



# Discipline and Appeals Policy

<b>Policy number</b>	008	<b>Version</b>	1.0
<b>Drafted by</b>	Josh McCleery	<b>Approved by RCSA Board on</b>	12/11/2024
<b>Responsible person</b>	President	<b>Scheduled review date</b>	1/08/2025

<b>Version</b>	<b>Date Reviewed</b>	<b>Content Reviewed / Purpose</b>
1.0	June 2024	Initial Policy

## Introduction

This Policy is made by the Rottneest Channel Swim Association (RCSA) pursuant to the RCSA Constitution.

RCSA is committed to maintaining a high standard of conduct and performance among its participants, members, staff, volunteers and stakeholders, in accordance with its values. RCSA recognises that there may be occasions where disciplinary action or appeals are necessary to address issues of misconduct, breach of policies, rules or regulations, or unsatisfactory performance.

RCSA aims to ensure that any disciplinary action or appeal is fair, consistent, transparent and respectful of the rights and interests of all parties involved. RCSA will provide members, staff, volunteers and stakeholders with a clear process to follow in the event of a disciplinary matter or an appeal. RCSA will respect the confidentiality and privacy of all parties, and seek to resolve matters as quickly and effectively as possible.

## Purpose

The purpose of this policy is to outline the principles and procedures for dealing with disciplinary issues or appeals that may arise within RCSA. This policy applies to all RCSA participants, members, staff, volunteers and stakeholders who are involved in any RCSA activities, programs, events or services.

## Policy

The RCSA recognises the right of every person or organisation associated with the RCSA to be treated with respect and dignity, and to have their concerns or complaints addressed in a timely and appropriate manner.

The RCSA also expects that every person or organisation associated with the RCSA will act in accordance with the RCSA's values, rules, policies, codes of conduct and any other relevant standards or regulations.



Any person or organisation associated with the RCSA who breaches these expectations may be subject to disciplinary action, which may include, but is not limited to, suspension, expulsion, termination, disqualification, withdrawal of awards or recognition, or any other sanction deemed appropriate by the RCSA.

Any person or organisation associated with the RCSA who is subject to disciplinary action has the right to lodge an appeal against the decision, in accordance with the RCSA Disciplines and Appeals Procedure.

As per Rule 28 a grievance procedure is commenced if the parties are unable to resolve the dispute themselves within 14 days following the dispute coming to the attention of each party.

## Authorisation



[Kirsty Bellombra \(Nov 15, 2024 14:28 GMT+8\)](#)

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Kirsty Bellombra

*RCSA President*

Rottnest Channel Swim Association



# Discipline and Appeals Procedure

<b>Procedure number</b>	008	<b>Version</b>	1.0
<b>Drafted by</b>	Josh McCleery	<b>Approved by RCSA Board on</b>	12/11/2024
<b>Responsible person</b>	Executive Officer	<b>Scheduled review date</b>	1/08/2025

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## Responsibilities

### Responsibilities of the RCSA Board (but not limited to):

- Review any reports of alleged misconduct by a participant of an RCSA event and/or member of the RCSA and decide whether to initiate a disciplinary process or dismiss the case;
- Appoint a Discipline Committee consisting of at least one (1) and no more than three (3) impartial people to conduct the investigation and hearing of the disciplinary matter;
  - A Member of the Board with suitable skills may be a Member of the Committee.
- Nominate a suitable Chair of the Discipline Committee.
- Ensure that the Discipline Committee follows the principles of natural justice and procedural fairness in handling the disciplinary matter, and that all parties are given an opportunity to present their case and respond to the evidence;
- Receive and endorse the decision and penalty of the Discipline Committee, and communicate the outcome to the aggrieved parties in writing;
- If a party appeals the decision or penalty of the Discipline Committee, decide whether to initiate a the appeal process or dismiss the case;
- If a party appeals the decision or penalty of the Discipline Committee, appoint an Appeals Committee consisting atleast one (1) and no more than three (3) different people to review the appeal and make a final determination;
- Ensure that the Appeal Committee follows the same principles and procedures as the Discipline Committee in reviewing the appeal, and that the parties are given an opportunity to submit their grounds and arguments for the appeal;
- Receive and endorse the decision of the Appeal Committee, and communicate the outcome to the parties in writing;
- Maintain records of all disciplinary matters and appeals;
- Review and update the RCSA Code of Conduct and the disciplinary and appeals procedure periodically to ensure they reflect the best practice and standards of the RCSA.



**Duties and responsibilities of Discipline Committee (but not limited to):**

- Notify the Member against whom such an allegation is made (“the Defendant”) of the details of the allegations made and the rule / policy considered to be breached;
- Communicate with the Defendant and all parties involved in the disciplinary matter of the process as per this procedure;
- If required, conduct a Disciplinary Hearing and hear evidence provided by the Defendant and any other parties as determined by the Discipline Committee;
- At the conclusion of the hearing/s, make a decision as to whether the allegation is sustained or dismissed;
- Decide on an appropriate penalty as outlined in the abovementioned policy if the allegation is sustained;
- Submit the decision of the Discipline Committee to the RCSA Board for endorsement at the following Board meeting;

**Responsibilities of Appeals Committee (but not limited to):**

- The Appeals Committee is responsible for reviewing and hearing any appeals from the parties who are dissatisfied with the decision or sanction of the Discipline Committee.
- The Appeals Committee shall have the discretion to conduct the hearing as a complete re-hearing or to limit the hearing to consideration of the ground(s) of appeal relied upon by the Appellant according to their Notice of Appeal.
- An Appeals Committee, following a Appeal hearing shall recommend to the RCSA Board to:
  - Dismiss the appeal;
  - Uphold the appeal;
  - Impose any of the penalties set out in this Policy; or
  - Reduce, increase or otherwise vary any penalty imposed by the initial decision, in such a manner as it thinks fit.
- The Appeals Committee is obligated to give written reasons for its decision.

**Responsibilities of the Aggrieved Parties:**

The Aggrieved Parties are responsible for complying with the RCSA Code of Conduct and responding to any allegations of misconduct in a timely and honest manner.

They have the right to:

- to report any suspected misconduct to the RCSA Board
- provide evidence to support their claim.
- be informed of the charges against them
- to present their side of the story
- to appeal the decision of the Discipline Committee if they are not satisfied with the outcome.

## Procedures

**Grievance Procedure**

If the RCSA is made aware of any alleged breach of the RCSA's values, rules, policies, codes of conduct or any other relevant standards or regulations by any person or organisation

associated with the RCSA, the RCSA may determine to initiate a disciplinary process as follows:

- The RCSA Board to appoint a Discipline Committee, consisting of at least one (1) and no more than three (3) impartial and independent persons, to investigate the matter and recommend action and or penalties.
  - Members of the Discipline Committee may hold another position within the RCSA.
  - As far as possible, the Discipline Committee should not have a conflict of interest in the matter to be considered.
- The Disciplinary Committee may:
  - Obtain information about the alleged conduct that is the subject of the disciplinary process, including but not limited to undertaking an investigation, reviewing relevant documentary material or interviewing relevant witnesses;
  - Provide the Respondent with an opportunity to respond to the allegations that are the subject of the disciplinary process;
  - Determine whether or not the alleged conduct the subject of the disciplinary process occurred; and
  - Determine what, if any, disciplinary action to take against the Respondent.
- The Disciplinary Committee must follow the decision process outlined in this procedure.
- The disciplinary panel will make a decision based on the available evidence, and will communicate the decision and the reasons for it to the RCSA Board in writing, within a reasonable timeframe.

#### **Decision-Making Procedure (Discipline and Appeal Committees)**

The Discipline Committee shall serve on the Respondent a notice in writing:

- Setting out the alleged conduct of the Member that has given rise to the disciplinary process;
- Stating that the Respondent may address the Discipline Committee at a meeting to be held in relation to the matter;
- Stating the date, place and time of that meeting, including who will be in attendance, and;
- Informing the Respondent that they may do one or more of the following:
  - Attend that meeting;
  - Give the Discipline Committee, before the date of the meeting, a written statement regarding the alleged conduct.

At the meeting, the Respondent shall have an opportunity to respond to the alleged conduct that is the subject of the disciplinary process. Either party is not entitled to legal representation at the meeting; however, each party may have a support person present, provided that the support person acts in a silent, non-participatory role.

The meeting shall be conducted in whatever manner the Discipline Committee considers appropriate in the circumstances (including by way of teleconference, video conference, in person meeting or otherwise) provided that they do so in accordance with the principles of natural justice.

Following the meeting, the Discipline Committee shall:

- Give consideration, to the Respondent's response and any written statement submitted by the Member;
- Determine whether the alleged breach occurred; and
- Notify the Board of the outcome of the disciplinary process.

If the Respondent refuses or fails to respond to the allegations in writing and refuses or fails to attend the meeting, the Discipline Committee may proceed to determine whether the alleged breach occurred in the absence of the Respondent's response.

If the Discipline Committee considers that the alleged breach occurred, they may recommend any one or more of the penalties set out in this Procedure.

If the Discipline Committee considers that the alleged breach did not occur then the matter shall be dismissed, and the Discipline Committee shall notify the Board of the recommendation.

Each party shall be responsible for their own costs associated with the meeting. The Discipline Committee has no power to award costs to a party.

### **Improper Reports and Victimisation**

The RCSA recognises the importance of a procedure that has integrity and is free from unfair repercussions or victimisation against those who are making or supporting a report under the Policy.

Disciplinary measures may be imposed on anyone who victimises another person for making a report or supporting another person's report.

Any person covered by this Policy who is found to have knowingly made an untrue report, vexatious or malicious report may be subject to disciplinary action.

### **Penalties**

A penalty may be issued by the Board, with or without recommendation by the Discipline Committee.

The Discipline Committee must communicate the penalties recommendations, if any, in writing to the RCSA Board.

The RCSA Board must communicate the penalties, if any, in writing to the Respondent.

If the Board or the Discipline Committee considers that the alleged breach occurred, any one or more of the following penalties may be imposed:

#### **Individuals**

- A direction that the individual makes a verbal and/or written apology;
- A written warning;
- A direction that the individual attend counselling to address their behaviour;
- A withdrawal of any awards, scholarships, placings, records, achievements bestowed in any competition, activities or events held or sanctioned by RCSA;
- A demotion or transfer of the individual to another location, role or activity;
- A suspension of the individual's membership or participation or engagement in a role or activity;
- Termination of the individual's membership, appointment or engagement;
- A recommendation that RCSA terminate the individual's membership, appointment or engagement;

- In the case of a coach or official, a direction that the relevant organisation de-register the accreditation of the coach or official for a period of time or permanently;
- Any other form of discipline the RCSA Board considers appropriate.

### **Organisations**

- A written warning;
- A direction that any rights, privileges and benefits provided to that organisation by the RCSA be suspended for a specified period;
- A recommendation by RCSA that the membership of an affiliated member be suspended or terminated in accordance with the relevant policy or rules;
- Any other form of discipline that the RCSA considers reasonable and appropriate.

The penalty to be imposed on the Respondent may depend on factors such as:

- The nature and seriousness of the breach;
- If the person knew, or should have known, that the behaviour was a breach of RCSA Policies;
- The person's level of contrition;
- The effect of the proposed disciplinary measures on the person, including any personal, professional or financial consequences;
- If there have been any relevant prior warnings or disciplinary action;
- Any other mitigating circumstances.

### **Appeals**

If the person or organisation concerned is dissatisfied with the decision of the disciplinary panel, they may lodge an appeal within 5 days of receiving the decision, by submitting a written notice of appeal to the RCSA, stating the grounds for the appeal and any supporting evidence or information.

- The decision was based on a factual error or a misinterpretation of the evidence;
- The decision was influenced by bias, prejudice or a conflict of interest;
- The decision was disproportionate to the nature and severity of the breach;
- The decision was contrary to the RCSA's values, rules, policies, codes of conduct or any other relevant standards or regulations;
- The disciplinary process was procedurally flawed or unfair.

The RCSA will acknowledge the receipt of the notice of appeal.

If the RCSA's Board deems the Appeal warranted, the RCSA Board is to appoint an Appeals Panel, consisting of at least one (1) and no more than three (3) impartial and independent persons, who were not involved in the original disciplinary process, to review the matter and determine the outcome.

There shall be no appeal from a decision of the Discipline Committee or the RCSA Board unless the person seeking to appeal satisfied the Appeals Committee that:

- Significant new or additional evidence has become available; or
- The severity of the sanction can be demonstrated to be excessive; or
- There has been a failure of natural justice.

The appeals panel may seek further information or evidence from any relevant parties, and may conduct interviews or hearings as necessary.

The appeals panel will make a decision based on the available evidence and the principles of natural justice, and will communicate the decision and the reasons for it to the person or organisation concerned in writing, within a reasonable timeframe.

The decision of the appeals panel is final and binding, and no further appeal is available within the RCSA.

### **External Review**

If the person or organisation concerned is still dissatisfied with the outcome of the appeal, they may seek an external review by an appropriate body, such as the Western Australian Sports Tribunal, the State Administrative Tribunal, or the courts, depending on the nature and jurisdiction of the matter.

The RCSA will cooperate with any external review process and comply with any orders or directions issued by the external review body.

### **Relationship with Criminal Matters**

If, during a Disciplinary or Appeals hearing or an investigation under this Policy, it becomes known that a criminal charge has been brought (as opposed to just the subject of police investigation) arising out of the actions that are the subject of the hearing, appeal, or investigation, the Discipline Committee or Appeals Committee may rule that further action be deferred until the completion of the criminal charge.

### **Confidentiality and Record Keeping**


All disciplinary issues and appeals will be handled confidentially and sensitively, and the privacy of the parties involved will be respected, subject to any legal obligations or requirements.

The RCSA will keep accurate and secure records of all disciplinary issues and appeals, including the details of the alleged breach, the response, the evidence, the decision, the reasons, the appeal, and the outcome. The records will be retained for at least seven years, or longer if required by law or by the RCSA's rules or policies.

### **Review**

This policy will be reviewed by the RCSA Board as required by any changes in the RCSA's rules, policies, codes of conduct or any other relevant standards or regulations. Any amendments to this policy will be communicated to all RCSA participants, members, staff, volunteers and stakeholders.

## **Authorisation**

  
Kirsty Bellombra (Nov 15, 2024 14:28 GMT+8)

Kirsty Bellombra

*RCSA President*

Rottneet Channel Swim Association