

Proposal for new TechInc Dispute Procedure

May 16, 2018

1 Introduction

This is a procedure for handling of disputes between members, and between members and the board of Technologia Incognita.

2 The Dispute Committee

The dispute committee shall consist of a minimum of 3, and a maximum of 7 members. Members are elected by ALV for a maximum term of 2 years. There is no limit on the number of terms served by a member.

If the number of people on the dispute committee drops below 3, the dispute committee shall require the board to call an ALV to elect additional members. This ALV must be called in accordance with the statues of the the association.

In the event that the number of members of the dispute committee available for handling a specific dispute drops below 3, then the dispute committee shall require the board to call and ALV to elect additional members. This ALV must be called in accordance with the statues of the association.

For any given dispute, the committee shall select 3 members to handle the dispute. Within those 3 members, one shall be selected to chair the dispute.

When a techinc member makes a request to the dispute committee to handle a dispute, the dispute committee shall acknowledge receipt of that request within 7 calendar days, with an aim to begin the dispute resolution process within 28 calendar days.

3 Recusals

A member of the dispute committee should recuse themselves from serving on any given dispute case if they think there may be a justifiable perception of conflict of

interest. Members of the dispute committee should, after deliberation, by simple majority vote, recuse a member on those same grounds if the member hasn't recused themselves. The report should mention any recusals in the selection of the members handling a case. The proceedings of the committee should explicitly make the question of recusals part of the deliberations, and not leave it to the initiative of individual members to bring it to the table.

4 Who can file a dispute?

For a dispute to be filed with the dispute committee, it must meet one or more of the following requirements:

- Involve a member of the space
- Involve the space (including, but not limited to: the building, IRC, mailing list, wiki)

The dispute committee has the right to refuse to act on a dispute case, however they must then report to the board, and next ALV, that they have done so, and their reason why.

The person filing the dispute must be a participant of the dispute. It is not allowed for a 3rd party to file a dispute on another persons behalf, as this could lead to consensual actions between 2 persons being misinterpreted by a 3rd party, and the resultant dispute being an embarrassment for those involved. In the event that a 3rd party does bring concerns to the dispute committee, the dispute committee may at their discretion approach the perceived victim to verify that everything is consensual and above board. In case the situation is not as previously described, the dispute committee is permitted but not obligated to inform the party in question of the procedure available to them and what is required to make use of it. The forementioned 3rd party is not and cannot be the entity to start the dispute.

5 Vexatious claims

Any system of dispute handling is open to the filing of vexatious claims. In order to attempt to counter this, the dispute committee has the right to decline a dispute if it believes it is vexatious. However it must report that it has done so, and it's reasoning, to the board and in it's annual report to the ALV. The board should be informed within 7 days after a decision to decline a dispute. The board and the ALV can override this decision and ask the dispute committee to handle a claim it has previously considered to be vexatious.

6 Classes of dispute

Disputes come in a multitude of forms, and a dispute procedure needs to be designed such that it can handle all of these, whilst having the flexibility to function in the real world.

When making a request to the dispute committee, the member making the request (claimant) shall be offered the choice of how they wish the claim shall be handled. Either formally, or informally.

6.1 Informal dispute handling

When the claimant requests that a dispute be handled informally, the role of the dispute committee is one of mediation between the parties involved to try and find an agreement on how those involved may proceed forward in a harmonious way.

If a claimant is not happy with the resolution through informal handling, they may request that it be taken to the formal dispute procedure.

6.2 Formal disputes

When a claimant requests that a dispute be handled via the formal dispute procedure the following should happen.

The dispute committee shall meet to assign 3 members of the dispute committee to work on this dispute. They will then notify the claimant with the names of the 3 members who are handling this dispute, within 28 days of the initial request. They will also inform the defendant within the same time scale.

The claimant and the defendant shall both be invited to put their case to the dispute committee. This should be done at a separate times so as to avoid any chance of intimidation or influence. Each person called before the dispute committee shall have the right to bring with them a friendly person. This person is there to offer moral support and guidance. It is up to the dispute committee to make sure that the friend is not coercing the person they accompany.

If necessary, the dispute committee shall request witnesses to give evidence of what has happened. No-one, including the defendant, is under any obligation to provide evidence.

The dispute committee may also request evidence to back up a claim, this may include, but is not limited to email or irc logs, or photographic evidence. No-one has any obligation to provide this evidence. If a request for evidence is declined, this should be recorded in the dispute report.

Having heard testimony from all involved parties and witnesses, and considered the evidence provided, the 3 persons investigating the dispute shall make a decision regarding their recommendation to the board. This decision does not need to be

unanimous within the investigators, but the result (unanimous, 2:1 majority etc...) should be included in the report to the board. In the event of a non unanimous decision, all views should be included in the report to the board, with the reasoning why. The dispute committee shall also report back to those involved in the claim regarding their final recommendation to the board.

At this point, it should be made clear to those involved in the claim that it is now up to the board to study the report about the dispute and come to a decision as to if and what part of the recommendations made it will adopt and implement or not. It is up to the board to inform both the parties involved in the claim, as well as the dispute committee, of their decision in this. Depending on the implications, a notice to all members might also be in order but is not required for all cases. The board shall inform involved parties and the dispute committee within 14 days.

As well as the report for the board, it is also necessary to report to the ALV, see the reporting section for more details.

7 Resolutions

The dispute committee itself has no power to enforce anything upon any TechInc member or guest. Their role is to make a recommendation to the board based on the impartial hearing of evidence. When the dispute committee compiles it's report to the board on a dispute, they will include in that report their recommendation to the board for how to resolve the dispute. This may include (but is not limited to):

- No action
- Informal warning
- Formal warning
- Access restrictions

In extreme cases, it may be necessary for the dispute committee to make a recommendation to the board of access restrictions while the complaint is investigated. This should not be taken lightly, and all efforts should be taken to maintain a presumption of innocence until proven guilty.

8 Appeal

If either the complainant or defendant are not happy with the ruling of the dispute committee, they can appeal to an ALV. This can be either at the next annually

called ALV, or at an ALV called specifically via the associations rules for the summoning of an ALV.

9 Reporting

As well as reports pertaining to each case that are delivered to the board, and those involved, it shall be the responsibility of the dispute committee to report to each ALV with a summary of the activities of the committee over the time period since the last ALV. This should include anonymised statistics on the types of disputes handled, the resolutions reached, and any recusals.

While a dispute is being investigated, the dispute committee shall provide a monthly update to the board and involved parties to let them know that the case has yet to be resolved.

10 Resources

In order to operate effectively Techinc shall provide the dispute committee with the necessary resources needed to do its job. This will include but be not limited to:

- Mailing List
- Shared Document Store
- Paper Archive

It is important that these resources are kept independent from both member run infrastructure and board run infrastructure. All electronic data related to the dispute committee should be encrypted with keys maintained only by the dispute committee.

11 Record keeping

The dispute committee has a duty to maintain accurate records of its activities.

Following the completion of a dispute process, the records pertaining to the dispute shall be sealed, and kept in the archive of the dispute committee. These should only be accessed if another dispute arises relating to the original dispute. Simply being a member of the dispute committee doesn't give automatic access rights to past disputes. The exact implementation of this is left to the dispute committee, this document does not define a specific procedure due to the changable nature of national and international law as it pertains to record keeping.

These sealed records should be kept for a period of time set by the ALV.

12 Cooperation with outside authorities

In some cases the events that cause a dispute to arise are also of a criminal nature and may by necessity require the involvement of the police. In such circumstances, the dispute committee and the board should do everything it can to cooperate with the authorities in the matter, upto and within the limits set out in their legal rights. The dispute committee and board has a duty to not jeopardize any investigation and subsequent court cases pertaining to events related to techinc.