

Geelong Baseball Association

**Framework for Reporting & Processing of
Prohibited Conduct Offences**

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Attachments:

Schedule 1: Prohibited Conduct Assessment

Schedule 2: Operating Guidelines: Reporting, Notifications and Hearings

1. Introduction

1.1 GBA Member Clubs are obligated to uphold and maintain the integrity of baseball and to protect the health and wellbeing of all Participants in the sport. This Framework is intended to support that goal through the establishment of guidelines and procedures that address conduct not acceptable to the game (herein termed ‘Prohibited Conduct’).

1.2 The Framework holds that Prohibited Conduct can be assessed against 5 general indices. Further, within each index there is a spectrum over which the seriousness of an offence can be described. The context of this approach is outlined below and it has been central to the development of Schedule 1: Prohibited Conduct Assessment.

	Low	Moderate	High
Intent	Accidental	Reckless	Pre-meditated
Impact (competition)	No substantial loss of game time and no impact on game result.	Extended dissent and loss of game time, but no clear impact on game result.	Prolonged and high level of disputation and argument. Intervention requiring loss of game time and possible impact on game result.
Impact (physical)	Bodily bruising and scrapes. Potential or minor equipment damage	Minor bleeding, heavy bruising. Equipment damage requiring replacement or repair.	Wounds requiring treatment; hospitalisation. Equipment damage extensive and costly
Impact (behaviour)	Inappropriate acts and language. No criminality. Dissent generally as a result of personal frustration.	Anti-social acts and/or language. No criminality. Dissent involving some level of personal frustration, but may include questioning authority.	Offensive or lewd acts and/or language. Potential criminality. Dissent prolonged, abusive and disruptive. Disdain of authority.
Reputational Risk	Low, although most people in the baseball community would find offence to be ‘reprimandable’.	Moderate, with most people in the baseball and broader community would expect that the offender should be ‘penalised’.	High, with people in the broader community potentially holding the baseball competition up to ridicule.

2 Jurisdiction

- 2.1 This Framework has authority under provisions of GBA's Constitution and is binding on all Participants of Member Clubs. This Framework may be amended by GBA from time-to-time.
- 2.2 The GBA Board may in its sole discretion, delegate any or all of its powers under this Framework, including but not limited to the power to adopt, apply, monitor and enforce this Framework.

3. Scope

- 3.1 The Framework may incorporate GBA policies, operating protocols and guidelines included as Schedules. The Framework and the attending documents may be amended by the Board from time-to-time as appropriate.
- 3.2 Nothing in this Framework limits the rights or obligations under any other GBA By-Law, Policy, Code of Conduct or any other relevant agreements.
- 3.3 Prohibited Conduct defined under this Framework may also constitute a criminal offence or a breach of other applicable laws or regulations. This Framework is intended to respect such laws and regulations. It is not intended, and should not be interpreted, construed or applied, to prejudice or undermine in any way the application of such laws and regulations. Participants must comply with all applicable laws and regulations at all times.
- 3.4 For the avoidance of doubt, nothing in this Framework limits the application of Commonwealth, State and Territory laws or the ability of GBA to refer such issues to the police or other relevant authorities.
- 3.5 Further, GBA will cooperate fully with any law enforcement or regulatory investigation into the conduct of Participants, and may delay its own investigations under this Framework until police or regulatory proceedings are finalised, if required so as not to prejudice such proceedings or if otherwise determined to be appropriate.

4. Management

- 4.1 This Framework shall be managed by the GBA's Executive Officer.
- 4.2 The Executive Officer will receive reports or information regarding Prohibited Conduct breaches set out in within this Framework and refer those matters either to an Independent Investigation panel, independent Investigator or the Hearing Tribunal Chairman for action. More specific operational information to guide this process is set out in Schedule 2: Operating Guidelines – Reporting, Notifications, Investigations and Hearings.

- 4.2.1 In consideration of Clause 4.2, the Executive Officer will arrange for an Investigation Panel or an Independent Investigator to consider matters where there is an absence of a report but there is a reasonable suspicion that a Participant or Club may have engaged in Prohibited Conduct. The GBA Board will have the discretion to make a determination on any sanction originating from the Investigation Panel's or Independent Investigator's report and recommendations, or to refer the matter to the Hearing Tribunal Chairman for consideration.
- 4.2.2 In consideration of Clause 4.2, the Executive Officer will refer the matter to the Hearing Tribunal Chairman to action any matter where there is a formal report submitted by an Umpire on a matter of Prohibited Conduct.
- 4.3 The Executive Officer shall prepare and table a report for the GBA Board on any matters arising from determinations under this Framework at each GBA Board meeting.

5. Annual Review of Framework

- 5.1 This Framework and all included schedules shall be reviewed from time to time and where necessary by the GBA in consultation with Member Clubs.

6. Who is bound by the Framework?

- 6.1 This Framework shall apply to all Member Clubs and their respective Participants.
- 6.2 Accordingly, all Participants shall be deemed to accept all terms set out herein and must recognise and agree that it is their personal responsibility to:
 - 6.2.1 familiarise themselves with and be knowledgeable of all the requirements of this Framework that are applicable and relevant to them, including what constitutes Prohibited Conduct under this Framework;
 - 6.2.2 submit to the authority of the GBA Board, including as delegated, to adopt, apply, monitor and enforce compliance with this Framework;
 - 6.2.3 agree to provide any information reasonably requested during any investigation under this Framework, including, but not limited to, copies of or access to electronic devices or other information storage equipment; and
 - 6.2.4 submit to the jurisdiction of any Investigation, Hearing Tribunal or Appeal Panel convened under this Framework to hear and determine allegations of Prohibited Conduct.

- 6.3 By registering to participate in a Competition or Event, all Participants shall be deemed to have consented to the collection, processing, disclosure and use of personal information relating to themselves and their activities, to the extent expressly permitted under the terms of this Framework (Clause 18) and in accordance with GBA's privacy policy.

7. Operating Guidelines

- 7.1 Operating Guidelines for the management of investigations and hearings are set out in Schedule 2.
- 7.2 The Operating Guidelines are designed to assist GBA management officials in dealing with matters relevant to this Framework and applicable laws and regulations.

8. Prohibited Conduct

- 8.1 Any misconduct defined or proscribed in Schedule 1 of this Framework shall be described as Prohibited Conduct.
- 8.2 Participants and Clubs must not, and must not direct or arrange any other person, to:
- 8.2.1 conduct themselves in any manner, or engage in any activity whether before, during or immediately after a Competition game or Event that would impair public confidence in the honest and orderly conduct of the Competition or Event or in the integrity and good character of baseball and its participants;
 - 8.2.2 engage in any conduct or activity which brings GBA or the sport of baseball into disrepute or censure; or
 - 8.2.3 breach or fail to comply with any part of this Framework or any Schedules or annexures that form part of this Framework.

9. Reporting Prohibited Conduct

- 9.1 Schedule 2 of this Framework provides detail on the process of reporting of offences considered Prohibited Conduct.
- 9.2 A Report of Prohibited Conduct will be accepted where it is completed by an Umpire or Official on the appropriate Report Form and delivered to the Executive Officer in the required timeframe.

10. Investigations

- 10.1 The GBA shall have the power to conduct investigations in whatever lawful manner it thinks fit into the activities of any Participant or Club who is suspected of having engaged in misconduct (whether Prohibited Conduct or otherwise).
- 10.2 In acting on Clause 10.1, the GBA may, at its discretion, engage an Independent Investigator to conduct an investigation on its behalf or refer any matter to an Investigation Panel to conduct a preliminary investigation and to determine if there is credible evidence to indicate a breach of conduct has occurred.
- 10.3 The Investigation Panel may comprise at least two GBA Board members as nominated by the GBA from the time-to-time.
- 10.4. The Independent Investigator or the Investigation Panel shall be required to report back to the GBA and provide all information and evidence they have collected during their investigation. The GBA will decide if there is prima facie evidence that the matter should be referred either to a GBA Investigations Hearing or to a Hearing Tribunal for action and any appropriate sanction.
- 10.5 For the avoidance of doubt, the GBA, Independent Investigator or Investigation Panel, may in the course of an investigation:
 - 10.5.1 inquire into, monitor and investigate any reports or suspicions that a Participant or Club may have engaged in Prohibited Conduct;
 - 10.5.2 request copies of all documents, records, articles or things, including but not limited to electronic transmissions, telephone records, banking and financial statements, internet service records and computer and other electronic information storage, in the possession or control of a Participant or Club that are relevant to the investigation; and
 - 10.5.3 require access to the premises occupied by, or in the control of, a Member or Associate Club for the purposes of any investigation.
- 10.6 Nothing in this Clause 10 prevents GBA from enforcing any other rules and regulations.

11. Provisional Suspension

- 11.1 The GBA will have the discretion to provisionally suspend Participants that have allegedly engaged in Prohibited Conduct or other misbehaviour until the outcome of any Investigation or Hearing Tribunal if it suspects that his or her involvement in Competitions or Events may have potential adverse consequences on the reputation of the game of baseball, or the fairness of the Competition or Event.

12. Criminal Offences

- 12.1 Any alleged Prohibited Conduct by a Participant which the GBA or Independent Investigator considers may be an unlawful offence will be reported to the police in the jurisdiction the offence is alleged to have occurred and/or to any other regulatory authority if appropriate.
- 12.2 The GBA may suspend any investigation under this Framework until such time as the matter has been finalised by the police or other relevant regulatory authority if it considers it to be appropriate to do so.
- 12.3 The GBA may, in its sole discretion, elect not to refer the matter to a Hearing Tribunal until after it discloses the allegations of Prohibited Conduct to the police or other relevant regulatory agency and/or after the police or agency confirm doing so would not jeopardise their investigation.
- 12.4 The findings of any law enforcement or regulatory investigations, including a decision of a court or other disciplinary tribunal of competent jurisdiction, may be used as evidence in investigations or hearings under this Framework and shall not preclude or prejudice a concurrent or subsequent investigation by the GBA in accordance with this Framework.

13. Hearing Tribunal

- 13.1 The GBA will refer any formal report of alleged Prohibited Conduct to the Hearing Tribunal.
- 13.2 The Hearing Tribunal must comprise at least three persons independent of the parties and with no prior involvement with the case and who have appropriate skills and experience appointed by the Board for such time and for such purposes as the Board thinks fit.
- 13.3 The Hearing Tribunal should, if possible and where available, include at least one person who has considerable previous experience in the legal aspects of a disciplinary tribunal and dispute resolution to act as its Chairman.
- 13.4 The processing of a Prohibited Conduct Report, any required Notifications and relevant timeframes are outlined in Schedule 2: Operating Guidelines: Reporting, Notifications and Hearings.

14. Hearing Tribunal Decision and Standard of Proof

- 14.1 Unless otherwise stated elsewhere in this Framework or related policies, the standard of proof shall be whether the Hearing Tribunal is comfortably satisfied that the Alleged Offender has engaged in Prohibited Conduct, bearing in mind the seriousness of the allegation that is being made and repercussions of any finding. This standard of proof in all cases is greater than a mere balance of probability but less than proof beyond a reasonable doubt.

- 14.2 The decision of the Hearing Tribunal shall be a majority decision and must be recorded in writing. The decision must, at a minimum, set out and explain:
- 14.2.1 the Hearing Tribunal’s findings, by reference to the evidence presented or submissions made, as to whether to their comfortable satisfaction the Alleged Offender engaged in Prohibited Conduct; and
 - 14.2.2 if the Hearing Tribunal makes a finding that the Alleged Offender engaged in Prohibited Conduct, what, if any, sanctions it considers appropriate.
- 14.3 The Hearing Tribunal's decision must be communicated to the Board, the Alleged Offender or the Alleged Offender’s Club and any other person affected by the decision as soon as practicable.

15. Appeals

- 15.1 The Alleged Offender or offending Club has a right to appeal the decision of the Hearing Tribunal or an Investigation Hearing.
- 15.2 The decision of the Appeal Panel shall be final, non-reviewable, non-appealable and enforceable. No claim, arbitration, lawsuit or litigation concerning the dispute shall be brought in any other court or tribunal.
- 15.3 For the avoidance of doubt, Clause 15.2 does not prevent any law enforcement or regulatory agency from commencing or continuing any investigation or action.

16. Sanctions

- 16.1 If an Alleged Offender admits they engaged in Prohibited Conduct or there is a finding that an Alleged Offender has engaged in Prohibited Conduct under this Framework, the Hearing Tribunal will be required to impose an appropriate sanction upon the Participant or Club.
- 16.2 In order to determine the appropriate sanction that is to be imposed in each matter, the Hearing Tribunal will refer to the Prohibited Conduct Assessment Table (Schedule 1) and determine a sanction based on the relative seriousness of the offence and any aggravating or mitigating circumstances (see Schedule 2: Operating Guidelines - Section D) .
- 16.3 All fines received pursuant to this Framework must be remitted to GBA for use by GBA for any purpose deemed appropriate by the Board.
- 16.4 Any Club affiliated with the Association, failing to carry out any direction of the Board and/or Committees of the Association which is within the ambit of their powers shall be liable to

suspension or disqualification during the pleasure of the Board, or to such other penalty as the Board may determine.

17. Privilege

- 17.1 A Participant who is interviewed, arrested or charged by a law enforcement agency in respect of a criminal offence that is, or may be considered to be, conduct that is Prohibited Conduct under this Framework shall not be required to produce any information, give any evidence or make any statement to the GBA, Independent Investigator or Hearing Tribunal if they establish that to do so would breach any privilege against self-incrimination, or result in a waiver of legal professional privilege.
- 17.2 Notwithstanding Clause 17.1, should a Participant refuse to provide any information, give any evidence or make a statement to the GBA, Independent Investigator or Hearing Tribunal on the basis that doing so would breach the privilege against self-incrimination, the Participant's refusal in these circumstances can be deemed by the GBA, Independent Investigator or Hearing Tribunal as a consciousness of guilt in relation to the allegations of Prohibited Conduct as made against the Participant.

18. Confidentiality and Reporting

- 18.1 The public witnessing of offences that lead to the reporting and processing of Prohibited Conduct charges, the notification to Club Officials required to acknowledge the charge, the use of witnesses that may potentially support the defendant's case and the obvious loss of any suspended Participant to the Competition base would make it difficult to maintain a high level of confidentiality in the processing of charges applicable to this Framework.
- 18.2 Notwithstanding Clause 18.1, the GBA should take all steps to maintain the confidentiality of;
- 18.2.1 the names, addresses and information from sources that may be contacted from time to time to ascertain a broader understanding of the matters surrounding any offences,
- 18.2.2 specific facts of an allegation of Prohibited Conduct or breach of this Framework prior to determination by a Hearing Tribunal. This clause does not apply if the disclosure is required by law or GBA determines to refer information to a law enforcement or regulatory agency pursuant to Clause 12.
- 18.2.3 the deliberations of Hearing Tribunals, Investigations and Appeal Panels in the determination of alleged offences and possible sanctions
- 18.2.4 Except where reasonably required by Member Clubs in the management of team selections, information held by any databases or records that details Player or Club infringements, sanctions, Prohibited Conduct Points and Yellow Card infringements.

18.3 For the avoidance of doubt, in circumstances where a finding is made by the Hearing Tribunal against a Participant or Club, and the Participant or Club subsequently appeals, GBA is not prohibited from making a public disclosure prior to the Appeal being finalised.

18.4 If the Appeal Panel overturns a finding of the Hearing Tribunal that has been publicly disclosed, GBA may make a public statement by way of an official release in its sole discretion.

Notwithstanding this Clause, however, a general description of a process that may be instigated under this Framework is permissible.

18.5 Where any public announcement may be considered detrimental to the wellbeing of a Participant, the Board will determine the most appropriate course of action in its sole discretion based on the circumstances of the Participant.

19. Requirement to cooperate

19.1 Participants and Clubs to whom this Framework applies must, as a condition of their participation, cooperate fully with all investigations and hearings conducted pursuant to this Framework.

19.2 The Board may draw an inference adverse to the Alleged Offender who is asserted to have engaged in Prohibited Conduct under this Framework based on their failure or refusal, without compelling justification, after a request has been made in a reasonable time in advance of any hearing, to appear at the hearing (either in person or electronically as directed by the Board) or to answer any relevant questions.

19.3 Failure or refusal by a Participant or Club to cooperate without justification may also result in disciplinary action and the determination of sanctions against the Participant and/or Club.

20. Mutual Recognition

20.1 GBA may acknowledge, recognise and enforce adjudications and sanctions made by another official sports body, agency of organisation for offences that are consistent with Prohibited Conduct defined by this Framework.

20.2 Any person who has been suspended from any other sport by a relevant body for conduct that is consistent in nature with Prohibited Conduct may be ineligible to participate in Competitions or Events until such time as their suspension in the other sport has been served in full.

20.3 Notwithstanding Clause 20.2, GBA reserves the right to consider the previous conduct of any person when determining whether or not to recognise their registration to a GBA Member Club. Where, in the opinion of the Board, an individual's registration may compromise the

principles and values of the Association then they may not be permitted to become a registered member.

21. Statute of Limitations

21.1 No proceedings may be commenced against a Participant or Club unless they have been notified, or notification has been reasonably attempted, within ten (10) years from the date the Prohibited Conduct is asserted to have occurred.

22. Interpretations

22.1 Words in the singular include the plural and vice versa.

22.2 Reference to ‘including’ and similar words are not words of limitation.

22.3 Words importing a gender include any other gender.

22.4 A reference to a Clause is a reference to a Clause or Subclause of this Framework.

22.5 Where a word or phrase is given a particular meaning, other parts of speech and grammatical forms of that word or phrase have corresponding meanings.

22.6 In the event any provision of this Framework is determined invalid or unenforceable, the remaining provisions shall not be affected.

23. Definitions

‘Advocate’ means a person nominated by an Alleged Offender to assist, represent, advise or talk on their behalf at a hearing. Alleged Offenders under the age of 16 have an automatic right to an Advocate. However, an Advocate may be permissible, at the discretion of the Chairman of any investigation or Tribunal Hearing, if there are special circumstances that could compromise a fair hearing for the defendant.

‘Alleged Offender’ means a Participant accused of engaging in Prohibited Conduct under this Framework.

‘Appeal Panel’ means the panel appointed by the GBA to hear and determine matters on appeal under the Framework.

‘Appellant’ means a person who has appealed against the finding of a Hearing Tribunal.

‘Board’ means the Board of GBA.

‘Chairman’ means the Hearing Tribunal or Hearing Panel member appointed to act in this role for the duration of a hearing under the Framework.

‘Coach’ includes any team or club coach participating in a GBA Competition or Event, and includes Players or Participants delegated by the coach that may, from time to time, occupy base coaching boxes.

‘Competition’ means a scheduled baseball game set out under the winter fixture of the GBA.

‘Event’ means a one-off Competition, or series of individual Competitions conducted by GBA or other official baseball organisations held from time to time (for example international matches, national, state and regional championships).

‘Executive Officer’ means the Executive Officer of GBA.

‘Framework’ means the GBA Framework for Reporting and Processing Prohibited Conduct Charges including all schedules, appendices, annexures and any other associated attachments or material.

‘GBA’ means Geelong Baseball Association Inc (ACN 472121951) which is registered under Baseball Victoria as a regional winter league organisation.

‘Hearing Tribunal’ means a panel appointed by the Board to hear and determine reports of Prohibited Conduct.

‘Independent Investigator’ means a person appointed by GBA to conduct an investigation into allegations or suspicions of Prohibited Conduct under the Framework.

‘Interested Parties’ means those that have an interest in assisting in an Investigation or Hearing Tribunal as an Advocate (e.g. e.g. as an Advocate, translator, Independent Investigator or assistant to a defendant with disabilities).

‘Member Club’ means any club registered under the auspices of the GBA that enters one or more Teams to participate in a Competition or Event.

‘Notice of Appeal’ means the notification given to GBA from a Participant or Club that they wish to lodge a challenge to a hearing decision based on reasons outlined in Schedule 2: Operating Guidelines.

‘Notification’ means the issue of documents to advise an Alleged Offender of potential action on prosecuting the Offence - as set out in Schedule 2: Operating Guidelines.

‘Official’ includes any Umpire, Scorer or other official (whether paid or unpaid) involved in baseball Competitions and Events.

‘Participant’ means Players, Coaches, Officials and Team Support Personnel participating in, or engaged with, the delivery of Competitions and Events.

‘Player’ means any person registered with GBA as eligible to play for a Member Club or as a member of a national, state, regional or other representative Team.

‘Points’ means the values attached to Prohibited Conduct offences and used in the determination of Hearing Tribunals or Appeal Panels where an Alleged Offender is found guilty of that offence

‘Policy’ means any GBA policy document referred to by, or attached as an appendix or annexure to, this Framework.

‘Prohibited Conduct’ means conduct defined as Prohibited Conduct under this Framework and attachments.

‘Scorer’ means a person making entries into the official game scorebook, or managing or operating a scoreboard, during a Competition or Event sanctioned by GBA.

‘Team’ means a collection or squad of Players who compete in GBA Competition and Events.

‘Team Support Personnel’ means any trainer, manager, team staff member, medical or other personnel working with, treating or assisting in a professional or voluntary capacity, during any Competition or Event.

‘Umpire’ means a person adjudicating any Competition or Event sanctioned by GBA.

SCHEDULE 1: Prohibited Conduct Assessment

CLASS 'A' OFFENCES

Class 'A' offences are behaviours or actions of a physical, cultural or sexual nature that may have personal or social impacts on the welfare of the offended person and where either of the offence or the impact may have potential to affect the reputation of the game.

The GBA Executive Officer will recommend to the GBA Board whether offences will be referred to an Independent Investigator or an internal GBA Investigation Panel for action, or be referred directly to a Hearing Tribunal for determination.

There will be no pre-Tribunal offers to the reported person by the Tribunal Chair.

These offences include;

1. *Bringing the game into disrepute*

This offence covers misbehaviours by players and officials that have the potential to be injurious to the reputation of the Geelong Baseball Association if or where the offences become exposed publically.

The public exposure requirement will be sufficiently met where the offender's misconduct becomes common or public knowledge throughout the baseball community (either through the media or be learnt without a great deal of labour by persons engaged in the sport or a relevant part of it).

Offences under this charge can be classified into 1.1, 1.2 or 1.3 below.

1.1 Vilification/Discrimination

Vilification/discrimination is an act or behaviour that potentially incites hatred, serious contempt for, or revulsion or severe ridicule of a person or group of people because of their race, religion or physical and/or mental disability.

Discrimination is behaviour and/or language that ridicules or discriminates against a person or group of people because of their gender or physical and mental disabilities.

refer to Racial Vilification Act 1996 and the Equal Opportunity Act 2010 .

1.2 Sexual Harassment

Sexual harassment is defined as the making of unwanted sexual advances or obscene remarks to another. Sexual harassment is a form of Sex Discrimination. *Refer to the Sexual Discrimination Act 1984.*

1.3. *Outrageous or Shocking Behaviour*

This offence relates to an individual that commits a particular behaviour that lowers the accepted standard of the sport of baseball in the eyes of the baseball public.

Examples may include offensive salutes and signs denigrating cultures or diversity, gross acts of indecency and distribution of offensive material and harassment on the basis of a disability.

[NOTE: The matters outlined above may be subject to further judicial proceedings. To that extent, the GBA is referred to Kosla, Martin --- "Disciplined for 'Bringing a Sport into Disrepute' - A Framework for Judicial Review" [2001] MelbULawRw 22; (2001) 25(3) Melbourne University Law Review 654. It is available on-line].

2. *Dangerous and Reckless play*

Includes but is not limited to any conduct by a Player during the course of the game that could intentionally or recklessly cause potentially serious injury to an opposing Player.

The injury is deemed serious if, for example, the blood rule is invoked, there is physiological signs of concussion, the injury results in fractures or breakages such that the player cannot continue to participate – irrespective if the injured person is hospitalised or not.

Examples may include injuries stemming from intentionally hitting a batter with a pitched ball or a runner with a thrown ball, intentionally cleating on sliding, hitting a player or official with a thrown ball or bat, or injury due to any action considered reckless in nature. Reckless play that does not clearly have potential to cause injury should be treated as Unsporting-like Conduct.

3. *Assault on non-game officials*

Includes a Participant intentionally making physical and/or threatening contact to another Participant or spectator.

4. *Assault on game officials*

Includes a Participant intentionally and aggressively making unwanted physical and/or threatening contact to a game Official. The assault may involve pushing shoving, grappling or hitting

5. *Participating in a melee*

Includes participation or involvement in a scuffle or fight that involves multiple Participants over a period that disrupts the game and may be potentially injurious to the reputation of the game of

baseball in the view of a reasonable person. This Prohibited Conduct may attract other charges such as Dangerous or Reckless Play (2), Assault (3 & 4) Unsporting-like Conduct (9) or other.

6. Use of Illegal Recreational Drugs

It is a criminal offence to use illegal recreational drugs. Umpires and Clubs are obligated to report illegal drug use to the police and to prohibit any Participant from attending or participating in any game where they have reasonable suspicion of possession or use of illegal recreational drugs.

At his or her discretion, the Umpire should not allow any Player, Coach or Scorer or any club official to participate in a game if they are clearly affected by drugs.

CLASS 'B' OFFENCES

Class B offences are those deemed to be of an offensive, inappropriate, poor or unsporting-like behaviour or language.

7. Abusive/Offensive Language directed at a game Official

Includes any abusive or denigrating language directed at a game Official irrespective if it is not audible to other Players or spectators. It includes Offensive language if profanity is included in the abuse.

8. Abusive/ Offensive Language – not directed at a game Official

Includes any abusive, offensive or denigrating language directed at another Participant or spectator. The language used should be audible to the Umpire, Players and spectators in the near vicinity of the incident and where anyone on hearing of the language would consider it to lower the accepted standards of the game.

9. Unsporting-like conduct

Includes but is not limited to (i) non-serious physical conduct that is not in the spirit of the game of baseball (intimidatory pitching (non- contact), charging or attempting to charge the mound, chesting and wrestling (non-melee)) and/or (ii) in violation of the codes of conduct in the Playing and Match Conditions (e.g., contriving match outcomes through slow play or similar, sledging).

10. Dissent

Includes but is not limited to any conduct that undermines the umpire's ability to officiate and control a game. Examples include arguing balls and strikes (including calls on checked swings), arguing any Umpire's base calls of interpretation and/or disobeying instructions by an umpire (including failure to leave the field when directed).

CLASS 'C' OFFENCES

Class C offences relate to Prohibited Conduct that would automatically attract a Yellow Card, or where the case may be, a fine to the offending Team or Club. Unless there are extenuating circumstances that will be assessed at the discretion of the Executive Officer in consultation with the Hearing Tribunal Chairperson, the Umpire's report will be taken as read and there will be no Hearing Tribunal convened.

11. Use of Tobacco and Alcohol

Includes the use of rolled or chewing tobacco-related products and alcohol during the game.

Participants involved in Competition or an Event found chewing tobacco, in the possession of a lit cigarette or smoking a cigarette will be ordered to remove or extinguish the product immediately and be reported by an Umpire as involved in a Prohibited Conduct. If they do not do so immediately the Prohibited Conduct can lead to a charge of Dissent.

No player, manager, coach or scorer or any club official will be permitted to commence participation in a game where they are clearly affected by alcohol,

12. Abuse of Equipment or facilities

Includes but is not limited to throwing, kicking or damaging one's personal equipment, team equipment, the equipment of another person or a club's equipment or facilities.

13. Audible Offensive Language

Includes but is not limited to audible profanity that another person may find offensive, but not directed at any person. In the umpire's opinion, the language would be reasonably heard by participants and/or non-participants in the near vicinity of the incident.

Prohibited Conduct Assessment Table:

{NOTE: the descriptors provided in this table are for assistance only and not all may apply within a Reportable Offence ‘grading’. Importantly, the assessor should consider actions or behaviour in terms of the degree of impact, intent, severity and attitude; level of game disruption; and effect on game result in assessing ‘grade’}.

CLASS A OFFENCES

Reportable Offence	Grading				Points	
Bringing the game into disrepute Vilification and Discrimination	No grading level should apply if the allegation of Vilification/discrimination is upheld. It is an illegal act and will require evidence-based prosecution to support a finding of guilt. The charge should be assessed against the Act/s, associated Regulations and Codes of Practice and the finding has the potential for judiciary intervention.				6- 10+	
Bringing the game into disrepute Sexual Harassment	Sexual Harassment requires a more nuanced assessment than Vilification given it can involve a range of physical, non-verbal or grades of intent. Limited aggravated or mitigating circumstances should apply. It remains illegal and will require evidence-based prosecution. A sliding scale should apply to this offence and it should be assessed against the Act, associated Regulations and Codes of Practice. It has the potential for judiciary intervention.				6-10+	
	Low	Points	Medium	Points	High	Points
Bringing the game into disrepute Outrageous or Shocking Behaviour	Some reasonable people would find action or activity offensive and hurtful through language, acts or material. Potential moderate reputational risk to the game. Peers of the offender may disapprove of the offender for using this sort of behaviour.	-6	Many reasonable people would find action or activity offensive, hurtful and possibly degrading through language, acts and material. Potential high reputational risk to the game. Peers of the offender would not normally think that this is acceptable behaviour.	6- 8	Most reasonable people would find action or activity offensive and degrading. May be of a sexual and perverted nature through physical or suggestive action. Potential extreme reputational risk to the game. Peers of the offender may dissociate themselves from the offender for this sort of behaviour.	8 – 10+

Dangerous and Reckless play	The nature, intent and outcome are all considered of low impact. No serious injury, no disruption to game but potential may have been greater.	-5	The nature, intent and outcome are all considered of moderate impact. Offended player/s side-lined and injury that requires treatment. Some level of disruption to the game. Potential to the game substantial.	6 - 8	The nature, intent and outcome are all considered of high impact. Offended Players/s sideline and requiring medical treatment, hospitalisation or likely loss of future game time. Substantial disruption to the game.	9-10+
Assault on other Participant or spectator	Intentional attempt to make physical contact that is unsuccessful or low impact contact to another.	2- 4	Intentional striking to cause injury with a clench-fist punch or kick. Contact successful but low to moderate impact not causing injury - but potential high impact if full contact was made.	5-8	Intentional striking with a clench-fist punch or kick and resulting in high impact contact and serious injury (bleeding, concussion, fractures – offended player unable to continue playing).	9-12+
Assault on Game Official	Minor to Moderate manhandling or shoving. Contact with intent to provoke an Official.	6-12	Moderate to High contact, aggressive in nature, possibly causing distress to an official. Minor to obvious physical injury or other material damage incurred.	12-24	Intentional and high impact assault that could result in injury (possible that offended official unable to continue officiating in medium to longer term due to assault).	25-Life Ban
Participating in a melee	Some wrestling, pushing and shoving but with no striking (arms or feet). Short duration (approx 1 mins) with minimal disruption to the game. Generally less than 5 players	2-3	Wrestling, pushing and shoving but with attempted striking (arms or feet). Moderate duration (approx 2-5 min) with disruption to game. Ejections may occur. Generally more than 5 players	6-8 #Club fine	Prolonged wrestling, pushing and shoving and with actual injury, or intent to cause injury, through striking (arms or feet). Moderate to high impact disruption to game. Multiple ejections and reports. Partial or full bench clearance.	8+ #Club fine

<p>Use of Illegal Recreational Drugs</p>	<p><i>The Drugs, Poisons and Controlled Substances Act 1981</i> provides a comprehensive list of illegal drugs and substance. The more common drugs of dependence are: cannabis (marijuana), heroin, amphetamines (ice, speed), cocaine, LSD, MDMA (ecstasy). Refer to Clause 24 of the Framework where the Participant is reported to the Police (use and possession).</p> <p>If the view of the Umpire or a Club Administrator is that the alleged Participant, if a Player, is affected by illegal drugs after the Competition or Event has commenced, he or she will be ejected and reported. The report should provide clear descriptive evidence and examples as to why that view was held.</p>	<p>15+ to Ban</p>
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CLASS ‘B’ OFFENCES

Reportable Offence	Low	Points	Medium	Points	High	Points
<p>Abusive/Offensive Language directed at a game Official</p>	<p>Use of language directed at game Official. Abusive and intended to denigrate or be of contempt. Audible at least to the Umpire. Not necessarily profane.</p>	<p>-5</p>	<p>Use of language directed at game Official that is abusive and intended to denigrate and be of contempt. Involves mild profanity.</p>	<p>6-8</p>	<p>Use of language directed at game Official that is abusive and intended to denigrate and be of contempt. May imply cheating or impartiality. Dominated by multiple profanities.</p>	<p>9-12+</p>
<p>Abusive/Offensive Language not directed at a game Official</p>	<p>Use of language that is abusive to a non-Official. In the view of the Umpire, potentially loud enough for other people to hear. Involves profanity.</p>	<p>- 3</p>	<p>Use of language that is abusive and has potential to escalate tension. In the view of the Umpire, easily loud enough for other people to hear. Involves repeated profanities.</p>	<p>4 - 5</p>	<p>Use of language that is abusive, aggressive and intended to escalate tension. In the view of the Official, definitely loud enough for other people to hear. Dominated by profanity and prolonged abuse.</p>	<p>6 - 8+</p>
<p>Unsporting-like conduct</p>	<p>Low impact on, or disruption, to game or game result. Moderate intent to hurt. Reckless rather than intentional. Causing low level intervention from umpire (e.g. lost time <2 mins)</p>	<p>- 3</p>	<p>Moderate impact on, and/or disruption to game or game result. Indications of intent to hurt. More Intentional than reckless. Causing moderate level intervention from umpire (e.g. lost time 2-5mins)</p>	<p>4 - 6</p>	<p>High impact on, and disruption to game or game result. High intent to injure. Intentional. Causing high level intervention from umpire (e.g. lost time 5+ mins)</p>	<p>7 – 8+</p>

Dissent	Signs of non-verbal or verbal signs of disagreement with ruling. More personal frustration than ridicule of official. Non -aggressive responses. Requiring at least 1 request from Umpire to desist.	- 3	Signs of obvious disagreement with ruling. More ridicule of official than personal frustration. Moderately aggressive responses and displays. Requiring 2 to 3 requests from Umpire to desist. Some signs of potential personal conflict between player and Umpire.	4 - 6	Signs of demonstrative and strong disagreement. High ridicule or antagonism. Aggressive responses. Requiring more than 3 requests from Umpire to desist. Threats or signs of personal conflict between player and Umpire.	7 - 8+
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CLASS 'C' OFFENCES

Reportable Offence	Low	Points	Medium	Points	High	Points
Use of Tobacco and Alcohol	Players, Coaches and Club Officials should be accountable for upholding policies and public expectation that relate to tobacco and alcohol use. This conduct has implications on personal well-being. The offender/s should be advised of a report and it may be at the Hearing Tribunal Chairperson’s discretion of allocating Points to the offender, a Club fine or both.					1 - 3+ Club fine \$100
Abuse of Equipment or facilities	Single event, low impact or damage, no disruption to game. More out of frustration than intent.	- 2	Could involve a single event that is of medium impact or damage and requires intervention. Multiple events and some disruption to game. Extends beyond frustration.	3 – 5	Multiple events and damage to equipment or facilities. Disruption to game and requiring active intervention. Beyond frustration and becomes clearly intended to damage.	5+ Order to cover damages
Audible Offensive Language	Not directed at any Participant, except self. Single event and result of frustration. In the view of the Umpire, potentially loud enough for other people to hear. Use of limited profanity.	-2	Not directed at any Participant, except self. In the view of the Umpire, easily loud enough for other people to hear. Multiple events (statements) and result of mostly frustration. Use of strong and multiple profanities.	3-4	Directed at self. In the view of the Umpire, loud enough for other people outside playing area to hear. Well beyond frustration. Use of strong and prolonged profanity.	5+

Club fine to be determined by Geelong Baseball Association

Schedule 2:

Operating Guidelines

- Reporting, Notification, Investigations and Hearings -

A. REPORTING

A1. Reporting of an Alleged Offence (Prohibited Conduct or otherwise) not originating from Umpire:

Where there is an absence of a formal report but there is a reasonable suspicion or substantive evidence that a Participant or Club may have engaged in misconduct, the GBA may advise the GBA Executive Officer to do either one of the following;

- A1.1 arrange for Independent Investigator to consider the matter (see Section C),
- A1.2 convene an Investigations Panel to consider the matter (see Section C),
- A1.3 refer the matter to the Hearing Tribunal Chairman for consideration (see Section D).

A2. Reporting of an Alleged Prohibited Conduct Offence from Umpire:

An Umpire may issue a Yellow Card to a Player or eject a Player from the Competition or Event. An Umpire can also report any other Participant in the Competition or Event for misconduct.

A2.1 Reporting of Yellow Card

- A2.1.1 The principle of the rule is to allow an Umpire to issue a yellow card to a Participant for offences committed where immediate ejection from the game does not take place or is not warranted. Each Yellow Card carries a penalty of 1 Point. In the case where the re-entry rule applies, each game will be considered separate games for the purpose of counting Yellow Cards.
- A2.1.2 The issuing of a Yellow Card by the Umpire will be communicated to the GBA Executive Officer as soon as practicable and the Executive Officer will record the offence in the appropriate log.
- A2.1.3 If a Participant is issued with two yellow cards in the same game, the Participant will be ejected from the game. The ejection will invoke a penalty of 2 Points.
- A2.1.4 If a Participant accrues two or more yellow cards issued to them during the season the following will apply.
 - 3rd Yellow Card – 1 additional Point
 - 4th Yellow Card – 2 additional Point
 - 5th Yellow Card - automatic suspension for 1 game
 - 6 or more Yellow Cards – automatic referral to Hearing Tribunal
- A2.1.5 A Participant cannot appeal a Yellow Card infringement but may appeal any suspension resulting from a Hearing Tribunal under the terms of Section E.

A2.2 Ejection for Prohibited Conduct

- A2.2.1 An Umpire ejecting any Participant from Competition or Event for Prohibited Conduct is in itself notification to the Player and Club that a report of an Alleged Offence will be lodged with the GBA. The time and inning of the ejection shall be recorded on the score sheet and noted in the Match card.
- A2.2.2 The reporting Umpire must complete the Report Form and forward it to the Executive Officer within 48 hours of the incident, or as soon as practicable. This report can be communicated in writing or electronically. The Umpire shall record, among other information, the name of the Alleged Offender, all charges applicable and the time and innings of the game the report occurred.
- A2.2.3 The Executive Officer will refer the completed Report Form to the Hearing Tribunal Chairman in a timely manner.
- A2.2.4 The Hearing Tribunal Chairman is delegated by the GBA to do either;
- (a) where the report concerns a Class A Offence, convene a Hearing Tribunal to hear the matter (see
 - (b) where the report relates to conduct deemed by the Chairman to be on the lower scale of offending for Class B Prohibited Conduct, the Chairman may;
 - seek any evidence that could contribute to a better understanding of the matter
 - contact the Alleged Offender to discuss the report and, based on all evidence available, either dismiss the report or present an offer of a penalty (and associated Points) to the Alleged Offender. A discount of at least 1 Point will apply for an early plea of guilty.
 - (c) The Alleged Offender has the option to accept the penalty immediately or to notify the Executive Officer or Hearing Tribunal Chairman within 12 hours of receiving the Tribunal Chairman's offer if he/she will accept or challenge the penalty.
 - (d) If the Alleged Offender or his/her Club fails to comply within this timeframe, the Hearing Tribunal Chairman's penalty offer will take immediate effect.
 - (e) Should the Alleged Offender, within the 12hr timeframe decline to accept the penalty offer, the matter will proceed to a Hearing Tribunal.

B. NOTIFICATION

- B.1 Notwithstanding A2.2.4, the Executive Officer will notify the Secretary of the Alleged Offender's club within 24 hours that it proposes to refer a matter of Prohibited Conduct to a Hearing Tribunal.
- B.2 The Notification will include;

- an electronic copy of the Report Form and any other document or evidence in relation to the alleged Prohibited Conduct by the Alleged Offender.
- an electronic copy of, or an on-line reference to, these Guidelines,
- information advising the Alleged Offender of their rights (including the right to be represented at the hearing (at their own expense), to address the panel in person, to provide written submissions and to call witnesses) and the format of proceedings, and
- an electronic copy of the Prohibited Conduct Assessment Table (Schedule 1) that sets out the potential penalties in the event that the Hearing Panel makes a finding that the Alleged Offender engaged in the Prohibited Conduct.

B.3 Within 24 hours of the date of the Notification, the Alleged Offender must notify the Executive Officer in writing of whether or not he or she wishes to contest the allegations.

B.3.1 If the Alleged Offender does not wish to contest the allegations and accedes to the imposition of a penalty, he or she (or the Club Secretary) may so notify the Executive Officer in writing, in which case no hearing shall be conducted and the Hearing Tribunal will consider the matter and determine an appropriate penalty.

B.3.2 If the Alleged Offender does not wish to contest the allegations, but wishes to make submissions disputing or seeking to mitigate the penalty, he or she must notify the Executive Officer either:

- that he or she wishes to make those submissions at a hearing before the Hearing Tribunal, in which case, the Hearing Tribunal will proceed in accordance with Section D.
- that he or she wishes to make those submissions in writing, in which case the Hearing Panel will, on receipt of those submissions, consider the matter and determine an appropriate penalty (giving due consideration to those written submissions).

B.4 Where a Hearing Tribunal is to be convened, the Executive Officer will communicate the date, time and place for the proposed hearing of the alleged Prohibited Conduct which shall be as soon as reasonably practicable after the Alleged Offender has indicated his/her response to the Notification;

B.5 If the Alleged Offender fails to respond to the Notification within 24 hours of the date of the Notice, the Alleged Offender shall be deemed to have:

- waived their entitlement to a hearing in accordance with these Guidelines;
- admitted to the Prohibited Conduct specified in the Notice; and
- acceded to the imposition of a penalty determined by the Hearing Panel.

NOTE: All clubs are responsible for ensuring club contact details are correct. If the Alleged Offender's club receives no communication regarding the Report, the Alleged Offender's Club must contact the Executive Officer to confirm the progress of the Report. Failure by the Alleged Offender's club to receive notification of penalty offers or tribunal hearing details are not grounds for an appeal.

C. INVESTIGATIONS

Independent Investigator:

- C.1 In considering A1.1, the GBA may, at its discretion, engage an Independent Investigator to conduct an investigation on its behalf to conduct a preliminary investigation and to determine if there is credible evidence to indicate a Prohibited Conduct breach has occurred, and whether there is prima facie evidence that the matter should be referred either to the GBA Board or to a Hearing Tribunal for action and any appropriate sanction. The Investigator is not delegated to make any determination on guilt or sanctions.
- C.2 The GBA will set a timeframe on the completion of the investigation taking into account the complexity of the matter, availability of interviewees and other critical factors. However, all efforts should be made to finalise the recommendations in a timely manner.
- C.3 The Independent Investigator shall be required to report back to the GBA and provide all information and evidence they have collected during their investigation.
- C.4 For the avoidance of doubt, the Independent Investigator may in the course of an investigation:
- C.4.1 inquire into, interview, monitor and investigate any reports or suspicions that a Participant or Club may have engaged in Prohibited Conduct;
- IMPORTANT:** In any interview with the Alleged Offender, the Alleged Offender has the right to be advised of any allegations and preliminary evidence held by the GBA, and to be further advised that he/she is not required to provide any comment that might otherwise implicate him/her in any potential, subsequent inquiries or hearings.
- C.4.2 request copies of all documents, records, articles or things, including but not limited to electronic transmissions, telephone records, banking and financial statements, internet service records and computer and other electronic information storage, in the possession or control of a Participant or Club that are relevant to the investigation; and
- C.4.3 require access to the premises occupied by, or in the control of, a Member Club for the purposes of any investigation.
- C.5 Upon receiving the recommendations from the Independent Investigator the GBA Board will have the discretion to;
- make a determination where it is satisfied that the evidence is unequivocal and that the principles of natural justice are not compromised, or

- refer the matter to the Hearing Tribunal Chairman for consideration. All reports or information and any documentary or other evidence that is available to the GBA relating to the alleged breach of this Framework must as soon as reasonably practicable be referred to the Hearing Tribunal.

C.6 Nothing in this Section prevents GBA from enforcing any other sanctions.

Investigation Panel

C.7 In consideration of A1.2, the GBA Board has the powers to convene an Investigation Panel (constituted by members as the GBA feels fit) to hear matters generally outside the remit of a Hearing Tribunal. The Panel will be delegated by the GBA to investigate the matter, applying all the principles of natural justice as appropriate including the right of the alleged offender to question the complainant and witnesses. This Panel has the authority to decide sanctions where appropriate. The alleged offender, if found guilty, has the right of Appeal conditional on Section E of these Operating Guidelines.

D. HEARING TRIBUNAL

- D1. Where a Hearing Tribunal has been convened, the GBA Executive Officer will manage all administrative arrangements in relation to the hearing in consultation with the Tribunal Chairman.
- D2. The purpose of the hearing shall be to determine whether the Alleged Offender has engaged in the Prohibited Conduct as specified in Report Form and, if the Hearing Tribunal considers that the Alleged Offender has engaged in Prohibited Conduct, for the imposition of any penalty in the Hearing Tribunal's discretion.
- D3. The Hearing Tribunal may conduct the hearing as it sees fit and, in particular, shall not be bound by the rules of evidence or unnecessary formality. The Hearing Tribunal must determine matters in accordance with the principles of procedural fairness, such as a hearing appropriate to the circumstances; lack of bias; inquiry into matters in dispute; and evidence to support a decision.
- D4. The hearing shall be inquisitorial in nature and the Hearing Tribunal may call such evidence as it thinks fit in its discretion and all Participants and Clubs subject to this Framework must, if requested to do so by the Hearing Tribunal, provide such evidence as they are able.
- D5. The hearing must be conducted with as much expedition as a proper consideration of the matters permits. However, the Hearing Tribunal may adjourn the proceedings for such reasonable time as it considers necessary, giving due consideration to any provisional suspension that may be being served by the Alleged Offender.
- D.6 The Chairman shall determine all questions of law, evidence or procedure that arise during a hearing.
- D7. Notwithstanding the above, the Alleged Offender:
- D7.1 is permitted to be represented at the hearing (at their own expense);

- D7.2 has the right to address the Hearing Tribunal to make their case; and
- D7.3 is permitted to provide written submissions for consideration by the Hearing Tribunal (instead of, or as well as, appearing in person). If the Alleged Offender provides any written submissions, the Hearing Tribunal must consider those submissions in its deliberations.
- D8. The hearing shall be closed to the public. Only persons who can demonstrate a legitimate interest in the hearing will be permitted to attend. This will be at the sole discretion of the Chairperson.
- D9. Notwithstanding Clause 13.12, a member of the GBA (Executive Officer) or the Independent Investigator where the hearing is a result of an Independent Investigation under Clause 10 must be present at the hearing to respond to any questions of the Hearing Tribunal.
- D10. If the Alleged Offender or their representative does not appear at the hearing, after proper notice of the hearing has been provided, the Hearing Tribunal may proceed with the hearing in their absence.
- D.11 The Tribunal Chairman will appoint a panel of suitably qualified persons who will be collectively known as the Tribunal. The Executive Officer will act as the Executive Officer.
- D.12 If there are insufficient Tribunal members available for a Tribunal hearing, the Tribunal Chairman will have the power to co-opt any member of the Board to act as a Tribunal member. If the Tribunal Chairman is unable to attend a Tribunal hearing, one of the attending Tribunal members will perform the role of Chairman in accordance with these Guidelines.
- D.13 Upon receiving confirmation that the Report will proceed to the Tribunal, the Executive Officer will communicate the details of the Tribunal hearing to the Alleged Offender's club.

D.14 The Tribunal Hearing

- (i) Within 24 hours of confirming a Tribunal hearing, the Executive Officer will provide to the Alleged Offender's Club details of the time and place for the Tribunal to be conducted.
- (ii) If the Alleged Offender is unable to attend the scheduled Tribunal hearing, the Tribunal Chairman shall offer the Alleged Offender a telephone or other electronic conference link to have the Tribunal held.
- (iii) If the Tribunal Chairman permits the Tribunal hearing to be rescheduled the Alleged Offender may request permission to participate in games before the rescheduled tribunal hearing.

The Tribunal Chairman may permit or deny the request. If the request is denied then the player is not eligible to play in games until the Tribunal is held.

- (iv) In the event that the Alleged Offender is not in attendance, and no explanation for the non-attendance is given, at the appointed time of the Tribunal hearing, the Tribunal Chairman will allow a reasonable period of 'grace'.

If the Alleged Offender does not appear during the period of 'grace', the Tribunal will reconvene, and in the absence of the Alleged Offender, the Tribunal will hear evidence from any witnesses and/or Umpires and consider the evidence on the Report Form.

- (v) When all evidence is presented, the Tribunal will retire and if they determine, according to the standards of proof being 'clear and convincing evidence' that a Prohibited Conduct offence has occurred by the Alleged Offender, a penalty will be issued against the Alleged Offender. The Executive Officer will advise the Alleged Offender's club of the outcome of the Tribunal hearing and that the decision of the Tribunal cannot be appealed in the situation of non-attendance of the Alleged Offender.

D.15 Conduct of the Tribunal:

- (a) The Tribunal Chairman will call the Alleged Offender(s), witnesses, Umpires any and other interested parties (such as observers, Advocates etc – see below) into the hearing. **The Tribunal Chairman will ensure that game Umpires, or at least the Reporting Umpire, attends all Hearings of Prohibited Conduct for Class A Offences.**
- (b) An Alleged Offender who is under **eighteen years of age** at the date of the Tribunal hearing will be permitted to appoint an adult person as his or her Advocate. An Advocate is permitted to be in attendance for the duration of the hearing but is not entitled to give evidence *per se*. The Advocate's role is one of personal counsel rather than legal counsel. The Alleged Offender will need to give evidence on their own behalf but the Advocate may assist with interpretation, or assist where the Alleged Offender finds the process difficult to complete for any reason;
- (c) The Chairman will request attendees to identify who they are and, if observers, request permission from the Tribunal Chairman to sit at the hearing. If granted permission, such persons are not permitted to speak during the hearing unless granted permission from the Tribunal Chairman. The Tribunal Chairman can require observers to leave the hearing at any time;
- (d) Advise the Alleged Offender of their right of appeal under these Operating Guidelines;
- (e) Confirm that the spirit and intent of the Guidelines is that all Tribunal hearings be conducted in a fair and unbiased matter. It is the Tribunal Chairman's duty to ensure that all persons observe the procedures and policies set out in the By-Laws. If the conduct of any person at the Tribunal hearing conflicts with standard of behaviour required by the By-Laws, the Tribunal Chairman is empowered to deal with such persons in a manner appropriate in the circumstances;
- (f) The Tribunal Chairman shall impress on all present the necessity of observing the following conditions:

"Any person giving evidence of an untruthful or unsatisfactory nature to the Tribunal, in the case of any player, can be disqualified from taking part in any matches for such time as the Tribunal shall decide, and in the case of any other person, shall on report to the Board by the Tribunal, will be dealt with as the Board may deem fit"
- (g) All witnesses and non-approved observers shall leave the room

- (h) The Chairman will read the Umpire's 'Report Form', including the Prohibited Conduct offence/s on which the report is based.
- (i) The Chairman will ask the Alleged Offender to enter a plea of (i) guilty to all offences (ii) guilty but with aggravated or mitigating circumstances or (iii) not guilty. (Should the Alleged Offender be undecided then the Tribunal Chairman will enter a plea of not guilty for the record.)

If the Alleged Offender pleads guilty to all offences then:

- (j) The Tribunal will retire to consider the evidence and determine the Alleged Offender's penalty in relation to all offences in the report;
- (k) The Tribunal will reconvene and deliver their decision to the Alleged Offender.

If the Alleged Offender pleads guilty but with aggravated or mitigating circumstances then:

- (l) The Tribunal will allow the Alleged Offender to provide the aggravating and mitigating circumstances (see examples below). However, the Alleged Offender may be subject to any cross examination by the Tribunal and the Tribunal may seek to corroborate any claim by the Alleged Offender with any Umpire, witness or observer that may be present at the hearing.
- (m) The Tribunal will then retire to consider the matter and determine the Alleged Offender's penalty in relation to all offences in the report;
- (n) The Tribunal will reconvene and deliver their decision to the Alleged Offender.

If the Alleged Offender pleads not guilty then:

- (n) The Alleged Offender may question the Umpire Report, provided such questions aim to elaborate and/or clarify the Umpire Report;;
- (o) The Tribunal may call witnesses to give evidence and the Alleged Offender may question the witnesses;
- (p) The Tribunal members or the Chairman may call independent witnesses to attend the hearing and provide testimony;
- (q) The Alleged Offender will be asked to provide evidence for their defence, including provide the Tribunal with any aggravated or mitigating circumstances relating to the matter.
- (r) The Tribunal may question the Alleged Offender provided such questions aim to elaborate and/or clarify the reported players evidence.
- (s) The Alleged Offender may call their witnesses and the Tribunal may question the witnesses;
- (t) Notwithstanding any rights of the Offender to challenge any or all matters set out in the Prohibited Conduct Report at a Hearing Tribunal, an Alleged Offender shall be entitled at any stage to admit they

have engaged in the Prohibited Conduct specified in the Notice and to accede to penalties determined by the Hearing Tribunal.

- (u) When all evidence is presented the Tribunal will retire to consider the evidence and determine the Alleged Offender's guilt or innocence in relation to all offences in the report;
- (v) The Tribunal will reconvene and deliver their decision to the Alleged Offender alternatively the decision will be communicated by text message, email or other appropriate technology by the Executive Officer.
- (w) In the Minutes of the Tribunal Hearing, the Executive Officer will record the Tribunal's proceedings and its decision.
- (x) After the Tribunal hearing, the Executive Officer will as soon as practical communicate the Tribunal's decision to the Alleged Offender's club, the Board and the Umpires' Administrator, no later than 24 hours after the hearing.
- (y) The Executive Officer will maintain a Register of Alleged Offenders and record the details of all proven offences and penalties.

Examples of aggravated circumstances

The Hearing Tribunal or Hearing Panel may have regard to the following aggravating circumstances when determining an appropriate sanction:

- (a) a lack of remorse on the part of the Participant;
- (b) the age and experience of the Participant;
- (c) a lack of cooperation with the GBA, Independent Investigator or Hearing Tribunal during an investigation or hearing, including a failure to produce evidence that was reasonably requested;
- (d) a previous finding of guilt for any similar or related Prohibited Conduct under this Framework or any similar regulations of a Relevant Body;
- (e) where the Prohibited Conduct substantially damaged, or had the potential to damage substantially, the public confidence in the sport of baseball;
- (f) where the Prohibited Conduct affected, or had the potential to affect, the result or a contingency of the relevant Competition or Event;
- (g) where the welfare of a Participant or any other person has been endangered as a result of the Prohibited Conduct;
- (h) where the Participant coerced or otherwise engaged other persons to engage in Prohibited Conduct;
and

- (i) any other aggravating factors that the Hearing Tribunal or Hearing Panel considers relevant and appropriate.

Examples of mitigating circumstances

- (a) The Hearing Tribunal or Hearing Panel may have regard to the following mitigating circumstances when determining an appropriate sanction:
- (b) any admission of guilt (the mitigating value of which may depend upon its timing);
- (c) the amount of suspended ‘time’ already deemed served in the game in which the offence occurred.
- (d) the youth or lack of experience of the Participant;
- (e) the Participant’s good previous disciplinary record;
- (f) the extent to which the Participant or Club has cooperated with the GBA, Independent Investigator or Hearing Tribunal during an investigation or hearing;
- (g) where the offence did not substantially damage, or have the potential to substantially damage, the public confidence in the sport of baseball;
- (h) where the offence did not affect, or have the potential to affect, the result or a contingency of the relevant Competition or Event;
- (i) where the Participant or Club provides substantial assistance to GBA, the Hearing Tribunal, a law enforcement or regulatory agency that results in GBA discovering or establishing Prohibited Conduct under this Framework by another Participant or Club or that results in a law enforcement or regulatory body discovering or establishing a criminal offence by another Participant or other third party;
- (j) where the Participant or Club has already suffered penalties under other laws or regulations for the same Prohibited Conduct; and
- (k) any other mitigating factors that the Hearing Tribunal considers relevant and appropriate.

E. APPEAL

- E.1 Any Player, Official of a club or a Member Club suspended or disqualified by any Investigation or Tribunal (the Appellant) shall have “the right of appeal” to the Board.
- E.2 The available grounds of appeal are:
 - E.2.1 where the Framework and these Operating Guidelines have been misapplied;

- E.2.2 where new substantive evidence has become available;
 - E.2.3 where natural justice or procedural fairness has been denied; or
 - E.2.4 where the penalty imposed was manifestly excessive having regard to the circumstances of the matter and the evidence presented to the Hearing Tribunal or Investigation.
- E.3 A Notice of Appeal must be made in writing and lodged with the Board through the GBA Executive Officer, within twenty four (24) hours of receipt by the Appellant of the Hearing Tribunal or Investigation's written decision. The Notice of Appeal must specify the grounds for the appeal and a preliminary description of evidence to support the grounds being appealed. A fee of \$100 is to accompany any appeal to the Board. The Board may at its discretion refund that fee following the hearing if the appeal had merit, or retain the fee if the appeal was considered frivolous.
- E.4 Where the Board receives a Notice of Appeal, the Board must convene an Appeal Panel for the purposes of hearing the appeal. Any hearing of the appeal should be held as soon as reasonably practicable after the Notice of Appeal has been received by the Board to avoid potential tactics intended to delay the process and any potential sanctions.
- E.5 The Appeal Panel has the exclusive power to hear an Appeal and is bound by the same procedures in these Guidelines that govern a Tribunal hearing.
- E.5 An Appellant granted an Appeal Panel hearing will have any Tribunal penalty stayed until the hearing by the Appeal Panel. However, Players appealing to an outside governing body other than the GBA Board or a subcommittee appointed by the Board will **NOT** be eligible to compete in the Competitions or Events or be transferred or register with another club or league associated with Baseball Victoria.
- E.6 The Appeal Panel must be appointed by the Board for such time and for such purposes as the Board thinks fit and must:
- E.6.1 be comprised of three persons independent of the parties and with no prior involvement with the case with appropriate skills and experience to hear the matter;
 - E.6.2 where possible, include at least one person who has considerable previous experience in the legal aspects of a disciplinary/hearings tribunal and dispute resolution to act as Chairman;
 - E.6.3 not include any members from the initial Hearing Tribunal, and
 - E.6.4 where an Appeal Panel has been convened, the GBA Executive Officer will manage all administrative arrangements in relation to the hearing in consultation with the Chairperson.
- E.7 The hearing before the Appeal Panel is not a rehearing of the matter, but a hearing of the issue under appeal only.
- E.8 The Appeal Panel may conduct the appeal as it sees fit. However, any party to the appeal or the initial Hearing Tribunal or Investigation can be represented at and make written and oral submissions to the Appeal Panel subject to the discretion of the Appeal Panel.

E.9 The Appeal Panel may, in its discretion:

E.9.1 affirm the decision of the Hearing Tribunal or Investigation and the penalty imposed;

E.9.2 affirm the decision of the Hearing Tribunal or Investigation but decide to impose any alternative penalty; or

E.9.3 revoke the decision of the Hearing Tribunal or Investigation and the penalty imposed.

E.10 The decision of the Appeal Panel shall be a majority decision and must be recorded in writing. The Appeal Panel's decision must be communicated to the Board, the Appellant and any other person affected by the decision as soon as practicable.

E.11 The decision of the Appeal Panel shall be final, non-reviewable, non-appealable and enforceable.

F. SANCTIONS

F.1 In consideration to Clause D.14(v) and E.11, the Hearing Tribunal, or Appeal Panel as the case may be, will advise the Executive Officer of their final resolution on the matter noting the offence/s, grade of game, date and determination/s made regarding penalties and Points. The Club will be advised of this determination as soon as practicable.

F.2 Any player under suspension or disqualification or whose suspension or disqualification has been endorsed by the GBA Board shall be debarred from taking part in any match played under the control of the Association and any Club affiliated therewith playing or taking part in any match (including representative team games) in which such suspended or disqualified person plays or takes part shall be liable to suspension or disqualification or to such other penalty as the Board may determine.

F.3 Any Association, Club or Affiliated Body under suspension shall forfeit all rights and privileges held under or in the Association or its property. Its representatives shall cease to act and shall not be entitled to vote at meetings of the Association and its members shall be debarred from taking part in any match played under the auspices of the Association.

F.4 The GBA may apply fines on a Member Club where a Participant of the Club is charged with a Prohibited Conduct offence that has resulted in damage to equipment, facilities or private property.

F.5 The GBA Board shall have the power to endorse any suspension or disqualification imposed by any controlling body of baseball, either in or outside Victoria, where the Executive Officer is notified of such suspension or disqualification.

G. POINTS, POINTS CARRYOVER AND POINTS DISCOUNTS

G.1 Prohibited Conduct Offences will be ascribed Points by the GBA based on the seriousness of the Offence. A record will be kept by the GBA Executive Officer of the Participants who have accrued Points as a result of being found guilty of Prohibited Conduct.

- G.2 Where a Participant is found guilty of a Prohibited Conduct Offence, that Participant and his/her club will receive notification of the Offence and the Points allocated to that Offence.
- G.3 When a Participant accrues more than 5 points, either from a single Offence or a series of Offences, that Participant will be immediately suspended from GBA Competition games or GBA sanctioned Events (unless exempted by the GBA Board) equal to the number of Points that exceed 5. For example, a Participant charged with a Prohibited Conduct Offence ascribed 8 Points will be immediately suspended for 3 GBA sanctioned games (as a Player, Coach, Scorer or any other official capacity). The same Participant subsequently found guilty of further Offences will incur suspensions equal to the Points ascribed to each of those Offences. Once any or each suspension has been served, the Points allocated to that Participant will revert to a score of 5.
- G.4 Points accrued by a Participant will carry over from one Competition season to the next.
- G.5 Notwithstanding G.3 and G.4 above, a Participant that;
- G.5.1 has accrued Points, but has not been found guilty of any Prohibited Conduct in GBA Competitions and Events over a successive period of 12 months from (i) the date at which the last Points penalty was imposed or (ii) the date upon serving any suspension as a result of exceeding 5 Points, will receive a 'discount' of 2 Points.
 - G.5.2 has accrued Points, but has not been found guilty of any Prohibited Conduct in GBA Competitions and Events over a successive period of 24 months from (i) the date at which the last Points penalty was imposed or (ii) the date upon serving any suspension as a result of exceeding 5 Points, will have all Points rescinded.
- G.6 Nothing in G.5 above negates the use of a Participant's history of Prohibited Conduct from being referenced in any or future hearings of alleged misconduct, and
- G.7 Nothing in G.5 above implies that a Participant is required to be a registered member of any GBA club during the qualifying period for the purpose of Points discounting. However, any offences pursuant to Clause 20 of the Framework relating to Mutual Recognition will be applied where appropriate.