

## Disciplinary Management Policy

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### Policy Statement

This policy provides guidance on how best to formally manage disciplinary issues associated with people involved in Cycling Southland.

Cycling Southland will facilitate an effective and appropriate process for the resolution of complaints and ensure complaints are managed and responded to in a fair, simple, timely and efficient manner.

### Scope

The Code shall govern the conduct of all persons formally associated with Cycling Southland:

- Cycling Southland employees;
- Club members including athletes, coaches, managers and support staff;
- Anyone taking part in Cycling Southland events including commissaires, officials and support personnel;
- Volunteers;
- Parents of junior club members.

### Purpose

This policy is designed to complement and support the Code of Conduct & Integrity and ensure that:

- Anyone who wishes to make a complaint can find and easily understand the process;
- Anyone accused of misconduct is given a fair hearing – including the right to respond to the allegations;
- The dealing with complaints, including the hearing process, is easy to follow and understand;
- The penalty structure is consistent and fair;
- The appeals process is explained and easy to follow.

The goal is to ensure all complaints are investigated so the rights, confidentiality and privacy of both the complainant and identified employee/volunteer/member/public are respected throughout the investigative process, and that the process facilitates the fair, simple and speedy resolution of complaints.

This policy will also ensure all Cycling Southland employees and Executive Committee members follow the correct procedure when receiving complaints and any deficiencies of process, policy or delivery of service can be identified and appropriate change implemented.

This policy is subject to any other specific policies adopted by Cycling Southland that contain procedures and sanctions, such as the Anti-Doping Policy.

### Definitions

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‘Misconduct’ – Includes, but is not limited to:

- Conduct that is detrimental to Cycling Southland and its reputation, and/or contrary to the organisation’s Code of Conduct & Integrity
- Conduct that is detrimental to the sport of cycling.
- Offences against the law of the New Zealand.
- Disobeying the reasonable directions of an official and where such disobedience may lead to a breach of the Code of Conduct & Integrity; or impede the conduct of the sport; or compromise the safety of members or other persons.

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'Official' – (as defined by Cycling Southland By-Law 10.02), any person who for the purpose of the disciplinary matter is endorsed by the Executive as an official, including;

- Office Bearers or Executive members of Cycling Southland.
- The Chief Commissaire appointed to an event by Cycling Southland or an affiliated body.
- A Manager of a Centre/Club team.
- The Cycling Southland General Manager.
- An employee or member of Cycling Southland who has been endorsed by the Executive to hold a position of authority or responsibility over the behaviour or actions of other members.

'Disciplinary Tribunal' – A group to be appointed by the Executive, in accordance with Cycling Southland Bylaw 10.3, when an allegation of misconduct is unable to be dealt with by an official.

### **Responsibilities**

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Employees or Executive members receiving a written complaint are responsible for forwarding it to the General Manager or President of Cycling Southland within 24 hours. They must ensure a complaint is handled objectively, sensitively and without prejudice to the complainant.

The General Manager or President of Cycling Southland must deal with it any complaint in accordance with how it is detailed in the 'Process' section below, within the prescribed timeframes.

Pursuant to Rule 5 (g,h,i) of the Cycling Southland Constitution, any matter of discipline or complaint, broadly referred to as *misconduct*, may be dealt with in accordance with the following procedures:

- Allegations of *misconduct* by a member may be dealt with by either an *official* of the Centre or a *disciplinary tribunal* appointed by the executive.
- An official or disciplinary tribunal must deal with it in accordance with how it is detailed in the Process section below, within the prescribed timeframes.

## Process – By an Official

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The procedure for dealing with allegations of misconduct shall be as follows:

- An official may deal with an offence if they observe misconduct or receive a written complaint from a third person alleging misconduct.
- A formal complaint must be made in writing, outlining the date, time, alleged incident, parties involved, witnesses, and desired outcome.
- If it is received by an employee it must be passed to the General Manager/President of Cycling Southland within 24 hours.
- The General Manager/President (or delegate) must discuss the options with the complainant and decide on a course of action and a desired outcome.
- If not resolved at this stage, then the General Manager/President (or delegate) acknowledges the complainant of receipt of the written complaint within five working days.
- The General Manager/President (or delegate) may, as soon as possible, charge the member with an offence by informing the member of the offence and the facts relating to the offence, and how it is proposed to deal with it.
- If possible and appropriate, they will facilitate a discussion between the complainant and the person who is the subject of the complaint, so they can negotiate and agree an appropriate way forward for the future.
- The member shall then be permitted to answer the charge. They have five (5) working days to respond. If there is no response then a response will be drafted and sent to the complainant without the input of the person concerned.
- At the conclusion of the inquiry the official shall:
  - Dismiss the charge, or
  - Find the charges proven, and
    - Impose a penalty within the provisions included below (or Cycling Southland By-Law 9.5);
    - Advise the parties of the reasons for the finding and penalty;
    - Advise the person penalised of the right to an appeal.
- A written reply will be sent to the complainant within five (5) working days informing them of the outcome of their complaint and what remedial steps, if any, have been taken to prevent the issue arising again.
- If, as the circumstances may be, the official is unable to deal with the matter within seven (7) days of the occurrence of the offence, they may then refer the matter to the Executive to be dealt with by a disciplinary tribunal.

## **Process – By a Disciplinary Tribunal**

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Formal advice to the Executive of complaint or allegations of misconduct shall be forwarded to the General Manager of Cycling Southland in writing. The General Manager of Cycling Southland will inform the Executive without delay.

A disciplinary tribunal will be appointed when an official is unable to deal with the complaint, or the complaint has been formally brought to the attention of the executive.

As per Cycling Southland By-Law 11.2, a disciplinary tribunal shall be made up of:

- An individual with a high level of legal training and experience in arbitration; or
- A panel of two (2) or three (3) persons deemed suitable by the Executive whereby a chairperson shall be appointed with experience in legal process or dispute resolution.
- No member of the disciplinary tribunal pursuant to sub clauses 1 and 2 may have been a party to or directly interested in the matter under consideration.
- Members of the Executive may be appointed to a disciplinary tribunal, subject to sub clause 3.

The disciplinary tribunal will schedule a date and venue for a hearing within twenty-one (21) days of receipt of the allegations. An extension can be mutually agreed to by the parties. The hearing must be held in private and no party may disclose any information relating to the hearing until the panel's decision is made, and then only the decision may be made public.

If, as the circumstances may be, any party is unable to be present at a hearing, they may participate by tele-conference or other medium as determined by the disciplinary tribunal.

The parties will be advised of the charges and invited to lodge written submissions, which must be received by the Cycling Southland GM no later than two business days before the hearing.

The Cycling Southland GM will ensure all written evidence and submissions are distributed to all parties and the tribunal in a timely manner before the hearing.

No lawyers can attend the tribunal hearing, but the complainant and the member can attend with a support person. The hearing is not open to the public, but the tribunal panel is able to determine who, including witnesses, can attend and in what capacity as long as it does not prejudice either party.

The tribunal may adjourn a hearing to obtain further information or evidence, or if a charge of misconduct has been found proven, to seek further submissions before imposing a penalty.

At the conclusion of the hearing the disciplinary tribunal shall:

- Dismiss the charges, or
- Find the charges proven, and
  - Impose a penalty within the provisions included below (or Cycling Southland By-Law 9.5);
  - Advise the parties of the reasons for the finding and penalty;
  - Advise the person penalised of their right to an appeal.

An official or disciplinary tribunal must forward to the Cycling Southland GM a written report outlining their determination within seven (7) days of the conclusion of the hearing.

## Process – Penalties

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The disciplinary tribunal or an official shall have the power to impose all or any of the following penalties on any member found guilty of the complaint.

- A reprimand or warning;
- Suspension from any competition or termination of membership of a team for a specified period of time;
- Termination of membership of Cycling Southland and its affiliate for a specified period of time;
- Monetary fines of any specified amount payable within any specified period of time including reparation for any damage caused;
- Forfeiture of any competition prizes as specified;
- Any other disciplinary action in accordance with the objects of Cycling Southland.

NOTE: Schedule A of the *Cycling Southland By-Laws* provides guidelines for imposing penalties for disciplinary misconduct and a recommended range of penalties to be considered. It is reproduced on the next page of this policy.

Any suspension will take effect from the day after the date of the release of the decision.

Any failure to comply with a sanction imposed by an official or tribunal will constitute a further offence and a further sanction may be imposed without the need for a further hearing or inquiry.

Within the limits of this policy, the official or tribunal must impose sanctions that are proportionate to the misconduct and take into account:

- The circumstances surrounding the misconduct;
- The character, age and experience of the member;
- Any previous issues relating to misconduct including previous formal complaints found proven;
- The gravity of the consequences for the member's social, sporting and financial position;
- The risk to a professional career.

Details of misconduct, hearings and penalties imposed will be kept on record.

## SCHEDULE A

### Guidelines for Imposing Penalties for Disciplinary Misconduct

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Recommended range of penalties to be considered subject to By-Law 14.02:

#### Proven Act of Misconduct Recommended Range of Penalties

(One or more penalty within the range may be appropriate for each offence)

- A General misconduct by a member that brings Cycling Southland and/or the sport of cycling into disrepute
- Minor to medium level breaches of the Code of Conduct
  - Reprimand/Warning/Counseling
  - Termination of membership of Cycling Southland for a specified period of time within the range of 3 to 12 months
  - Fine: taking into account a members benefits or earnings from the sport
- B Misconduct – including failure to accept reasonable directions of management while a member of a team
- As per A above, plus
  - Termination of membership of team during current assembly
  - Withdrawal of eligibility for selection for a specified period of time up to (twelve) 12 months
- C Misconduct by accredited coaches or officials
- As per A above, plus
  - Termination of accreditation for a specified period of time
- D Serious breaches of the Code of Conduct & Integrity; including but not limited to criminal misconduct, acts of violence or abuse, sexual harassment

Where mitigating circumstances or provocation is proven:

- Termination of membership for a specified period within the range of (one) 1 to (four) 4 years

Where malice or intent is found:

- Termination of membership for a specified period within the range of (four) 4 years to life

## Process – Appeals

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Should new information likely to affect the decision by an official or a disciplinary tribunal come to light after the decision has been announced, a request for an appeal must be forwarded to the Cycling Southland GM in writing within fourteen (14) days of the decision being advised. The GM will inform the Executive without delay.

An appeal must be accompanied by payment of an appeal fee as determined by the Executive. The fee shall be refunded if the appeal is successful.

NOTE: An appeal may only be lodged by a party directly affected by a decision and where such an appeal is based on the following grounds:

- A member or affiliated entity was not provided with a fair hearing or a proper process was not followed; or
- New information or evidence can be presented that was not available at the time of the original decision being appealed against, or
- The severity or leniency of penalty imposed.

The Executive shall determine whether the appeal falls within the above grounds for appeal. If satisfied, an appeal tribunal will be appointed within seven (7) days of formal lodgement of the appeal.

As per Cycling Southland By-Law 14.3, the appeal tribunal shall be made up of:

- An individual with a high level of legal training and experience in arbitration; or
- A panel of two (2) or three (3) persons deemed suitable by the Executive whereby a chairperson shall be appointed with experience in legal process or dispute resolution.
- No member of the appeal tribunal pursuant to sub clauses 1 and 2 may have been a party to or directly interested in the decision under appeal or the original matter brought for determination.
- Members of the Executive may be appointed to an appeal tribunal, subject to sub clause 3.

The appeal tribunal will schedule a date and venue for a hearing as soon as possible and no later than twenty-one (21) days after formal lodgement of the appeal.

If, as the circumstances may be, all parties are unable to be present at an appeal hearing, they may participate by tele-conference or other medium as determined by the appeal tribunal.

The parties will be advised of the grounds for appeal and invited to lodge written submissions which must be received by the General Manager of Cycling Southland no later than two business days prior to the scheduled hearing. The General Manager of Cycling Southland shall ensure that all written submissions are distributed to all parties and the appeal tribunal in a timely manner prior to the hearing.

The appeal tribunal may then deal with the offence forthwith adhering to the principles of a fair hearing as broadly outlined in Cycling Southland Bylaws 09.03-04.

The appeal tribunal may adjourn a hearing to obtain further information or evidence.

At the conclusion of the hearing the disciplinary tribunal shall:

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- Uphold the appeal and rescind the original decision, or
- Dismiss the appeal; or
- Dismiss the appeal and review the penalty within the provisions of Bylaws 9.05;

The decision of the appeal tribunal shall be final.

The appeal tribunal must forward to the General Manager of Cycling Southland a written report outlining their determination of the matter within seven (7) days of the conclusion of the hearing.

### **Associated Documents**

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The *Cycling Southland By-Laws* create the foundations for the operations, including dealing with disciplinary issues, of the organisation. This policy is a clarified version of the By-Laws and is designed to be easier to follow.

It should be read in conjunction with the *Code of Conduct & Integrity Policy*, which outlines the expected and required behaviour of Cycling Southland staff members, club members, volunteers, and parents of junior members.

The *Employee Disciplinary Policy* outlines how any employee disciplinary issues will be resolved, in accordance with employment contracts.



**COMPLAINT/CONCERNS FORM**

<b>Notified by:</b>	<b>Date :</b>
<b>Address:</b>	
<b>Phone:</b>	
<b>Incident:</b>	
<b>Member Complaint:</b>	
<b>Other:</b>	
<b><u>Description of Issue of Complaint:</u></b>	
<b>Signed :</b>	<b>Date:</b>
<b>Action Taken:</b>	
<b>Reviewed by:</b>	

