

CSBOP DISCIPLINARY POLICY

1. Introduction

Canoe Slalom BOP (CSBOP) recognises that unfortunately, disputes, complaints and unacceptable behaviour can occur within any sport. CSBOP is committed to ensuring that transparent procedures are in place to ensure what where such issues do arise, action is fair and accrued out expeditiously and in a consistent manner.

2. Aim of this Policy

This policy has been created to provide guidance for CSBOP committee members, sub-committee members, employees, paddlers and parents/ whanau to understand the framework that exists to enable disciplinary disputes, and appeals, to be managed effectively within CSBOP. Where no specific guidelines exist to a particular situation, committee members, sub-committee members, employees, paddlers and parents/ whanau should use their best judgement and take the most prudent action possible based on principles outlined below.

3. Related Documents

The following documents must be read in conjunction with this policy:

- CSBOP Complaints Policy
- Vexatious Complaints Policy
- Safeguarding Policy
- CSBOP Coaches' Code of Ethics
- CSBOP Participant's Code of Conduct
- CSBOP Current Constitution
- ICF Canoe Slalom Competition Rules

4. Definitions

In this policy the following words shall have the meaning set out with them:

Appeal – An appeal from a decision of the Disciplinary Committee

Appeal Committee – The Committee appointed to hear an appeal from a decision of the Disciplinary Committee.

Chairperson – This refers to the Canoe Slalom BOP Chairperson.

Codes of Conduct – Any Canoe Slalom BOP Code of Conduct in force from time to time including but not limited to Participants Code of Conduct, Coaches Code of Ethics and the CSBOP Constitution

Complaint - A complaint is defined as any expression of dissatisfaction where a response or resolution is expected.

Complainant - The person or body, from whom a Complaint has been received.

Decision – The written decision of the Disciplinary Committee or Appeal Committee.

Disciplinary Committee – The Disciplinary Committee appointed to hear a complaint under these regulations.

Executive - the officers of CSBOP ie Chairperson, Secretary and Treasurer.

Interested Parties – Any person, member or body that in the opinion of the Disciplinary Committee, will or is likely to be, affected by the outcome of any complaint under these regulations.

Notice of Complaint – The notice of complaint received by the Chairperson by the complainant in whatever form the chairperson reasonably considers constitutes a complaint.

Participants – paddlers, officials and volunteers at CSBOP events and within its administration.

Respondent – The person who is subject of the complaint under these regulations.

Young Person - A Young Person is recognised as someone under the age of 18 years.

Vulnerable Adult - A vulnerable adult is someone who because of their age, sickness or mental impairment, or because they are in detention, is completely unable to remove themselves from the care or charge of another person. They may still have the mental capacity to make or communicate decisions.

5. Interpretation

- 1) Any reference to “working days” in this policy refers to a normal working day in New Zealand, i.e. Monday to Friday, excluding public holidays.
- 2) If any part of this policy is held invalid, unenforceable or illegal for any reason, they shall remain in force apart from that part, which shall be treated as if it has been deleted to the extent to which it is invalid, unenforceable or illegal.

6. Jurisdiction and Disciplinary Matters

- 1) This policy is binding on all Participants and relate to all CSBOP’s rules, policies, codes and procedures. Subsequent resignation from membership or cessation from being a Participant shall not prevent CSBOP taking disciplinary action in accordance with this policy in relation to a Complaint that took place, or partially took place, whilst the Respondent was a Participant.
- 2) The jurisdiction of this policy shall include without limitation the following:
 - a) Complaints regarding the behaviour or conduct of a Member (or a former Member) of CSBOP.
 - b) Complaints regarding alleged breaches of CSBOP policies, regulations, codes of conduct, and practices.
 - c) Any matter in which a Participant engages in any conduct which is incorrect, inappropriate, unlawful, unsporting or behaves in a manner which is unacceptable or opposed to the general interests of CSBOP or Canoe Slalom more generally or which brings the sport into disrepute including without limitation where a Participant;
 - i) engages in misconduct, cheating and / or an act of dishonesty;
- 3) Any person suspended or banned by the ICF and/or one of the other Canoe Slalom Clubs within the New Zealand may be suspended or banned concurrently by CSBOP. CSBOP shall not be required to grant the person the opportunity to offer an explanation at a further disciplinary hearing in accordance with this policy.

- 4) A Complaint can be notified to the Chairperson by any person or body which shall include, without limitation, a Member (or a former Member), Club, Official or Volunteer or member of the public
- 5) For the avoidance of doubt, these Regulations would not ordinarily deal with “on the water” “canoeing specific” disputes which arise at tournaments/competitions or events. Any complaints arising out of such events/tournaments should be directed in the first instance to the relevant race officials /organising body. If following a full investigation such officials or organising body consider the matter is serious and if it is deemed appropriate they may refer it as a Complaint to the Chairperson of CSBOP

7. Complaint and Role of the Chairperson

- 1) All Complaints shall be forwarded for the attention of the CSBOP Chairperson. A Complaint as outlined in the CSBOP complaints policy shall be made in writing if practicable and it shall set out details of the Complaint. The Chairperson shall acknowledge receipt of the Complaint in writing within a period of time as outlined in the CSBOP complaints policy.
- 2) The Chairperson having consulted with the CSBOP Executive may decide, acting reasonably in the exercise of this power, that too long has elapsed since the event giving rise to the complaint and therefore no action will be taken.
- 3) Subject to Regulation 7.2 above, on receipt of a complaint the Chairperson having consulted with the CSBOP Executive will determine the best course of action and:
 - a) Commence an initial investigation into the matter to source information and evidence as soon as practicable;
 - b) Forward a copy of the Notice of Complaint to the Respondent and invite a written response from the Respondent within a specified period;
 - c) Undertake any further investigation they see fit in order to ascertain the best course of action to resolve the Complaint. Such an investigation may include but is not limited to:
 - i) Appointing an independent investigator to gather further information and if necessary interview a person or persons involved in the matter;
 - ii) A requirement on the Respondent to submit information to inform the investigation;
 - iii) making enquiries with any potentially relevant statutory agencies
 - d) Refer the Complaint to any other relevant body which has a legitimate interest in the subject of the Complaint for action; and/or
 - e) Commence disciplinary action.
- 4) Upon completion of any applicable steps set out in Regulation 7.3 the Chairperson having consulted with the CSBOP Executive may take any of the following steps:
 - a) Decide that no further action is required and notify the Respondent, where they have been notified, and Complainant in writing;
 - b) Reject the Complaint because it does not fall within the jurisdiction of CSBOP, and if appropriate refer it to another relevant body;
 - c) Dismiss the Complaint on the grounds that there is not enough evidence to warrant further action being taken and notify the Respondent and Complainant in writing;
 - d) Dismiss the Complaint on the grounds that it is vexatious or malicious, according to the criteria set down in the Vexatious Complaints Policy and notify the Respondent, where they have been notified, and Complainant in writing; \
 - e) Refer the Complaint to another body deemed more appropriate in practice or in law to handle it, including, but not limited to, independent arbitration, social services or other agencies or the Police for criminal matters;
 - f) On the agreement of the Complainant and the Respondent, deal with the Complaint by arranging mediation in accordance with Regulation 8 of this Policy.

- g) Deal with the Complaint informally by way of advice or information because it is not serious enough to warrant full disciplinary proceedings; and
 - h) Refer the Complaint to a Disciplinary Committee, to be constituted in accordance with Regulation 12 whereupon the case against the Respondent may be presented by the Complainant.
- 5) As soon as is practicable, the Chairperson shall inform the Complainant and the Respondent, , and any Interested Party or Parties of the course of action taken.
- 6) In the event that a Complaint is withdrawn by a Complainant, CSBOP retains the right, at its absolute discretion, to take any action deemed appropriate against the Respondent under this policy.

8. Mediation

- 1) In accordance with Regulation 7.4.F, where the Chairperson decides the complaint or dispute may be resolved by mediation without the need for recourse to formal disciplinary proceedings, the matter shall be referred to a qualified mediator or independent mediation service to be dealt with in accordance with such mediation procedure as they see fit or the mediation procedure of that organisation (as appropriate).
- 2) Should mediation fail to settle the matter, the Chairperson reserves the right to reconsider the matter and elect to proceed with one of the alternative actions outlined in Regulation 7.4.

9. Disciplinary Matters involving Young Persons or Vulnerable Adults

- 1) Where a disciplinary matter involves a Young Person or Vulnerable Adult, but does not otherwise fall within the scope of the CSBOP Safeguarding Policy the Chairperson/ CSBOP Executive and the Disciplinary Committee and/or Appeal Committee must be mindful of the needs of the person in question and take these into account when deciding upon the format of proceedings or indeed whether any action is taken against such a person.
- 2) Any interviews of a Young Person or Vulnerable Adult shall only be conducted by suitably trained and experienced persons and the Young Person or Vulnerable Adult shall be afforded the opportunity to be accompanied by any parent or legal guardian.
- 3) Written permission should be obtained from any parent or legal guardian of a Young Person or Vulnerable Adult where such person is asked to provide evidence and / or attend a hearing. Where a Young Person or Vulnerable Adult is asked to attend a hearing, they shall be afforded the opportunity to do so accompanied by any parent or legal guardian and the Disciplinary Committee and / or Appeal Committee shall make sure that the Young Person or Vulnerable Adult fully understands the process taking place. In exceptional circumstances, where written permission is not obtained from a parent or legal guardian, assessment should be made of the ability of the Young Person or Vulnerable Adult to understand and make their own decisions.
- 4) In all proceedings involving a Young Person or Vulnerable Adult the Chairperson, the Chair of the Disciplinary Committee or the Appeal Committee may vary the standard directions set out in this policy in order to take into account the needs of such Young Person or Vulnerable Adult. This may include without limitation conducting any hearing on paper or providing for evidence to be given by video link.
- 5) For the avoidance of doubt, the refusal of the parent, legal guardian, Young Person or Vulnerable Adult to co-operate shall not preclude CSBOP from taking disciplinary action against the Young Person or Vulnerable Adult in accordance with this policy.

10. Suspension before determination of the complaint

- 1) In the event that the Complaint is deemed to be sufficiently serious, the Chairperson shall consult with the CSBOP Executive and following this consultation, may seek at any time following the receipt of the Notice of Complaint to impose an interim suspension upon the Respondent.
- 2) An interim suspension shall be deemed a neutral act without prejudice and aims to protect all parties from further potential risk and allegations.
- 3) Further to Regulation 10.2 an interim suspension shall not be deemed to be a disciplinary sanction until such time as the matter is determined by the Disciplinary Committee, when it may be taken into account in respect of the imposition of any further sanctions.
- 4) Interim suspension orders will be made where it is considered by the Chairperson that such action is appropriate which shall include without limitation the following reasons:
 - a) For the protection of the Respondent or other Participants;
 - b) In cases involving allegations of gross misconduct;
 - c) Where there is a risk to the reputation of CSBOP if it fails to suspend; and
 - d) Where a failure to suspend may impede internal investigations or prejudice investigation by external organisations.
- 5) Suspensions may be imposed for a defined or indefinite period. The nature of the suspension will be communicated to the Respondent in writing. All suspensions will be reviewed on a periodic basis by the Chairperson and CSBOP Executive.
- 6) The Chairperson may communicate the fact of the interim suspension to any relevant third parties strictly on a need to know basis.
- 7) An interim suspension imposed on a Respondent will apply such conditions that are deemed appropriate, including but not limited to, stating a person will not paddle, coach, spectate or participate in any CSBOP activities.
- 8) Any suspension under this Part will automatically cease if any of the following occurs (whichever is soonest):
 - a) The matter has been determined by the Disciplinary Committee under this policy; or
 - b) The Complaint is withdrawn and no further action is taken; or
 - c) The matter is resolved by way of mediation or alternate dispute resolution.

11. Disciplinary Hearing

- 1) Where the Chairperson determines that a Complaint shall be dealt with by way of a disciplinary hearing, the Respondent shall be informed of the disciplinary charge against him/her with specific reference to the rules, regulations or codes alleged to have been breached and shall be required to state the charge and produce an overview of the evidence in support.
- 2) The Respondent has 15 working days from receipt of this notice to submit a written reply either:
 - a) Accepting the charge acknowledging that Regulation 15.4 shall govern proceedings; or
 - b) Denying the charge in which case the matter will be dealt with by a full disciplinary hearing.
- 3) If the Respondent accepts the charge, the Chairperson shall appoint a Disciplinary Committee in accordance with Regulation 12. The Disciplinary Committee shall then consider the case in accordance with Regulation 15.4. The Respondent is permitted to make written representations in relation to mitigation within 7 working days from accepting the charge.
- 4) If the Respondent does not accept the charge the Chairperson shall appoint a Disciplinary Committee in accordance with Regulation 11. This appointment should be made within 15 working days from the response from the Respondent made in accordance with Regulation 11.2.
- 5) The Disciplinary Committee shall have jurisdiction to conduct disciplinary hearings and impose sanctions upon those persons / bodies subject to this policy.

12. Composition of Disciplinary Committee

- 1) A Disciplinary Committee will ordinarily consist of three members but may, at the discretion of the Chairperson consist of any odd number of members. The Disciplinary Committee shall be formed by the Chairperson and may include someone who is legally qualified. The Chairperson shall appoint those individuals who it is deemed are the most appropriate/qualified to hear the specific Complaint.
- 2) Upon formation of the Disciplinary Committee, the Chairperson shall inform the Respondent of its composition.
- 3) The Respondent may object to the composition of the Disciplinary Committee by notifying the Chairperson in writing of the objections and setting out the reasons for such objections no later than 5 working days from the date of being informed of the composition of the Disciplinary Committee.
- 4) The Chairperson shall consider the objections and determine whether they are valid in their opinion, or that there are no grounds for objection, in which case they shall reject the objection.
- 5) The Chairperson shall notify the Respondent in writing within 5 working days from the date of receipt of any objection to the composition of the Disciplinary Committee that either:
 - a) The composition of the Disciplinary Committee has changed (in which case the Chairperson shall provide details of the new Disciplinary Committee); or
 - b) The composition of the Disciplinary Committee has not changed (in which case the Chairperson will give reasons why the Respondent's objection has not been sustained).
- 6) The decision by the Chairperson on the composition of the Disciplinary Committee under this provision shall be final.

13. Pre-Hearing Procedure

- 1) Where the Respondent disputes the charge then the Chairperson shall, within 10 working days of the appointment of the Disciplinary Committee, inform all parties of the hearing date, place and time.
- 2) Except where otherwise set out in this policy, the Chairperson shall have final adjudication of matters relating to the timetable following the appointment of the Disciplinary Committee in accordance with Regulation 11.4.
- 3) All parties must notify the Chairperson of any evidence, including all documents, witness statements and witnesses to be called to give evidence (if any), relating to the Complaint that they wish the Disciplinary Committee to consider in relation to the matter.
- 4) The Chairperson shall determine a timetable for any steps to be taken prior to hearing and for the production and exchange of any evidence and what evidence shall be permitted at the hearing. No witness shall give evidence in person unless the chairperson reasonably believes it is necessary for the witness to do so in the interests of fairness and justice.
- 5) The Chairperson shall have the power to make such further directions relating to the provision of evidence or the conduct of the hearing as, in their sole discretion, are deemed necessary. These may include, but shall not be limited to:
 - a) pre-hearing meetings of the Disciplinary Committee to agree procedural issues;
 - b) production, inspection and/or exchange of documents, witness statements and other evidence;
 - c) exchange of skeleton arguments;
 - d) any direction concerning the determination of any issue on paper in advance of the hearing or the extent to which evidence shall be agreed;
 - e) whether it is necessary to protect the identity of the complainant(s) or any witnesses
 - f) if it is deemed appropriate, rule that the hearing will take place entirely on paper.

- g) If no evidence and/or documentation is received by either party within any time limit imposed, the Disciplinary Committee may consider the Complaint in the absence of such evidence, and upon on the basis of the facts and statements in its possession.
- h) Each party shall inform the Chairperson no less than 5 days before the hearing if they will be legally represented or accompanied by another third party; and
- i) It shall be the duty of the parties at their own cost to notify and arrange the attendance of any legal representation and/or any witnesses they may wish to call.
- j) Time limits referred to in this policy can be extended at the discretion of the chairperson only

14. Service of Document

- 1) Each party must send all communications to the Chairperson who shall distribute copies as appropriate to the Disciplinary Committee and any Interested Parties.
- 2) Any notification, correspondence or any other document submitted under this policy may be delivered in person, by post or registered post or by facsimile or email transmission.
- 3) Any document served under this policy will be deemed to be received (the "Date of Receipt") by the relevant party:
 - a) In person: on that day, if it is delivered on a working day before 17:00 hours, failing which it will be deemed to be served on the next following working day after it is delivered;
 - b) to the premises' letter box or attached to the door: 2 working days after the date of delivery;
 - c) by post or by registered post: on the 4th working day after the date of posting; or
 - d) by email transmission: on that day, if it is transmitted on a working day before 17:00 hours, failing which it will be deemed to be served on the next following working day after it is transmitted.
- 4) Any time periods stipulated in this policy are deemed to commence from the Date of Receipt.
- 5) All correspondence addressed to the CSBOP Chairperson: shall be sent to: Private and Confidential; For the attention of the CSBOP Chairperson, PO Box 16292, Tauranga, 3147, New Zealand.

15. The Conduct of Hearings

- 1) The conduct of disciplinary proceedings will be in accordance with the principles of natural justice as determined by and consistent with the laws of New Zealand.
- 2) Proceedings, findings or decisions of a Disciplinary Committee shall not be invalidated by reason of any minor defect, irregularity, omission or technicality unless such defect, irregularity, omission or technicality amounts to a material irregularity and forms a ground of appeal.
- 3) The standard of proof in all disciplinary cases (including appeals) is the balance of probabilities.
- 4) Where a Complaint is referred to the Disciplinary Committee and the Respondent admits the offence in accordance with Regulation 11.2.a, the matter may be dealt with summarily (i.e. without a hearing) by the Disciplinary Committee who may impose any sanction which a Disciplinary Committee could have imposed had the alleged breach been referred to it and a breach been established to its satisfaction. The conditions for the imposition of such a sanction shall be that:
 - a) the Respondent must consent to the matter being dealt with summarily under this Regulation;
 - b) the Disciplinary Committee shall give due consideration to any arguments provided in mitigation by the Respondent in accordance with Regulation 11.3; and

- c) there is no appeal against a decision imposed under this provision notwithstanding that a person subject to a summary decision may appeal against the sanction imposed if the Respondent considers it to be disproportionate to the facts of the Complaint.
- 5) A Disciplinary Committee may be conducted by teleconference or videoconference where appropriate and individual Committee members may join a physical hearing remotely via teleconference or videoconference and be regarded as present.
- 6) Any Disciplinary Committee or Appeal Committee will not be obliged to follow strict rules of evidence. They may admit such evidence as they think fit and accord such evidence such weight as they think appropriate in all the circumstances. Where the subject matter of a complaint or matter before the Disciplinary Committee or Appeal Committee has been the subject of previous civil or criminal proceedings, or has been heard previously by any other competent body, the result of such proceedings and the facts and matters upon which such result is based will be presumed to be correct and the facts presumed to be true unless it is shown by clear and convincing evidence that this is not the case.
- 7) The Disciplinary Committee shall decide any issue by majority but shall not be required to indicate whether a decision has been taken unanimously or not. No member of the Disciplinary Committee may abstain from voting.
- 8) If the Chairperson feels it is necessary, bearing in mind all the circumstances surrounding the case, the Disciplinary Committee may, at its discretion, request an Independent Person to act as adviser to the Disciplinary Committee.
- 9) The procedure for the hearing shall be flexible and shall be at the discretion of the Chairperson, who may make such directions as are necessary to ensure the orderly and effective conduct of the hearing, subject to the overriding requirement of fairness. The Chair of the Disciplinary Committee will then outline the basic procedure of the Hearing.
- 10) Subject to the potential variations outlined in Regulations 15.11 – 15.19 the basic procedure of the Hearing will be as follows:
 - a) The case against the Respondent will be presented by the complainant, together with relevant evidence, including witness evidence, if appropriate. In such cases where it is deemed appropriate to do so, CSBOP may appoint a third party to present the case against the Respondent;
 - b) the Respondent or their representative will be asked to admit or deny the disciplinary charge and will then have the opportunity to speak, challenge the evidence presented against them, submit their own evidence, call witnesses and make representations to the Disciplinary Committee. The evidence of further witnesses not notified in accordance with this policy will be admitted only at the absolute discretion of the Chairperson.
 - c) before being called, witnesses will not be allowed in the room while evidence is being given;
 - d) questions may be put by the Disciplinary Committee to the Respondent, the person or body presenting the case against the Respondent in accordance with Regulation 15.10.1 and each witness on conclusion of their evidence;
 - e) the Respondent and the person or body presenting the case against the Respondent in accordance with Regulation 15.10.a may be able to raise questions in cross-examination;
 - f) the Respondent and the person or body presenting the case against the Respondent in accordance with Regulation 15.10.a will be allowed to make a closing statement to the Committee;
 - g) those representing a Respondent at a Hearing may present and sum up their case, but they are not permitted to answer questions put to the Respondent.
 - h) the room will be cleared and the Committee will deliberate and determine whether, on the balance of probabilities, the disciplinary charge has been proved, unless the Chairperson deems it fit to defer the Disciplinary Committee's decision in accordance with Regulation 16.1.b;

- i) if the Disciplinary Committee decides the disciplinary charge has been proved, the Committee will review the Respondent's previous disciplinary record, where relevant, to consider sanctions and costs;
 - j) following consideration of the factors in Regulation 15.10.i, the Committee shall determine the appropriate sanction in accordance with this policy;
 - k) if the Respondent is still present at the hearing, then at the discretion of Chairperson the outcome of the Hearing may be communicated to them in accordance with Regulation 15.1.1;
 - l) if the Respondent is no longer present at the hearing, then the Decision will be communicated to them in accordance with Regulation 16.3.
- 11) The Chairperson has the authority to adjourn the Hearing to allow additional evidence to be presented only if they consider it important and relevant in reaching a decision.
 - 12) The Chairperson may determine that persons other than the parties shall be permitted to attend the hearing where this is in the interests of justice.
 - 13) The Chairperson may determine that attendance by the Complainant, Respondent and any witnesses involved may be via conference call, video link or any other suitable method. The Chairperson may also determine that any written evidence may be admitted where giving evidence and being cross examined in person is not reasonably possible or desirable but the Disciplinary Committee should take the relative weight of such evidence into account when making its determinations.
 - 14) If the Respondent does not attend the arranged Hearing, then provided that the Disciplinary Committee is satisfied that notice of the hearing was served properly, it may proceed to hear the evidence in the absence of the Respondent.
 - 15) In the light of the evidence presented to it, the Disciplinary Committee may find a Respondent guilty of a different disciplinary charge than originally set out. This charge may be either more or less serious than the original charge.
 - 16) If the alleged disciplinary charge has not been proved, the Chairperson shall confirm this and the Disciplinary Committee shall dismiss the Complaint.
 - 17) The Chairperson has the discretion to adjourn the Hearing if at any time they think the interests of justice require it (for example to secure the attendance of a key witness or other important evidence).
 - 18) The Disciplinary Committee may limit cross-examination particularly where the witness is a Young Person or is otherwise deemed to be in some way vulnerable.
 - 19) In circumstances where a person other than the parties is present and it appears to Chairperson that any person giving evidence may expose themselves to unnecessary risk they may require a non-party to withdraw whilst that evidence is given.
 - 20) The Chairperson may audio record Disciplinary Committee proceedings.
 - 21) The Disciplinary Committee shall not be bound by the rules of a Court of Law (or any legislative provision) governing procedures. All hearings shall be conducted in a fair and orderly manner, with each party having a reasonable opportunity to give and call evidence, address the Disciplinary Committee and present their case.
 - 22) Except in the case of appeals, a failure to observe the time limits specified in this policy shall not nullify any proceedings, but such failure may be a cause for a hearing to be adjourned.

16. The Disciplinary Committee's Decision

- 1) The Chairperson may:-
 - a) Announce the decision of the Disciplinary Committee on the date of the hearing and any sanction to be imposed in accordance with Regulation 17; or
 - b) Defer the Disciplinary Committee's decision to a later date.

- 2) Any deviation from these regulations by a Disciplinary Committee shall not invalidate any finding, procedure or decision unless that deviation raises material doubt as to the reliability of the finding, procedure or decision.
- 3) The Disciplinary Committee shall provide the written reasons for the Decision to the Respondent within 20 working days of the hearing or otherwise inform them when the Decision will be made available.
- 4) The written reasons of the Decision shall ordinarily include:
 - a) The identity and composition of the Disciplinary Committee;
 - b) The names of the parties;
 - c) A brief summary of the facts;
 - d) The Rule/Regulation on which the Decision is based;
 - e) The grounds of the Decision;
 - f) The sanction (if any) to be imposed on the Respondent in accordance with this policy;
 - g) Any order for costs; and
 - h) The appropriate appeals procedure in accordance with this policy.
- 5) At the discretion of the Chairperson, the Disciplinary Committee may also provide the written reasons for the Decision, or an abridged version thereof, to the Complainant.
- 6) Where the Disciplinary Committee has found in favour of the Respondent and against the Complainant, the full written reasons as detailed in Regulation 16.4 should be provided to the Complainant.

17. Available Sanctions

- 1) The Disciplinary Committee may reject the Complaint or where the Complaint is upheld, impose such sanctions upon the Respondent as it thinks fit including without limitation:
 - a) A warning or reprimand in respect of the misconduct or rule breach committed;
 - b) Suspension from CSBOP activities including races, trainings or other events as a Competitor, Official, Spectator or Volunteer for a specified or indefinite period;
 - c) Exclusion from CSBOP activities including CSBOP races, trainings or other events as a Competitor, Official, Spectator or Volunteer;
 - d) A fine
 - e) A requirement to undertake training or be subject to a period of monitoring / mentoring; and
 - f) A combination of any of the above or any other disciplinary action as considered appropriate.
- 2) The decision taken by the Disciplinary Committee in relation to the sanction to be imposed must be reasonable and proportionate in all circumstances.
- 3) The Disciplinary Committee may order that any part of a sanction be suspended for a specified period (not exceeding twelve months). If the person benefiting from a suspended sanction commits another breach of the Rules and regulations of CSBOP or is the subject of a further Complaint during the period of such suspended sanction which is subsequently upheld, then the suspension of the sanction is automatically revoked and that sanction is added to the sanction pronounced for the new breach.
- 4) Any suspension imposed by a Disciplinary Committee may be backdated to take into account any period of suspension already served under any interim suspension that may have been imposed in accordance with Regulation 10.
- 5) All fines and financial sanctions should be paid within 28 days from the notice of the fine or financial sanction being applied or this failure to pay will be classed as a disciplinary matter and action will be taken by CSBOP.

- 6) Further to Regulation 17.5, if the respondent provides evidence of a genuine inability to pay any fine or financial sanction, an alternative sanction may be imposed instead at the absolute discretion of the Disciplinary Committee.

18. Publication of Decisions.

- 1) CSBOP reserves the right to publish details of any disciplinary action taken, including publication of any decision made by the Disciplinary Committee where a Complaint is upheld. Any such publication will only be made following the expiry of the period in which an appeal may be brought by the Respondent.
- 2) The Disciplinary Committee in giving a Decision may provide that part of the Decision will be redacted or that details of or the Decision itself may not be published.
- 3) CSBOP may at any time during the disciplinary or dispute resolution process notify any other relevant person(s) or body of any details relating to the Complaint or Dispute in so far as such person(s) or body may need to know for the proper exercise of its functions. This may include, but is not limited to other Members.
- 4) Where it appears that public knowledge of a Complaint exists, prior to its determination, CSBOP reserves the right to confirm the details of such complaint subject to the consent of the Complainant and the Respondent.

19. Costs

- 1) The Disciplinary Committee may, at its discretion, make an order for the costs relating to the disciplinary action to be paid in such proportion as they may decide by any of the parties. The Disciplinary Committee will not ordinarily make an order for costs without first considering submissions from the relevant parties on the question of costs.
- 2) These costs may include travel and accommodation expenses reasonably incurred by the Disciplinary Committee and the Chairperson in the preparation and holding of the Disciplinary Hearing and any legal costs incurred by the Disciplinary Committee. In calculating the amount, any legal representation or professional charges incurred by the Complainant or the Respondent will not be included.
- 3) Such orders for payments of costs shall not form any part of or influence any fines or other sanctions.

20. Appeal of the disciplinary Committee's decision

- 1) Under these Regulations Appeals can only be only brought against the following:
 - a) Decisions of a Disciplinary Committee;
- 2) Appeals can only be brought against a Decision on one or more of the following grounds:
 - a) the Decision was based on error of fact or could not have been reasonably reached by a Decision Making Body when faced with the evidence before it;
 - b) the Decision Making Body has shown bias or the appearance of bias;
 - c) serious procedural or other irregularity in the proceedings before the Decision Making Body;
 - d) significant and relevant new evidence has become available which was not available before the conclusion of the Hearing but, had it been available, may have caused the Decision Making Body to reach a materially difference decision; and/or
 - e) the sanction imposed was manifestly unreasonable in the light of the facts before the Decision Making Body.
- 3) In accordance with Regulation 15.4.C a Respondent whose case was dealt with summarily may only appeal on the grounds set out in Regulation 20.2.e.

- 4) The party seeking leave to appeal (the 'Appellant') shall serve a Notice of Appeal in writing upon the Chairperson within 10 working days following receipt of the written grounds of the Decision against which the appeal is being made.
- 5) The Notice of Appeal shall:
 - a) state the date and decision of the Decision Making Body against which the appeal is lodged;
 - b) state the grounds of appeal relied upon in accordance with Regulation 20.2;
 - c) set out the statement of facts upon which the appeal is based, specifying whether the appeal is against finding and sanction or just sanction alone and include any supporting documentation upon which the Appellant will rely; and
 - d) be accompanied by a cheque for \$50 made payable to CSBOP This Deposit shall be held by CSBOP and re-paid to the Appellant in the event that the Appeal Committee so decides.
 - e) Upon receipt of the Notice of Appeal, the Chairperson in conjunction with the CSBOP Executive will consider the matter and decide if the Notice of Appeal shows that one or more of the grounds for appeal as established in Regulation 20.2 have been sufficiently met for the appeal to be determined under this policy. If the Chairperson and CSBOP Executive are satisfied that there are grounds to do so the matter shall be referred to the Appeal Committee.
 - f) A decision as to whether to grant leave to appeal shall be taken within 10 working days from receipt of the Notice of Appeal. Such decision will be notified to the Appellant and any Interested Parties.
 - g) In the case of appeals the time limits specified in this policy must be complied with.

21. Composition and powers of the appeal Committee

- 1) An Appeal Committee will normally consist of three members but at the discretion of the Chairperson can comprise of a single individual. The CSBOP Secretary or Executive shall act as the secretary or administrator for the Appeal Committee and shall not be a member of the Appeal Committee. The Chairperson shall appoint the Appeal Committee within 10 working days from notification of the decision to grant leave to appeal in accordance with Regulation 20.6.
- 2) No member of the Appeal Committee (including the Chair of the Appeal Committee) shall have been a member of the original Disciplinary Committee or Decision Making Body which considered the case or had any other previous involvement in the case.
- 3) CSBOP may appoint a legal representative to assist with any Appeal Committee. They shall be permitted to be involved in all stages of the process but shall not be considered to be a member of the Appeal Committee.
- 4) The Chair of the Appeal Committee is empowered to decide:
 - a) The time and place of any hearing;
 - b) That the appeal hearing shall be paper based or that the hearing be carried out by teleconference subject to the consent of all parties;
 - c) The nature of the evidence (if any) that it requires to be adduced;
 - d) Who (if anybody) should be invited to appear at any hearing; and
 - e) How and when any decision it takes should be acted upon.

22. Pre-Appeal procedures

- 1) Where the Appeal Committee has been convened, the Chairperson shall send a copy of the Notice of Appeal along with confirmation of the composition of the Appeal Committee to the Appellant, the Complainant and any other Interested Party;
- 2) The Chair of the Appeal Committee shall then decide the appropriate course of action for the appeal in accordance with Regulation 21.4. Upon making its decision, which shall be no longer

than 10 working days after the Appeal Committee has been convened, the Chairperson will send notice to all the parties including:

- a) the decision of the Chair of the Appeal Committee as to the appropriate course of action for the appeal in accordance with Regulation 21.5;
 - b) notification to all parties of the date, time and place of the hearing ensuring that that all parties are given at least 10 working days' notice of the hearing
 - c) asking the Appellant whether they will be represented or accompanied by an advocate or other third party, whether they wish to call witnesses to give evidence, and who they intend to have present at the hearing;
 - d) inviting Interested Parties to attend the hearing and make any submissions deemed necessary; and supply copies of any evidence and / or information previously provided to the Head of Governance and Compliance in relation to the case, including the initial Complaint, the Decision Making Body's Decision, and any further evidence and / or information deemed necessary.
- 3) The Chair of the Appeal Committee shall have power to make such further directions relating to the provision of information/evidence or the conduct of the hearing as, in his or her sole discretion, are deemed necessary.
 - 4) The Appellant may object to the composition of the Appeal Committee by notifying the Chairperson of the objections and setting out the reasons for such objections no later than 5 working days from the date of being informed of the composition of the Appeal Committee.
 - 5) The Chairperson shall immediately consider the objections and determine whether they are valid or in their opinion, the grounds for objection are frivolous, unfounded or ill informed, in which case the Chairperson shall reject the objection.
 - 6) If the objection is made against the Chairperson then another member of the CSBOP Executive must assess the objection.
 - 7) The Chairperson shall notify the Appellant in writing within 5 working days from the date of receipt of any objections that either:
 - a) The composition of the Appeal Committee has changed (in which case the Chairperson shall provide details of the new Appeal Committee); or
 - b) The composition of the Appeal Committee has not changed (in which case the Chairperson will give reasons why the Appellant's reasons for objecting have been rejected).
 - 8) The decision by the Chairperson or other member of the CSBOP Executive under this provision shall be final.
 - 9) The Appeal Committee shall have the power to hear evidence from any third party not directly involved in the appeal if the Appeal Committee is of the view that such third party may be materially or adversely affected by any decision it may make.
 - 10) Where the Appellant wishes to rely upon any new evidence it must notify the Chair of the Appeal Committee at least 72 hours ahead of the hearing. The Chair of the Appeal Committee will then give any other party to the hearing as much notice of the new evidence as is reasonably possible. The Chair of the Appeal Committee shall determine the weight to be given to such evidence.

23. The conduct of Committee hearings

- 1) Any appeal of a Disciplinary Committee Decision shall be by way of review only and not a re-hearing unless significant and relevant new evidence has become available in accordance with Regulation 20.2.d.
- 2) The conduct of Appeal Committee proceedings will be in accordance with the principles of natural justice as determined by and consistent with the laws of New Zealand
- 3) The standard of proof in all cases before the Appeal Committee is the balance of probabilities.

- 4) Proceedings, findings or decisions of an Appeal Committee shall not be invalidated by reason of any minor defect, irregularity, omission or technicality unless such defect, irregularity, omission or technicality amounts to a material irregularity and forms a ground of appeal.
- 5) The CSBOP Executive shall keep a record Appeal Committee proceedings (either in writing or by audio or visual recording).
- 6) If the Appellant does not attend the Appeal Hearing, provided that the Appeal Committee is satisfied that notice of the hearing was served properly, it may proceed to hear the evidence in the absence of the Appellant.
- 7) Appeal Committees will not be obliged to follow strict rules of evidence. It may admit such evidence as it deems fit and accord such evidence such weight as they think appropriate in all the circumstances. Where the subject matter of a complaint or matter before the Appeal Committee has been the subject of previous civil or criminal proceedings, or has been heard previously by any other competent body, the result of such proceedings and the facts and matters upon which such result is based will be presumed to be correct and the facts presumed to be true unless it is shown by clear and convincing evidence that this is not the case.
- 8) In the case of appeals, a failure to observe the time limits specified in this policy may nullify any proceedings where this is considered reasonable in all the circumstances by the Chairperson.
- 9) At the hearing the Appeal Committee shall consider all the evidence made available to it by all parties to the appeal, including the written and/or oral testimony of any witnesses supporting that evidence. It may question any relevant party including any witnesses present in relation to the matter. Each party to the appeal may be entitled to question the other's witnesses. The Appeal Committee may call upon a party to the appeal to supply additional evidence and may adjourn the hearing for that or any other purpose.
- 10) The Appeal Committee shall decide any issue by majority and no member of the Appeal Committee may abstain from voting.

24. Powers of an appeal Committee

- 1) An Appeal Committee has the power to:
 - a) dismiss the Appeal;
 - b) overturn any finding and any sanction imposed by the original Decision Making Body;
 - c) substitute an alternative finding;
 - d) reduce or increase the original sanction; and/or
 - e) make such further order as it considers appropriate.
- 2) For the avoidance of doubt, sanctions may be increased as well as decreased on appeal.
- 3) Any sanction imposed, confirmed or varied by the Appeal Committee shall normally commence on the day following the date of the appeal or with immediate effect.
- 4) The Chair of the Appeal Committee may:
 - a) announce the decision of the Appeal Committee on the date of the hearing;

or

 - b) defer the Appeal Committee's decision to a later date.
- 5) In any event, the Chair of the Appeal Committee shall, within 10 working days of the Appeal hearing, deliver a written decision to the Chairperson who will distribute the written decision to the Appellant and all Interested Parties.
- 6) The decision of an Appeal Committee shall be final and binding upon the parties, and there shall be no further right of appeal from it.
- 7) The decision of the Appeal Committee and sanction imposed, if any, may be made public after it has been notified to all the parties. All parties to an appeal hearing are deemed to have consented to such publication.

25. Costs of an appeal Committee

- 1) The Appeal Committee shall have discretion in this regard, however an unsuccessful Appellant may be required to pay the costs of the appeal which may include:
 - a) The administration costs of the Appeal Committee less the Deposit paid with the Notice of Appeal;
 - b) The travelling expenses of any witnesses; and/or
 - c) The legal costs incurred by the Appeal Committee; and/or
 - d) The legal costs of the successful party.

26. Disclosure and confidentiality of witnesses

- 1) In the course of disciplinary matters and Complaints considered under these Regulations it will normally be necessary to identify the complainant(s) and any other applicable witnesses to provide the Respondent with a clear understanding of the allegations against them and ensure procedural fairness.
- 2) Notwithstanding Regulation 26.1, in some limited circumstances, it may be deemed necessary and reasonable to keep the details of a complainant(s) or witness confidential. Such circumstances may include, but are not limited to, the identity of the complainant or witness is not material to the case, there is a reasonable belief that disclosure would put the complainant or witness at risk, and/or where anonymity is required.
- 3) Where the Chairperson, CSBOP Executive or the Chair of the Appeal Committee (as is applicable in the circumstances) decides there are legitimate and reasonable reasons to preserve the anonymity of a complainant(s) or witnesses in accordance with Regulation 26.2, then any evidence or documentation provided to the Respondent will be sufficiently redacted to preserve this anonymity. For the avoidance of doubt, the Respondent must still be provided with sufficient information to allow them to respond to the allegations against them.
- 4) A complainant or witness should be aware that even in circumstances where it is deemed reasonable and necessary to preserve the anonymity of a complainant(s) or witness in accordance with Regulation 26.2, CSBOP cannot completely guarantee anonymity. Even where CSBOP has taken all reasonable steps in accordance with Regulation 26.3, the Respondent may be able to ascertain who has submitted a complaint or provided evidence. In addition, if the matter is sufficiently serious as to subsequently result in civil/criminal proceedings then CSBOP may also be required by law to disclose or provide certain confidential information.

27. Record Keeping

1. Save where the Disciplinary Committee provides otherwise in accordance with Regulation 18, Decisions may be published on the CSBOP website. CSBOP may notify appropriate third parties of the outcome of any disciplinary matter.
2. The Chairperson will determine how long any offences should be retained on record, including the sanctions imposed and any related documentation.