principles of natural justice are not included in the provisions set out in this By-law they are expressly excluded.

Recognition of Penalties across Associations

Each Association acknowledges and agrees that it is required to recognise and enforce penalties handed down against individual persons, teams or clubs by the disciplinary tribunals of all other Organising Bodies, basketball associations, leagues and competitions which are affiliated with Basketball Australia and or its Constituent Associations.

A Charged Person, team or anyone representing a Charged Person or team is not permitted to contact a reporting official or other parties involved in the reported incident, excluding their own witnesses once a matter has been formally reported.

Part 6 Appeals

All Newcastle Basketball members and participants have the right to lodge an appeal against the decision handed down by the Judiciary. Appeals must be directed to the Board of Directors of Newcastle Basketball and have to be lodged with the General Manager within 5 working days of the judiciary hearing. Decisions handed down by the judiciary will take effect immediately and will stand throughout the appeals process. The cost for lodging an appeal to the Board of Directors is \$150.

Part 7 Banning Notice

Under the Enclosed Lands Protection Act (NSW) 1901, Newcastle Basketball reserves the right to refuse entry to any person, remove them from the premises or issue them with a Banning Notice as required.

