



**FOOTBALL
AUSTRALIA**

GRIEVANCE PROCEDURE BY-LAW

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1. **STATUS**

- 1.1 This Grievance Procedure By-law is made by the Directors under the powers conferred on them by the Constitution. It is to be known as the Grievance Procedure By-Law.
- 1.2 This Grievance Procedure By-Law forms part of the FA Grievance Procedure.
- 1.3 This Grievance Procedure By-law forms part of the FA Statutes.
- 1.4 This Grievance Procedure By-Law came into effect on 11 November 2015, was amended on 1 November 2021 and remains in effect until amended, repealed or replaced by the Directors.

2. **INTERPRETATION**

- 2.1 Any capitalised terms used in this Grievance Procedure By-Law that are not defined in clause 10.1 of this Grievance Procedure By-Law have the meaning prescribed in the Constitution.
- 2.2 This Grievance Procedure By-Law must be interpreted in accordance with articles 45.2, 45.3, 45.4 and 45.5 of the Constitution.
- 2.3 A reference in any part of the FA Statutes to disciplinary sanctions as specified in “Part V of the FFA Statutes” means the types of disciplinary sanctions specified in article 21.5 of the Constitution.
- 2.4 A reference in any part of the FA Statutes to “Member Federation” means a State Body Member.

3. **PURPOSE**

- 3.1 The purpose of this Grievance Procedure By-Law is to:
 - (a) repeal the Grievance Resolution Regulations to the extent specified in this Grievance Procedure By-Law;
 - (b) provide for the FA Grievance Procedure, being a mandatory and final and binding form of dispute resolution for disputes involving Constituents; and
 - (c) identify the jurisdiction of the FA Grievance Procedure and the various bodies and tribunals that exercise it.

4. **GRIEVANCE PROCEDURE**

- 4.1 The FA Grievance Procedure of FA is provided for through this Grievance Procedure By-Law, the Judicial Bodies By-Law, the National Arbitration Tribunal Regulations, the National Dispute Resolution Chamber Regulations, the Complaints, Disputes and Discipline Policy and any other procedures published by FA and notified by FA as forming part of the Grievance Procedure.

- 4.2 The FA Grievance Procedure does not apply to:
- (a) the National Anti-Doping Policy or the Anti-Doping Tribunal; or
 - (b) matters falling within the exclusive jurisdiction of FIFA or the AFC.

5. REPEAL OF THE FA GRIEVANCE RESOLUTION REGULATIONS

- 5.1 Subject to clause 5.3, the Grievance Resolution Regulations were repealed as from the date on which the origin version of this By-Law came into operation, being 11 November 2015.
- 5.2 Subject to clause 5.3, a reference to the Grievance Resolution Regulations in any part of the FA Statutes other than this Grievance Procedure By-Law means the FA Grievance Procedure.
- 5.3 The Grievance Resolution Regulations will remain in effect to the extent required where they have been incorporated by reference into the rules or regulations of a State Body Member, a District Association, Competition Administrator (other than FA) or Club, and accordingly a reference to the Grievance Resolution Regulations in this context continues to be a reference to the Grievance Resolution Regulations and not to the Grievance Procedure.

6. CONSTITUENT EXCLUSION AGREEMENT

- 6.1 Each Constituent submits exclusively to the jurisdiction of the FA Grievance Procedure and agrees that:
- (a) it will not attempt to resolve any Grievance in any court of law or tribunal;
 - (b) the determination of a matter made in accordance with the Judicial Bodies By-Law, the National Arbitration Tribunal Regulations, the National Dispute Resolution Chamber Regulations or the Complaints, Disputes and Discipline Policy is final and binding on all parties; and
 - (c) there will be no right of appeal under sections 34 (Application for setting aside as exclusive recourse against arbitral award) or 34A (Appeals against awards), and no right to apply for the determination of a question of law under section 27J (Determination of preliminary point of law by the Court) of the *Commercial Arbitration Act 2010* (NSW) or equivalent or similar legislation in any of the Australian states or territories or Commonwealth.

7. JURISDICTION OF GRIEVANCE PROCEDURE

- 7.1 The jurisdiction of the Judicial Bodies to hear and determine disputes is specified in the Judicial Bodies By-Law and such disputes must be administered and heard in accordance with the Judicial Bodies By-Law.
- 7.2 The jurisdiction of the National Arbitration Tribunal to hear and determine disputes is specified in the National Arbitration Tribunal Regulations and such disputes must be administered and heard in accordance with the National Arbitration Tribunal Regulations.

- 7.3 The jurisdiction of the National Dispute Resolution Chamber to hear and determine disputes is specified in the National Dispute Resolution Chamber Regulations and such disputes must be administered and heard in accordance with the National Dispute Resolution Chamber Regulations.
- 7.4 Subject to clause 7.5, in the event there is uncertainty as to whether the jurisdiction of the Judicial Bodies By-Law, the National Arbitration Tribunal Regulations or the National Dispute Resolution Chamber Regulations applies, then the Chair of the Disciplinary and Ethics Committee will determine which body shall hear the application and such determination is final and binding.
- 7.5 Where uncertainty arises due to a dispute having one or more elements which fall within the jurisdiction of the:
- (a) Judicial Bodies; and
 - (b) National Arbitration Tribunal and/or the National Dispute Resolution Chamber,
- then the Chair of the Disciplinary and Ethics Committee must direct that the dispute must be heard by the Judicial Bodies in accordance with the Judicial Bodies By-Law and in such circumstances the Judicial Body may hear and determine those elements which would otherwise not fall within its jurisdiction.
- 7.6 The jurisdiction of the National Sports Tribunal to hear and determine disputes is specified in the Complaints, Disputes and Discipline Policy and such disputes must be administered and heard in accordance with the Complaints, Disputes and Discipline Policy.
- 7.7 Where a dispute arises that is within the scope of the Complaints, Disputes and Discipline Policy, such dispute must be administered and heard in accordance with the Complaints, Disputes and Discipline Policy to the exclusion of all other procedures forming part of the FA Grievance Procedure, including procedures under the Judicial Bodies By-Law.

8. STATE BODY MEMBER DISPUTE RESOLUTION

- 8.1 A State Body Member:
- (a) has jurisdiction to determine disputes or grievances that arise between Constituents within that State Body Member's jurisdiction, including its District Associations, Clubs, Players and Officials, and in relation to competitions, tournaments or matches under that State Body Member's control;
 - (b) must ensure its grievance procedure is not inconsistent with any term of the FA Statutes or this Grievance Procedure By-Law and submit it to FA for prior approval; and
 - (c) must, if requested by FA in writing, allow FA to be heard and to make submissions in a State Body Member disciplinary investigation or hearing.
- 8.2 FA reserves the right to intervene in a State Body Member investigation or hearing if it thinks, in its absolute discretion, that the matter has the potential to adversely affect FA or football generally or is a matter of general importance to football. FA exercises its right of intervention

by serving notice on the State Body Member and, from the date of that notice, FA takes over the investigation and determination of the matter with its decision binding on all parties.

- 8.3 FA reserves the right to sanction serious infringements of the objectives of FA if a State Body Member (or their District Association, Competition Administrator or Club) fails to prosecute infringements committed.
- 8.4 A reference in any part of the rules and regulations of a State Body Member to disciplinary sanctions as specified in “Part V of the FFA Statutes” means the types of disciplinary sanctions specified in article 21.5 of the Constitution.
- 8.5 FA recognises under this Grievance Procedure By-Law an independent and duly constituted appeal tribunal of a State Body Member.

9. COURT OF ARBITRATION FOR SPORT

FA recognises CAS as an independent judicial authority and will ensure that its Constituents comply with decisions passed by CAS where applicable.

10. DEFINITIONS

- 10.1 In this Grievance Procedure By-Law:

Anti-Doping Tribunal means the Anti-Doping Tribunal referred to in the National Anti-Doping Policy.

CAS means the Court of Arbitration for Sport, with its headquarters currently based in Lausanne, Switzerland.

Complaints, Disputes and Discipline Policy means the Football Australia Complaints, Disputes and Discipline Policy for Independent Handling of Complaints Relating to Prohibited Conduct dated 1 November 2021.

Grievance means a matter, the resolution of which is provided for by the FA Grievance Procedure.

Grievance Procedure By-Law means this Grievance Procedure By-Law promulgated by the Directors in accordance with the Constitution.

Grievance Resolution Regulations means the grievance resolution regulations promulgated by FA and which came into force on 1 January 2007.

Judicial Bodies By-Law means the Judicial Bodies By-Law promulgated by the Directors in accordance with the Constitution.

National Arbitration Tribunal means the FA National Arbitration Tribunal established pursuant to the Arbitration Tribunal Regulations.

National Arbitration Tribunal Regulations means the FA National Arbitration Tribunal Regulations.

National Dispute Resolution Chamber means the National Dispute Resolution Chamber established pursuant to the National Dispute Resolution Chamber Regulations.

National Dispute Resolution Chamber Regulations means the National Dispute Resolution Chamber Regulations agreed between FA and the Professional Footballers Australia Incorporated.

National Sports Tribunal means the Australian Government entity established by the *National Sports Tribunal Act 2019* (Cth), comprised of the General Division, the Anti-Doping Division and the Appeals Division.