

# Disciplinary Provisions Revised Proposal

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The purpose of the proposed changes is

- to implement improved disciplinary hearing and appeals provisions, in line with new model rules for incorporated association provided by Consumer Affairs Victoria (Rules 28 & 29); and
- to clarify that a member can be required to repay costs of damage caused by their conduct (Rule 27)

To clarify the various issues raised at the 2024 AGM and during circulation of the revised proposal.

1. The main issue raised at the AGM was whether the proposed wording left it open for an appeal subcommittee to impose a different penalty to that determined by a disciplinary subcommittee. That was not the intent: a disciplinary appeal hearing can only uphold or revoke the decision of a disciplinary subcommittee. The revised wording seeks to tighten the words to avoid the other interpretation.
2. Another aspect raised at the AGM was whether all penalties should be subject to appeal or just suspension & expulsion and maybe restriction of lodge use (ie not reprimand and recovery of costs incurred because of member conduct). This version states that all disciplinary decisions other than reprimand are appealable.
3. There was a typo in Rule 27 making a reference incorrect. This has been corrected.
4. There was a query about the finality of the disciplinary procedure. Rules 30-34 specify a grievance procedure. It could be commenced by a member who believes that a disciplinary procedure was not fairly conducted, but not until the disciplinary procedure has been completed.
5. There was a query about the provision that non-members could be appointed to an appeals subcommittee. It is very unlikely that this would occur but might be necessary if a very polarising matter was to be considered. If no member could be found who had not been involved in the disciplinary subcommittee and was not biased, then it may be necessary to appoint a non-member, eg a respected member of another AAC club.
6. There was also reassurance that members and Summer Associates are accountable for the behaviour of their guests.

## Proposed Wording

Colour code

- Black denotes text in our current rules that is the same as the new model rules
- Green denotes previous deviations from model rules that are in our current Rules
- Red denotes proposed changes to be consistent with new model rules
- Blue denotes changes that we proposed to 2024 AGM which were not just for consistency with new model rules
- Orange denotes recommended changes to the proposal put to the 2024 AGM

## 27 Decision of subcommittee

- (1) At the disciplinary meeting, the disciplinary subcommittee must—
  - (a) give the member an opportunity to be heard; and
  - (b) consider any written statement submitted by the member.
- (2) After complying with subrule (1), the disciplinary subcommittee may—
  - (a) take no further action against the member; or
  - (b) subject to subrule (3)—
    - (i) reprimand the member; or
    - (ii) suspend the membership rights of the member for a specified period; or
    - (iii) expel the member from the Association
    - (iv) seek to recover any costs incurred by the Association by reason of that member's conduct
    - (v) place restrictions or conditions on the member's use of the lodge for a specified period
- (3) The disciplinary subcommittee may not fine the member, **except in accordance with subrule (2) (b) (iv)**
- (4) **A member who has been suspended is not entitled to the rights and privileges of a member for the period of suspension.**
- (5) The suspension of membership rights, the expulsion of a **member or restriction on lodge use** by the disciplinary subcommittee under this rule takes effect immediately after the vote is passed.

## 28 Appeal Rights

- (1) A person whose membership rights have been suspended, or whose Lodge use has been restricted, or who has been expelled from the Association, **or who is required to reimburse costs under rule 27**, may give notice to the effect that the person wishes to appeal against **the decision-suspension or expulsion**.
- (2) The notice must be in writing and given—
  - (a) to the disciplinary subcommittee immediately after the vote to suspend or expel the person is taken; or
  - (b) to the Secretary not later than **48 hours 7 days** after the vote.
- (3) **If a person has given notice under subrule (2), the Committee must appoint at least 3 persons to an appeal subcommittee to consider the appeal.**
- (4) **Subject to subrule (5), the Committee may appoint any person to an appeal subcommittee.**
- (5) **A person must not be appointed to an appeal subcommittee if the person—**
  - (a) **was appointed to the disciplinary subcommittee to hear and determine the matter of the member concerned; or**
  - (b) **has a personal interest in the dispute; or**
  - (c) **is biased in favour of or against the member concerned.**

- (6) The committee must convene a meeting of the appeal subcommittee (the *disciplinary appeal meeting*) as soon as practicable and no later than 21 days after the notice of the appeal is received.
- (7) Notice of the disciplinary appeal meeting must be given to each member of the ~~Association who is entitled to vote~~ appeal subcommittee and the member concerned as soon as practicable and must—
  - (a) specify the date, time and place of the meeting; and
  - (b) state—
    - (i) the name of the person against whom the disciplinary action has been taken; and
    - (ii) the grounds for taking that action; and
    - (iii) that at the disciplinary appeal meeting the **appeal subcommittee** members present must vote on whether the decision **of the disciplinary committee to suspend or expel or otherwise discipline the person** should be upheld or revoked.

## 29 Conduct of disciplinary appeal meeting

- (1) At a disciplinary appeal meeting—
  - (a) no business other than the question of the appeal may be conducted; and
  - (b) the **appeal subcommittee Committee** must state the grounds for **suspending or expelling or otherwise disciplining** the member by any of the measures in rule 27 (2) (b) (ii) to (v) and the reasons for taking that action; and
  - (c) the person **whose membership has been suspended or who has been expelled or otherwise disciplined who has been disciplined by any of the measures in rule 27 (2) (b) (ii) to (v)** must be given an opportunity to be heard.
- (2) After complying with subrule (1), members **of the appeal subcommittee** present and entitled to vote at the meeting must vote by secret ballot on the question of whether the decision to suspend or expel the person should be upheld or revoked.
- (3) A member may not vote by proxy at the meeting.
- (4) The decision is upheld if ~~not less than half of the members~~ a majority of the persons voting at the meeting vote in favour of the decision.
- (5) A decision of the appeal subcommittee is final. No further appeals or other reviews of disciplinary decisions can be made