



ATHLETICS NORTH QUEENSLAND

Dispute Resolution and Complaints Procedure

This information sheet provides a summary of some of the different processes available to sporting organisations and individuals to assist in the resolution of complaints and disputes, including:

- The person with the complaint (the complainant) discussing the issue directly with the person/people involved in the issue or incident.
- The complainant lodging a formal or informal complaint with the sporting organisation. The sport may decide to conduct a tribunal hearing and/or an investigation into the matter.
- The complainant lodging a complaint with an external agency such as the Equal Opportunity Commission (EOC) or Department of Sport and Recreation in their state or territory.
- The people involved in the complaint participating in mediation, conciliation, counselling, conferencing or arbitration.

The process most appropriate to resolve a conflict will depend upon the nature of the issue, versions of events presented by the complainant, respondent and witnesses, and resources available to the sporting organisation.

Complainant discusses issue with those involved

As a first step the complainant should try to sort out the problem (if they feel able to do so) by talking to the person(s) or organisation involved. They should explain from their point of view what occurred, how it made them feel and why it is unlawful, unfair, unjustified or a breach of the sport's Member Protection Policy. The person(s) complained about (the respondent(s)) may not have considered that their actions were inappropriate and hurtful and immediately regret their behaviour.

If the complainant wants to talk confidentially with someone about the problem and obtain information about what you can do, they can talk to a Member Protection Information Officer (MPIO). A MPIO will be able to assist by listening, providing information and clarifying the options available. If the complainant requires the services of a MPIO, they can contact their national sporting organisation or state or territory department of sport and recreation, or use the member protection information officer database.



Lodging a complaint with the sporting organisation

If the complainant decides to lodge a complaint with the sporting organisation they will need to find out the process used by the sport. Sporting organisations should formalise their complaint handling and complaint resolution processes in a member protection policy or similar. The procedures sporting organisations use to resolve complaints must also be consistent with their Constitution, rules, by-laws and policies. If the sport does not have a complaints process or a Member Protection Policy, or the complainant feels the process is not adequate or suitable for their situation, they can still lodge a complaint with the sport.

The complainant should lodge a complaint at the level (club, state or national) that the incident occurred. In their complaint (written or oral), the complainant should explain what occurred, how it made them feel and why it is unlawful, unfair, unjustified or a breach of the sport's member protection policy. It may also be appropriate for the complainant to state what outcome they would like to see occur as a result of their complaint.

Tribunal Hearing Procedure

If a formal complaint is lodged, a tribunal panel may be formed by the sporting organisation to examine the matter and decide on the most appropriate course of action. The basic principles of natural justice, as outlined below, must be followed to ensure a fair and equitable process is achieved.

1. Notification of the Complaint

- The person/organisation accused should receive a written notice clearly outlining the allegation/s in sufficient detail so as to allow the person to properly prepare and respond. The notification should outline the rule, regulation or policy they have allegedly breached, and any possible penalty that may be imposed.
- The notification should provide the option for admission of the allegation/s and acceptance of the advised penalty (if applicable) by a specified date, avoiding the need for a tribunal hearing.
- The notification should clearly outline the date, time, venue and composition of the hearing and the expectations / rights of the accused, including any entitlement to legal representation.



2. Opportunity to Respond

- The person accused should be given the opportunity to respond to the allegations and sufficient time to prepare and state their case, including obtaining statements from witnesses.

3. Decision Makers to be Unbiased

- There should not be any perceived or actual preconceived opinions, vested interests, personal involvement or conflict of interest by the tribunal members.
- The tribunal members should ensure that the first two principles are followed.

While the tribunal hearing procedures will vary from organisation to organisation, it would be expected that it incorporate these key guidelines.

- Tribunal panel consists of people that do not have any actual or perceived conflict of interest, preconceived ideas, vested interests or personal involvement relating to the complaint;
- Tribunal hearing is scheduled as soon as practical and in accordance with prescribed rules, policies and by-laws, but allowing the respondent adequate time to prepare a response to the complaint;
- The complainant and the respondent are given the opportunity to provide a statement to the tribunal;
- The complainant and the respondent may be asked questions by the tribunal;
- Witnesses may be asked to attend and provide a statement;
- Tribunal will consider all the evidence presented and make a decision or determine it's position based on the evidence;
- An announcement is made by the Tribunal Chairperson in the presence of all involved. The Chairperson will announce the decision or position of the tribunal or whether they need more time to consider or follow-up on the information they have before making a decision. Depending on the position and role of the tribunal, disciplinary measures may be outlined.
- A complainant or respondent not satisfied with the decision may be able to lodge an appeal. How and where to lodge an appeal will depend on the sport's appeal processes.



Lodging a complaint with an external organisation

The complainant may feel it appropriate to report the matter to an external organisation such as the Equal Opportunity Commission (EOC) in their state or territory or the Human Rights and Equal Opportunity Commission. EOC's can only hear formal complaints if the grounds of the complaint are covered by equal opportunity law. EOC's may also provide guidance or options to resolve complaints.

It is important to note that some inappropriate sexual behaviours constitute sexual assault or child abuse and are criminal offences. Any instance or suspicion of sexual assault or child abuse should be referred to the police, emergency services, child protection agencies or sexual assault support services.

Investigation

The purpose of an investigation is to:

- develop a detailed understanding and knowledge of the incident;
- provide a sound, factual basis for decisions by an organisation; and
- produce reliable documentation that can be used to support organisational actions.

A sporting organisation should conduct an investigation when a suspected breach of its Code of Behaviour, policy and/or procedure has occurred. Depending on the incident, the sport may also decide to conduct an investigation when a formal complaint has been received or when a concern regarding safety has occurred.

A sporting organisation may choose to conduct an investigation using a neutral member of the sporting organisation or an external agency. Investigations undertaken by qualified, independent persons can assist sports in dealing with complaints in a fair, comprehensive and credible manner.

Investigation is a process to gather information and provide advice (but not a determination) on the facts of a complaint. An investigation of a formal complaint may involve interviewing the complainant(s), witnesses and the person(s) against whom the complaint has been made. An investigation must be undertaken in an objective, fair and timely manner and test all available information so that an informed recommendation as to the substance of the complaint can be made. The investigator may also make recommendations or



identify options, in line with the organisation's policies, as to the next steps to take in resolving the complaint. An investigation may result in one of three outcomes:

- Substantiated complaint leading to appropriate action;
- Unsubstantiated complaint leading to an explanation of the finding;
- Fabricated complaint leading to possible action against the complainant(s).

Mediation

Mediation may occur either before or after an investigation into a complaint. Mediation is a confidential process where an independent/neutral dispute resolver assists the people involved in the complaint to negotiate and reach a decision about their complaint. The mediator cannot impose a decision upon the people involved and has no advisory role on the content of the complaint. However, the mediator is able to assist the people to explore the issues being discussed reach the best possible joint decisions that the circumstances allow. Mediation is particularly useful in complex matters involving people in ongoing contact and where less formal communication may be helpful. Where privacy and confidentiality are important, mediation enables people to preserve these rights without public disclosure which can lead to more satisfactory outcomes for everyone.

The major benefit of mediation, is that complaints can be resolved speedily and at considerably less cost than is likely with formal proceedings. People also have more control over the costs of the process.

Mediation can take place either internally by a neutral member of the sporting organisation, or by an external agency. This will be determined by the nature of the complaint and resources available to the sporting organisation.

Conciliation

Conciliation is a process in which the people involved in the complaint, with the assistance of a conciliator, identify the issues in the complaint, develop options, consider alternatives and endeavour to reach an agreement. The conciliator may have an advisory role on the content of the complaint or the outcome of its resolution, but not a determinative role. The conciliator may advise on or determine the process of conciliation whereby resolution is attempted, and may make suggestions for terms of settlement, give expert advice on likely settlement terms, and may actively encourage the participants to reach an agreement.



Counselling

A sporting organisation may recommend that the complainant, respondent and/or witnesses involved in the complaint undergo counselling. Counselling refers to a wide range of processes designed to assist people to solve personal and interpersonal issues and problems. Counselling has a specific meaning under the Family Law Act, where it is included as a Primary Dispute Resolution process.

Conferencing

Conferencing is a facilitated conversation used when conflict seriously affects a system or relationships within a group of people. Participants share their views on what has happened and how each person has been affected. They then draw on their personal knowledge of the situation to collaboratively develop a written agreement. In the process, participants change the nature of their relationships to each other, from conflict to cooperation. The outcome is an action plan setting out individual and group accountabilities for future behaviours.

Arbitration

Arbitration is a process where the people involved in the complaint present arguments and evidence to an arbitrator who makes a determination. The process is governed by legislation in each state and territory. The process of arbitration can be varied by the people involved to suit the complexity of the complaint; however, the principles of natural justice must be followed. A small case, for example, may be heard on the basis of documentary submissions alone, which can reduce costs significantly. Other more complex cases may benefit from a more judicial style of hearing in which formal claims and defences are lodged and evidence is put forward by each person and tested by cross-examination etc. The result of the arbitration, known as the Award, is enforceable in the same manner as a Court judgment.

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