POLICY 3

Disciplinary Procedure and Appeals Policy

Commitment to Te Tiriti o Waitangi

Invercargill Rowing Club (IRC) recognises Te Tiriti o Waitangi as Aotearoa New Zealand's founding document. IRC is committed to upholding the mana of Te Tiriti o Waitangi and the principles of Partnership, Protection and Participation.

Values

Everyone involved in the sport/activity joins with good intentions and we are all expected to do our best to treat each other with respect and comply with our policies and rules. Despite this, problems sometimes arise. Children and young people in particular must be cared for, treated with respect and their welfare placed at the centre of everything we do in the sport/activity. IRC knows everyone involved in rowing is here because of a shared passion for the sport and care for the people involved.
IRC is committed to supporting everyone, including participants, coaches, supervisors, volunteers, whānau and supporters, to participate in an environment that is respectful, safe, and fair.

Disciplinary Procedure and Appeals Policy

When people breach policies designed to ensure the fair and lawful conduct of the operations of the sport/activity, or to ensure the safety and wellbeing of those involved in the sport/activity, it can become a serious issue.

IRC acknowledges it is important to everyone involved to respond quickly, fairly and thoughtfully to address issues. People are entitled to raise concerns or complaints and to have those addressed promptly and fairly. No one should be punished or victimised for raising a concern or a complaint in good faith. Allegations are not proven unless there has been a fair, even-handed process for finding out the facts of what happened.

This Disciplinary Procedure and Appeals Policy is centred on equity, dignity, respect and maximising the potential of all people in the sport/activity. The following principles should be kept in mind when applying it:

- Respect for the culture(s) of the people involved including culturally appropriate processes being enabled to resolve complaints and restore relationships.
- Addressing problems informally and face to face, wherever possible.
- Treating others fairly, equally and in a way that keeps their mana intact.
- Maintaining relationships and keeping each other safe.

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Purpose

The purpose of this Disciplinary Procedure and Appeals Policy is to provide:

- a process to deal with alleged breaches of the IRC Constitution, Code of Conduct and alleged breaches of IRC policies
- an appeals process against a decision involving:
  - suspension
  - expulsion
  - penalty
  - any other significant detriment.

It aims to:

- support low-level resolution in the first instance
- give clear guidance for dealing with alleged breaches and appeals
- ensure the approach taken to dealing with alleged breaches and appeals is fair, including enabling culturally appropriate responses and processes.

Application

This Disciplinary Procedure and Appeals Policy will only apply where:

- there is an alleged breach of the IRC Constitution, Code of Conduct or IRC policies
- the alleged breach is by a member of IRC itself or its office holders.

If you are unsure whether the Disciplinary Procedure and Appeals Policy applies to your situation, the IRC sub-committee complaints officers can provide guidance.

Disputes between members

This Disciplinary Procedure and Appeals Policy does not apply to low-level disputes between members involved in the sport. These should instead be resolved under the IRC Complaints Policy and Procedure.

Disputes raised under the Complaints Policy and Procedure that are very serious may be dealt with under this Disciplinary Procedure and Appeals Policy.

Doping

This Disciplinary Procedure and Appeals Policy does not apply to violations of New Zealand's Sports Anti-Doping Rules. Members will be bound by the provisions of:

- any international organisation's anti-doping rules (eg, the International Olympic Committee)
- the New Zealand Sports Anti-Doping Rules.

Selection appeals

This Disciplinary Procedure and Appeals Policy will not apply to appeals against:

- a member's non-selection to a New Zealand sports team

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- a member's non-nomination to a New Zealand Olympic, Special Olympic or Commonwealth Games Team.

Complaints involving children/young people

If the complaint involves the safety of children in any way, the IRC Child Protection Policy must be followed.

If the complaint is between children/young people, this policy will be followed.

Relationship to law

Any action taken under this Disciplinary Procedure and Appeals Policy will be without prejudice to any right or remedy a member or IRC may have in law. If the person involved in alleged behaviour which may breach the sport's policies or Code of Conduct is an employee of the organisation, a procedurally fair employment process must be followed before any action can be taken that affects the person's employment.

Informal resolution first

Members are always encouraged, where comfortable, to raise problems directly with the person, committee or board concerned, unless there are safety reasons, or the issue is too serious to try to resolve it this way. Issues that can be raised informally can be dealt with under the IRC Complaints Policy and Procedure.

Formal disciplinary procedure

Introduction

Where a satisfactory outcome can't be reached informally, or there is a serious alleged breach of the IRC Code of Conduct or an IRC policy, it should be raised with IRC, as soon as possible. Please send this to, the Secretary of the IRC. IRC disciplinary sub-committee members may be able to resolve a formal complaint or concern about alleged breaches of policies or a Code of Conduct by taking steps such as:

- holding a meeting or hui with the people involved, and their family/whānau
- reviewing a process or decision that has not gone well
- requesting an apology is given, where appropriate
- any other action it considers appropriate in the circumstances, in consultation with the person(s) involved

Sometimes the process may need to be more formal and include looking at documents, data, and interviewing witnesses or holding a hearing before making a decision in writing. The IRC disciplinary sub-committee members to determine process.

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Where a formal complaint/allegation of a breach is made, and it is unable/inappropriate to be resolved informally, the disciplinary sub-committee members will work to ensure a culturally appropriate process is followed, and be clear on who and how the decision will be made.

Options might include an investigation, facilitation or mediation, or a disciplinary hearing. This should be discussed with the complainant and person who is alleged to have breached a policy/Code of Conduct.

The disciplinary sub-committee members will confirm they have received the complaint/allegation within three working days of receiving it.

Details of the complaint/alleged breach will be entered into a Complaints Register.

When considering the complaint/allegation, the disciplinary sub-committee members will consider:

- what the complaint/allegation is about
- how serious or urgent the complaint/allegation is
- whether there is a set process for the type of complaint/allegation
- culturally appropriate processes depending on the parties involved
- whether the complaint/allegation may indicate a broader problem
- what risks the complaint/allegation raises for the IRC
- what kind of resolution the complainant is seeking
- any other relevant information

The disciplinary sub-committee members will decide whether:

- there is no clear basis for the complaint/allegation and no action can be taken (and an explanation given to the complainant)
- the complaint/allegation can be resolved informally
- a formal process is needed

All processes for resolving matters will be run in good faith, culturally appropriate and follow the principles of natural justice. This includes not reaching conclusions before going through a proper process and making sure the person allegedly in breach has access to all relevant information and support.

A simple test for running processes and making decisions is 'what would a fair and reasonable person have done in the circumstances?

Key elements of a fair process include:

- The member complained about, or allegedly in breach, should be told details of the allegation(s) as soon as possible.

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- The member complained about, or allegedly in breach, should be given a reasonable opportunity to respond to the allegation.
- The member's explanations should be fully considered before any conclusions are reached.
- The outcome, with a summary of the allegation, the evidence considered, any explanations given and the reasons for the decision should be recorded in writing and given to the people directly involved.

Investigation

The disciplinary sub-committee members may decide to investigate alleged breaches of the IRC Code of Conduct or any IRC policies or be guided by the customs and/or tikanga of a culturally appropriate process in undertaking an investigation. For example, it may be determined that an appropriate process involves being hosted in a church, community house or marae in front of a panel representative of that community. External investigations (or prosecutions by Police) are not a substitute for required internal processes, for example disciplinary processes under this policy or employment processes.

The disciplinary committee may put an investigation of any alleged breach or enforcement of any sanctions on hold where there is an ongoing investigation by an outside agency.

Appointment of investigator

If required, the disciplinary sub-committee members will appoint an appropriately qualified person to undertake a fact-finding investigation. In doing so, the disciplinary sub-committee will consider the needs of parties involved for a culturally appropriate investigation process and ensure any appointments be guided by that process. The investigator will consult with all affected parties about any process before commencing. No person who has an actual or potential conflict of interest which may affect their impartiality (or the appearance of impartiality) may undertake the investigation.

Investigation process

The investigator will meet separately with the parties. These meetings will be held at a time and place and run according to a protocol/agenda that suits everyone, to the extent possible.

Members can have a lawyer, advocate, and/or support person(s) (including family/whānau) at any meeting, who can make submissions on that person's behalf.

The investigator can request an interview with any person and request any evidence they think is relevant.

If a member or witness declines to participate in the investigation process, the investigator will make a finding of fact based on all of the information available to them at the time

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Where a party wants to rely on documents, these must be sent to the investigator who will provide them to the other party.

All information discussed in the course of the investigation will be confidential, unless disclosure is required by law or to protect the safety of any person.

The investigator will make a draft finding based on all the information available to them and provide it to both parties for comment. Both parties will be given a reasonable time to provide feedback.

The investigator's final report will take this feedback into account.

Decision

After receiving the investigator's report, the disciplinary committee will make their decision in the following way:

- Consistent with a fair process.
- Consistent with any contractual or employment rules that apply.
- Based on the evidence presented to the disciplinary committee.
- Reflective of the seriousness of the findings.

Written decision

The disciplinary committee will provide a written decision to the parties, which sets out the reasons for the decision, as soon as possible.

Decisions final and binding

Subject only to the right of appeal set out in Appeals section of this policy, all decisions of the disciplinary committee will be final and binding on all the parties.

Sanction

Sanctions available
If a member is found to have breached any part of the IRC Code of Conduct or policies, the disciplinary sub-committee members can impose one or more of the following sanctions:

- Issue a written warning.
- Direct the member to attend counselling to address their behaviour as a condition of their membership.
- Withdraw any awards, placings or records sanctioned by IRC.
- Suspend the member's membership rights in IRC for a stated period.
- Suspend the member from participating in any rowing related activity which is run by IRC.
- Require an apology, or order reparation or compensation to any member affected by the breach.
- Recommend the expulsion of the member from IRC.

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- Enforce any sanction imposed by the IOC, IPC, Rowing NZ, Southland Rowing Association or the Sports Tribunal in addition to any sanction of its own which it thinks appropriate in the circumstances.
- Any other form of discipline the disciplinary committee considers appropriate.
- Decline to take any further action.

In determining what sanction to impose, the disciplinary committee will take into account the following factors:

- Nature and seriousness of the breach.
- Whether the person knew or should have known the behaviour was a breach.
- Level of remorse demonstrated, including any apology given.
- The effect of the proposed disciplinary measures on the person, including any personal, professional or financial consequences.
- If there have been relevant prior warnings or disciplinary action.
- Ability to enforce discipline if the person is a parent/guardian, family/whānau or a supporter.
- Any mitigating circumstances.

Child protection

Where a decision involves child protection concerns, the safety of the child is the priority and the disciplinary committee must consult with [e.g. Child Safeguarding Representative] before making any decision or imposing any sanction.

Enforcement

Without limiting the remedies available to the disciplinary committee and this rule, the disciplinary committee may suspend the enforcement of any such sanction on such terms and conditions as they think fit.

Costs

Each party will be responsible for bearing its own costs in relation to the investigation process.

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Resolution at regional organisation/national organisation level

Where IRC is unable to run a proper process (for example, where the IRC is involved in the alleged breach), the matter will be dealt with by either the Regional Organisation whose member is allegedly in breach

Where there is no Regional Organisation, the relevant National Organisation.

Where any alleged breach or appeal is to be dealt with by a Regional Organisation or National Organisation, it will be dealt with using the rules of that Regional Organisation or National Organisation.

Where a Regional Organisation or National Organisation has no rules that deal with disciplinary matters or appeals, it will determine the alleged breach in accordance with this Disciplinary Procedure and Appeals Policy.

Appeals

Appeals to Regional Organisations and National Organisations
A member may appeal a decision made by IRC to a Regional Organisation/ National Organisation only if the outcome is:

- suspension
- expulsion
- penalty
- any other significant detriment.

A decision can only be appealed to a Regional Organisation/National Organisation on the ground that the suspension, expulsion and/or penalty is incorrect, excessive or clearly unfair.

Written notice of any appeal to a Regional Organisation/ National Organisation should be provided to the CEO of that organisation within 28 days of the date of the decision being appealed.

The written notice shall:

- include a copy of the decision being appealed
- include a summary of the reasons why the member wishes to appeal the decision
- indicate whether the member wishes to appeal part of the decision (and if so, the grounds for doing so) or have a reinvestigation of the entire matter
- be sent to the President/Chairperson of IRC which made the decision being appealed.

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