

## 1. Interpretations and Definitions

**Appeal Tribunal:** A tribunal appointed by the HKTA to hear and determine any appeal from the Tribunal.

**Business Day:** a day (other than a Saturday, Sunday, or public holiday) in Hong Kong.

**Code of Conduct:** The Hong Kong Touch Association's Code of Conduct, which may be amended from time to time by the HKTA.

**Incident Report:** A written report on any incident involving an alleged breach of the HKTA's playing rules.

**Judiciary Committee:** A committee consisting of a Chairperson and a number of members who shall be appointed by the HKTA Sub-Committee.

**Judiciary Hearing:** The HKTA's procedure to determine whether or not the charges brought against any person or party are substantiated.

**Protest:** A written objection about an alleged misconduct that is lodged within forty-eight (48) hours of the occurrence of the alleged misconduct.

**Subject Person:** Any person who is the subject of an Incident Report; a Judiciary Hearing; and/or a Protest.

**HKTA:** Hong Kong Touch Association.

**Tribunal:** A Tribunal appointed by the Chairperson to hear and determine any Incident Report, Protest and/or any alleged misconduct.

- 1.2 The headings are inserted for convenience only and are not to be used to assist interpretation and/or construction.
- 1.3 Unless the context otherwise requires, a reference to one gender shall include a reference to the other gender.
- 1.4 Unless the context otherwise requires, words in the singular include the plural and, in the plural, include the singular.
- 1.5 Unless the context otherwise requires, references to a "party", or "person" or "body" include a natural person, an individual, company and incorporated or un-incorporated body of persons.
- 1.6 The Schedules to this document form a part of (and are incorporated into) this document.
- 1.7 If there is an inconsistency between any provision of this document and the provisions of the HKTA Code of Conduct, the provisions of this document shall prevail.

## 2. Aim of the Judiciary Committee

- 2.1 The aim of the Judiciary Committee shall be to provide a fair and impartial tribunal to ensure the highest ideals of sportsmanship and fair play are adhered to for the benefit of all members of the HKTA.
- 2.2 The general principles underpinning the Judiciary Committee and Judiciary Hearing(s) are:
- a. Judiciary Committee, Judiciary Hearing, Tribunal and Appeal Tribunal are to be considered separately to the management of the HKTA. The Judiciary Committee shall exercise its function independently of any member. The Judiciary Committee shall be fully autonomous and in particular any decision it makes shall be binding on the relevant party which shall not have the power to affirm, revoke or alter any decision;
  - b. Judiciary Hearings are to be undertaken under the following guiding principles:
    - i. That proper, adequate and fair notice is given to any person or organization of the charges against the person or organization alleged to have breached the playing rules, Code of Conduct, and/or any other regulation that may be in force from time to time;
    - ii. That a party subject to judicial Hearing is given the opportunity to make representations to the Judiciary Committee as appointed under these rules; and
    - iii. That such Judiciary Committee discharges their duties in a totally independent and unbiased manner, acts in good faith and expeditiously.

## 3. Functions and Duties of the Judiciary Committee

- 3.1 The Judiciary Committee shall have the following powers:
- a. To inquire into, hear, adjudicate upon and determine any Protest, Incident Report, charge or complaint made against a person for a breach of HKTA playing rules of Touch, Conduct of Conduct, and/or any other regulation that may be in force at the time.
  - b. To ensure that the principles of natural justice and fair play are adhered to at all times, and the spirit of the game and the good name of the sport of Touch are constantly observed.
  - c. To adjudicate upon matters presented before it and make decision in accordance with the concepts of administrative law.
  - d. To impose penalties which, in its opinion are fair and just.
  - e. To report regularly to the HKTA Sub-Committee on all decisions made, actions taken, and penalties imposed during the exercise of its functions and duties.
  - f. To require any person to appear before it in order to provide such information which, in the opinion of the Chairperson, is necessary to enable the Judiciary Committee to fulfil its functions and duties.
  - g. To abridge or extend any time limits in these procedures as it considers appropriate in the circumstances.
  - h. To impose all or any of the following penalties on any persons:
    - i. Exclusion from any game or HKTA grounds or meetings or other events for any specified number of matches or specified time periods.
    - ii. Monetary fines or any specified amounts payable with any specified period of time.
    - iii. Forfeiture of any competition and/or other points as specified.

- iv. The power to increase, decrease or accept any such penalties as already impose and/or impose any new such penalties as the Appeal Tribunal deems appropriate.
- v. A combination of any of the above, or any other disciplinary action as considered appropriate and in accordance with the objects of the HKTA.
- i. In any case where the Judiciary Committee sees fit to impose all or any of the above penalties, the members shall take into account the seriousness of the circumstances and:
  - i. The level of punishment that should be imposed; and
  - ii. The need to remove the subject person/s from the Touch scene for the protection of other members; and
  - iii. The necessity to set a level of penalties to act as an example and deterrent to other persons;
  - iv. The implications on those who witnessed the incident; and
  - v. A desire to rehabilitate the subject person/s.

## 4. Membership of the Judiciary Committee

- 4.1 HKTA shall appoint a Chairperson of the Judiciary Committee who shall have power to act in the name of the HKTA to hear and determine disciplinary proceedings when it receives a referral from Head of Rugby Engagement & Transitions (or his/ her nominee) in respect of disciplinary proceedings.
- 4.2 The Judiciary Committee shall consist of a Chairperson and a number of members who shall be duly appointed by the HKTA.
- 4.3 The Chairperson shall serve on the Judiciary for all Judiciary Hearings to ensure the maintenance of consistency.

## 5. Powers of the Chairperson

- 5.1 Upon receipt of an Incident Report or Protest, the Chairperson shall have the discretionary power to ensure that:
  - a. The Incident Report and/or Protest contain information of such a nature that the convening of the Judiciary is justified and warranted. The Chairperson may postpone consideration of the matter to enable the complainant and person complained against to try to resolve the complaint amicably;
  - b. The Incident Report and/or Protest is not vexatious, frivolous and /or scandalous; and
  - c. The report relates to a matter where the discretionary powers and functions of the Judiciary are necessary in order to determine an appropriate outcome.
- 5.2 In any instance where the Chairperson receives a report indicating that a Referee has dismissed a player from the field of play for the remainder of the game, the Chairperson shall have discretionary power to cause the Subject Person to incur a two (2) match suspension, without the necessity of the matter being placed before a hearing by the Judiciary. However, the Subject Person still retains the right to appeal against such a decision. The term 'two (2) match

suspension” refers to the period of time it takes for two matches to be completed in the division from the which the Subject Person was suspended. A bye does not count as a match completed.

- 5.3 In all Judiciary Hearings, the Chairperson and persons appointed shall have one (1) vote each.
- 5.4 In any case where the independence and impartiality of the Judiciary are in any manner interfered with by any person, the Chairperson shall be obliged to present a report on the circumstances and manner of interference at the next HKTA Sub-committee meeting. Any person so reported by the Chairperson shall be called upon to answer to the charge before a meeting of the HKTA Sub-committee. Any person found guilty by a majority of vote of the Committee Members present, of any interference whatsoever shall be subject to the imposition of all or any of the penalties set out in paragraph 5 above.
- 5.5 If the Chairperson dismisses the Incident Report and/or Protest, the Chairperson must record his reasons.

## 6. Incident Report/Protest

- 6.1 Referees must submit, to the Head of Rugby Engagement & Transitions (or his/her nominee), a written incident report on any player dismissed for the remainder of a game, within forty-eight (48) hours of the occurrence of the relevant game.
- 6.2 Referees may at their discretion submit a written Incident Report on any player or official who, in their opinion, has breached the playing rules of Touch and/or the Code of Conduct on or off the field of play within forty-eight (48) hours of the occurrence of the alleged breach.
- 6.3 Any player, club, team, official or person, may at their discretion submit a written Protest on any association, club, team, official or person who, in their opinion, has breached HKTA’s playing rules and/or the Code of Conduct on or off the field of play within forty-eight (48) hours of the occurrence of the alleged breach. HKTA requires that any submission be accompanied by a refundable deposit in the sum of HKD\$1,000.
- 6.4 Upon receipt of an Incident Report or Protest, Head of Rugby Engagement & Transitions (or his/her nominee) shall decide whether further action is necessary. Should the Report or Protest warrant further action, the said Report or Protest shall be given to the Chairperson.
- 6.5 Subject to Paragraph 5.1 above, the Chairperson shall appoint a tribunal.

## 7. Burden of Proof

- 7.1 No penalty shall be imposed on any person or body in judicial and disciplinary proceedings unless the alleged misconduct against the person or body is proved on the balance of probabilities. The Judiciary needs to be satisfied that after reading/hearing that it is more likely than not that the subject person committed the alleged offence.
- 7.2 The onus is on the party who alleges the offence to establish the elements of the charge and it is not for the Subject Person to prove their innocence just because the complaint is lodged.
- 7.3 For the sake of clarity, the Judiciary reserves the right to make such inquiry it sees fit in order to establish whether it is more likely than not that the Subject Person who committed the alleged offence.

## 8. Notice to Subject Person

- 8.1 Any person that is subject to a disciplinary hearing shall be supplied with a copy of the Incident Report and any investigative report and advised:
- Of the date, place, and time of the meeting at which the disciplinary proceedings against him/her will be heard;
  - The nature of the charge or complaint;
  - That he/she will be required to attend in person at the meeting;
  - That if he/she is unable to attend the meeting, he/she should notify the Chairperson forthwith; and
  - That if he/she elects not to attend the meeting, the disciplinary hearing may, at the discretion of the Chairperson, proceed in their absence.
- 8.2 Where possible, the notice to the person that is subject to a disciplinary hearing shall be given in writing. It shall be sufficient compliance with this rule if a copy of the Incident Report and notice of the information required to be given by this rule are sent to the person's last known email address or are sent to the manager/coach/contact person of the players club or team as indicated on the team registration form.
- 8.3 At least seven (7) days' notice of a disciplinary hearing should be given, however a shorter period can be given if negotiated with the respective parties.
- 8.4 Where a person is charged with a breach of the Code of Conduct, it will be a requirement that a report is produced for the disciplinary hearing which outlines the evidence that supports the charge. All documentation including this report should be with all of the parties entitled to attend the disciplinary hearing at least seven (7) days prior the disciplinary hearing, however a shorter timeframe can be negotiated between the respective parties.

## 9. Attendance at Hearings:

- 9.1 On all occasions that the Judiciary is convened, the author of the Incident Report and/or Protest, shall be expected to attend and provide further information when required. If that person or any other member of the HKTA is served with a written notice to appear, then such appearance shall be deemed compulsory.
- 9.2 If any person required to attend fails to appear, and satisfactory proof of service of the notice to appear is given to the Chairperson and no communication has been received by the Chairperson as to the reason for such non-appearance, a period of ten (10) minutes shall elapse before:
- In any case the non-appearance is by the author of the Incident Report and/or Protest, the Hearing should not continue in the absence of the author, and the Incident Report and/or Protest is deemed dismissed or withdrawn.
  - In any case the non-appearance is the Subject Person, it is deemed that the Subject Person has pleaded guilty, and Paragraph 11.4 applies.
  - In the case of non-appearance by any other person who has been called to provide information before the Judiciary, the Hearing may continue in the absence of those persons, and the Tribunal shall attach such weight to such accounts as it considers appropriate after hearing all the evidence.

## 10. Judiciary Hearing

- 10.1 Two (2) persons from the Judiciary Committee shall be appointed by the Chairperson (or his/her nominee) to serve on a Tribunal with the Chairperson. These persons shall not be from the same team as any person appearing before it to answer to any charge or report, or from any team whose member is the author of any such report, or any person who has a vested interest in the matter.
- 10.2 In the event the Chairperson is from the same team as the person appearing before it to answer to any charge or report, or from the team whose member is the author of any such report, or otherwise has a vested interest in the matter, the Chairperson ought to disclose such information. The Chairperson shall be entitled to participate in the hearing after such disclosure, should he choose to do so.
- 10.3 The following provisions apply to all Judiciary Hearings:
- All hearings conducted by the Judiciary shall be conducted at a suitable location as decided by the Chairperson (or his/her nominee) but in an environment that is non-threatening to any of the parties.
  - All hearings conducted by the Judiciary shall be conducted at a suitable time that is convenient to all parties but no sooner than five (5) business days from the Incident Report and/or Protest.
  - The Chairperson shall open the Judicial Hearing by reading the Incident Report and/or Protest.
  - The Subject Person must be asked whether he wishes to plead guilty to the relevant charge.
  - If the Subject person, after he has been asked to plead:
    - Pleads guilty, Paragraph 11.4 applies; or
    - Does not plead, Paragraphs 11.5 to 11.6 apply.
- 10.4 If the Subject Person pleads guilty to the charges as framed in the Incident Report and/or Protest after it has been read to him, whether as originally framed or as amended, his/her plea must be recorded. The Tribunal must hear any plea in mitigation from the Subject Person. Depending on the nature of the plea, the Subject Person may be subject to questioning by the Tribunal, and if the Tribunal is satisfied that any matter raised in the plea in mitigation materially affects any condition required to constitute the offence charged, the Tribunal must reject the plea of guilty. After the Tribunal has heard the plea in mitigation, it may (a) at its discretion hear any evidence to determine the truth or otherwise of the matters raised before the Tribunal Court which may materially affect the ruling sentence; and (b) attach such weight to the matter raised as it considers appropriate after hearing the evidence.

- 10.5 If the Subject Person does not plead guilty to the charges as framed in the Incident Report and/or after it has been read to him, the Chairperson shall call the author of the said report and/or protest to expand upon the said Report and/or Protest. The author shall be subject to questioning by the Tribunal. The Subject Person shall have a right to respond to the Incident Report, Protest, and/or author. The Subject Person shall then be subjected to questioning by the Tribunal.
- 10.6 Any witnesses called by either the author or the Subject Person can be called to provide further information and shall not be involved in the Hearing until the relevant witnesses have given their respective accounts. All persons attending a hearing and supplying information to the Judiciary are expected to provide such information in a truthful and respectful manner. Any person considered to be deliberately disrespectful or supplying false or misleading information during a hearing shall be liable to any of the penalties as contained in **Schedule 3** below.
- 10.7 Dada It is the responsibility and within the absolute authority of the Chairperson to decide who may appear at a Hearing.
- 10.8 Any tape recording or video recording of the events during the hearing shall be at the discretion of the Chairperson. In the absence of any request being made to tape record or video record the Hearing, it shall be deemed that no authority or permission has been granted.
- 10.9 Should any situation arise where the Hearing cannot proceed in accordance with these rules the Chairperson may adjourn such hearing for a period deemed suitable and appropriate. In such an instance, the Chairperson may declare that any likely period of suspension shall be held in abeyance until the Hearing is completed.

## 11. Ruling

- 11.1 The Tribunal must deliver its ruling immediately after any Hearing or appeal, or at a later time of which due notice must be given to all relevant persons.
- 11.2 A ruling must be delivered either orally or by written grounds of decisions. Where a ruling is delivered by written grounds of decision, the ruling may be delivered by pronouncing the Tribunal's decision with an oral summary of the written grounds and giving a copy of the written grounds to the relevant persons either on the date of the Tribunal's decision or at a later date.
- 11.3 Where the Tribunal has delivered its ruling in any manner referred to in paragraph 10.2 above, the Tribunal may, at any time before an Appeal is heard, give further grounds of its decision, which may include grounds other than the grounds of decision given earlier by the Tribunal.
- 11.4 Where an appellate Tribunal has delivered its ruling orally, it may, at a later date, give in writing, the grounds of its decision, which may include grounds other than the grounds of decision given earlier by the appellate Tribunal.
- 11.5 The Parties shall be informed by the Tribunal of their respective rights of appeal. Such advice shall be included in the written grounds of the decision.

## 12. Appeal

- 12.1 Any appeal to the Appeal Tribunal must be lodged by any party affected by the decision of the Judiciary hearing the Incident Report and/or Protest within two (2) business days of the Tribunal's ruling.
- 12.2 The Judiciary Committee requires that any appeal to an Appeal Tribunal shall be accompanied by a refundable deposit in the sum of HKD\$2,000. In the event the deposit is not paid with the Notice of Appeal, the appeal shall be deemed withdrawn, but the Appeal Tribunal shall, in any case, have a discretion to extend the time for payment of the deposit.
- 12.3 A minimum of one and maximum of three persons shall make up the Appeals Tribunal to hear any appeal. These persons shall not be a member, witness and/or anyone comprised in the original Tribunal; and shall also not be from the same team as any person appearing before it to answer to any charge or report, or from any team whose member is the author of any such report, or any person who has a vested interest in the matter. If there are insufficient members in the Judiciary Committee available, the Chairperson may appoint any other person to the Appeal Tribunal to hear and determine the appeal.
- 12.4 The Appeal Tribunal shall have all powers of the Judiciary Committee and shall hear the matter *de novo*.
- 12.5 Upon hearing any appeal, the Appeal Tribunal has the power to decide to:
- Increase, decrease, or accept any such penalties as already imposed; and/or impose any such new penalties as it deems fit; and/or
  - Allow the appellant to have legal representation on the hearing of the appeal, and/or have legal counsel present to assist the Appeal Tribunal.
- 12.6 The decision of the Appeal Tribunal is final and there is no further rights of appeal, unless there is a material breach of natural justice

## 13. Member Not to Play or Participate in Touch Prior to Pending Ruling

- 13.1 A member suspended in accordance with these procedures is not permitted to play any game of touch or participate in the game of touch until either the Judiciary has heard and finally determined the issue, unless he/she is specially authorized to do so by the Tribunal by which his case will be heard.

## Schedule 3 – List of Suggested Penalties

### A. GUIDING PRINCIPLES

The list of suggested penalties is provided as a guideline only to assist the Judiciary in its role of deciding upon suitable penalties that may need to be imposed upon any HKTA member who may be the subject of any matter brought before the Judiciary.

It is recommended that where serious allegations are made in respect of a physical assault on a member, that the member is referred to the Hong Kong Police Force for investigation. In no circumstances is a referral to the Hong Kong Police Force to be understood as an alternative to disciplinary proceedings being taken under these procedures.

1. Minimum and Maximum Penalties. A minimum suggested penalty and maximum suggested penalty have been included with each of the infringements listed. The spread between the minimum and maximum suggested penalties has deliberately been made wide to provide a large range of possible penalties. Judiciary Committees must not be 'fence sitters', who continually opt for either the minimum penalty, or the maximum penalty, or main-line somewhere between these two extremes. As each Judiciary Hearing must be judged on its own merits, it is highly likely that individual cases of what might appear 'similar' infringements will actually receive very different penalties due to the possibility of differing circumstances surrounding the incidents.
2. Each Individual case must be judged upon its own merits. As each individual case shall be judged entirely upon its own merits or demerits, a Judiciary upon hearing all the evidence presented may decide to waive the imposition of any penalty, or award a lesser or greater penalty than the suggested minimum or maximum listed herein. The exact penalty to be imposed in all instances will be at the sole discretion of the Judiciary hearing the matter.
3. Rationale for imposing penalties. Any penalty that may be imposed by any Judiciary is done for the express purpose of discouraging any unacceptable behaviors from any HKTA members, either on or off the field of play.
4. The scope of a penalty. A suspension received by a player does not necessarily prevent that player from participating as a referee, coach or other official. A Judiciary may however also suspend a player from any other form of participation if it sees fit to do so. Alternatively, a Judiciary may impose additional conditions to a playing suspension stipulating that the player must officiate as a referee during the term of their suspension.
5. Good Behavior Bonds. It is suggested that all penalties handed down by a Judiciary be accompanied by a 'good behavior' bond. All good behavior bonds would refer to a time period as decided by the Judiciary who would take into consideration the severity of the incident and/or how frequently the subject person/s appear before the Judiciary.

**B. INFRINGEMENTS AGAINST ANOTHER PLAYER**

1. Bad Sporting Behavior (e.g.: calling phantom): It is recommended that any action considered not to be in the spirit of the game of Touch should receive a penalty.  
**Suggested suspension: Minimum 1 game to maximum 12 games or 3 months, whichever is later.**
2. Condescending language or signals: It is recommended that speaking in a condescending manner or using condescending signals towards another participant should receive a penalty.  
**Suggested suspension: Minimum 1 game to maximum 12 games or 3 months, whichever is later.**
3. Offensive language or signals (i.e.: swearing): It is recommended that the use of offensive language or signals towards another participant should receive a penalty.  
**Suggested suspension: Minimum 2 games to maximum 24 games or 6 months, whichever is later.**
4. Deliberately pushing, grabbing or tripping: It is recommended that deliberately pushing, grabbing or tripping another participant should receive a penalty.  
**Suggested suspension: Minimum 3 games to maximum 48 games or 12 months, whichever is later.**
5. Deliberately using an elbow, forearm or shoulder: It is recommended that deliberately using an elbow, forearm or shoulder on another participant should receive a penalty.  
**Suggested suspension: Minimum 4 games to maximum suspended for life.**
6. Deliberately striking, with an open hand (ie: slapping): A slap is deemed to be the connection of a slap delivered with the intent of connecting. It is recommended that deliberately striking, with an open hand, another participant should receive a penalty.  
**Suggested suspension: Minimum 4 games to maximum 48 games or 12 months, whichever is later.**
7. Deliberately striking, with a closed fist: A punch is deemed to be the connection of a punch thrown with the intent of connecting. It is recommended that deliberately striking, with a closed fist, another participant should receive a penalty.  
**Suggested suspension: Minimum 6 games to maximum suspended for life.**
8. Participating in a fight: A fight is deemed to be the connection of one or more punches thrown by two or more participants. In any fight, both the instigator(s) and the retaliator(s) shall both be treated in an equal manner. It is recommended that anyone participating in a fight should receive a penalty.  
**Suggested suspension: Minimum 8 games to maximum suspended for life.**

C. INFRINGEMENTS AGAINST A REFEREE OR OFFICIAL

1. Bad Sporting Behavior (e.g., continual backchat): It is recommended that any action considered not to be in the spirit of the game of Touch should receive a penalty.  
**Suggested suspension: Minimum 2 games to maximum 24 games or 6 months, whichever is later.**
2. Condescending language or signals: It is recommended that speaking in a condescending manner or using condescending signals towards a referee or official should receive a penalty.  
**Suggested suspension: Minimum 2 games to maximum 24 games or 6 months, whichever is later.**
3. Offensive language or signals (eg: swearing): It is recommended that using offensive language or signals towards a referee or official should receive a penalty.  
**Suggested suspension: Minimum 4 games to maximum 48 games or 12 months, whichever is later.**
4. Deliberately pushing, grabbing or tripping: It is recommended that deliberately pushing, grabbing or tripping a referee or official should receive a penalty.  
**Suggested suspension: Minimum 6 games to maximum suspended for life.**
5. Deliberately using an elbow, forearm or shoulder: It is recommended that deliberately using an elbow, forearm or shoulder on a referee or official should receive a penalty.  
**Suggested suspension: Minimum 8 games to maximum suspended for life.**
6. Deliberately striking, with an open hand (e.g.: slapping): A slap is deemed to be the connection of a slap delivered with the intent of connecting. It is recommended that deliberately striking, with an open hand, a referee or official should receive a penalty.  
**Suggested suspension: Minimum 8 games to maximum suspended for life.**
7. Deliberately striking, with a closed fist: A punch is deemed to be the connection of a punch thrown with the intent of connecting. It is recommended that deliberately striking, with a closed fist, a referee or official should receive a penalty.  
**Suggested suspension: Minimum 12 games to maximum suspended for life.**
8. Participating in a fight: A fight is deemed to be the connection of one or more punches thrown by two or more participants. In any fight, both the instigator(s) and the retaliator(s) shall both be treated in the exact same manner. It is recommended that anyone participating in a fight with a referee or official should receive a penalty.  
**Suggested suspension: Minimum 16 games to maximum suspended for life.**

**D. OTHER INFRINGEMENTS**

1. Any player who participates in a game of Touch whilst currently serving a suspension: It is recommended that anyone participating in a game of Touch whilst under suspension should have the original suspension increased.

**Suggested increase to be added to the remainder of the original suspension: Minimum half the original suspension to maximum the full original suspension.**

2. It is recommended that any player who is continually dismissed from the field of play for infringements that would normally warrant no more than the automatic two (2) week suspension, should be summoned to appear before the Judiciary to show cause why they should not receive an increased penalty.