



Athletics Tasmania

Discipline and Appeals Policy

This Policy has been adopted by the Athletics Tasmania (AT) Board in accordance with clause 8 and 24 of the AT Constitution. It is binding on AT and all members of AT.

Approved by the AT Board on 28 November 2016

1. Introduction

This policy has been created to set out procedures and requirements relating to discipline and the rights of appeal of members of Athletics Tasmania

This policy has been created in accordance with clause 8 and 24 of the AT Constitution.

2. Interpretation

Words and phrases in this policy have the same meanings as in the AT Constitution and this policy is to be read in conjunction with (and subject to) the AT Constitution.

3. Definitions

AA	Athletics Australia
Act	Associations Incorporations Act 1964
AT	Athletics Tasmania
Board	The Directors of AT elected or appointed under the Constitution from time to time
Breach	An allegation of conduct which falls within clause 5 of this policy
Complainant	A person or party lodging a complaint
Constitution	The AT Constitution as amended from time to time
Defendant	A party or parties against whom proceedings are brought pursuant to clause 5.3 of this policy
Discipline Committee	The committee formed pursuant to this policy
EO	Executive Officer
Grievance	A grievance or dispute as defined in clause 8 of the Constitution (not being a matter that is capable of being dealt with under any other Policy of AT that has its own process for the determination of disputes)
Member	A member of AT within the meaning set out in clause 6 of the Constitution
Team Official	Any person appointed to assist a team or squad which is subject to the authority of AT, whether paid or unpaid, including, but not limited to; coaches, managers, chaperones, trainers, physiotherapists and medical staff

4. Jurisdiction

All Members will be subject to, and submit unreservedly to the jurisdiction, procedures, penalties and appeal mechanisms of AT whether under this and other policies and the Constitution.

This policy applies:

- a) to any Member Club, Branch or Associate Member Organisation which has no disciplinary provisions in place;

- b) to Individual Members participating or assisting in events, teams or squads who are not immediately subject to the authority of AT, subject to the relevant Participant Member or Team Official having exhausted all disciplinary and appeal procedures available via his or her Club/Branch or Associate Member Organisation; and
- c) in respect of any disciplinary matter which is referred from a Member and which in the opinion of the Board of AT is an appropriate matter for AT to determine.

5. Discipline of Members

5.1 Matters for referral for determination by a Discipline Committee

- a) An allegation in writing (not being vexatious, trifling or frivolous as determined by the Board at its complete discretion) by a Complainant (who need not be a Member) that a Member has:
 - (i) breached, failed, refused or neglected to comply with:
 - 1) a provision of any agreement or policy of AT other than a Policy referred to in Paragraph 5.1(b); or
 - 2) any resolution or determination of the Board or other entity exercising delegated authority of AT;
 - (ii) acted in a manner either unbecoming of a Member or which is reasonably likely to be derogatory of or prejudicial to the objects and interests of AT, and/or Member Club, Branch or Associate Member Organisation.
- b) The Discipline Committee shall not have any jurisdiction in respect of a breach of any policy which has its own process for the determination of alleged breaches of that policy or in any other case until the person making such an allegation has exhausted all avenues of complaint and appeal available under such policy.
- c) A determination of a Disciplinary Committee of a Member Club, Branch or Associate Member Organisation shall not be appealable to AT pursuant to this policy unless it is alleged that the Member Club, Branch or Associate Member Organisation has failed to comply with its own rules with a consequent denial of natural justice to a party or parties.
- d) Any Member against whom such an allegation is made ("the Defendant") will be subject to the procedures, penalties and appeal mechanisms set out in this Discipline and Appeals Policy.

5.2 Investigations by AT

- a) AT may investigate any matter that is relevant, in its opinion, whether or not a matter ought to be referred to a Disciplinary Committee. Such investigation may be initiated on the basis of a complaint by a Member, a

report of any other person or organisation, or on the basis of any other evidence which in the opinion of the AT is credible.

- b) Such investigation may be carried out by AT as it sees fit and all Members are required to cooperate fully with AT in the conduct of that investigation.
- c) Failure to cooperate with or intentionally impeding AT in investigating any matter may result in a referral to a Disciplinary Committee in itself.
- d) Investigations by AT, whilst being thorough, should be carried out in the most efficient timeframes possible.

AT may in its unfettered discretion choose to not investigate, or dismiss, any matter that it determines to be a vexatious claim, or determine at any time whether no action is to be taken in relation to any matter.

5.3 Referral to mediation

- a) In relation to any dispute, alleged breach of or other matter, AT may require a Member or Members to attend mediation with an independent person who shall act as a mediator for the purpose of attempting to reach agreement between the parties to the dispute.
- b) Mediation shall be conducted on a without prejudice basis and the mediator shall have no power to impose any decision on any of the parties.
- c) A failure by a Member to attend such a meeting when requested without reasonable excuse shall amount to Misconduct and, at AT's discretion, may be referred to the Discipline Committee for determination.
- d) Unless agreement is reached at such a meeting and recorded in writing and signed by the parties, AT may, at its complete discretion, decide to refer any allegations of misconduct or other matter to the Discipline Committee.
- e) AT shall neither be a party to mediation nor make submissions on behalf of any party, but may provide case materials from any investigation into the matter conducted by AT and upon which the parties and the mediator may rely.

5.4 Referral to Discipline Committee

- a) The AT Board on its own motion or upon the recommendation of the EO shall determine whether disciplinary proceedings (proceedings) are to be commenced in respect of an alleged Breach or any other matter, and if the Board so determines, determine the allegations that will be referred to the AT Discipline Committee.
- b) Subject to this Policy, and unless the Board, at its complete discretion, considers it appropriate, the Discipline Committee shall be comprised of 3 persons, being:

- (i) a person with legal training and experience in dispute resolution or suitable experience in the process of determining disciplinary matters within a sport who will act as Chair of the Discipline Committee
 - (ii) a person with experience and understanding of the particular Athletics discipline or area with which the Defendant is connected and with suitable skills to be a member of the Discipline Committee; and
 - (iii) a technical member or a person with suitable skills to be a member of the Discipline Committee.
- c) The Discipline Committee shall be appointed by the Board for such time and for such purposes as is required under this policy.
- d) Any referral to the Discipline Committee shall be in writing and accompanied by any document or other evidence that is available to the Board at the time of the referral. The referral shall be clear and unambiguous, stating precisely the matter to be determined.
- e) A person who is so connected with any of the parties such that he or she is or may be seen to be, other than impartial shall not participate in the determination of the proceedings in any way.
- f) On receipt of the referral, the Chair of the Discipline Committee shall, in consultation with the remaining members of the Discipline Committee, determine an appropriate date, time and place for a hearing by the Discipline Committee. The suggested timelines for the hearing shall be no less than 14 days and no more than 21 days from the receipt of the referral, unless the matter is deemed to require urgent attention, in which case the Discipline Committee may at its discretion nominate an earlier date, having regard to matters such as the availability of key witnesses and timing of relevant competitions, amongst other things.
- g) The Chair of the Discipline Committee shall notify the Defendant of the full details of the allegations made against the Defendant and shall notify all parties of the date, time and place of the hearing and, in addition, shall advise that each party to the proceedings has the right:
- (i) to make written submissions not less than five (5) days prior to the date of the hearing;
 - (ii) to appear at the hearing and be represented by a person who is not legally qualified (as determined in the Discipline Committee's discretion); and
 - (iii) to be represented by a person who is legally qualified at the discretion of the Discipline Committee upon submissions.
- h) In the case of a minor it is a requirement that the minor attend the Discipline Committee hearing with a parent, guardian or prior -nominated other adult.

- i) Subject to this policy, the Discipline Committee may conduct the hearing in any manner it sees fit, including but not limited to, by way of teleconference or video conference and may, if it is considered appropriate, allow an amendment to the charges or adjourn the hearing provided that:
 - (i) all parties affected are given a reasonable opportunity to be heard; and
 - (ii) the hearing is conducted with as little formality and technicality and with as much expedition as proper consideration of the matters before it permits.
- j) The Discipline Committee is not bound by the rules of evidence or by the practices or procedures applicable to courts of record but may inform itself as to any matter and in such manner it deems appropriate provided that the Discipline Committee adheres to the principles of natural justice.
- k) The parties must be advised of the hearing procedure determined by the Discipline Committee at or before the commencement of the proceedings.
- l) The Discipline Committee may hear such evidence as it thinks fit, and all persons subject to this Policy are obliged to provide such evidence as they are able. The Discipline Committee may adjourn the hearing for a reasonable time if this is considered necessary.
- m) Having taken into account the written and verbal submissions and all evidence before it, and providing the Discipline Committee is reasonably satisfied, it may make a finding:
 - (i) that the breach as alleged has been proven; or
 - (ii) that a different breach has been proven provided that if the Discipline Committee considers a different breach may have been committed it must give the party charged an opportunity to put any evidence and/or submissions in relation to that different breach that it wishes in which case the Discipline Committee may impose such penalty or penalties as it considers appropriate in accordance with paragraph 5.5.
- n) If a decision cannot be given within a reasonable time on the day of the hearing, the parties must be advised of the time and place at which the decision will be given. The decision, any penalty and notice of the complainant's appeal rights shall be given in writing and signed by the Discipline Committee Chair, as soon as practicable following the determination of the Discipline Committee.

5.5 Penalties

- a) Penalties which may be imposed include but are not limited to:
 - (i) a reprimand;
 - (ii) a fine, payable on such terms as the Discipline Committee sees fit save that no fine shall be levied against an Individual

Member and the maximum fine for any other Member shall be no more than three times the Member's affiliation fee with AT as at the date of the grievance hearing.

- (iii) suspension of membership of AT, on such terms and for such period (up to 24 months) as the Discipline Committee sees fit;
 - (iv) exclusion from a particular activity, event or events;
 - (v) disqualification from AT activities for such period and on such terms as the Discipline Committee sees fit; or
 - (vi) any other penalty considered appropriate in the circumstances.
- b) In the case of a Member Club, Branch or Associate Member Organisation the Discipline Committee may not impose a penalty which directly affects that Member's membership of AT. However if the Discipline Committee thinks it appropriate it may make a recommendation to the AT Board that the Club Member's membership of AT be suspended or otherwise directly affected. In this case:
- (i) The board should make a decision on a recommendation by the Discipline Committee under 5.5 b) within 30 days of being notified of the recommendation
 - (ii) Such decision by the Board is appealable only in accordance with clause 5.7 a) –h) except in the case of an expulsion of a Member in which case the provisions of clause 5.7 (i) shall apply.
- c) When considering the question of any penalty to be imposed, the Discipline Committee may consider whether, in the view of the Discipline Committee, the conduct of the Defendant which has led to the allegations against the Defendant was intentional, reckless or inadvertent.

5.6 Effect of Penalty

- a) The defendant may continue to participate in Athletics (whether as an athlete, administrator, official or administering body) until and unless there has been an adverse determination of the Discipline Committee which precludes the defendant from doing so and such determination has been notified to the defendant.
- b) Where a defendant is suspended by the Discipline Committee under this policy, all privileges in membership of AT shall be forfeited from the time such suspension is notified to the defendant for the period of the suspension.
- c) Notice of any penalty, suspension or disqualification imposed shall be given by the EO of AT to all Member Clubs, Branches and Associate Member Organisations and shall be recognised by all Members immediately upon receipt of such notice. For the avoidance of doubt all persons bound by this policy consent to such notice being given pursuant to this paragraph.

5.7 Appeals

- a) An appeal from a decision of the Discipline Committee, or from a decision of the Board made pursuant to clause 5.5 b) (ii) shall only be made on one or more of the following grounds:
- (i) there has been a breach of the rules of natural justice including but not limited to:
 - (a) the Discipline Committee has failed to properly or at all comply with its obligations under this Policy; or
 - (b) the penalty imposed is so unreasonable as to amount to a denial of natural justice; or
 - (i) there has been an error of fact or law; or
 - (ii) in any other case with the leave of the AT Appeals Commissioner.
- b) An appeal shall be determined by the AT Appeals Commissioner, appointed by the AT Board, who shall be a person who has legal qualifications in dispute resolution or suitable experience in the process of determining disciplinary matters within a sport, acting alone and who shall not have been a member of the Discipline Committee which made the decision appealed against.
- c) A person who wishes to appeal a decision of the Discipline Committee shall at the time of lodging a written *Notice of Appeal* lodge with the EO the sum of \$500.00 (bond) in clear funds which may be refunded in the discretion of the Appeals Commissioner at the conclusion of the appeal.
- d) The decision of the Appeals Commissioner shall be final and not subject to further appeal.
- e) Subject to this policy, the proceedings of the Appeals Commissioner in determining the appeal shall be the same as or similar to those in respect of the Discipline Committee set out above, with such variations as are appropriate or necessary to give full effect to this policy.
- f) The hearing by the Appeals Commissioner is not a rehearing of the matter, but a hearing of the issue under appeal only. Legal representation shall be available, at their own cost, to any party to the appeal. Any dispute as to the application of this policy shall be determined by the Appeals Commissioner in his or her complete discretion.
- g) The Appeals Commissioner may confirm the penalty or adverse finding of the Discipline Committee, or may decide not to confirm such penalty but instead impose an alternate penalty available under clause 5.5 (with such variations as are necessary or appropriate to give full effect to this policy), or may revoke the penalty or adverse finding of the Discipline Committee.
- h) The effect of any penalty imposed by the Appeals Commissioner shall be the same as set down in paragraph 5.6 above, with such incidental variations as are necessary or appropriate to give full effect to this policy

- i) If the Appeals Commissioner revokes the penalty or adverse finding of the Discipline Committee the bond shall be refunded in full to the appellant within 14 days of the determination by the Appeals Commissioner.
 - (i) Subject to sub paragraph (ii) in all other appeals the Appeals Commissioner may at their complete discretion determine what, if any, portion of the bond shall be refunded to the appellant.
 - (ii) If the Appeals Commissioner is satisfied that the appeal was frivolous or vexatious the Appeals Commissioner's discretion in sub paragraph (i) above shall not apply and no part of the bond shall be refunded to the Appellant.

- i) A member may appeal against an expulsion under rule 5.5 b) (ii) by serving on the EO of AT, within 14 days after notification in writing of that decision, a requisition in writing demanding the convening of a special general meeting for the purpose of hearing the appeal.

- j) On receipt of a requisition, the EO is to notify the Board immediately of the receipt of that request and the Board must cause a special general meeting to be held within 35 days after the day on which the requisition is received.

- k) At a special general meeting convened for the purpose of hearing an appeal under this rule:
 - (i) no business other than the question of the expulsion is to be transacted;
 - (ii) the Board may place before the meeting details of the grounds of the expulsion and the Board's reasons for the expulsion;
 - (iii) the expelled member must be given an opportunity to be heard; and
 - (iv) the members of AT who are present are to vote by secret ballot on the question of whether the expulsion should be lifted or confirmed.

- l) If at the special general meeting a majority of the members present vote in favour of the lifting of the expulsion:
 - (i) the expulsion is lifted; and
 - (ii) the expelled member is entitled to continue as a member of AT.

- m) If at the special general meeting a majority of the members present vote in favour of the confirmation of the expulsion:
 - (i) the expulsion takes effect; and
 - (ii) the expelled member ceases to be a member of AT.