

6. PROCESS OF COMPLAINTS INVESTIGATION COMMITTEE

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PART 1 - INTRODUCTION

6.1 Referral to Complaints Investigation Committee

6.1.1 The Board may refer a Complaint or an Appeal from a Club Decision to a Complaints Investigation Committee (CIC) in accordance with the Constitution.

6.1.2 The Board may request that the Complaints Investigation Committee:

(a) investigate and report on a Complaint, or an Appeal from a Club Decision; or

(b) investigate and make a decision on a Complaint or an Appeal from a Club Decision.

6.2 Commencement Date

6.2.1 This Regulation shall take effect and come into force on 6th December 2024.

6.3 Definitions and Interpretation

6.3.1 The following words and phrases used in this Regulation have the following meanings:

Appeal from a Club Decision means an appeal by an Individual Member who has received a penalty or an adverse finding in disciplinary proceedings conducted by the Club, provided that the Individual Member has first exhausted all avenues of appeal available under the Club's constitution.

Appellant means an Individual Member who initiates an Appeal from a Club Decision.

Board means SLSNZ's governing body as defined in the Constitution.

Chair means the chair of a Complaints Investigation Committee appointed by the Board in accordance with this Regulation.

Complaint means where any person or SLSNZ starts a procedure for resolving a Dispute in accordance with the Constitution and this Regulation.

Complainant means the person or organisation or SLSNZ who makes a Complaint in accordance with the Constitution.

Complaints Investigation Committee means the committee set up under this Regulation that the Board may refer a Complaint or Appeal from a Club Decision to.

Complaints Officer means the person(s) appointed by the Board to receive notices of complaints under the Constitution.

Constitution means the SLSNZ Constitution.



Dispute has the meaning set out in Section 38 of the Incorporated Societies Act 2022.

Interested Party means a person added to a Proceeding under clause 6.19 Interested Party

Judicial Committee, as used in any other SLSNZ Regulation or policy, means a Complaints Investigation Committee as under this Regulation.

Members means any person or organisation as defined in the Constitution.

Minor means a person who is under the age of 18 years.

Proceeding means any proceeding in this Regulation.

Regulation means a Regulation determined by the Board.

Remedies means any sanction, penalty or outcome that the Board may impose on a Respondent.

Respondent means a Member, or Officer or SLSNZ who is the subject of a Complaint made in accordance with the Constitution.

SLSNZ means Surf Life Saving New Zealand Manatōpū Incorporated and includes the Officers, employees, Board Members, its committees, Appointed Personnel. and agents.

Sports Tribunal means the Sports Tribunal of New Zealand established under the Sport and Recreation New Zealand Act 2002 and continued under the Sports Anti-Doping Act 2006.

6.3.2 **Constitution Terms and Interpretation:** All other terms and interpretations defined in the Constitution carry the same meaning here.

6.3.3 **Rule Inconsistency:** If there is any inconsistency between any rule in this Regulation and any rule of the Constitution, the Constitution rule will apply.

6.4 Jurisdiction

6.4.1 All Members and Officers are subject to the jurisdiction, procedures, remedies and appeal mechanisms set out in the Constitution and this Regulation.

PART 2 - COMPLAINTS INVESTIGATION COMMITTEE

6.5 Appointment of a Complaints Investigation Committee

- 6.5.1 **Appointment:** The Complaints Officer will appoint a Complaints Investigation Committee to investigate a Complaint referred to a Complaints Investigation Committee by the Board.
- 6.5.2 **Composition:** Each Complaints Investigation Committee must consist of at least three (3) persons. No Board Member, employee or contractor is eligible to sit on a Complaints Investigation Committee. The Complaints Investigation Committee may include a lawyer but is not required to.
- 6.5.3 **Chair:** The Complaints Officer will appoint a Chair from one of the members appointed to a Complaints Investigation Committee. The chair's role is to arrange meetings and interviews, ensure that the Complaints Investigation Committee processes are fair and conducted in a timely manner, and prepare a written report for the Board.
- 6.5.4 **Notification:** The Complaints Officer must give the Complainant, Respondent and Board written notice of the membership of the Complaints Investigation Committee. The Complainant, Respondent or Board may, within 5 working days of receiving that notice, request changes to the membership of the Complaints Investigation Committee on the grounds of impartiality. The Complaints Officer must have regard to this request but is not required to comply with it.

6.6 Functions

- 6.6.1 The functions of the Complaints Investigation Committee are to:
- (a) do all things to comply with and implement this Regulation;
 - (b) hear and determine Complaints referred to it in accordance with

(c) PART 4 - PROCEDURE FOR DEALING WITH COMPLAINTS

(d) hear and determine Appeals from Club Decisions referred to it in accordance with 6.23; and

(e) generally, take all steps necessary or desirable to achieve the purposes of this Regulation.

6.7 Confidentiality

6.7.1 All information received by a Complaints Investigation Committee and its deliberations must be kept confidential except to the extent required by law or this Procedure.

6.8 Conflicts of Interest, Bias or Predetermined View

6.8.1 If any member of a Complaints Investigation Committee considers they may have a potential conflict of interest, bias or predetermined view in determining a Complaint, they must notify the Chair. If the Chair considers it appropriate to do so, they may require that member to vacate their position on that Complaints Investigation Committee.

6.8.2 If the Chair considers they may have a potential conflict of interest, bias or predetermined view in determining the Complaint, they must notify the Board. If the Board considers it appropriate to do so, it may require the Chair to vacate their position on that Complaints Investigation Committee.

6.8.3 A person may not sit on the Complaints Investigation Committee if two (2) or more members of the Board, or that committee consider there are reasonable grounds to believe that a person may not be impartial or able to determine the matter without a predetermined view.

6.8.4 if a person is removed from a Complaints Investigation Committee under 6.8.1 to 6.8.3 the Complaints Officer may appoint another member(s) to the Complaints Investigation Committee to ensure the minimum membership of the Complaints Investigation Committee is three (3) as required under 6.5.2.

6.9 Expenses and Remuneration

6.9.1 SLSNZ may pay for, or remunerate members of a Complaints Investigation Committee for, reasonable travel and other expenses incurred in the course of performance of duties as a Complaints Investigation Committee member, provided such expenses have been approved in advance by SLSNZ; and/or

6.9.2 SLSNZ may remunerate members of a Complaints Investigation Committee for services provided.

6.10 No Personal Liability

6.10.1 No member of a Complaints Investigation Committee will be liable for any act done

or omitted to be done by a member of a Complaints Investigation Committee in good faith pursuance or intended pursuance of the functions, duties, powers or authorities as specified in this Regulation.

PART 3 - COMPLAINTS

6.11 Types of Complaints:

6.11.1 Complaints include such matters as:

- (a) disputes between Individual Members and/or Clubs (that are not referred for investigation and/or determination by that Individual Member's Club under 6.12)
- (b) disputes between Members and SLSNZ
- (c) an allegation that a Member, an Officer, or SLSNZ:
 - i. has engaged in misconduct;
 - ii. has breached, or is likely to breach a duty under SLSNZ's Constitution, its Regulations (other than the SLSNZ Anti-Doping Regulation), Competition Rules, or any other code of conduct, policy, resolution or determination of the General Meeting, Board or any committee, or the Incorporated Societies Act 2022;
 - iii. brought SLSNZ or Surf Life Saving into disrepute;
 - iv. damaged the rights or interests of a Member or the rights or interests of members generally;
 - v. been investigated by the Competitions Appeal Committee under any Competition Rules and the Competitions Appeals Committee has referred the matter to the Board for determination;

provided a complaint does **not** include:

- vi. any matter within the jurisdiction of the Competitions Appeal Committee as set out in the Competition Rules;
- vii. appeals for non-selection to a High Performance or New Zealand team, which are dealt with under the SLSNZ Sport Selection Policy High Performance Squads and New Zealand Teams;
- viii. anti-doping violations, which are to be dealt with by the relevant authority under SLSNZ's Regulation 12 Anti-Doping;
- ix. complaints involving actions of a SLSNZ employee in their capacity as an employee, which are dealt with under that employee's employment agreement and any applicable employment legislation; or
- x. anonymous Complaints.

6.12 Club Disputes and Complaints:

- 6.12.1 Disputes between a Member and their Club, or complaints about a Member arising out of circumstances in which they were representing their Club will be referred by the Board for investigation and/or determination by that Member's Club in accordance with that Club's constitution and/or any applicable rules;

however,

the Board, at its discretion, may in agreement with both the Member and their Club, refer such complaints to a Complaints Investigation Committee for investigation and determination.

PART 4 - PROCEDURE FOR DEALING WITH COMPLAINTS

6.13 Notification

6.13.1 The Board must clearly set out in writing the Complaint required to be investigated and/or determined by a Complaints Investigation Committee.

6.14 Procedure

6.14.1 Except as provided for in the Constitution, or applicable laws, this Regulation, a Complaints Investigation Committee may investigate a complaint as it thinks fit and may determine its own practices and procedures for performing the functions in this Regulation. While investigating a complaint, the Complaints Investigation Committee may:

- (a) appoint a legal advisor approved by SLSNZ to advise the Complaints Investigation Committee on matters of law, procedure and evidence;
- (b) appoint a special advisor or employee approved by SLSNZ to advise the Complaints Investigation Committee on technical or operational issues; and/or
- (c) with the agreement of the Complainant and the Respondent, refer the complaint to be addressed through an alternative dispute resolution process, for example, conciliation, mediation or arbitration.

6.15 Evidence in Proceedings

6.15.1 A Complaints Investigation Committee may:

- (a) receive as evidence any statement, document, information, or matter that may in its opinion, assist it to deal effectively with the matters before it, whether or not the same would be admissible in a court of law.
- (b) permit a person appearing as a witness before it to give evidence by tendering a written statement.
- (c) if a Member or witness declines to participate in the investigation process, the Complaints Investigation Committee can make a finding of fact based on all the information available to them at the time.

6.16 Power to Inquire and Direct

6.16.1 A Complaints Investigation Committee has the power to inquire into the subject matter of any Proceeding in accordance with this Regulation. For the purposes of any inquiry, a Complaints Investigation Committee, or any other person authorised in writing by it may:

- (a) inspect and examine any papers, documents, records or items.
- (b) require any party or person bound by this Regulation, and request any other person, to produce for examination any papers, documents, records or things in

that person's possession or under that person's control and to allow copies of or extracts from any such papers, documents or records to be made.

- (c) require any party or person bound by this Regulation, and request any other person, to furnish, in a form approved by or acceptable to it, any information or particulars that may be required by it, any copies or extracts from any such papers, documents or records.
- (d) in respect of any Proceeding, hear evidence either of its own motion or upon application by a party, whether or not such evidence is new to the dispute.
- (e) make such inference and draw such conclusions as it considers appropriate from the failure by any person or party to comply with any requirement by a Complaints Investigation Committee under this rule 6.16.

6.17 Natural Justice

- 6.17.1 A Complaints Investigation Committee must, in all matters, observe the principles of natural justice.

6.18 Representation

- 6.18.1 The parties, including any Interested Party, may have a lawyer, an advocate, and/or support person(s) at any meeting who can make submissions on their behalf.

6.19 Interested Party

- 6.19.1 A Complaints Investigation Committee may either on its own motion or on the application of a person whom a Complaints Investigation Committee determines has sufficient interest in the matter, add a further person(s) as parties to a Proceeding or allow a person(s) to make submissions or provide evidence in any Proceeding. If this occurs, that person(s) will be bound by these Regulations as if that person(s) were a party to the Proceeding.

6.20 Minors

- 6.20.1 A Minor may be a party to and is bound by a Proceeding before a Complaints Investigation Committee as if the Minor were a person of full age and capacity.
- 6.20.2 Where a Minor is a party to any Proceeding, their parent, guardian or other adult family member must be included in any notifications and be present at any hearings.

6.21 Mediation

- 6.21.1 A Complaints Investigation Committee may, if requested by the parties, or on its own volition, order that the substantive issue in a Proceeding, or any sub-issue, be mediated, either before a member of a Complaints Investigation Committee or an independent person.
- 6.21.2 If a Complaints Investigation Committee member is the mediator, that person may

not sit on the Complaints Investigation Committee which hears the substantive matter, unless all parties otherwise agree.

6.22 Determination:

6.22.1 Before making a decision, the Complaints Investigation Committee must:

- (a) provide the Complainant and Respondent with a copy of all information (other than privileged material) before the Complaints Investigation Committee; and
- (b) allow the Respondent a reasonable opportunity to provide evidence and a written response to the complaint; and
- (c) allow the Complainant and Respondent a reasonable opportunity to be heard in writing or orally if the Complaints Investigation Committee considers an oral hearing is needed to ensure an adequate hearing.

PART 5 - CLUB APPEAL DECISIONS

6.23 Grounds for Appeal

6.23.1 The grounds for an appeal from a decision of a Club are those set out in the constitution, rules or regulations of the applicable Club. In the absence of such grounds, the grounds can only be one or more of the following grounds:

- (a) that natural justice was denied.
- (b) that the decision-maker or decision-making body acted outside of its powers and/or jurisdiction (i.e. acted ultra vires).
- (c) that substantially new evidence has become available after the decision which is being appealed was made; or
- (d) in respect of a decision relating to misconduct involving the appellant, that the penalty was either excessive or inappropriate.

6.24 Notice of Appeal

6.24.1 Appeals from Club Decisions shall be filed within the time limit set out in the applicable constitution, rules or regulations of the Club. In the absence of such time limits, within 28 days of the Appellant being notified of the Club decision against which the appeal is made. A copy of the notice of appeal must also be served on the applicable Club.

6.25 Notification

6.25.1 The Board must forward to a Complaints Investigation Committee any Appeal from a Club Decision which it requires to be determined by that Complaints Investigation Committee.

6.26 Onus

6.26.1 The onus of proof shall be on the Appellant.

6.27 Decision

6.27.1 The decision of a Complaints Investigation Committee on an Appeal from a Club Decision must be consistent with the applicable constitution, rules or regulations of the applicable Club. Unless such constitution, rules or regulations expressly or implicitly provide otherwise, a Complaints Investigation Committee may make any decision that the Club appealed from was capable of making on the original application or may refer the matter back to that Club for further consideration, with such directions (if any) which the Complaints Investigation Committee determines to give.

6.27.2 **Procedures:** All other procedures for dealing with Appeals from Club Decisions are the same as for dealing with complaints under

6.27.3 PART 4 - PROCEDURE FOR DEALING WITH COMPLAINTS.

PART 6 - COMPLAINTS INVESTIGATION COMMITTEE DECISIONS

6.28 Decisions:

- 6.28.1 A decision of a Complaints Investigation Committee in any Proceeding under this Regulation must be made by a majority decision of the members of the Complaints Investigation Committee hearing the Proceeding.
- 6.28.2 A Complaints Investigation Committee may, at its discretion, make an oral decision but must also issue a written decision with reasons as soon as possible after the hearing.
- 6.28.3 A Complaints Investigation Committee may also make non-binding recommendations to the Board or any other party of any Proceeding.
- 6.28.4 Any decision of a Complaints Investigation Committee made under this Regulation is enforceable by any party to the Proceeding in which the order is made in the courts of New Zealand under the law of contract.

6.29 Child Protection:

- 6.29.1 Where a decision involves child protection concerns, the safety of the child is the priority, and the Complaints Investigation Committee must consult with the SLSNZ Child Protection Officer before making any decision or recommending any remedy.
- 6.29.2 If during the proceedings, the Complaints Investigation Committee has any concerns about the safety of children in any way they must report these concerns to the SLSNZ Child Protection Officer.

6.30 Remedies:

- 6.30.1 Subject to the Constitution, a Complaints Investigation Committee may recommend to the Board any sanctions, penalties or other outcomes as it considers necessary to give effect to any decision made under clause 6.28 (Decisions), including:
- (a) reprimanding the Member
 - (b) issuing a written warning
 - (c) require an apology to any member affected by the breach
 - (d) withdraw any awards, placings or records, sanctioned by SLSNZ
 - (e) revoking a Member's Life Membership
 - (f) enforcing any sanctions imposed by the International Lifesaving Federation or Sports Tribunal in addition to any sanction of its own which it thinks appropriate in the circumstances

- (g) suspending the member from any related activity which is run by SLSNZ
- (h) suspending the Member from membership for a specified period
- (i) terminating the Member's membership
- (j) In the case of a Club, propose a resolution that the Club is not of Good Standing in accordance with Rule 11.7 of the Constitution.
- (k) order the Complainant (if a Member) or the respondent, to meet any of SLSNZ's reasonable costs in dealing with the Complaint
- (l) any other penalty as a Complaints Investigation Committee considers commensurate with the offence.
- (m) a combination of any of the above penalties as a Complaints Investigation Committee thinks fit; or
- (n) decline to take any further action

6.30.2 In determining what remedies, if any, to recommend or impose, the CIC may take into account the following factors:

- (a) the nature and seriousness of the breach;
- (b) whether the person knew or should have known the behaviour was a breach;
- (c) level of remorse demonstrated, including any apology given;
- (d) the effect of the proposed disciplinary measures on the person, including any personal, professional or financial consequences;
- (e) if there have been relevant prior warnings or disciplinary action;
- (f) the age or experience of the respondent, and
- (g) any mitigating circumstances

6.31 Report to the Board

6.31.1 **Report:** The written report to the Board must be signed by all members of the Complaints Investigation Committee and state:

- (a) the issue
- (b) any applicable policy or rule
- (c) the process followed
- (d) the decision (complaint upheld or not upheld)

- (e) the facts and any evidence relied on, including any submissions or explanations by anyone involved
- (f) the reason for the decision
- (g) any remedy recommended to the Board on any party; and
- (h) the factors taken into account when decision on any recommended remedy.

6.32 Board Decision

6.32.1 Before the Board makes any decision about remedies to impose, the Member concerned:

- (a) must be given fourteen (14) days written notice by the Board of the proposed resolution to impose a remedy; and
- (b) has the right to be present, make submissions, and be heard at the meeting in which the proposed remedy is to be determined.

PART 7 - APPEALING A DECISION

6.33 Appeals

- 6.33.1 There is no right of appeal from decisions of a Complaints Investigation Committee made under clause 6.27 (Decision) regarding Appeals from Club Decisions.
- 6.33.2 Any other decision of a Complaints Investigation Committee may be appealed to the Sports Tribunal in accordance with the Constitution and the Rules of the Sports Tribunal.
- 6.33.3 If a Member's membership was terminated following this Procedure, the Member may be re-admitted only by a Special Resolution passed at a General Meeting on the recommendation of the Board. The decision of that General Meeting is final and there is no right of an Appeal to the Sports Tribunal.

PART 8 - GENERAL PROVISIONS

6.34 Records

6.34.1 A Complaints Investigation Committee must keep records of all Proceedings, including all investigations and decisions.

6.35 Service

6.35.1 **Service:** Every document which is filed with a Complaints Investigation Committee must also be served on all other parties in the Proceeding (including Interested Parties) at the address for service notified by that party in its documents in the Proceedings. If any Interested Party has not notified such an address, service shall be at the last known address of that party.

6.35.2 **Delivery:** Documents to be filed with a Complaints Investigation Committee or served on another party may be sent by post, courier, email, or delivered in person.

6.35.3 **Deemed Service:** Where a document is served on a party or person under this Regulation, the document is deemed to have been served as follows:

(a) if delivered in person between the hours of 9.00 am and 5.00 pm, then on that day, and if such delivery is outside these hours, then on the next day;

(b) if posted, then on the earlier of:

- i. the fifth day after the day on which it was posted; or
- ii. the day on which it was received;

(c) if sent by email, then on the day on which it was transmitted, unless such transmission commenced after 5.00pm, in which case it shall be the next day.

6.36 Filing Fee

6.36.1 The Board may, by resolution, set filing fees for any Proceeding and may, at its discretion, waive all or part of any fee if it considers it appropriate to do so.

6.37 Costs

6.37.1 Every party and person involved in any Proceeding shall bear their own costs. A Complaints Investigation Committee has no right to award costs.