

NZHGPA Disciplinary Procedure and Appeals Policy

Values

Everyone involved in play, active recreation and sport 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.

The NZHGPA believes that everyone involved in the sport is here because of a shared passion for flying and care for the people involved.

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

The NZHGPA is committed to supporting everyone, including members, landowners and other supporters, to participate in an environment that is respectful, safe, and fair.

NZHGPA 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.

Natural Justice is the core principle underlying this Disciplinary Procedure and Appeals Policy. It is centred on the standards of equity, dignity, respect and maximising the potential of all pilots. The following principles should be kept in mind when applying it:

- Respect for the people involved, including 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.

Purpose

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

- a process to deal with alleged breaches of the policies of the NZHGPA Constitution, OPM and Code of Ethical Conduct
- 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

- make sure the approach taken to dealing with alleged breaches and appeals is fair and consistent, including enabling appropriate responses and processes.

Application

This Disciplinary Procedure and Appeals Policy will only apply where:

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

If you are unsure whether the Disciplinary Procedure and Appeals Policy applies to your situation, the Executive Committee 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 NZHGPA Complaints Process.

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

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 NZHGPA may have in law.

If the person involved in alleged behaviour which may breach the sport's policies or Code of Ethical Conduct is an employee or contractor of the organisation, a procedurally fair employment process must be followed before any action can be taken that affects the person's employment or contractual arrangement.

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 NZHGPA Complaints Process.

Formal disciplinary procedure

Introduction

Where a satisfactory outcome can't be reached informally, or there is a serious alleged breach of the NZHGPA Code of Ethical Conduct or a NZHGPA policy, it should be raised with NZHGPA, as soon as possible.

Formal complaints should be made in writing, as soon as possible after the event(s), using the [Complaints Form](#).

NZHGPA may be able to resolve a formal complaint or concern about alleged breaches of policies or a Code of Ethical Conduct by taking steps such as:

- holding a meeting with the people involved
- 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 Executive Committee and CEO will determine the process.

Where a formal complaint/allegation of a breach is made, and it is unable/inappropriate to be resolved informally, the Executive will work to ensure an 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 Ethical Conduct.

The Executive 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 Executive 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 NZHGPA
- what kind of resolution the complainant is seeking
- any other relevant information.

The Executive 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.
- 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 by a Disciplinary Committee

The Executive may decide to investigate alleged breaches of the NZHGPA Code of Ethical Conduct or any NZHGPA 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 Executive 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 the Disciplinary Committee

If required, the Executive will appoint an appropriately qualified Disciplinary Committee to undertake a fact-finding investigation. In doing so, the Executive will consider the needs of parties involved for a culturally appropriate investigation process and ensure any appointments be guided by that process.

The Disciplinary Committee shall comprise three individuals.

Not more than one Executive Council member will be appointed to the Disciplinary Committee at any one time. A minimum of two members of the Committee must be Full Members of the Association (one of whom may also be a member of the Executive Council).

The Disciplinary Committee 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 participate on the Disciplinary Committee.

Investigation process

The Disciplinary Committee 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 Disciplinary Committee 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 Disciplinary Committee will make a finding of fact based on all of the information available to them at the time.

Where a party wants to rely on documents, these must be sent to the Disciplinary Committee 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 Disciplinary Committee 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 Disciplinary Committee's final report will take this feedback into account.

Decision

General justice and fairness

After receiving the Disciplinary Committee's report, the Executive will make their decision in the following way:

- Consistent with a fair process (see page 4).
- Consistent with any contractual or employment rules that apply.
- Based on the evidence presented to the Executive.
- Reflective of the seriousness of the findings.

Written decision

The Executive 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 on page 6, all decisions of the Executive will be final and binding on all the parties.

Sanction

Sanctions available

If a member is found to have breached any part of the NZHGPA Code of Ethical Conduct or policies, the Executive can impose one or more of the following sanctions:

- a) Issue a written warning.
- b) Direct the member to attend counselling to address their behaviour as a condition of their membership.
- c) Withdraw any awards, placings or records sanctioned by NZHGPA.
- d) Suspend the member's membership rights in NZHGPA for a stated period.
- e) Suspend the member from participating in any flying related activity which is run by the NZHGPA.
- f) Require an apology, or order reparation or compensation to any member affected by the breach.
- g) Recommend the expulsion of the member from NZHGPA.
- h) Enforce any sanction imposed by the IOC or the Sports Tribunal in addition to any sanction of its own which it thinks appropriate in the circumstances.
- i) Any other form of discipline the Executive considers appropriate.
- j) Decline to take any further action.

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

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

- g) Any mitigating circumstances.

Enforcement

Without limiting the remedies available to the Executive and this rule, the Executive 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.

Appeals

A member may appeal a decision made by NZHGPA only if the outcome is:

- a) suspension
- b) expulsion
- c) penalty
- d) any other significant detriment.

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

Written notice of any appeal should be provided to the Executive within 28 days of the date of the decision being appealed.

The written notice shall:

- a) include a copy of the decision being appealed
- b) include a summary of the reasons why the member wishes to appeal the decision
- c) 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
- d) be sent to the Executive of NZHGPA which made the decision being appealed.

Note: in the event that this process conflicts with the NZHGPA Constitution, the Constitution will override.