

QAST Disciplinary Code

1. Introduction

- 1.1. This Disciplinary Code should be read in conjunction with the Snow Sports NZ disciplinary policy as set out in the SSNZ Constitution 2013. In the event of any inconsistency between this Disciplinary Code and the Snow Sports NZ disciplinary policy as set out in the SSNZ Constitution 2013, this Disciplinary Code will prevail.
- 1.2. Disciplinary action against Club members may be taken for misconduct or breach of the Club's rules. Examples of actions and behaviour that may be a breach of the Club's rules is set out in Schedule 1 of this Disciplinary Code.
- 1.3. It is recognised and accepted that every Club member:
 - 1.3.1. Has the right to expect fair and consistent treatment;
 - 1.3.2. Has the right to receive adequate detail from QAST of:
 - 1.3.2.1. the nature of any complaint made against the member;
 - 1.3.2.2. any disciplinary action proposed; and
 - 1.3.2.3. if required, adequate notice of a hearing.
 - 1.3.3. Where certain criteria are met, has the right to appeal against the direction of the Committee or the Disciplinary Committee's decision in all disciplinary matters; and
 - 1.3.4. Has the right to representation at a hearing.
- 1.4. No member will be expelled for the first breach of the Club's rules except in cases of "Serious Misconduct". However all disciplinary actions taken by QAST will be duly recorded and placed on file for reference at a future date.
- 1.5. All members of QAST agree to fully comply with all QAST policies including the Code of Conduct, Health and Safety policies and this Disciplinary Code.

2. Complaints Reporting Procedure

- 2.1. All complaints regarding the behaviour of members should be submitted in writing to the QAST Chairman ("Chairman").

- 2.2. A meeting of a QAST sub-Committee of no fewer than 3 Committee members shall be convened by the Chairman or at the direction of the Chairman within 5 working days of a complaint being received by the Chairman.
- 2.3. The QAST Committee will decide whether:
 - 2.3.1. the complaint falls within the scope of this Disciplinary Code; and
 - 2.3.2. the allegation could be a breach of QAST rules or policies.
- 2.4. If in the QAST Committee's opinion the allegation could be a breach of QAST rules or policies, then it will decide if the offence falls within the category of:
 - 2.4.1. Misconduct (a matter which may be dealt with by a sub-committee of no fewer than 3 non-conflicted QAST Committee members ("the Division"); or
 - 2.4.2. Serious Misconduct (a matter which requires consideration by the Disciplinary Committee and a hearing convened to consider the matter).
- 2.5. **Summary Process** - If the Division considers that there is evidence of a breach of QAST rules or policies such as the Code of Conduct, then it may choose to follow a Summary Process. The Division may require limited remedial action such as an apology and issuing a warning as to conduct expectations but may not record a finding of Misconduct. The matter will be recorded as a resolved Disciplinary matter and may be taken into account in future Disciplinary proceedings on any matter. The Club member may advise that he/she does not accept the direction of the Division in which case the matter will be considered under the terms of the Misconduct Process (in 3. below)
- 2.6. If the Chairman is not a member of the Division, the members of the Division shall appoint a chairman to consider the matter.

3. Misconduct Process

- 3.1. If the **alleged** offence is considered by the Disciplinary Committee to potentially be one of Misconduct and the following process will be followed:
 - 3.1.1. The Chairman of the Division will make enquiries and gather evidence such as statements relating to the alleged offence from the complainant, respondent and other witnesses.

- 3.1.2. A meeting of the Division will be convened to consider the statements, however in-person representation from the complainant, respondent or witnesses shall not be required unless requested by any of the parties involved in the complaint.
- 3.1.3. If, on the basis of the statements received from the parties involved in the complaint, the Division upholds the complaint, the Club Secretary will write to the respondent:
 - 3.1.3.1. with a formal written warning;
 - 3.1.3.2. if deemed appropriate by the Division, a requirement for an apology from the respondent to the complainant and/or any other affected parties and an acknowledgement from the respondent of that the disciplinary action taken by the Division is appropriate in the circumstances; and
 - 3.1.3.3. any other corrective action the Division may deem appropriate, which will not include expulsion of the respondent from the Club.
- 3.1.4. A disciplinary file will be opened by the Division in which will be placed copies and records of the original complaint, together with the written warning and any other correspondence.
- 3.2. It is expected that the process set out in paragraph 3.1 will complete the misconduct process unless any of the parties involved object strongly to the Division's decision in which case they may appeal directly to the Disciplinary Committee for a final decision.
- 3.3. An appeal may only be made on one (1) or more of the following grounds:
 - 3.3.1. that natural justice was denied;
 - 3.3.2. that the Division acted outside of its powers and/or jurisdiction (i.e. acted ultra vires);
 - 3.3.3. that relevant new evidence has become available after the decision was made; or
 - 3.3.4. in respect of a decision relating to misconduct involving the Appellant, that the penalty was either excessive or inappropriate.

4. Serious Misconduct Process

- 4.1. If the complaint is considered by the QAST Committee to potentially amount to serious misconduct, a disciplinary committee comprising:
 - 4.1.1. two members of the QAST Committee; and
 - 4.1.2. a person who is a solicitor of the New Zealand High Court and holding a current practising certificate (but who will not be a member of the QAST Committee), who shall be the Chairperson, will be constituted as soon as practically possible.
- 4.2. the Disciplinary Committee may summarily impose restrictions on the respondent, which may include the immediate suspension of the respondent from QAST.
- 4.3. Suspended members must surrender their QAST apparel and will not participate in any training or racing during the period of their suspension.
- 4.4. The suspended member will have the right to a disciplinary hearing by the Disciplinary Committee as soon as this can be arranged (within the time limits set out in paragraph 4.6.1 below) but will remain suspended until the Disciplinary Committee either expels or reinstates the respondent along with such other disciplinary action as the Disciplinary Committee determines following the hearing.
- 4.5. The following process will be followed for matters of potential serious misconduct:
 - 4.5.1. The Disciplinary Committee will appoint a person who will consider evidence presented by the complainant, respondent and other witnesses.
 - 4.5.2. The respondent will be advised of the complaint and requested to submit a written statement of events.
 - 4.5.3. If necessary, the person will obtain further written evidence and witness statements if those are available and will prepare a written summary of the complaint.
 - 4.5.4. The respondent will be provided a copy of the written summary of the complaint prepared by the person and a copy of all written witness statements and evidence.

- 4.5.5. The complainant and respondent will be advised if a disciplinary hearing is to be called, and the complainant, respondent and all relevant witnesses will be invited to attend and give evidence.
- 4.5.6. All parties will be notified as to the hearing date and provided with relevant copies of paperwork a reasonable time prior to the hearing.
- 4.6. The procedures for a Disciplinary Committee hearing are:
 - 4.6.1. The Disciplinary Committee shall be convened and will meet to hear complaints within 10 working days of:
 - 4.6.1.1. a complaint being lodged and identified by the QAST Committee as a matter which could amount to serious misconduct matter; or
 - 4.6.1.2. a decision of the Division is appealed by the respondent.
 - 4.6.2. The Disciplinary Committee has the power to take appropriate disciplinary action, which may include the termination of respondent's Club membership.
 - 4.6.3. The chair of the Disciplinary Committee will have jurisdiction to manage the hearing in accordance with this Disciplinary Code. All questions from the complainant and respondent will be addressed through the Chair.
 - 4.6.4. The Club will appoint a case presenter, who will usually be the appointed person.
 - 4.6.5. All written evidence from the complainant, respondent and witnesses will be reviewed at the hearing.
 - 4.6.6. No witnesses or statements will be introduced at the hearing without prior notice and copies of such written evidence will be provided to the relevant parties within a reasonable timeframe prior to the hearing.
 - 4.6.7. The Disciplinary Committee may adjourn the hearing to allow further evidence to be referred to if the Disciplinary Committee considers it necessary.
 - 4.6.8. The Disciplinary Committee will use reasonable endeavours to reach a decision on the complaint within 5 working days following the conclusion of

the hearing. The Disciplinary Committee will notify the respondent in writing with its decision and the penalty imposed, with the penalty to be effective from the date of the decision.

- 4.7. Following the hearing, the Disciplinary Committee will hand down such penalties as the Disciplinary Committee considers appropriate, including temporary or permanent expulsion of the respondent from the Club.
- 4.8. Any penalties handed down by the Disciplinary Committee will have effect from the date of the Disciplinary Committee's decision, notwithstanding the right of the respondent to appeal the decision of the Disciplinary Committee.
- 4.9. The procedure for appealing the Disciplinary Committee's decision or penalties is:
 - 4.9.1. Written notice of appeal must be given by the appellant within 10 working days of that party being notified of the decision. No appeal will be valid or considered after that period has elapsed.
 - 4.9.2. The appellant must give full written grounds for the appeal within the required timeframe, stating exactly what is being appealed against and the reasons and basis for the appeal. Written appeals simply stating "I wish to appeal" or similar, will not be accepted.
 - 4.9.3. Appeals must relate to either the decision of the Disciplinary Committee or the penalties handed down by the Disciplinary Committee.
 - 4.9.4. An appeal hearing will be convened as soon as practicable following receipt of a notice of appeal. Appeals will be heard by an Appeal Committee comprising two members of the QAST Committee who were not part of the Disciplinary Committee and a person who is a solicitor of the New Zealand High Court and holds a current practising certificate (but who will not be a member of the QAST Committee) who shall be the Chairperson of the Appeal Committee (but not the same person who sat on the Disciplinary Committee).
 - 4.9.5. The Appeal Committee shall have the power to:
 - 4.9.5.1. to call and hear further evidence in writing or in person from the complainant, appellant or witnesses appearing at the Disciplinary Committee hearing;

4.9.5.2. consider and decide the appeal on the witness statements, submissions and written decision of the Disciplinary Committee without hearing further statements or submissions from the parties involved in the Disciplinary Committee hearing;

4.9.5.3. amend or revoke any decision made by the Disciplinary Committee.

4.10. There is provision within the Snow Sports New Zealand Constitution for a further appeal to Snow Sports New Zealand with respect to any decision made by the Division, Disciplinary Committee or Appeal Committee.

Schedule 1 - Offences leading to Disciplinary Action

1. The actions listed in this Schedule by Club members may be interpreted by a QAST sub-Committee to be a breach of QAST Club policy. However, the lists are not to be considered as fully inclusive or covering all possible offences.
2. "Misconduct" is the carrying out of an offence by a Club member considered to be of a minor nature (unless frequently repeated). Examples of offences that may be considered misconduct include:
 - a. Discourteous, crude or offensive behaviour including behaviour on the mountain, travelling to and from the mountain, in school, in the lift line, cafeteria and on snow.
 - b. Conduct of an unsafe nature including inappropriately fast skiing and disobeying signs restricting speed.
 - c. Offensive disregard for equipment or property.
 - d. Refusal to carry out reasonable instructions issued by a coach, committee member, NZSki Staff member, event officials or organisers.
 - e. Failure to comply with or adhere to the QAST Code of Conduct.
 - f. Any other actions of similar gravity to the above, at the discretion of the sub-Committee.

Repetition of the above offences or failure to comply with any demands made in writing by the Club may result in further action involving a disciplinary hearing.

3. "Serious Misconduct" is the carrying out of an offence by a Club member of such gravity that in the opinion of the sub-Committee it warrants a disciplinary hearing. Examples of offences, which may be considered as serious misconduct include:
 - a. Misconduct offences set out in paragraph 2 if especially grave or repeated.
 - b. Deliberate or persistent breaches of Club rules.
 - c. Any attempt to achieve gains or advantage over others by unfair or unscrupulous means.
 - d. Theft or misappropriation of property.

- e. Use of threatening or abusive behaviour including (but not limited to) bullying or racism.
- f. Participating in the sport whilst under the influence of drugs or alcohol.
- g. Malicious interference with equipment or property.
- h. Reckless disregard for one's own or other people's safety.
- i. Any other action, which in the opinion of the QAST Committee may bring QAST into disrepute, or which left unpunished, may result in the detriment of QAST or its members.
- j. Serious verbal abuse, physical violence or assault towards other persons whether QAST members or not, including serious threatening, intimidating or forceful behaviour, racist or remarks disparaging of customs or religious beliefs.
- k. Other acts that are considered to be of an extremely serious nature perpetrated against QAST, its members or any other party including theft.