



**Disputes Policy**  
**Adopted 31 May 2009, amended 2013**

## **1.0 Scope**

- 1.1 This Policy defines the types of Disputes Tribunals which may be formed by the Association, and the Cases which may be heard, the procedures which must be followed, and Disciplinary Actions which may be taken by those tribunals.

## **2.0 Definitions**

- 2.1 The definitions stated in the Policies Manual, clause 2.2 of the Squad Guidelines and clause 1.0 of the Competitions Policy apply to this Policy.

- 2.2 The following additional definitions apply to this Policy:

- (a) **Disciplinary Tribunals** and **Judiciaries** refer to the groups appointed according to this Policy to hear a Case.
- (b) **Case** refers to the matter being heard by a Disciplinary Tribunal or Judiciary.
- (c) **Complainant** refers to Member, Member Body or Regional Association lodging the case.
- (d) **Defendant** refers to the Member, Member Body or Regional Association against whom the Case is being heard.
- (e) **Counsel** refers to a member of the Defendant's Member Body or Squad approved by the Tribunal and/or the Defendant's solicitor.
- (f) A **Hearing** refers to the occasion where the Defendant has the opportunity to be heard by the Disciplinary Tribunal.
- (g) The **Medium of the Hearing** refers to whether the Hearing is 'in person', by 'telephone conference', or by 'video conference'.
- (h) **Disciplinary Action** refers to the penalty imposed by a Disciplinary Tribunal.
- (i) **Written Judgement** refers to the written statement produced by a Disciplinary Tribunal at the conclusion of the Case.

## **3.0 Disciplinary Tribunals**

- 3.1 According to articles 4.1(r) and (s) of the Constitution, the Association is empowered to have and apply disciplinary procedures and actions.

- 3.2 Four types of Disciplinary Tribunals may be formed by the Association:

- (a) Regional Disciplinary Tribunals.
- (b) National Competition Judiciaries.

- (c) Squad Disciplinary Tribunals.
- (d) Association Disciplinary Tribunals.

#### **4.0 Regional Disciplinary Tribunals**

- 4.1 According to article 7.3(f) of the Constitution, Regions shall have in their constitutions provision for the formation of Disciplinary Tribunals, and that the formation of such tribunals shall be consistent with this Policy.
- 4.2 The Regional Committee shall have in its policies provision for the formation of Regional Disciplinary Tribunals.
- 4.3 Where possible, all Regional issues should be first heard by a Regional Disciplinary Tribunal.
- 4.4 The Regional Committee shall be required to appoint a Regional Disciplinary Tribunal upon:
  - (a) Written request from any Member Body.
  - (b) A motion passed at a meeting of the Association.
- 4.5 The Regional Disciplinary Tribunal shall:
  - (a) Be formed on a case by case basis as required by clause 4.4.
  - (b) Consist of the three persons as required by Regional Policy.
  - (c) Not include any person who is to appear before that tribunal or has a conflict of interest in the matters to be heard.
  - (d) Be convened to hear the matter of concern as soon as practical.

#### **5.0 Powers of Regional Disciplinary Tribunals**

- 5.1 The powers of Regional Disciplinary Tribunal shall be detailed in Regional policy.

#### **6.0 National Competition Judiciaries**

- 6.1 Cases related to National Competitions recognised in the Competitions Policy shall be addressed in accordance with the protest clauses outlined in the International Canoe Federation (ICF) Canoe Polo Competition Rules; unless that competition has been concluded in which case the matter shall be referred to the Board.
- 6.2 Where the ICF Rules require payment of a protest fee the amount shall be \$50.
- 6.3 The Board shall appoint the Competition Committee for each NZCPA run competition. That Competition Committee will act as the National Competition Judiciary for that tournament, if such a Tribunal is formed.
- 6.4 The Competition Committee must comply with the relevant clauses in the ICF Rules and must take no action that is in conflict with this Policy.

## **7.0 Powers of National Competition Judiciaries**

- 7.1 The National Competition Judiciary shall be empowered to:
- (a) Seek all information necessary to establish all factors relating to matters of contention brought to its notice for determination.
  - (b) Make judgements, impose penalties, or take whatever action is considered proper and in the best interests of the sport, up to the limitation set out in this Policy.
- 7.2 Fines may not be imposed by a National Competition Judiciary.
- 7.3 Suspensions may be imposed by a National Competition Judiciary.
- 7.4 Suspensions for participation in the sport may be directed to a particular type and/or level of participation and may be for:
- (a) A number of games.
  - (b) A set period up to six months.

## **8.0 Squad Disciplinary Tribunals**

- 8.1 All disciplinary procedures relating to the Squad shall be first heard by a Squad Disciplinary Tribunal, unless the matters to be heard involve Squad member(s) who have been released from the Squad in which case the matter shall be heard by an Association Disciplinary Tribunal.
- 8.2 The Squad Manager may at their discretion appoint a Squad Disciplinary Tribunal in any case when:
- (a) Clauses in this policy or the Squad Member Contract are breached
  - (b) Written request is received from any of the Squad Manager, Tour Manager, Team Managers, Squad Coach, Team Coaches or Team Captains.
- 8.3 A Squad Disciplinary Tribunal shall:
- (a) Be formed on a case by case basis as required by clause 8.2.
  - (b) Consist of three persons, including if possible the Squad Manager.
  - (c) Be appointed by the Squad Manager, or their appointee, from a pool of Squad Members who have in turn been appointed for the purpose by the Association.
  - (d) Not include any Squad member who is to appear before that tribunal or has a conflict of interest in the matters to be heard.
  - (e) Be chaired by the Squad Manager, or their appointee.
  - (f) Be convened to hear the matter of concern as soon as practical.
- 8.4 The Case shall be dismissed by the Association if the first Hearing of that Case is not made within twelve weeks of being raised according to clause 8.2 hereof.

8.5 If the Case is dismissed in accordance clause 8.4 hereof, the Association shall notify the Squad Disciplinary Tribunal, Defendant and Complainant of the Case's dismissal.

### **9.0 Right to be Heard**

9.1 The Defendant shall have the right to be heard by the Squad Disciplinary Tribunal. The Defendant may appoint a representative to act on their behalf.

9.2 During a tour, Hearings will be in person unless the Defendant fails to present themselves for a Hearing within twenty four hours of being notified of a Case being brought against them, in which case the Hearing will be by written statement as for Association Disciplinary Tribunals.

9.3 Pre-Tour and PostTour Hearings shall be conducted by the Squad Disciplinary Tribunal in accordance with clauses 12 - 14 as if it were an Association Disciplinary Tribunals.

### **10.0 In Person Hearings On Tour**

10.1 The Defendant has the right to attend a Hearing. The Defendant may be accompanied by a representative who may speak on their behalf.

10.2 No less than twelve hours notice of a Hearing shall be given to a Defendant, unless the Defendant agrees to a shorter time period. Such notice shall include:

- (a) The date, time, place and Medium of the Hearing.
- (b) All details of the Case being brought against the Defendant.
- (c) All written documentation that may be used at a Hearing by the Association.

10.3 It is the responsibility of the Defendant to make themselves available for a Hearing. The Hearing can take place regardless of the presence of the Defendant provided that clause 10.2 is adhered to.

10.4 The Disciplinary Tribunal chairperson shall ensure written records of the Hearing are maintained. These shall:

- (a) Be passed onto and kept by the Executive Director.
- (b) Only be made available to the members of the Squad Disciplinary Tribunal, Board Members, the Defendant, and the Defendant's representative.

10.5 The conclusions of the Tribunal shall be issued by way of a Written Judgement as detailed in clause 17.

### **11.0 Powers of Squad Disciplinary Tribunals**

11.1 A Squad Disciplinary Tribunal shall be empowered to:

- (a) Seek all information necessary to establish all factors relating to matters of contention brought to its notice for determination.
- (b) Make judgements, impose penalties, or take whatever action is considered proper and in the best interests of the sport, up to the limitations set out in clauses 11.2 to 11.7 hereof.

- 11.2 A Squad Disciplinary Tribunal shall be empowered to:
- (a) Suspend Squad Members from playing for a set number of games or days.
  - (b) Dismiss Squad Members from the Squad.
- 11.3 Fines may not be imposed by a Squad Disciplinary Tribunal.
- 11.4 Doping infringements will be dealt with in accordance with the relevant policies of the New Zealand Canoeing Federation.
- 11.5 For a minor breach of a Squad Member's contracted requirements the Defendant should receive a warning, and for a serious breach, the Defendant should be dismissed from the Squad. The contracted requirements include those detailed in the Policies stipulated in the contract, and any squad code of conduct they Association may adopt.
- 11.6 The penalty shall be determined by the Squad Disciplinary Tribunal on a case by case basis.
- 11.7 All disciplinary action, including any dismissal, shall be notified to the Board which may take further action against the Defendant.

## **12.0 Association Disciplinary Tribunals**

- 12.1 Unless the Case is being heard by a Regional or Squad Disciplinary Tribunal, or National Competition Judiciary, the Board shall be required to appoint an Association Disciplinary Tribunal upon:
- (a) Written request from any Member Body or Region.
  - (b) A motion passed at a General or Board Meeting of the Association.
  - (c) Written request from the New Zealand Canoe Federation, New Zealand Olympic Committee, or International Canoe Federation.
- 12.2 The Association Disciplinary Tribunal shall:
- (a) Be appointed on a case by case basis by the Board as required by clause 12.1.
  - (b) Where possible, consist of the Chairperson, and two board members.
  - (c) Not include any person who is to appear before that tribunal or has a conflict of interest in the Case.
  - (d) Be chaired by the Chairperson, or in the Chairperson's absence, a Disciplinary Tribunal member appointed by that Tribunal.
  - (e) Be convened to hear the Case of concern as soon as practical.
- 12.3 The Case shall be dismissed by the Association if the first Hearing is not made within twelve weeks of the Case being raised according to clause 12.1 hereof.
- 12.4 If the Case is dismissed in accordance with clause 12.3 hereof, the Association shall notify the Association Disciplinary Tribunal, Defendant and Complainant of the Case's dismissal.

### **13.0 Right to be Heard**

- 13.1 The Defendant shall have the right to be heard by the full Association Disciplinary Tribunal. The Defendant may appoint a representative to act on their behalf.
- 13.2 Hearings will be by written statement unless the Defendant objects in writing within seven days of being notified of a Case being brought against them.
- 13.3 If the Defendant objects in writing in accordance with clause 13.2 hereof, the Chairperson of the Association Disciplinary Tribunal shall give notice of a hearing in accordance with clause 15.2.

### **14.0 Hearings by Written Statements**

- 14.1 Prior to the Tribunal making its decision, details of the Case being brought against the Defendant and all written documentation that may be used by the Association for the Hearing shall be given to the Defendant. The Defendant shall have fourteen days to respond to this information in their defence. The Tribunal shall have a further eight weeks to issue the Written Judgment on the Case, otherwise the Case shall be dismissed by the Association.
- 14.2 The conclusions of the Association Disciplinary Tribunal shall be issued by way of a Written Judgement as detailed in clause 17.1.

### **15.0 Hearings Not By Written Statement**

- 15.1 The Defendant has the right to attend and to speak personally at a Hearing. The Defendant may be represented by Counsel who may speak on behalf of the Defendant.
- 15.2 No less than fourteen days notice of a Hearing shall be given to a Defendant, unless the Defendant agrees to a shorter time period. Such notice shall include:
  - (a) The date, time, place and medium of the Hearing.
  - (b) All details of the Case being brought against the Defendant.
  - (c) All written documentation that may be used at a Hearing by the Association.
- 15.3 It is the responsibility of the Defendant to make themselves available for a Hearing. The Hearing can take place regardless of the availability of the Defendant provided that clause 15.2 is adhered to.
- 15.4 The Disciplinary Tribunal chairperson shall ensure written records of the Hearing are maintained.

These shall:

  - (a) Be passed onto and kept by the Executive Director.
  - (b) Only be made available to Board Members, the Defendant, and the Defendant's representative.
- 15.6 The conclusions of the Tribunal shall be issued by way of a Written Judgement as detailed in clause 17.1.

## **16.0 Powers of Association Disciplinary Tribunals**

- 16.1 The Association Disciplinary Tribunal shall be empowered to:
- (a) Seek all information necessary to establish all factors relating to the Case.
  - (b) Make judgements, impose penalties, or take whatever action is considered proper and in the best interests of the sport, up to the limitations set out in clauses 16.2 to 16.12 hereof.
- 16.2 Fines may only be imposed up to the amount equal to the costs incurred by the Association.
- 16.3 Any fines imposed by an Association Disciplinary Tribunal will be collected by the Association.
- 16.4 Suspensions for participation in the sport may be directed to a particular type and/or level of participation and may be for:
- (a) A number of games.
  - (b) A set period.
  - (c) An indefinite period.
  - (d) Life.
- 16.5 On written application, life suspensions may be reviewed by the Board after five years.
- 16.6 Doping infringements will be dealt with in accordance with the relevant policies of the New Zealand Canoeing Federation.
- 16.7 For other cases, the penalty shall be determined by Disciplinary Tribunal on a case by case basis. 16.11 The Disciplinary Tribunal may, in addition to any other penalty, recommend to the Board that any Association Awards held by the Defendant be revoked.
- 16.8 Indefinite suspensions may be imposed on persons in continued direct conflict with the Association's objectives, or Contracts between the Association and its Members, or external parties, or where the Defendant is being suspended for debts to the Association. Such suspensions shall be reviewed:
- (a) As directed by a clause in the Written Judgement.
  - (b) By the Board upon the conclusion of the conflict.
  - (c) By the Board, at least annually if the conflict remains unresolved.
- 16.9 Where a member body as requested an Association Disciplinary Tribunal be formed in respect of debts. Owed to that member body, clause 16.8 applies as if that debt was a debt to the Association.
- 16.10 All disciplinary action shall be notified to the Board.

16.11 An Association Disciplinary Tribunal shall be required to review a decision on disciplinary action upon the request of the Board.

### **17.0 Written Judgement**

17.1 The Disciplinary Tribunal chairperson shall ensure a Written Judgment is written and forwarded to the persons indicated in clause 17.3.

17.2 The Written Judgement shall include:

- (a) The names of the Complainant and the Defendant, and any representative parties.
- (b) Where and when the Case was held.
- (c) Details of the Hearing.
- (d) The decision and any penalties imposed by the Disciplinary Tribunal.

17.3 Copies of the Written Judgment shall be forwarded to:

- (a) The Executive Director.
- (b) The Defendant.
- (c) The Complainant.

### **18.0 Appeals on Disciplinary Decisions**

18.1 If Disciplinary Action is to be taken by a Disciplinary Tribunal recorded in clause 3.2, notification of the forum for appeal shall be included in the Written Judgement given by that Disciplinary Tribunal. That notification shall include the relevant contact with whom an appeal may be lodged.

18.2 Appeals against any Regional Disciplinary Tribunal, Squad Disciplinary Tribunal, or National Competition Judiciary decisions shall be heard by an Association Disciplinary Tribunal.

18.3 Appeals against any Association Disciplinary Tribunal decisions shall be lodged with the New Zealand Canoe Federation.

18.4 Appeals are to be lodged with the body which is to hear the appeal and served on the Executive Director of the Association, the Disciplinary Tribunal whose decision is being appealed, the Complainant and the Defendant (as necessary).

18.5 Disciplinary Action that is subject to any appeal under this section shall be effective during an appeal.