



# Prescribed Form 7 – Determination of Disciplinary Tribunal

## Charged Party

|      |                   |
|------|-------------------|
| Club | Floreat Athena FC |
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## Fixture Details

|             |                                          |           |            |
|-------------|------------------------------------------|-----------|------------|
| Date        | 25 May 2024                              | Time      | 3:00pm     |
| Clubs       | Floreat Athena FC vs Olympic Kingsway SC |           |            |
| Competition | NPLWA-M                                  | Grade/Age | First Team |

## Offence Details

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| Offence Description   | Breach of the Football West Code of Conduct<br>Breach of the Spectator Code of Behaviour<br>Breach of the Three Strike Policy                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| Football West Penalty | <p>1. A deduction of twelve (12) competition points for the NPLWA-M first team.</p> <p>2. A fine of \$4000*</p> <p>3. Commencing 15 June 2024, Round 12 vs Perth RedStar FC: all NPLWA-M first-team home matches for the remainder of the 2024 competition season require four (4) professional accredited (independent) security guards to be engaged by Floreat Athena FC to ensure crowd control, with at least two (2) security guards tasked with escorting the Match Officials on and off the field of play.</p> <p><b><u>Suspension of Penalty</u></b></p> <p>Six (6) of the specified points above are suspended, unless there is a further breach of the Code of Conduct, Spectator Code of Behaviour or Three Strike Policy by a Club Associate before the end of the <b>2025</b> competition season.</p> <p>The suspended penalty may be imposed in addition to any other penalty imposed by Football West or the Tribunal as a result of such a breach.</p> <p>* The \$4000 fine was a suspended penalty imposed on the Club on 14 September 2023, following a breach of the Spectator Code of Behaviour during the State Cup Final against Inglewood United FC at the Sam Kerr Football Centre on 2 September 2023. For clarity, the terms of the suspended penalty prescribed on 14 September 2023 were as follows:</p> <p><i>\$4,000.00 of the fine specified is suspended unless there is a further breach of the Spectator Code of Behaviour by a Club Associate within 12 months of the date of this infringement.</i></p> |



## Prescribed Form 7 – Determination of Disciplinary Tribunal

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|  | As the club has further breached the Spectator Code of Behaviour within a 12-month period, the suspended fine has been applied in accordance with the prescribed terms. |
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### Hearing Outcome

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| <b>Finding</b>                  | <ol style="list-style-type: none"><li>1. Breach of the Football West Code of Conduct – <b>Guilty</b></li><li>2. Breach of the Spectator Code of Behaviour – <b>Guilty</b></li><li>3. Breach of the Three Strike Policy (Article 11 and Schedule 3 of the Disciplinary &amp; Grievance Regulations) – <b>Not guilty</b></li></ol>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| <b>Penalty</b>                  | <ol style="list-style-type: none"><li>1. A deduction of 6 Competition Points for the Club's NPLWA-M first team, applied as follows:<ol style="list-style-type: none"><li>a. an immediate deduction of 3 Competition Points; and</li><li>b. suspended deduction of 3 Competition Points, which points will be deducted if the Club is guilty of a further breach of the Code of Conduct or Spectator Code of Behaviour due to conduct by a Club Associate within 12 months of the date of this Hearing (a period which will expire on 31 July 2025).</li></ol></li><li>2. A \$4,000 fine, being the balance of a suspended penalty to which the Club was subject.</li><li>3. All NPLWA-M first-team home matches for the remainder of the 2024 competition season require 4 professional accredited (independent) security guards to be engaged by Floreat Athena FC to ensure crowd control, with at least 2 security guards tasked with escorting the Match Officials on and off the field of play.</li></ol>                                                                                                                                                                                                                                                                                                                                                                     |
| <b>Summary of Determination</b> | <p>The Tribunal heard this matter on 31 July 2024.</p> <p>Floreat Athena FC ("Club") was represented at the Hearing by Mr Anthony Papamatheos of counsel and by Ms Sophie Durant from the Club's solicitors, Thomson Geer. The Club filed written submissions, and made detailed oral submissions and answered questions posed by the Tribunal at the Hearing.</p> <p>The Tribunal read, heard and considered all the material before it, and reached its decision on the basis of its consideration of all material. In this summary of its determination, the Tribunal refers only that which is necessary to briefly explain its decision. The Tribunal provided an oral summary of the reasons for its decision at the conclusion of the Hearing.</p> <p><b>Three Strikes Policy</b></p> <p>The Tribunal made clear to the parties during the Hearing that it did not think that the Three Strike Policy applied in these circumstances, given the wording of Article 11(1) (paragraph 1). Football West acknowledged the Tribunal's position.</p> <p>No breach of the Three Strike Policy is established.</p> <p><b>Club submissions (brief summary)</b></p> <p>The Club conceded that the actions of its supporters had breached the Code of Conduct and Spectator Code of Behaviour. However, at the core of the Club's submissions was its position that the deduction</p> |



## Prescribed Form 7 – Determination of Disciplinary Tribunal

of 12 competition points (6 immediate and 6 suspended) as proposed by Football West was unfairly punitive. In particular, the Club submitted that it was unfair for the players of the Club's NPL-M first team to suffer the impact of the penalty, when the relevant misconduct had been the actions of individual supporters. The Club detailed the action that it had taken against the individuals involved in the relevant behaviour.

The Club submitted that instead of deducting points, a higher monetary penalty would also be punitive, but would have a comparable, if not superior, deterrent effect, and would not unfairly punish the players who were not involved in the spectators' behaviour. The Club submitted that a financial penalty would also be consistent with the Tribunal penalties for individual misconduct offences that align with some of the supporters' behaviour, as set out in Schedule 1 to the Regulations (Table of Offences).

### **Summary of reasons for Tribunal's determination**

Whilst the Club conceded that it had breached the Spectator Code of Behaviour and the Code of Conduct, the Tribunal noted that the relevant misconduct included young children (one whom the Club confirmed during the Hearing was 7 years old) and a minor (16 years old) entering the field of play before the players had returned to the change rooms, and throwing water bottles and balls at opposition players. This was of significant concern to the Tribunal.

The 16 year old's actions (throwing a water bottle at an opposition player's head from close range) was met with a physical response from the opposition player, which led to a number of adult males aggressively running into the group of players and supporters (mostly children) and engaging in physical violence. Quite clearly, this behaviour cannot be (and has not been, by either the Club or Football West by their actions) condoned. The Tribunal also notes that whilst the footage of the incident does not show where the adult males were located prior to the interaction between the 16 year old and the opposition player, the speed with which they were present with the group led the Tribunal to conclude that they were also on the field of play before the players had made their way to the change room.

The Club acknowledged that it is responsible for the actions of its supporters.

### ***The Club's response to the incident***

The Tribunal noted, and commends the Club for, the actions it has proactively taken following the incident. These actions, summarised below, are likely to have a deterrent effect and indicate to the Tribunal the Club's contrition and commitment to preventing a similar incident from occurring in the future:

- hiring security services to attend the Club's NPL-M home matches (having done so before Football West issued its Disciplinary Infringement Notice);
- installing temporary fencing to impede spectators entering the field of play;



## Prescribed Form 7 – Determination of Disciplinary Tribunal

- indefinitely suspending the spectators responsible (subject to proper processes for decisions); and
- demonstrating a willingness to make public statements and provide educational programs to inform spectators and other Club Associates of the harmful effect of inappropriate spectator behaviour. The Tribunal encourages the Club to deliver the educational programs that it has foreshadowed providing to its members, marshals and supporters.

Further, the Tribunal noted and commends the Club's spirit of cooperation with Football West to investigate the incident, and the appropriate concessions made by the Club as part of the disciplinary process.

### **Penalty**

The Tribunal may impose a penalty as it sees fit in its absolute discretion (Art. 18(10)), subject to considerations of reasonableness. The Tribunal is not bound by the Table of Offences in Schedule 1 to the Regulations, but any penalty imposed must conform to clause 21.5 of Football Australia's Constitution.

In view of the behaviour that gave rise to the charges against the Club, the Tribunal has sought to impose a penalty which is reasonable, appropriate and, importantly, designed to deter the reoccurrence of the offending behaviour.

The Tribunal was not persuaded that a fine is any more of a deterrent for the Club, or any less punitive as a penalty, than the deduction of Competition Points. It was also not persuaded that the deduction of Competition Points was unreasonable in the circumstances.

In considering the appropriate penalty, the Tribunal took into account the young age of at least 3 of the spectators who breached the Spectator Code of Behaviour, for whom the Tribunal took the view that a monetary penalty would have little to no deterrent effect. The Tribunal took the view that a child or minor would be more likely to understand the serious impact of his (or her) actions, and be deterred from repeating them, if it was communicated in terms of a deduction of Competition Points for his (or her) Club.

The Tribunal also noted and took into account the fact that a financial penalty had been imposed on the Club for an incident in September 2023 involving spectator violence by supporters of the Club. The reoccurrence of spectator violence within nine months suggests that the financial penalty, which also included a suspended element, did not have the desired deterrent effect on the Club's supporters – one of whom was involved with both incidents (that is, in September 2023 and May 2024).

The Tribunal concluded that deducting Competition Points is not only reasonable, but is the appropriate penalty in the circumstances.

In considering the appropriate number of Competition Points to deduct from the NPLWA-M first team, the Tribunal considered the matters set out in Article 18(9) of the Regulations:

- the Tribunal penalty set out in the Table of Offences (which for Offence 38 is at the Tribunal's discretion), and for the various



## Prescribed Form 7 – Determination of Disciplinary Tribunal

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|  | <p>offences to which the Tribunal’s attention was directed by counsel for the Club;</p> <ul style="list-style-type: none"><li>- the seriousness of the conduct of the Club’s supporters (which included entering the field of play, throwing bottles and balls at opposition players, striking opposition players, causing a melee, and actions which could reasonably bring the sport of football into disrepute), and the responsibility of the Club for its supporters’ actions;</li><li>- reputational loss for Football West as the regulatory body for the sport of football in WA, which was exacerbated by broadcast footage of the match and commentary about the post-match incident in various media;</li><li>- the Club’s recent history of breaching the Spectator Code of Behaviour in September 2023, for which the Club had received a fine that was suspended in part (and which had involved at least one of the individuals involved in the incident in May 2024); and</li><li>- the objects of the Constitution and the Regulations.</li></ul> <p>The Tribunal also had regard to the penalties imposed on the Western Sydney Wanderers (“WSW”) for its supporters’ objectively more serious and repeated misconduct in the NSW NPL-M competition. The sanctions imposed on the WSW club were a significant fine (\$33,500), deduction of 6 competition points for the 2024 season and a further deduction of 6 competition points suspended for the 2025 and 2026 NPL seasons, as well as restricted entry conditions and only daylight matches for home fixtures, and severely limited attendance for club associates at away fixtures, for the remainder of the 2024 season. The Tribunal decided that it was appropriate to deduct 6 points from the Club’s NPLWA-M first team, with 3 points (the equivalent of a “win”) to be deducted immediately, and the deduction of 3 points to be suspended until 31 July 2025.</p> <p>The Tribunal concluded that it was appropriate to suspend 50% of the points deduction penalty to dissuade supporter misconduct at the Club’s matches, with that portion of the penalty to lapse on 1 August 2025 unless the Club is guilty of any further breach of the Spectator Code of Behaviour or Code of Conduct before that date.</p> <p>The suspended fine of \$4,000 that was imposed on the Club in September 2023 is now immediately payable by the Club. This sanction was not opposed by the Club.</p> <p>The obligation to engage independent security officers at the Club’s remaining NPLWA-M home matches was not opposed by the Club.</p> |
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| <b>Date of Notice</b> | 31/07/2024 |
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### Right to Appeal

The decision of the Disciplinary Tribunal may be appealed in accordance with Article 21 of the Disciplinary & Grievance Regulations.