



**Golf***Illawarra*

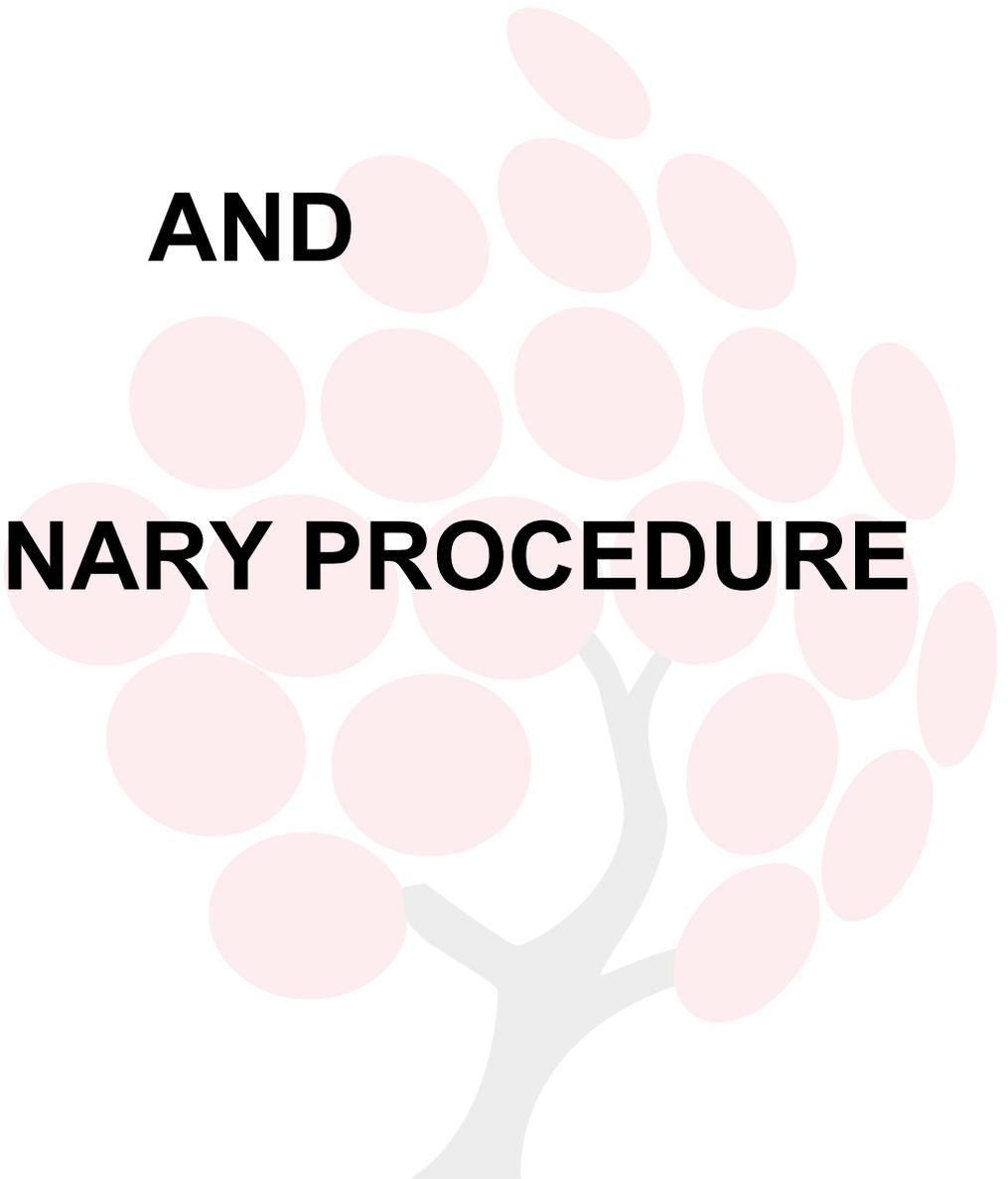
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**GOLF ILLAWARRA**

**CODE OF CONDUCT**

**AND**

**DISCIPLINARY PROCEDURE**



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## **PART 1. EXECUTIVE SUMMARY**

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

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

- (1) A person bound by the Code performs an action that has the potential to be classified as a breach of the Code.
- (2) The action is brought to the attention of GI in any way. GI will promptly determine whether it is appropriate to officially investigate the action. GI is not obliged to investigate.
- (3) If an official investigation is conducted, it will be conducted by an authorised GI official or officials. In most cases:
  - (a) the investigation will be limited to consideration of brief verbal witness reports; and
  - (b) there will be no requirement for the person whose action is being investigated (the Respondent) to be consulted as a part of the investigation, although in some cases it may be useful to do so.

(4) The findings of the official investigation will be reported to the Board. In most cases it will be appropriate that this report be a very brief written summary. If the findings of the official investigation are that there has been no breach or that any breach was trivial the findings will be noted but no further action taken. If the findings are that there has been a breach which was not trivial the findings will be referred to the Disciplinary Committee for determination.

(5) On receipt of a report the Disciplinary Committee will convene a meeting to determine whether or not a breach of the Code has occurred and, if so, whether or not a sanction should be imposed. A sanction may comprise suspension for a designated number of days from participation in all GI events and suspension of the Respondent's Golf Australia handicap for the designated number of days.

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## **PART 2. DICTIONARY OF TERMS**

### **Board**

The board of directors of GI.

### **Code**

The code of conduct set out in this document.

### **Disciplinary Committee**

The Disciplinary Committee is a 3-person committee comprised as set out in the Disciplinary Procedure.

### **Disciplinary Procedure**

The disciplinary procedure set out in this document.

### **Event**

A competition conducted under the auspices of GI.

### **GI**

Golf Illawarra.

## **Participant**

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

## **Respondent**

A Participant whose action is the subject of investigation or determination under the Code and Disciplinary Procedure.

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## **PART 3. CODE OF CONDUCT**

### **3.1 GENERAL**

- (1) By agreeing to be bound by the conditions of an Event (and where the conditions of the Event include the Code and Disciplinary Procedure), or by accessing the property of a venue club for an Event on either an official practice day or an official competition day, or by commenting digitally or otherwise in a public domain on an Event or on another Participant of an Event, or by such other mechanism as may be in effect from time to time, each Participant submits that:
  - (c) they agree to be bound by the Code and Disciplinary Procedure;
  - (d) any actions taken by them up until midnight on the day after the final day of the Event will be actionable under the Code and Disciplinary Procedure; and
  - (e) any actions taken by them within a period of 12 months after the conclusion of the Event that are directly relevant to the Event will be actionable under the Code and Disciplinary Procedure.
- (2) It would be impossible to define exactly the standard of conduct expected from a Participant in all circumstances or to list all acts that would amount to a breach of the Code and lead to disciplinary sanction. In most cases common sense should tell the Participant the standard of behaviour that is required. Any Participant who has any doubts as to the conduct which is expected of them should consult a GI official for guidance.

### **3.2 GUIDELINES**

In most circumstances the following acts or omissions by a Participant will be considered to be breaches of the Code and will lead to a sanction being imposed upon the Participant:

#### **3.2.1 Best Efforts**

Failure to give their best efforts in competition.

#### **3.2.2 Etiquette**

Failure to comply with normally accepted standards of courtesy and golf etiquette.

#### **3.2.3 Misbehaviour**

Misbehaviour of a personal nature that is generally unacceptable by normal social standards and which GI at its sole discretion considers to be harmful to the reputation of GI, an affiliate of GI, a venue club or facility, an Event, or another Participant.

### **3.2.4 Injurious Conduct**

Conduct likely to injure or discredit the reputation of GI, an affiliate of GI, a venue club or facility, an Event, or another Participant.

### **3.2.5 Failure to Report a Breach of the Code**

Failure by a Participant to:

- report a breach of the Code by another Participant when the breach is known to that Participant or in circumstances where they should reasonably have realised that a breach of the Code may have occurred; or
- fully cooperate in any enquiry or proceedings relating to a breach or suspected breach of the Code.

### **3.2.6 Rules of Golf**

Failure to comply with the Rules of Golf, Local Rules, or Conditions of Competition.

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## **PART 4. DISCIPLINARY PROCEDURE**

### **4.1 FORMAL INVESTIGATION OF AN INCIDENT**

Where a Participant may have committed a breach of the Code:

- a formal investigation may be initiated by the GI president or captain;
- there is no requirement for a formal complaint to be lodged in order for an investigation to be initiated; it is entirely at the discretion of the GI president or captain as to whether an incident is to be formally investigated;
- it will be entirely at the discretion of the GI president or captain to determine the nature and scope of the investigation. Investigations should ideally be conducted in a prompt manner. In most cases the investigation will be limited to prompt consideration of verbal reports by witnesses to the incident. In most cases there will be no requirement for the Respondent to be consulted as a part of the investigation, although in some cases it may be helpful to do so; and
- the findings of the investigation must be reported to the Board. In most cases it will be appropriate that this report be a very brief written summary.

### **4.2 CONSIDERATION OF FINDINGS OF FORMAL INVESTIGATION**

Following the investigation and the gathering of evidence, the Board should promptly consider and discuss the findings of the official investigation. This discussion may take place for example in person, or by phone, or text message, or email, or skype, etc. The Board may decide:

- that no breach has occurred or that any breach that has occurred is trivial and does not warrant any sanction; or
- refer the findings of the investigation to a hearing of the Disciplinary Committee for determination.

### **4.3 SANCTIONS FOR BREACH OF CODE**

When a Respondent is sanctioned there are two concurrent penalties:

- suspension for a designated number of days from participation in all GI Events; and
- suspension of GI Handicap for a designated number of days.

## **4.4 DISCIPLINARY COMMITTEE**

### **4.4.1 General**

- (1) A hearing of the Disciplinary Committee should take place as soon as possible after it is established that a hearing is required. It must take place at a time and place that in the sole opinion of the chairperson is not notably unreasonable for the Respondent.
- (2) A hearing of the Disciplinary Committee is an informal internal inquiry. The purpose of the hearing before the Disciplinary Committee is to dispose of the matter as speedily and informally as possible consistent with a fair hearing, in good faith and the rules of natural justice. The rules of evidence do not apply to a hearing.
- (3) The hearing must take place before 3 members of the Disciplinary Committee appointed by the Board and consisting of:
  - (a) a legally qualified person (of at least 6 years post-qualification experience) who is not a GI official, who will be the chairperson of the Disciplinary Committee (GI will maintain on file a list of at least 2 people eligible under this requirement who are willing to serve on the Disciplinary Committee at a hearing, subject to availability on a specific hearing date);
  - (b) an experienced golf administrator; and
  - (c) a member of the PGA of Australia, or a member of the ALPG.
- (4) No person who was involved in the events relating to, or the investigation of, the alleged breach of the Code, or who has a clear vested interest in the outcome of the hearing, or who has made strong statements in the public domain either way on a directly relevant matter, should sit on the Disciplinary Committee. Each person who is approached to sit on the Disciplinary Committee for a matter will be required to make a declaration of any vested interest or involvement in the alleged breach prior to sitting on the Disciplinary Committee.

### **4.4.2 Communication of the charge and details of the matter, and notification of the hearing date, time, and venue**

- (1) GI will notify the Respondent and to all members of the Disciplinary Committee at least 5 days (ie 120 hours) prior to the starting time for the hearing of:
  - (a) the date, time, and venue for the hearing;
  - (b) details of the alleged breach of the Code by the Respondent;
  - (c) the potential sanctions;
  - (d) the Respondent's right to contest the alleged breach.
- (2) The notification must be sent by email to each affiliated club of which GI knows the Respondent to be a member and will be taken to have been received by the Respondent when sent to each affiliated club. Each affiliated club will be responsible for communicating the notification to the Respondent. The communication must include:
  - (a) a brief summary document of the findings of the investigation into the matter, and anything else that is considered relevant (it is the responsibility of GI to prepare this document);
  - (b) a current copy of the GI Code of Conduct and Disciplinary Procedure; and
  - (c) a list of all witnesses approved by the chairperson. Note that the list of witnesses must be communicated to the Respondent and to all members of the Disciplinary Committee at least 2 days (ie 48 hours) prior to the starting time for the hearing unless otherwise approved by the chairperson.

### 4.4.3 Hearings

- (1) The following people will be allowed to attend the hearing (and they may appear either in person or via phone hook-up, or via video or skype or the like):
  - (a) Members of the Disciplinary Committee.
  - (b) The Respondent.
  - (c) Any witnesses called by the Respondent.
  - (d) Any witnesses called by GI.
  - (e) The Respondent may be accompanied and supported by up to two people (for example, a parent or club official) who may speak on behalf of the Respondent during the hearing.
- (2) If the Respondent is not present at the set hearing time and the chairperson considers that no valid reason has been presented for their absence, the hearing must continue subject to the chairperson being satisfied that all notification requirements have been met.
- (3) If the chairperson considers that there is a valid reason for the non-attendance of the Respondent, or the chairperson does not believe the notification requirements have been met, then the hearing will be rescheduled to a later date or time.
- (4) If the chairperson wishes to reschedule the hearing date or time, the chairperson will inform the secretary of GI of the need to reschedule the hearing and the secretary must arrange for the hearing to be reconvened.
- (5) The chairperson will read out the findings of the official investigation and the potential sanctions, and ask the Respondent if they understand the findings and the potential sanctions.
- (6) If the Respondent disputes the alleged breach, they will be asked to provide any evidence or witnesses that should be considered by the Disciplinary Committee when determining the alleged breach and any sanctions.
- (7) The Respondent will present whatever relevant information they wish to the Disciplinary Committee, and may have witnesses appear. GI will present whatever relevant information it wishes to the Disciplinary Committee, and may have witnesses appear. A list of all requested witnesses for GI and for the Respondent must be presented to the chairperson at least 54 hours prior to the hearing – a witness may not appear at the hearing if their name has not been submitted to the chairperson prior to this time unless the chairperson believes the circumstances warrant making an exception.
- (8) Witnesses may be asked to wait outside the hearing until they are required.
- (9) The Disciplinary Committee may:
  - (a) consider any evidence, and in any form, that it deems relevant;
  - (b) ask questions of any person giving evidence;
  - (c) limit the number of witnesses (including limiting witnesses to those persons who only provide new evidence);
  - (d) request the attendance of any witness it deems relevant; and
  - (e) act in an inquisitorial manner in order to establish the truth of the issue before it.
- (10) Video evidence, if available, may be presented by a witness.

- (11) If the Disciplinary Committee considers that at any time during the hearing there is any unreasonable or intimidatory behaviour from anyone present, the chairperson may deny further involvement of that person in the hearing.
- (12) After all of the evidence has been presented, the Disciplinary Committee must decide in private whether or not the alleged breached has, on the balance of probabilities, been substantiated.
- (13) The Respondent will have the opportunity to make submissions to the Disciplinary Committee in relation to any sanctions that may be imposed.

#### **4.4.4 Decisions**

- (1) All Disciplinary Committee decisions will be by majority vote.
- (2) The chairperson:
  - (a) must announce the decision at the conclusion of the hearing; or
  - (b) advise those present that the decision is reserved and will be handed down in written form at a later time.
- (3) Within 48 hours, the chairperson must:
  - (a) forward a notice of the Disciplinary Committee's decision to the GI secretary and to each club of which GI knows the Respondent to be a member, including any sanction imposed; and
  - (b) forward a notice reconfirming the Disciplinary Committee's decision to the Respondent, including any sanction imposed.

The letter must also outline the process and grounds for an appeal, if applicable.

- (4) The Disciplinary Committee does not need to provide written reasons for its decision.

#### **4.4.5 Costs**

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

#### **4.5 APPEALS**

- (1) The Respondent can appeal to the *board* against a finding or decision of the *disciplinary committee*. Any such appeal must be made by notice lodged with the *GI* secretary within 7 days after notice of the *disciplinary committee's* finding or decision is given to the Respondent.
- (2) The notice of appeal must be in writing and signed by the Respondent and must specify:
  - (a) the name of the person lodging the appeal;
  - (b) the decision appealed against;
  - (c) the date of the decision appealed against; and
  - (d) the specific grounds of the appeal.

Except as provided above, no specific form of a notice of appeal is required.

- (3) The notice of appeal must be accompanied by a deposit of \$200. If the deposit is not paid, the appeal is deemed to be abandoned, but the *board* can, in any case, extend the time for payment of the deposit.
- (4) On notification by the GI secretary of lodgement of the appeal, the *disciplinary committee* must make available to the GI secretary the full record of the proceedings before the *disciplinary committee*
- (5) The *board* can conduct and regulate the appeal proceedings as it sees fit having regard to the circumstances of the case but must generally conform to the procedures stated in this document but particularly clause 6.
- (6) The *board* can conduct a hearing anew or determine the appeal based on the record of the decision of the *disciplinary committee* or a combination of them, as it deems appropriate. Where the Respondent appeals against the sanction alone, the Respondent can request the *board* to review the sanction without the need for a personal hearing. The *board* can also determine that a personal hearing is not required in relation to any appeal but if the Respondent so wishes, the Respondent has the right to appear and make representations in all cases or alternatively can make representations by telephone or in writing or both.
- (7) The *board* can, as it sees fit, deal with such pre-hearing procedural and evidentiary matters as may be applicable and can convene a pre-hearing conference for the purposes of giving directions for the hearing and clarification of the procedures. The *board* can require any person to attend the hearing as a witness.
- (8) The *board* must set a time, date and place for the hearing of the appeal which must be notified by the GI secretary to the Respondent.
- (9) The *board* can call on experts to provide specialist advice, including legal advice.
- (10) An appeal should, where practicable, be heard within 14 days of its lodgement.
- (11) The *board* can postpone or adjourn the hearing of an appeal.
- (12) The Respondent can be represented before the *board* by a representative or legal counsel or both.
- (13) Where any question of fact arises on an appeal before the *board* it can be determined by reference to the record of proceedings before the *disciplinary committee*. However, the *board*, in its discretion, can rehear or receive written evidence in respect of the whole or any part of the evidence given before the *disciplinary committee* as it considers appropriate.
- (14) Subject to clause 6, the *board* has full discretionary power to hear and receive such further evidence on an appeal as it thinks fit. Ordinarily, such evidence would only be accepted where it can be established that such evidence was not, on full and proper enquiry, available at the time of the original hearing. The *board* can receive such evidence as it thinks fit, even if the evidence may not be legally admissible.
- (15) If in its discretion the *board* permits further evidence to be adduced at a hearing, there must be no cross - examination of witnesses except to the extent allowed by the *board*.
- (16) In any case where a witness required by the *board* refuses or fails to attend before the *board*, the *board* can decide whether or not to allow the evidence of that witness to be given in any other form.
- (17) The *board* can determine whether witnesses who give evidence are able to remain within the room in which the appeal is being heard after their evidence has been given.

- (18) Except where the *board* decides to hear the entire case anew, the Respondent will have the burden of proving that the decision being challenged should be set aside or varied.
- (19) The *board's* deliberations on its decision are to be made in private.
- (20) In exercising its jurisdiction, the *board* can:
  - (a) uphold or dismiss the appeal and confirm, set aside or vary any finding, determination or sanction appealed against;
  - (b) order that the whole or any part of a deposit lodged pursuant to clause 3 be forfeited or refunded; and
  - (c) take any other steps that it considers necessary to deal justly with the appeal.
- (21) The *board* can make such cost order as it deems appropriate and can order any party or parties to pay some or all of the costs of or in relation to proceedings under this clause G.
- (22) The *GI* secretary must notify the Respondent as soon as practicable after the conclusion of the hearing of the decision of the *board* in relation to the appeal. That decision will be final and binding on notification to the Respondent. Where it considers it appropriate, the *board* can deliver a short oral decision at the conclusion of the hearing (with its reasons to be put in writing and communicated to the Respondent at a later date) or it may reserve its decision.
- (23) The Respondent is entitled to a copy of the board's written decision which must be provided by the *GI* secretary as soon as practicable after it is available.

#### **4.6 ADDITIONAL PROVISIONS**

- (1) The standard of proof on all questions to be determined by *disciplinary committee* or the *board* on appeal from the *disciplinary committee* is the balance of probabilities.
- (2) Where proceedings in respect of an alleged breach of the Code, however arising, are taken against more than one person as a result of incidents occurring in an Event, those proceedings can be heard by the *disciplinary committee* at the same time, provided there is no prejudice to any person against whom the proceedings are taken.
- (3) No member of the *disciplinary committee* or of the *board* should comment to the media on a decision of those bodies but the chairman of either can release a copy of that decision to the media when it is available or, if a full written decision is not immediately available, release to the media a brief resume of that decision.
- (4) In respect of any matter not provided for in this document, the *disciplinary committee* and *board* must make a decision according to general principles of natural justice and fairness.
- (5) Any proceedings, findings or decisions of the *disciplinary committee* or the *board* on appeal from a decision of the *disciplinary committee* cannot be quashed or invalidated by reason of any departure from the provisions of this document or of any defect, irregularity, omission or technicality unless that departure, defect, irregularity, omission or technicality raises a material doubt as to the reliability of the findings or decisions of these bodies or results in a miscarriage of justice.

#### **4.7 NOTICES**

- (1) Any notice able or required to be given under this document can be given to a member of an affiliated club by email sent to the address of that affiliated club. The affiliated club must ensure that its member is given the notice.
- (2) A member of an affiliated club to whom notice is given under the preceding clause will be taken to have received that notice when it is received by the affiliated club.

#### **4.8 VARIATION**

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

