

Southern Tasmanian Bowls Association Inc.

Trading as:

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President: Peter Kirby Secretary: Rob McGuire



Minutes of the Board meeting held at the Buckingham Bowls Club on Monday 1 February 2016 commencing at 4.30pm.

Present: Peter Kirby (President), Shirley Hay (Deputy President), Ross Bannister, Ken Coppleman, Paula Hadley, Tony Kerrison, Nick Lee, Ailsa Milburn and Rob McGuire.

Apologies: Tony Fulton.

General Business:

Conflict of Interest:

Peter Kirby advised that as a member of the Sandy Bay Club he had a potential conflict of interest. Accordingly his participation at the meeting would purely be to Chair the meeting, he would not be participating in discussion nor would he be voting on any motions put to the meeting.

Appeal from Sandy Bay:

At its meeting on 18 January 2016, the BTS Board ratified the BTS Men's Match Committee decision in regard to correspondence received from Glenorchy City querying the status of some of the women who bowled on 28 November 2015 for Sandy Bay's Saturday Division 6 team. It would appear that all bar one of the women who played in Sandy Bay's Saturday Division 6 team on 28 November 2015 were eligible to play there. Sandy Bay's team on that day included Cynthia Shave who was not eligible to play in Saturday Division 6. Cynthia played rounds 3, 4 and 5 in Sandy Bay's Thursday Pennant Division 1 team and rounds 6, 7 and 8 in its Thursday Division 2 team this season. Cynthia has not been given dispensation by the relevant BTS Match Committee to play in Saturday Division 6. Accordingly Sandy Bay breached Conditions of Play 4.6 in playing Cynthia in Saturday Division 6 that day. The BTS Men's Match Committee determined that, in accordance with Conditions of Play 4.6 (f), Sandy Bay will lose all match points for the game and that such points will be awarded to Glenorchy City.

In accordance with Bowls Tasmania South Conditions of Play 1.4, Sandy Bay has a right of appeal in relation to the penalty imposed by the BTS Men's Match Committee. Sandy Bay has lodged an appeal on the following grounds:

- The BTS Match Committee failed to adequately take into consideration the circumstances behind the selection of Cynthia Shave on the 28 November 2015 and/or
- BTS Conditions of Play 4.6 (b), (c), (d) and (e) are contrary to the *Tasmanian Anti-Discrimination Act 1998* (the Act), are therefore null and void and should not have been considered by the BTS Match Committee and/or
- The penalty is grossly excessive and contrary to equity law and the BTS precedent in 2015-16.

The attached supporting information was provided by Sandy Bay.

The following arguments were considered in response to the appeal from Sandy Bay:

- Sandy Bay is not contesting the fact that it played Cynthia Shave contrary to Conditions of Play.
- Conditions of Play were issued at the start of the season. All Clubs were advised of the Conditions of Play and all Clubs had to play under them.
- Condition of Play 4.6 does give discretion for the BTS Match Committee to give dispensation in special or exceptional circumstances and Sandy Bay had already received dispensation for a number of its Women's Thursday Division 2 lead and second players to be able to play in its Saturday Pennant Division 6 team if required – namely Jean Hemmings, Ann Hinkley, Rosie Laver, Celia Wedd and Ann Whenn.

- Sandy Bay should have known that it was contrary to Conditions of Play to select Cynthia Shave. They could have applied for dispensation as it had for a number of other players. Alternatively they could have selected Cynthia in a higher Saturday Pennant team and dropped one of their men to play in Division 6.
- If BTS didn't have restrictions in place in lower Divisions, it would be discriminating against men and women with lower skill levels who would be forced to play against those women whose skill levels are too good for those lower divisions. By putting restrictions on where Open women players can play in Saturday Pennant, BTS is trying to provide a fair and equitable competition for all players.
- The penalty as per Conditions of Play 4.6 (f) is as it is – the BTS Men's Match Committee had no options but make the decision it did regarding the penalty it imposed.
- Section 3.36 of Conditions of Play is also very specific – if a Club plays an ineligible player, it shall forfeit the match if the opposing side notifies the Chairman of the relevant BTS Match Committee is advised of that fact within 48 hours after it occurs.
- Section 1.8 of Conditions of Play does allow for imposition of other sorts of penalties for infringement of Conditions of Play but re 4.6 (f) it does not allow any other penalty to be applied.
- If Clubs don't like current Conditions of Play they can seek to amend them in the future.
- The precedent set by BTS earlier this year – re Josh Mabb – was in different circumstances and the penalty applied was under a different section of Conditions of Play.

Moved: Nick Lee Seconded: Ailsa Milburn that the decision of the BTS Men's Match Committee be upheld and that the appeal from Sandy Bay be dismissed. It was further agreed that the points for the match should be awarded to Glenorchy City. Carried

It was agreed that the whole issue of the *Anti-Discrimination Act 1998* is complex and BTS should seek clarification from the Anti-Discrimination Commissioner before next season to ensure that what it is doing in all competitions complies with the *Anti-Discrimination Act 1998*.

Discussion took place on Conditions of Play 3.36 and 4.6 (f). Condition of Play 4.6 (f) is really covered by 3.36 and should be removed as it is specific to Saturday Pennant and there are no similar clauses for Men's Midweek Pennant or Women's Thursday Pennant. It was agreed that this matter should be considered when Conditions of Play for 2016-17 are being drawn up.

Clarification re Conditions of Play:

Clarification was sought on player eligibility for finals. Conditions of Play 3.29 (b) is as follows:

No one shall play in finals of Pennant for a Club unless they have played at least six completed roster games for that Club during the season in any of the divisions except in exceptional circumstances (confined only to a medical condition) approved by the relevant BTS Match Committee.

A question has been asked – does a player only have to play six games for a Club to play in finals in any competition or do they have to play six games in that competition. It was agreed that the latter is the intent of the Condition of Play and that the Condition of Play should be amended accordingly.

Meeting closed at 5.15 pm.

Confirmed President: // 2016

APPEAL TO LOSS OF POINTS – SANDY BAY BOWLS CLUB V GLENORCHY CITY BOWLS ON SATURDAY, 28 NOVEMBER, 2015

Sandy Bay Bowls Club Inc (hereafter called SBBC) wishes to appeal against the decision of Bowls Tasmania South (hereafter called BTS) Match Committee's decision that in Saturday's Division 6 competition on the 28th November SBBC played an ineligible player and as a result that SBBC not be able to claim the 14 points it won on that day and that the complainant, Glenorchy City Bowls Club (hereafter called GCBC), be awarded the 14 points.

In doing so, SBBC notes that GCBC complained against SBBC not only on the grounds that Cynthia Shave was ineligible to play but that two other women were ineligible to play in Division 6. The BTS Match Committee found that these two women were eligible to play.

SBBC appeals on the grounds that:

1. the BTS Match Committee failed to adequately take into consideration the circumstances behind the selection of Cynthia Shave on the 28th November and/or
2. BTS Conditions of Play 4.6 (b), (c), (d) and (e) are contrary to the Tasmanian Anti-Discrimination Act 1998 (the Act), are therefore null and void and should not have been considered by the BTS Match Committee and/or
3. the penalty is grossly excessive and contrary to equity law and the BTS precedent in 2015/16.

Appeal Ground 1

Namely: *That the BTS Match Committee failed to adequately take into consideration the circumstances behind the selection of Cynthia Shave on the 28th November.*

The circumstances behind the selection of Cynthia Shave are:

1. after business hours on Friday 27th November a player withdrew from SBBC Division 6 team;
2. two women players already given dispensation by BTS were unavailable to play and the other three were ineligible because they had played third or skip in Thursday Division 2;
3. no other player was available;
4. Cynthia Shave had played in Division 1 on three occasions in the 2015/16 Thursday competition but had been dropped from Division 1 and had subsequently played lead or two in three Division 2 Thursday games;
 - 19 November v Rosny Park as lead
 - 26 November v St Johns Park as two
 - 3 December v Geeveston as lead
5. as it was after hours on the 27th November
 - a. there being no BTS guidelines as to how a club could seek dispensation from the BTS Match Committee on the night before the game;
 - b. given the precedent that had been set, by granting dispensation to five SBBC women, and
 - c. the time frame for an emergency player

SBBC acted **reasonably and legally** in selecting and playing Cynthia Shave.

Appeal Ground 2

Namely: *That Conditions of Play 4.6 (b), (c), (d) and (e) are contrary to the Tasmanian Anti-Discrimination Act, are therefore null and void and should not have been considered by the BTS Match Committee*

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Without in any way restricting the generality of this ground of this appeal it should be noted that Section 16 (e) of the Tasmanian Anti-Discrimination Act 1998 provides that:

16. Discrimination on ground of attribute

A person must not discriminate against another person on the ground of any of the following attributes:

.....

(e) gender

.....

BTS Conditions of Play 4.6 (b), (c), (d) and (e) clearly treat women differently from men and therefore discriminate against women.

(Section 29 of this Act does permit BTS to restrict games to one gender but if both men and women are permitted to play, as they are it does **not** permit one rule for men and another for women.)

It follows that BTS Selection Guidelines 4.6 (b), (c), (d) and (e) are contrary to the Act, therefore null and void and should have been ignored by the BTS Match Committee;

This discriminatory issue was raised in our letter to you of 25 September 2015 and so far we have had no response from you.

Appeal Ground 3

Namely: *That the penalty is grossly excessive and contrary to equity law and BTS precedent in 2015/16.* Condition of Play 4.6(f) is clearly inequitable and contrary to equity law. Even had the decision of the BTS Match Committee been legal to be penalised 14 points is inequitable and contrary to equity law.

Further by awarding a club, GCBC, the 14 points as a result of what the BTS Match Committee (incorrectly) judged as breach of the Conditions of Play the BTS Match Committee acted contrary to Condition of Play 4.6(f) and the precedent set by BTS earlier this season.