



CHARMHAVEN TENNIS CENTRE  
INCORPORATED  
CODE OF CONDUCT



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## CHAPTER 1

### Section 1.1

This code of conduct is approved in accordance with the Charmhaven Tennis Centre and is endorsed by the Charmhaven Tennis Centre Board of Directors by motion and is designed to provide guidance on the appropriate behavior of members of this organization and the processes should members behavior and conduct not be in accordance with this code of conduct.

#### Subsection 1.1.a

This document is to remain in place irrespective of changes to the makeup of the board of directors and structure of the organization and only subject to change or amendment by a motion, duly adopted by the lawfully appointed or elected board serving in the lawful capacity as a board of directors as defined within the constitution and complying with all laws contained within NSW or by order of the NSW Supreme Court exercising its supervisory jurisdiction at common law.

#### Subsection 1.1.b

If there is any argument, debate, objection or point of order relating to the operation of this code of conduct in relation a conflict between the Charmhaven Tennis Constitution, the Code of Conduct or the Incorporated Association ACT 2009 then unless stated otherwise by the operation of any other relevant legislation then the Incorporated Association ACT 2009 or other such legislation is to operate with preference over the Charmhaven Tennis Centre Constitution.

#### Subsection 1.1.c

- (a) The powers to enforce and determine any matter or complaint under the Code of Conduct or any other policy of Charmhaven Tennis Centre falls upon the disciplinary panel of Charmhaven Tennis Centre and is to comprise of the President or Vice president to serve as the chair and 2 other ordinary board members.
  - (i) in the event both the president and vice president are unavailable, any other board member identified in the Charmhaven Tennis Centre Constitution as an "Office Bearer" may be appointed by the board as chair of the panel for the purpose of Subsection 1.1.c (a)
  - (ii) In the event 2 or more ordinary board members are unable or unwilling to sit on the panel, the panel may be comprised of more than 1 office bearer to facilitate a hearing.
  - (iii) In the event insufficient board members are able or willing to serve on the disciplinary panel, the board may appoint any Full Member or Life Member to sit on the panel to facilitate a hearing of a matter including the chair.



## Chapter 2

### Section 2.1 - Purpose and Meaning

- (a) This code of conduct is published to give members notice of general conduct which is prohibited. It is not an exhaustive list of misconduct.
- (b) This code of conduct operates in conjunction with any other lawfully adopted by-laws, rules, policies, and other codes of conduct published by this center which may specify other behavior which will be misconduct.
  - (i) Members are accountable for their misconduct. Any misconduct may be subject to disciplinary action by this center's disciplinary panel.
  - (ii) It is a member's responsibility to be familiar with this code of conduct and other behavior standards required by this centre.
  - (iii) Compliance with this code of conduct is a policy of the center. It is binding on all members upon acceptance as a member of Charmhaven Tennis Centre.

### Section 2.2 – Misconduct

A member must not intentionally or recklessly cause or engage in the following:

#### **Disruption and harm**

- (a) disrupt or hinder any centre activities.
- (b) interfere with the ability of any member of the centre, community or any associate of the centre to engage in or enjoy any centre activities or to access, occupy, use, or move about centre property.
- (c) engage in disorderly conduct including by,
  - (i) Fighting with any person.
  - (ii) Disrupting a lawful assembly of persons; or
  - (iii) Doing anything which disturbs the peace.
- (d) do anything which may bring the centre into disrepute including by making or publishing false or misleading statements relating to the centre.

#### **Dishonesty**

- (e) engage in any dishonest behavior including by:
  - (i) Being dishonest in dealings with the centre or its staff.
  - (ii) Stealing or taking or using without permission any property of any person or possessing property which is stolen or taken without permission.
  - (iii) Using or providing false or misleading documentation or information for the purpose of obtaining a benefit or advantage for any person.
  - (iv) Improperly influencing any representative of the centre



## Safety

(f) do anything which may endanger the physical or mental health, safety, or wellbeing of any person (including the member themselves).

(g) possess, store, or use on the centers premises any weapon, explosive materials, fireworks, dangerous chemicals, or biological agents or other dangerous thing without authorisation from the Chief Executive Officer or their approved delegate

## Breach of rights

(h) cause physical harm to any person or bully, stalk, intimidate any person.

(i) engage in violent or threatening behavior including by using threatening or abusive language.

(j) conduct himself or herself in an offensive manner or use offensive language, on or near, or within view or hearing of centre premises without a reasonable excuse.

(k) make allegations of misconduct against another person, to the centre or of unlawful conduct to the police or any other government body if:

(i) the alleged misconduct or unlawful conduct is trivial; or

(ii) the allegation is made without reasonable grounds; and

(iii) The allegation is made or pursued to harass or annoy, cause delay or detriment to another person, the centre or for another ulterior purpose.

(l) engage in sexual misconduct including sexual assault, sexual harassment, indecent assault, or any other conduct of a sexual nature that is non-consensual or has the purpose or effect of threatening, intimidating or coercing a person.

(m) vilify another person or class of persons because of the actual or perceived gender (including the characteristics of the actual or perceived gender), gender identity, intersex status, sexual orientation, race, marital or relationship status or religious beliefs or activities, disability or age of that person or class of persons;

(n) disclose or purport to disclose to any person the sexual orientation, gender identification or intersex status of any person who is gay, lesbian, transgender or intersex, without that persons authorization unless it is public knowledge because of a public disclosure by or authorised by that person;

(o) victimise a person by subjecting that person to any detriment because he or she, or a person associated with him or her, does or proposes to do any of the following:

*-condemn, express disagreement with or take any step to prevent misconduct by any person.*

*-inform the center or its staff of the misconduct.*

*-participate in an investigation into alleged misconduct or participate in disciplinary proceedings or legal proceedings relating to misconduct by any person, or*



## **Alcohol and Drugs**

(p) be drunk on any public part of centre premises except those parts:

- (i) *which are licensed for the sale and consumption of alcohol; or*
- (ii) *on which the centre otherwise authorised the consumption of alcohol.*

(q) use, possess, grow, manufacture, store or distribute illegal drugs or drug paraphernalia.

(r) give another person or cause another person to be given or to consume food or drink which contains an intoxicating substance if the recipient is not aware the food or drink contains the intoxicating substance or that the food or drink contains more of an intoxicating substance than the recipient would reasonably expect it to contain;

(s) Cause or provide intoxicating substances to be provided to or consumed by any person under the age of 18 years of age at any function attended to or partaken in by this centre.

## **Property**

(t) damage, destroy, endanger, vandalize, put at risk, pollute, or obstruct; or

- (i) hinder, disrupt, or otherwise interfere with the operation or availability of, any centre property or any property of any member of the center's community or any associate of the centre.

(u) enter, occupy, use, or interfere with any centre property or enable any other person to do so, without authorization from the centre.

(v) possess, duplicate, or use or provide other persons with access codes, keys, access cards, passwords or similar information or devices to any centre property, without authorization from the centre.

## **Co-operation**

(w) fail to comply with any agreement between the member and the centre.

(x) disobey a reasonable direction given within their authority by a centre

(y) refuse to disclose his or her name and association with minor member when requested by staff or management

(z) possess or provide to any centre representative false or misleading proof of identity

(aa) obstruct any centre representative in the performance of his or her duties.

## **Disciplinary process**

(bb) without reasonable cause, a member is guilty of misconduct if they

- (i) fail to appear before or otherwise co-operate with the centers disciplinary panel or any such person carrying out any disciplinary function of the centre; or
- (ii) comply with or complete a disciplinary direction or sanction given or imposed by the centre.



## General

(cc) incite, persuade, conspire with, or assist any other person to engage in misconduct.

(dd) attempt or threaten to do anything which is misconduct.

(ee) be party to any cover-up of misconduct or the destruction, concealment, alteration, or withholding of any evidence of misconduct or otherwise conceal the identity or whereabouts of any person who is alleged to have engaged in misconduct.

(ff) publish or display material which could be understood by a reasonable person as indicating that somebody intends to engage in misconduct.

## Provisions Independent

Each of the provisions set out above must be read separately and none of those provisions is limited by reference to or inference from any other of those provisions or any other centre regulation

## Subsection 2.2.a - Definitions

In this code of conduct the following definitions apply.

**“aggravated sexual assault”** means a more serious form of sexual assault, with the circumstances of aggravation including where:

- (a) a person intentionally or recklessly inflicts actual bodily harm, on the other person during a sexual assault.
- (b) a person threatens to use a weapon or dangerous instrument.
- (c) one or more other people were present when a person commits the sexual assault.
- (d) the complainant was under the age of 16.
- (e) a person who commits the sexual assault was in a position of trust with, or authority over, the complainant.
- (f) the complainant had a serious physical disability or cognitive impairment.
- (g) a person who commits the sexual assault also commits a ‘break and enter’; or
- (h) the complainant was deprived of their liberty before or after the sexual assault.

**“aggravated sexual assault in company”** means a more serious form of sexual assault when a person sexually assaults another person in the presence of another person or persons, and the first person:

- (a) intentionally or recklessly inflicts actual bodily harm (being any kind of psychological or physical injury that is more than merely transient or trifling) upon the complainant or someone else who is nearby.
- (b) threatens to inflict actual bodily harm upon the complainant or someone nearby using a weapon or dangerous instrument; or



**“alcohol”** means a beverage which is reasonably believed, to contain more than 1.15% ethanol by volume at 20 degrees Celsius and includes, beer, wine, spirits, and pre-mixed spirit-based drinks.

**“assault with intent to commit a sexual act”** means a person deliberately or recklessly inflicting actual bodily harm (being any kind of psychological or physical injury that is more than merely transient or trifling) upon another person with the intention of committing a sexual act with that person;

(a) It also includes threatening to inflict actual bodily harm on another person using a weapon or dangerous instrument with the intention committing a sexual act with a person.

**“associate or the centre”** includes:

- (a) any person on the centre premises with authorization from the centre; and
- (b) any person engaged in any dealing or discourse with the centre or a member of the centre community.

**“bullying”** means any unwelcome act directed at a person that:

- (a) would cause a reasonable person in the circumstances to be humiliated, intimidated, or seriously offended.
  - (b) place a reasonable person in the circumstances in fear of physical or emotional harm to himself or herself or of damage to his or her property; or
  - (c) create a hostile or demeaning environment for a reasonable person in the circumstances.
- and includes bullying either in person or via the internet, email, or other electronic means.

**“consent”** means when a person freely or voluntarily gives agreement to engage in an act. A person may be unable to give consent when they:

- (a) are asleep or unconscious.
  - (b) are intoxicated or affected by drugs (including alcohol);
  - (c) are unable to understand what they are consenting to due to their age or cognitive capacity.
  - (d) are intimidated or coerced or threatened.
  - (e) are unlawfully detained or held against their will.
  - (f) submit due to the person being in a position of authority or trust; or
  - (h) are under the mistaken belief as to the identity of the other person.
- (i) A person who does not resist physically is not, by reason of that fact alone, considered to have given consent.
- (ii) This provision does not limit the grounds on which it may be established that a person does not consent.





**“consent to sexual acts”** occurs when a person freely, voluntarily, and unambiguously agrees to engage in specific sexual acts throughout a sexual encounter. Sexual assault occurs when someone is unable to and/or does not give consent to the sexual act(s). A person may be unable to give consent when they:

- (a) are asleep or unconscious.
- (b) are intoxicated or affected by drugs (including alcohol).
- (c) are unable to understand what they are consenting to due to their age, physical disability, or cognitive impairment (“vulnerable person”).
- (d) are intimidated or coerced or threatened.
- (e) are unlawfully detained or held against their will.
- (f) submit due to the person being in a position of authority or trust.
- (g) are under a mistaken belief as to the identity of the other person.

(i) A person who does not resist physically is not by reason of that act alone, considered to have given consent. Consent may be withdrawn.

(ii) People under the age of 18 years and those with a physical disability or cognitive impairment cannot be said to have consented because of their age and vulnerability.

**“dishonesty”** includes unethical behavior.

**“drug paraphernalia”** means any drug equipment, products and materials which are used, intended for use, or designed for use in:

- (a) planting, propagating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, repackaging, storing, containing, or concealing any illegal drug or plant; or
- (b) injecting, ingesting, inhaling or otherwise introducing into the human body an illegal drug.

**“Drunk”** Means any person who in the reasonable opinion of a reasonable person displays the following signs.

- (a) the person’s speech, balance, co-ordination, or behavior is noticeably affected; and
- (b) it is reasonable in all the circumstances to believe that the affected speech, balance, co-ordination, or behavior is the result of the drinking, injection, ingestion, inhaling or other consumption of alcohol or another drug or a combination of drugs.



**“hazing”** means any act which:

- (a) endangers or is likely to cause mental, emotional, or physical harm to the person being hazed.
- (b) Involves the humiliation of the person being hazed; or
- (c) Destroys, damages, or endangers property of any person; and
- (d) relates to the initiation of, admission into, affiliation with or as a condition for continued membership of or affiliation with, a group or organization,
- (i) and includes any assault, physical activity, exposure to the weather, forced consumption of any food, beverage or other substance or subjecting the person to mental stress by extended deprivation of sleep or rest, extended isolation or otherwise.

**“illegal drug”** means:

- (a) a plant, drug, or substance the possession, use or distribution of which is unlawful or, if only available on prescription for which the member does not have a prescription; and
- (b) a substance the chemical structure of which is substantially like the chemical structure of an illegal drug and has a substantially similar effect to the illegal drug.

**“indecent assault”** occurs if a person assaults another person, and at the time of, or immediately after the assault, commits an act of indecency on, or in the presence of the other person.

**“improperly influence”** means:

- (a) corruptly giving or offering, receiving, or soliciting an inducement or reward for doing something; or
- (b) making a demand for the purpose of influencing the exercise of a duty by any person or otherwise obtaining a benefit or advantage for any person; and
- (c) making or allowing to be made an express or implied threat of detriment to another person if the demand is not complied with.

**“intoxicating”** includes stupefying.

**“misconduct”** means any conduct which is prohibited under this code of conduct or under any centre regulation and includes proposed misconduct.

**“offensive”** means in respect of any conduct or language, anything which a reasonable person would regard as offensive in the circumstances and includes, in the case of conduct or language directed at any person, anything which a reasonable person would consider insulting or humiliating in the circumstances;

**“possession”** of anything by a person includes that person being in control of that thing or being in the vicinity of that person in circumstances where it is reasonable to assume that it has in the recent past been in that person’s possession or control;



**“premises”** means any:

- (a) structure, building, aircraft, vehicle, or vessel; or
- (b) land or place (whether or not it is enclosed, built on or covered by water);

**“property”** includes facilities, resources, equipment, intellectual property and online and physical infrastructure.

**“public part of centre premises”** means any part of centre premises that the centre community is entitled to access (whether on payment of money, or by virtue of membership of a member organisation or other body or otherwise) or which is within sight or hearing of such a place;

**“race”** includes:

- (a) color.
- (b) descent or ancestry.
- (c) nationality or national origin; and
- (d) ethnicity or ethnic origin:

**“reckless”** means in relation to any act by a person, that person doing that act despite the fact that he or she foresees, or a reasonable person would foresee, the possible consequences of that act.

**“religious belief or activity”** means:

- (a) holding or not holding a religious belief or view; or
- (b) engaging in, not engaging in, or refusing to engage in a religious activity including wearing clothes or adopting any other aspect of personal appearance in accordance with a religious belief.

**“right to freedom of expression”** means the right of a person to lawfully say or do something reasonably and in good faith:

- (a) during any statement, publication, discussion, or debate made or held for any genuine academic, artistic, or scientific purpose or any other genuine purpose in the public interest.
- (b) in the performance, exhibition, or distribution of an artistic work.
- (c) in making or publishing:
  - (i) a fair and accurate report of any event or matter of public interest.
  - (ii) a fair comment on any event or matter of public interest if the comment is an expression of a genuine belief held by the person making the comment; or
  - (iii) material for the purpose of discouraging misconduct.
- (d) in making or publishing a fair and accurate criticism of or a complaint about the centre or any member of the centre community.



**“sexual acts”** means

- (a) sexual connection caused by the penetration, to any extent, of a person’s genitalia or anus using any body part of another person or any object manipulated by another person or
- (b) sexual connection occasioned by the introduction of any part of the penis of a person into the mouth of another person, or
- (c) oral sex performed on female genitalia or
- (d) the continuation of sexual acts as defined in paragraphs (a), (b) or (c)

**“genitalia”** includes a surgically constructed vagina.

**“sexual assault”** means when a person is forced, coerced, or tricked into sexual acts against their will or without their consent. Sexual assault also occurs if a child or young person under 16 or a person with a serious physical disability or cognitive impairment is exposed to sexual acts.

**“sexual harassment”** means a person:

- (a) making an unwelcome sexual advance, or an unwelcome request for sexual favors, to another person; or
- (b) engaging in other unwelcome conduct of a sexual nature in relation to another person (including making a statement of a sexual nature to, about or, in the presence of another person).
- (c) in circumstances in which a reasonable person, having regard to all the circumstances, would have anticipated the possibility that the person harassed would be offended, humiliated, or intimidated.

**“sexual misconduct”** incorporates a range of behaviors including sexual assault, sexual harassment, indecent assault, and any other conduct of a sexual nature that is non-consensual, or has the purpose or effect of threatening, intimidating or coercing a person.

**“stalking”** means a course of unwelcome conduct that is directed at a person and that would cause a reasonable person in the circumstances to be seriously alarmed, annoyed, distressed or feel harassed and includes:

- (a) contacting, communicating, or causing a communication with another person for no legitimate purpose after being asked to stop.
- (b) continuing to follow another person for no legitimate purpose after being asked to stop.
- (c) surveilling or causing another person to surveil a person for no legitimate purpose.
- (d) the surveilling or frequenting of the vicinity of, or an approach to, a person’s place of residence, study or work or any place that a person frequents for the purposes of any social or leisure activity, for no legitimate purpose; or



**“member”** includes:

- (a) a person who is enrolled in or participates in any program or activity provided by the centre.
- (c) a person who has been accepted as an admission to the center’s membership but who has not yet enrolled in any program or completed the full membership process.
- (d) a member of another centre or facility or organisation who is authorised by this centre to be on or to have access to or use of any centre property.
- (e) a person who was a full, associate or lie member as defined by the Charmhaven Tennis Centre Constitution at the time of any alleged misconduct.
- (g) any person who has been suspended any period or expelled from a program or unit of study at the centre in the last 12 months

**“member organisation”** means any integrated, incorporated, or unincorporated association or group of persons or company or government body

- (a) which is affiliated with or otherwise associated with the centre; or
- (b) which takes or attempts to act in a collective manner on centre premises or at any centre activity or
- (c) Conducts similar activities to this organisation and whose objective and purpose is similar or
- (d) whose relationship with this centre is to the overall benefit of this centre

**“centre”** means:

- (a) Charmhaven Tennis Centre incorporated
- (b) its controlled entities.
- (c) any affiliated institution.

**“centre activities”** means the activities of the centre and the Centre community including:

- (a) teaching, study, and research at the centre; and
- (b) the conduct of any exercise or sporting activity and
- (c) recreational, commercial, disciplinary, or ceremonial activities of the centre or the centre community; and
- (d) any clinical, professional or practical work, research, workshops, camps on or off court or vocational placements and any other activities arranged, sponsored, controlled or supervised by the centre, whether or not it is part of a program or unit of study at the centre; and
- (e) the provision by the centre of services to the general community; and the use or enjoyment of any centre property by any person authorised by the centre. and the management or administration of the centre; and



**“centre community”** means the:

- (a) Members of the center’s board and staff members of the centre; and
- (b) Members; and
- (c) Members organizations; and
- (d) tenants and licensees of Centre premises and their officers and staff; and
- (e) persons conducting an authorised business or other activity upon Centre Premises; and
- (f) persons otherwise involved in Centre Activities.

**“centre Premises”** means

- (a) any premises owned, operated, supervised, occupied, or controlled by the Centre, including premises of which the Centre is the landlord; and
  - (b) any premises on which Centre Activities take place; and
- any residential college premises.

**“centre property”** means any facility, resource or property which is:

- (a) owned by the Centre or in which the Centre has an interest or right.
- (b) in the custody or control of the Centre provided by the Centre, or on Centre premises,

**“Centre Regulations”** means the by-laws, rules, codes of conduct, policies, and directions from time to time of the centre and includes this procedure.

**“Centre Representative”** means any officer, employee, contractor or agent of the Centre or any employer or subcontractor of a contractor to the Centre who:

- (a) in the circumstances would appear to a reasonable person to be a Centre representative;
- or
- (b) if requested by a member, identifies himself or herself to the member as a centre representative.

**“vilify”** means engage in conduct that incites hatred against, serious contempt for or revulsion or severe ridicule of, a person.

**“weapon”** means any object or substance designed to wound, caused injury or incapacitate including any firearm, ammunition, pellet gun, spear, sword, knife or other blade, stun gun and any chemicals such as capsicum spray, mace or tear gas.

### Subsection 2.2.b Jurisdiction

This code of conduct applies in any context relevant to:

- (a) the management, good governance, or discipline of the centre.
- (b) the reputation of the centre.
- (c) the rights, health, safety, or wellbeing of members of the centre community or of associates of the centre.

and includes any conduct:

- (d) anywhere (including on or off centre premises) or at any time (including when the centre is in or not in session) in any of those contexts.



(e) relating to centre activities; or

(f) in circumstances where:

(i) A member is acting as or identifies himself or herself is otherwise readily identifiable as being a member of the centre community (including where a member is representing the centre or a member organisation in any capacity); or any act affects a person acting as or who identifies himself or herself as being a member of the centre community or is otherwise readily identifiable as member of the centre community.

## Section 2.2C - Broad Interpretation

This code of conduct must be interpreted broadly and as operating to the full extent of, but so as not to exceed, powers of the centre.

If any part of this code of conduct or the application of any part to any person, subject matter, or circumstance, would, but for this provision, be interpreted as exceeding the powers of the centre

(a) It will be a valid provision to the extent to which it does not exceed that power; and

(b) the remainder of this code of conduct and the application of the provision to other persons, subject matters, or circumstances, will not be affected.

(c) Inclusive Wording In this code of conduct:

(I) the mention of anything after the word "include" or any derivative of it does not limit the nature or class of things included and

(II) a reference to anything includes a part of it.

(d) A direction given to a member by a centre representative is reasonable if a reasonable person would consider it to be appropriate in all the circumstances and will be taken to be reasonable if it is a direction to a member to:

(I) Cease engaging in a centre activity or

(II) Cease engaging in any conduct which in the opinion of the representative causes damage to the centre or its members, or

(III) Leave Centre Premises

(e) A member will be taken to have intended misconduct if a person in the position of the member can reasonably be adjudged to have intended or is unreasonable not to have anticipated that misconduct in the circumstances would or could occur.



## CHAPTER 3

### Section 3.1

#### PROCEDURES, SANCTIONS AND SENTENCES

- (a) Any allegation of misconduct or breach of this code of conduct will be managed by the Charmhaven Tennis Centre Disciplinary Panel subject to the Charmhaven Tennis Centre Constitution.
- (b) The Panel must operate in accordance with both this code of conduct and the Charmhaven Tennis Centre Disciplinary Panel operational guidelines and the Charmhaven Tennis Centre Constitution
- (c) The tribunal must provide oral and written reasons for its decisions
- (d) All hearings before the panel must be sound recorded
- (e) Any party appearing in a hearing before the disciplinary panel is entitled to be represented by a member in a lay advocate capacity or by an Australia Legal Representative including a solicitor or barrister.
- (f) The overall objective of this policy is to afford both the complainant and the respondent with a just, quick, and efficient resolution of their complaint and further a transparent, credible, and fair way for the organisation to handle matters of misconduct. The tribunal must consider this objective when making any procedural or administrative decision

#### SECTION 3.2 – SENTENCING AND/OR SANCTIONS

After a hearing to determine if a party or member is guilty of a violation of the code of conduct, the panel must then impose a sentence or sanction upon a party found guilty and must do so paying all regards to the principles of procedural fairness, due process and natural justice.

The Panel must in impose the following sentences or sanctions.

**(a) Written Reprimand.**

The Panel will write to the guilty party denouncing their conducting and warning against recurrence.

**(b) Public Reprimand.**

The panel will cause a written reprimand to be publicly made available on the Charmhaven tennis website, social media and emailed to all members.

**(c) Monetary Fine.**

The panel may impose a fine upon a member not exceeding \$500.00 and must provide a due date for the payment of this fine.

**(d) Membership Suspension**

The panel may suspend the activities of a member for any period of time up to and not exceeding 24 months and must fix a date for the suspension to expire.

- (i) The panel may suspend the execution of this sentence for either part of whole of the suspension period in the exercise of their discretion

**(e) Expulsion**

The panel may expel a member for any period they consider appropriate





## SECTION 3.3

### RIGHTS OF APPEAL

The respondent may appeal to the full board of directors who will sit as an appeal panel, any finding of guilt or sentence imposed by the disciplinary panel and must do so in writing within 7 days of the decision of the panel.

- (a) The notice must outline why the respondent is appealing and the issues subject to appeal and must be sent to the Secretary of Charmhaven Tennis Centre.
- (b) In addition to the written notice of appeal, a nonrefundable fee of \$100.00 is payable to the center and must be paid before an appeal is considered properly lodged.

## SECTION 3.4

### PROCEDURES OF APPEAL

- (a) Once a written notice of appeal and fee is paid, it is considered a properly lodged appeal for the purpose of Section 3.3
  - (i) The secretary must inform all members of the board of the appeal.
  - (ii) The president or in their absence vice president may in his or her discretion suspend the enforcement of the sentence subject to appeal if in their opinion it is in the interest of justice to do so until the appeal is heard
  - (iii) If the president presided over the original hearing subject to appeal, then the vice president must act as the president for the purposes of Section 3.3 and 3.4
- (b) The remaining members of the board not associated with the original hearing must form the appeal panel and the board members who formed the original panel must take no part directly or indirectly with the appeal.
  - (i) Appeals under Section 3.3 are to be done on the papers affording the applicant the right to provide written submissions on the appeal in a time frame set forth by the appeal panel affording the applicant the right to procedural fairness and natural justice.
  - (ii) The appeal panel must be provided with the oral recording of the hearing subject to the appeal and this is to form part of the evidence in the appeal.
  - (iii) The appeal panel must only conduct an oral hearing of the appeal if in their opinion it is in the interest of justice to do so.
  - (iv) The appeal panel may either dismiss the appeal, uphold the appeal, and order a new hearing or uphold the appeal in part and impose a new sentence/sanction.
  - (v) All decisions of the appeal panel are to be by way of majority vote and in the event of a tie vote, the chairman has a casting or deciding vote.