

SECTION 4

GOVERNANCE

POLICIES PROCEDURES

AND

BI-LAWS

2017 NSWMTA

POLICY DOCUMENT

4.1 DISCIPLINARY PROCEDURES (and COMPLAINTS HANDLING)

4.2 CHILD PROTECTION and the NSW Working with children check

4.3

HANDBOOK

SECTION 4

GOVERNANCE – POLICIES & PROCEDURES AND BI-LAWS

Complaints Handling Policy Guidelines

4.1 These guidelines provide information for NSWMTA Executive and members for handling complaints, including how to make a complaint; how to deal with a complaint and how to support the people involved.

4.1.2 There are different behaviours matched to the degree of seriousness of complaints. The three categories are:

- * Mis Conduct
- * Serious Misconduct
- * Gross Misconduct

4.1.3(a) All minor complaints and disputes should be resolved promptly by the NSWMTA Executive without using formal procedures.

Whenever possible, informal resolution should be attempted first in all matters assessed as less serious

4.1.3(b) The NSWMTA Executive reserve the right to handle complaints made against Junior members

(or by junior members against other junior members) in a conciliatory manner, depending on the alleged misbehaviour. Parent/mentor support will be sought and warnings may be issued for first offences, depending on the degree of seriousness of the behaviour.

- 4.1.4 The sections of these guidelines which detail formal procedures should be used in those situations where it is not appropriate or not possible to resolve a matter informally.
- 4.1.5 In matters requiring formal procedures being utilised, if deemed necessary, the NSWMTA Executive will refer the complaint/or misconduct matter to the INDEPENDENT DISCIPLINARY COMMITTEE for resolution (IDC)
- 4.1.6 In terms of procedural fairness, the RIGHT OF APPEAL is available to any member under investigation concerning a major complaint. Such an appeal will be heard by a HRNSW Integrity Sub Committee, independent of the Disciplinary Committee hearing the original complaint.
- 4.1.7 The Executive NSWMTA are encouraged to arrange for support to be provided for any people involved in the complaint handling process.
- 4.1.8 If the complaint cannot be resolved informally, the request to provide more detail in writing may

be necessary. Alternatively, a complaint form may also be used (see appendix)

4.1.9 Different procedures for handling complaint matters may be used for Junior members by the NSWMTA Executive and or Integrity Disciplinary Committee

4.1.10 The opportunity to lodge a complaint about a race day/event issue must occur within 24 hours of the conclusion of the event with the Secretary NSWMTA.

4.2 MAKING A COMPLAINT

4.2.1 A complaint can be about:-

- * Any aspect of the service provided (or not provided) at any NSWMTA event or Championship
- * The behaviour or decisions of NSWMTA Officials
- * Practices, Policies or Procedures

4.2.2 Initially, a complaint can be made verbally about one of the aspects listed in 4.2.1

If the matter is not resolved or if you as the complainant do not feel it is appropriate to talk to the Official, a phone appointment can be utilised to discuss your concerns with the NSWMTA President or Youth Development Officer

Where the complaint is about the President or Youth Development Officer, the complaint must be made to the Chief Executive Officer, HRNSW, or to another Executive member of the NSWMTA, utilising an agreed appointment timeframe for resolution

4.2.3 Complaints formally lodged with the NSWMTA will initially be investigated by members of the Executive (excluding any office bearer who may be the subject of such a complaint)

4.2.4(a) If deemed necessary, the NSWMTA Executive may refer the complaint to the Independent Disciplinary Committee (IDC) for resolution

The IDC will make recommendations to the NSWMTA for resolution of the complaint/dispute

If thought appropriate, the IDC may refer the complaint to the HRNSW Integrity Sub Committee for action in matters, for example, pertaining to complaints of a child protection nature.

4.2.4(b) The INDEPENDENT DISCIPLINARY COMMITTEE (IDC) will comprise:

Chairperson and Two (non MTA Executive) Representatives

4.2.4(c) The HRNSW INTEGRITY Sub-Committee (ISC) will comprise:

Chairperson – CEO HRNSW; Two (non MTA Executive/non IDC persons); Representatives one of which may be a HRNSW Steward or HRNSW Board Member

4.2.5 Right of Appeal is available if a decision to penalise a member is determined by either of the two independent committees mentioned above. Such an appeal must be lodged within one calendar month of the notification of penalty with the Secretary NSWMTA in the first instance.

4.2.6 Disciplining of members/penalties

4.2.6(a) The NSWMTA Executive may resolve to expel the member from the Association or suspend the member from membership of the Association if, after considering the complaint (or receiving a recommendation from either the IDC or ISC) and any other recommendation arising in the event of an Appeal process.

4.2.6(b) The Secretary will provide written notice to the given member (within 7 days after the decision is taken) of the final decision and penalty.

4.2.6(c) Any Right of Appeal must be lodged within 7 days of a notice of penalty and should include a statement of the grounds on which the member intends to rely on for the purposes of the appeal

4.2.6(d) The Appeal is to be determined by a simple majority of votes cast by members of the Appeals Committee

4.2.6(e) All disciplinary actions taken by NSWMTA will be duly recorded and placed on file for reference at any future date, including the issue of warning letters to junior members for breaches of the different Codes of Conduct.

4.3 Assessing a Complaint : Assessing Seriousness

When assessing seriousness, the following guidelines will be considered:-

- A matter is considered LESS SERIOUS if it involved a minor breach or complaint and is not seen to be part of a pattern of conduct that would lead to disciplinary action**
- A SERIOUS BREACH is one which, if proven, could amount to serious or gross misconduct under the different CODES OF CONDUCT and could include:-**
 - * A breach of legislation; policy or procedure likely to lead to disciplinary action or**
 - * Conduct of a criminal nature**

4.4 Assessing a Complaint – Selecting the Appropriate Course of Action

Matters assessed as less serious may be handled through informal resolution by the NSWMTA Executive

Matters assessed as more serious have three formal procedures available for resolution

- 1 Hearing of complaint by NSWMTA Executive**
- 2 Hearing of complaint by Independent Disciplinary Committee (IDC)**
- 3 Hearing of complaint by HRNSW Integrity Sub Committee (ISC)**

4.5 Types of Offences leading to Disciplinary Action

4.5.1 Members (both Junior and Senior) of the NSWMTA are required to fully comply with this Code of Conduct and the specific codes of conduct for their role when participating in NSWMTA race events or at the annual Championship. See Section 5 Handbook – Codes of Conduct

4.5.2 A behaviour seen as “MISCONDUCT” is an offence considered to be of a minor nature.

Such behaviours may be:-

- **Discourteous, crude or offensive behaviour at functions, training or organised CLUB or ASSOCIATION events**
- **Offensive disregard for equipment or property**
- **Failure to attend or participate in events or meetings organised by the CLUB or ASSOCIATION**
- **Failure to comply with or adhere to the relevant code of conduct for their special activities**

4.5.3(a) A behaviour seen as “SERIOUS MISCONDUCT” is an offence of such gravity that formal disciplinary procedures are warranted

Such behaviours may be:-

- **Use of threatening or abusive behaviour**
- **Any attempt to achieve gain or advantage over others by unfair or unscrupulous means**
- **Deliberate or consistent breaches of CLUB/ASSOCIATION rules**
- **Theft or misappropriation**
- **Participating in the sport whilst under the influence of drugs or alcohol**

4.5.3(b) Penalties imposed on a Senior member following a formal hearing, may include suspension (or in extreme cases, expulsion) from activities within the ASSOCIATION for a set period of time.

4.5.3(c) The Executive of NSWMTA reserve the right to exclude Junior members from participation in ASSOCIATION activities for a set period of time where a behaviour is deemed to be one of serious misconduct by either a Junior or Senior member of the NSWMTA or family person in attendance at any CLUB/ASSOCIATION event

4.5.4 A behaviour seen as “GROSS MISCONDUCT” is an action/offence of such seriousness that the NSWMTA Executive may choose to immediately expel the offender from the ASSOCIATION

Such behaviours may be:-

- **Physical violence/assault of another person at a CLUB/ASSOCIATION event, including serious threatening, intimidation or forceful behaviour**
- **Reckless disregard of safety and basic safety rules**
- **Being convicted of criminal offences involving physical violence or abuse**
- **A matter concerning aspects of child protection**

4.5.5 Legal Action relating to Misconduct

The Executive NSWMTA may choose to seek advice from a Legal Advisor (or from HRNSW) if the complaint being dealt with is within the scope of any of the three Misconduct levels of behaviour.

Where a formal Disciplinary Hearing has been conducted by either the IDC or the ISC, the subject of the complaint will be notified in writing of the final decision reached and informed of any subsequent penalty, within 7 days of the decision being reached. Penalties will be effective from the date of the decision.

An Appeal Hearing will be conducted by the HRNSW Integrity Sub Committee and is made up of any persons who did not take part in previous hearings.

New evidence cannot be presented at the APPEAL Hearing. The Appeal Committee shall have the power to amend or revoke any decision made previously.

Such decisions made by the Appeal Committee is binding on the parties and cannot be subject to further appeal.

4.5.6 APPENDIX – COMPLAINTS FORM

