



# COMPLAINTS, DISPUTES & APPEALS **POLICY**

(Replaces Squash NZ Disputes and Disciplinary Policy, July 2016)

## **THE PURPOSE OF THIS POLICY**

This policy sets out the steps for raising and dealing with concerns, disputes, and complaints. It aims to:

- support people to resolve minor issues on their own
- establish a process for resolving disputes between members
- give clear guidance for making, dealing with and resolving complaints
- make sure the approach taken to dealing with complaints is fair, consistent including enabling cultural appropriate responses and processes.

## **DISPUTES, COMPLAINTS, AND APPEALS**

A dispute arises where two members or stakeholders in the sport have a disagreement amongst themselves relating to their participation in squash or where a member has a disagreement with Squash NZ. A disagreement need not involve a breach of a rule.

A complaint concerns a situation where a member has breached a rule of Squash NZ or a rule of one of our member organisations. Rules are found in such places as policies, codes of conduct, tournament rules, employment agreements or employment policies, or the constitution of a member organization.

An appeal may arise where a member disagrees with a decision made by a member organization which affects them in a negative way.

## **RESOLVING DISPUTES**

In the first instance, we encourage members to try to resolve disputes that arise between themselves without external intervention.

However, we acknowledge that sometimes informal resolution between the parties to a dispute requires some help.

Where parties to a dispute require help to resolve a dispute, one or both parties may refer the dispute to Squash NZ. Upon receipt of the referral, Squash NZ will determine whether the dispute is squash related and would benefit from external intervention. If Squash NZ determines that external intervention may assist, Squash NZ may recommend that the parties attend mediation using a mediator appointed by Squash NZ. Both parties must agree to mediation and Squash NZ may make directions concerning the costs of mediation. Where one of the parties is Squash NZ, Squash NZ will bear the costs of mediation. Squash NZ may refer to the matter to the Sport and Recreation Complaints and Mediation Service: <https://www.sportsmediationservice.org.nz/>

If a dispute is unable to be resolved through mediation, one or both of the parties may request Squash NZ to convene a judicial panel to resolve the dispute for them (a referral). Squash NZ has sole discretion whether it convenes a Judicial Panel.

## COMPLAINTS

### Who can make a complaint?

Complaints can be made by or about anyone involved in Squash New Zealand and its regional and national organisations. This includes: volunteers, participants, supporters, club members, employees, service providers, and families/ whānau of participants.

### Complaints may involve:

- organisation management issues
- conflicts of interest (including favouritism)
- off-court unsporting behaviour
- disrespectful behaviour
- bullying
- sexual harassment
- discrimination
- abuse of power
- health and safety risks
- offensive/insulting language or behaviour

This complaints process does not apply to on-court misconduct, or selection or eligibility decisions.

Complaints can be serious or low-level. The seriousness of the complaint will depend upon the nature of the rule which has been alleged to be breached and the harm or potential harm caused by the alleged breach.

If you are unsure whether your issue gives rise to a complaint or whether the complaint is serious or low-level, the Squash NZ National Development and Operations Manager can provide guidance.

## LOW-LEVEL COMPLAINTS

People are always encouraged to raise low-level concerns directly with the person who has behaved in a way causing concern, unless there are safety reasons, or the issue is too serious to try to resolve it this way. If you do not feel comfortable raising the complaint yourself, a support person can raise it with the person on your behalf.

Both parties involved should have a chance to be heard respectfully and feel safe to be able to say what they want to say, keeping in mind the need to find ways to resolve issues and be able to work with one another in future.

If self-managed informal resolution isn't successful or appropriate, it should be raised with club or District committee member, which, in consultation with the people involved, will put in place a culturally appropriate process to try to resolve it. Informal resolution can take many forms, including mediation, negotiation, informal arbitration, recommendation by a third party, or facilitated discussion. The Sport and Recreation Complaints and Mediation Service can be used to resolve low-level complaints: <https://www.sportsmediationservice.org.nz/>

## **FORMAL COMPLAINTS PROCEDURE**

The formal complaints procedure should be used where the nature of the complaint is serious, or it would be unsafe or inappropriate to raise or resolve the complaint through the low-level complaints' procedure.

### **What do I need to do?**

Formal complaints should ideally be made in writing, as soon as possible after the event(s). Where this is not possible, the complainant should be helped by the person receiving the verbal complaint to put it in writing. The attached Complaints Form may be helpful.

Complaints should be raised with the person who is complained about in a way that preserves the dignity and mana of that person, their whānau and wider community.

### **Who do I make the complaint to?**

Squash NZ's policy is that formal complaints should be raised and resolved at the lowest level appropriate within the sport. However, any member who is the recipient of a complaint may redirect the complaint to Squash NZ who shall determine, in its sole discretion, at which level of the sport it should be addressed.

When considering at what level the complaint should be handled, Squash NZ will consider:

- what the complaint is about
- how serious or urgent the complaint is
- whether there is a set process for the type of complaint
- culturally appropriate processes depending on the parties involved
- whether the complaint might indicate a broader problem
- what risks the complaint raises for Squash New Zealand
- what outcome the complainant is seeking
- any other relevant information.

By way of guidance, if the complaint is about a club issue or about a member of a club, the complaint should first be raised with the club administrator or Club President. If the complaint is not able to be resolved at that level (for example, due to a conflict of interest), it can be escalated to the District administrator. If the complaint is not able to be dealt with at that level, it can be further escalated to Squash NZ.

If the committee or official that the complaint would usually be made to is involved in the issue or has a conflict of interest, the complaint should be made or passed to another suitable person in authority or escalated in the order of the District then Squash NZ.

Squash NZ may of its own motion elect to deal with a complaint or investigate conduct which may give rise to a complaint where it determines:

- that it is the best arbiter of the complaint; or
- it has the best resources to deal with the complaint; or
- the complaint or conduct is serious; or
- the complaint or conduct may have an impact on the sport.

## **Reporting of complaints**

If there is an immediate threat of harm, or the complaint is required to be reported, then it should immediately be reported to the Police and/or relevant agency. In such circumstances, there shall be no internal investigation of the complaint without the approval of the Police or the relevant authority.

## **How will I be treated?**

A person making a formal complaint can expect to be treated in line with the following principles:

### **Fairness:**

Every person dealing with a complaint will remain neutral and listen to both sides of the story. Any action arising from a complaint will be reasonable in proportion to the seriousness of the complaint.

### **Respect:**

Every person involved in a complaint will be treated and is expected to act towards others with respect, dignity and in a culturally appropriate way. Complaints will be raised and handled sensitively, with a goal to preserve relationships by acknowledging each other's role and contribution to the sport.

### **Communication:**

Every person involved in a complaint will be regularly kept up to date on progress and the outcome.

### **Confidentiality:**

Information relating to a complaint will not be shared with any other person without consent, unless fair process or the law require the information to be shared with a person or an authority. This will be discussed with the person providing the information.

### **Restoration:**

The goals of the complaints process are to resolve the particular complaint, restore people's mana and maintain positive relationships within the organisation and across the sporting and wider community.

### **Sanction:**

the complaints process may lead to a disciplinary process where the complaints process determines that a member has breached a rule.

### **Acknowledgement:**

Every person involved in a complaint will be asked to recognise the importance of acknowledging any fault or mistakes, the hurt this has done and if necessary, give a genuine apology.

### **Support:**

Both the person making the complaint and person complained about should have access to support throughout a complaint process. Everyone involved in a process may be accompanied by chosen family/whānau and/or other support people.

### **What is the process for resolving my complaint?**

The person or organisation responsible for receiving the complaint must acknowledge receipt of the complaint as soon as it is received. It is always best to send a written acknowledgement to the person making the complaint so they know their complaint has been received and is being taken seriously.

An initial contact should be made to discuss the next steps, support and any child welfare or safety concerns the complainant has. The complainant should be asked how they would like their complaint addressed (formal or informal), the process they would prefer and what outcome they are seeking.

It is important that the person who receives the complaint explains to the complainant that to resolve the complaint fairly to everyone involved, they will usually need to tell the person or organisation of the complaint made against them, give them all relevant information and discuss a process for resolving the complaint. If the person is under 18, their parent/guardian must also be notified. If the complainant is not willing to have their complaint or identity shared with the person or organisation concerned, other ways to resolve the complaint will have to be discussed.

The organisation which receives the complaint shall be responsible for appointing an investigator to investigate the complaint. The investigator may be any person who the member organisation or Squash NZ deems suitable for investigating the complaint. Preferably, the investigator should have some experience conducting investigations of the nature required.

The role of an appointed investigator is to make findings of fact, determine whether any rules have been broken, and provide recommendations. The investigator shall have no authority to impose sanctions or make any determination about the continuation of a person's employment.

Where there are limited facts in dispute or where the complaint is admitted, the member organisation or Squash NZ may dispense with the appointment of an investigator and instead refer the complaint directly to a Judicial Panel for determination.

### **Investigation process**

The Investigator will prepare terms of reference for the investigation which shall set out the process the investigator shall adopt to investigate the complaint and identify any relevant witnesses which the investigator will need to interview.

The person who made the complaint and any other relevant witnesses will be asked to attend an interview in a way that is comfortable to them (face-to-face, with support person or people if desired, by phone, videocall or email). The investigator shall keep a record of each interview either in audio or written form.

The investigator will usually meet separately with the person making the complaint and the person complained about. These meetings will be at a time and place and run according to a protocol/ agenda that suits everyone, to the extent possible. People may be accompanied by chosen family/ whānau and/or other support people.

These meetings should take place as soon as possible and ideally within two weeks of the complaint being received. Where it is not possible to meet face to face, the meeting can be held by phone or videocall if people agree and have access to technology.

Once the investigator has collected all the evidence relevant to the complaint (including any documentary evidence relevant to the complaint), the investigator shall prepare a draft written report setting out the investigator's findings and any recommendations.

A copy of the draft report shall be sent to the complainant and the person about the complaint is made for any further comments. The investigator shall consider any comments received before making a final determination.

Decisions should be made in a careful, reasoned way that is justified on the facts and is consistent with any rules that apply.

Decisions are made on the balance of probabilities but with due regard to the seriousness of the conduct and the effect of an adverse finding on the person being accused. Serious allegations therefore would require a higher level of corroboration.

The final written report should contain a simple explanation of:

- the issue
- any applicable policy or rule
- the process followed
- the facts and any evidence relied on
- any submissions or explanations by anyone involved
- the decision (complaint upheld or not upheld)
- the reason for the decision
- any recommendations for repairing relationships or sanctions to be applied

Note, that although most people involved in activity/ sport are volunteers, some are employees. If someone is an employee, they need to have a written employment agreement, and must be treated fairly under New Zealand employment law if any decision is being made about their employment. Contractors (who are not employees) need to be treated fairly and reasonably, and consistent with the terms of their contract. Volunteers should be treated fairly, reasonably and respectfully in making any decisions about their conduct or participation in the sport.

## COMMUNICATING THE OUTCOME

The investigator will promptly provide a copy of the decision to the person or organisation the complaint is about, the complainant, and the organization that appointed the investigator. In some circumstances it may be necessary to redact parts of any final report to protect the personal information of people who have participated in the investigation or for other reasons provided by the Privacy Act 2020.

If the investigator recommends that sporting sanctions be imposed for a breach of a rule or recommends the termination of employment or other form of employment sanction, then the organization appointing the investigator / employer shall consider whether it wishes to act upon the recommendation.

Where sporting sanctions are recommended, Squash NZ shall be asked to convene a Judicial Panel to determine what (if any) sporting sanctions shall be imposed (a referral). Where an employment sanction is recommended (i.e. formal warning or termination of employment), the employer shall meet with its employee to get the employee's comments on the investigation report and recommendation before making any decision about whether to impose an employment sanction.

The people affected by the decision (the complainant, the person or people complained about, family/whānau and wider community) may have strong feelings about the outcome and the impact on their reputation, rights or mana. There should be a discussion about what steps can be taken to restore relationships and mana of everyone involved. Support should be explored, especially if there are any concerns about health, wellbeing or safety.

All matters related to a complaint should be recorded in writing and placed on a confidential complaint file including the complaint, any response to the complaint, notes of any meetings or conversations, relevant documents, committee minutes, the decision and any outcome. The details of all complaints will be kept confidential unless otherwise agreed between the parties.

## JUDICIAL PANEL

The role of the Judicial Panel is:

- Determine complaints where those complaints have not been subject to a prior investigation
- Hear and determine whether any sporting sanctions should be imposed on a member
- Arbitrate any disputes that have been referred to it by Squash NZ
- Hear any appeals from a decision where an appeal right lays to the Judicial Panel

The Judicial Panel has no jurisdiction to determine anti-doping rule violations or determine selection appeals to a New Zealand representative team. Jurisdiction for such matters vest solely with the Sports Tribunal and shall be determined in accordance with the Sports Tribunal's rules.



### **Referrals and appeals from decisions**

Referrals or appeals to the Judicial Panel shall be made to the Chief Executive of Squash NZ who shall pass those referrals or appeals to the Board. Appeals to the Judicial Panel shall be made within 14 days of the decision being appealed against, unless the rule conferring jurisdiction on the Judicial Panel provides otherwise.

Any referral or appeal shall set out the matter for the consideration of the Judicial Panel in such detail as to inform the Judicial Panel of the issues which it is required to determine.

The Chief Executive will confirm that Squash NZ has received the referral within three working days of receiving it and at the same time shall notify any other person who is a party to the referral or appeal or who may have a right to be heard by the Judicial Panel in its consideration of the referral or appeal.

### **Composition**

No later than 7 days after receiving a referral or appeal the Board shall convene a Judicial Panel of three members. Selection of panel members shall be based on relevant experience and / or professional expertise. One of the members shall be appointed as the Chairperson of the Panel.

Any proposed member of the Judicial Panel who has an interest in any matter to be considered by the panel must declare that interest prior to any appointment and be precluded from any participation in any Judicial Panel process. The Board shall appoint a replacement.

### **Process for hearing of referral or appeal**

The Judicial Panel shall determine its own processes and procedures for the hearing and determination of the referral or appeal providing always that such processes or procedures comply with the rules of natural justice. Such processes or procedures may include the process for the hearing of evidence, questioning of witnesses, and providing submissions.

The Judicial Panel may conduct any hearings by whatever means it sees as appropriate, including in person, by video conference, by telephone, or on the papers. Any person or organisation appearing before the Judicial Panel shall be entitled to representation.

Decisions of the Judicial Panel shall be made by the majority of the members of the Panel.

## **Penalties**

If a complaint is proven to its satisfaction and without reasonable excuse, the Judicial Panel shall have the power to impose on the individual, club or association concerned one or more of the following penalties:

### **Representative or contracted players**

- Removal from a team or squad, and immediately return to NZ if applicable
- Non availability for selection to a team or squad for a specified period
- Suspension from participation in any event or programme undertaken by Squash New Zealand or any of its members for a finite period
- A total ban from the game for a period
- A financial penalty
- Financial recompense for any damage caused to property
- Payments of expenses incurred by the convening of the Judicial Panel, including all witness expenses
- Other reasonable penalty as deemed appropriate

### **Coaches and Officials**

- Suspension from office for a period
- Removal from office
- Termination or suspension of appointment (i.e. manager or coach)
- A financial penalty
- Financial recompense for any damage caused to property
- Payments of expenses incurred by the convening of the Judicial Panel, including all witness expenses
- Other reasonable penalty as deemed appropriate

### **Members, Associate Members, Life Members, Clubs, Districts**

- Suspension or expulsion from membership of the association for such period as determined
- A financial penalty
- Financial recompense for any damage caused to property
- Payments of expenses incurred by the convening of the Judicial Panel, including all witness expenses
- Other reasonable penalty as deemed appropriate
- Prior to imposing any penalty, the Judicial Panel shall invite the offending participant to make any comment on any penalty proposed. The offending participant shall receive written notification of any penalty imposed within 7 days of the determination.

### **Enforcement of Penalties**

Clubs and District Associations shall, to the extent reasonably practicable, enforce any determinations of the Judicial Panel against their members and may be subject to disciplinary action if they do not.

### **Appeals from decisions**

Where the Judicial Panel allows an appeal from a decision, it may either substitute its own decision in place of the decision made by the body appealed against or direct that the matter be reconsidered by the body against whom the appeal was made.

### **Costs**

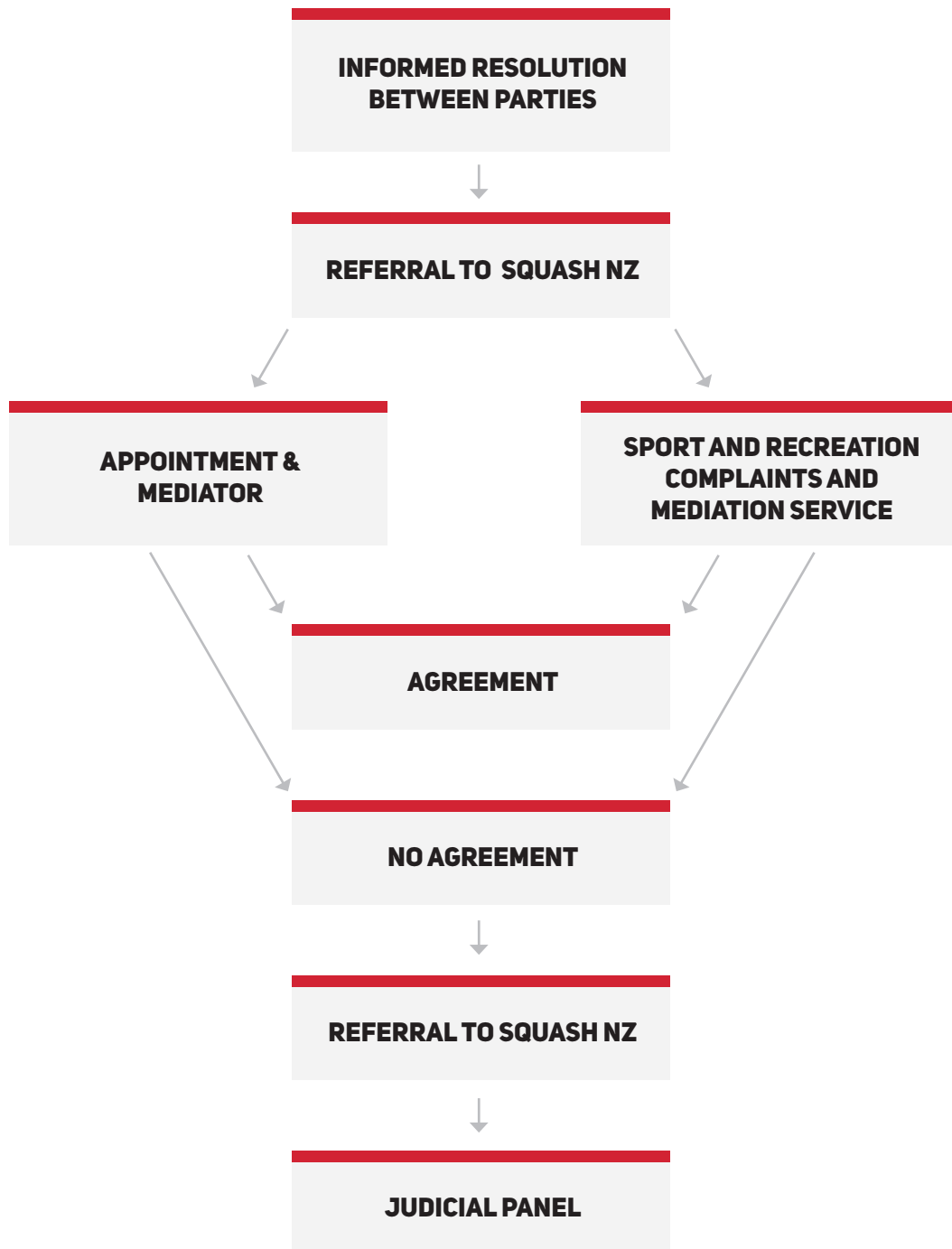
The Judicial Panel has discretion to make an award of costs where it considers any referral or appeal to be frivolous or vexatious or any party to a referral or appeal acts in a manner obstructive to the efficient determination of the referral or appeal. Any award of costs may be directed to be paid to Squash NZ (to compensate for any costs in convening the Judicial Panel) or to any opposing party.

### **Appeals from the Judicial Panel**

Appeals from decisions of the Judicial Panel shall be made to the Sports Tribunal and determined in accordance with the Sports Tribunal's Rules.

## DISPUTE PROCESS

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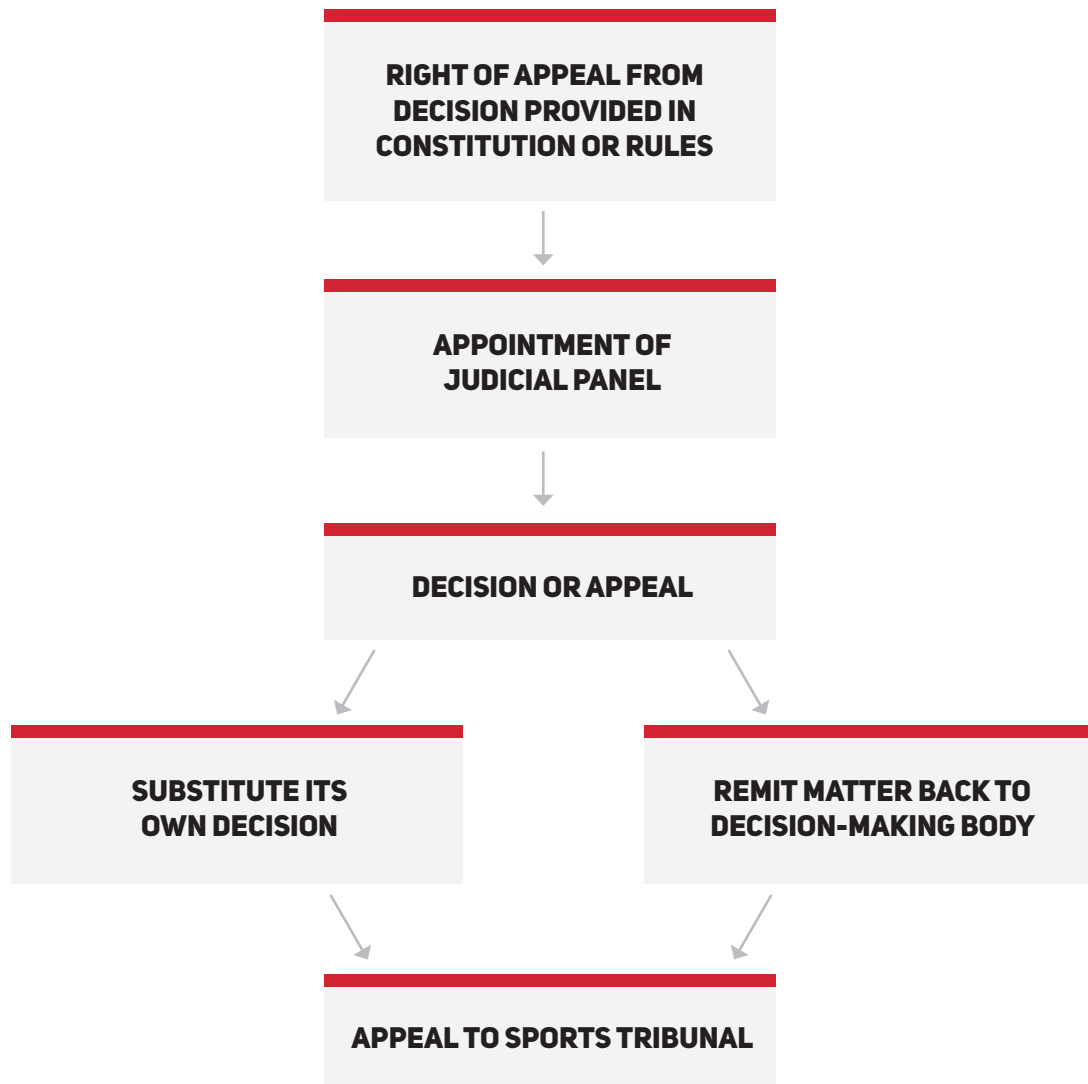


## COMPLAINTS PROCESS



## APPEAL PROCESS

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## COMPLAINTS FORM

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Name:

**Contact details:**

Phone:

Address:

**Affiliation (Club/District):**

Club:

District:

Age:      Under 18              18 years or over

**If you are making a complaint for someone else:**

Name of person complaining on behalf of:

Contact details of person complaining on behalf of:

**Complainant's role/status (highlight which applies):**

Participant                              Coach                              Manager

Administrator                              Referee

Other volunteer – provide details:

Parent                              Supporter                              Support person

Other – provide details:

**Details of person complained about:**

Name:

Club:    District:

Age:      Under 18              18 years or over

**Role/status (highlight which applies):**

Athlete                              Coach                              Manager

SNZ or District Administrator                              Referee

Other volunteer – provide details:

Parent                              Supporter                              Support person

Other – provide details:

**This record and any other documentation must be kept in a confidential and safe place.**

## COMPLAINTS FORM

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**Nature of complaint (tick as many as relevant):**

Club/Organisation management issue Bullying Unfair decision Sexual harassment

Physical abuse/Assault Coaching issue Racism Verbal abuse Discrimination

Other – provide details:

**Date(s) of incident(s):**

**Location of incident:**

Competition Training Other – provide details:

**Description of incident/Complaint (use additional sheets if required):**

**Details of any witnesses:**

Name:

Contact details:

Name:

Contact details:

Name:

Contact details:

**Action taken so far (if any) to attempt to resolve matter, or ensure safety (Use additional sheets if required):**

**\*If relevant: Agency contacted (including the Police):**

Who:

When:

Advice provided:

**Complainant:**

Name:

Signature:

Date: