



A Guideline to Disciplinary Matters

Summary

From time to time Clubs encounter difficulties with managing one or more of their members. How the Club handles these difficulties will impact on the culture of the Club and how the Club as a group of volunteers continues to operate together.

These difficulties are sometimes the result of a breach of Club or Pony Club rules but are often a consequence of a misunderstanding, lack of communication, personality clashes or differences in expectations. Quite often, members may not be aware of the Club rules and expectations.

In the first instance the Club President should identify the problem informally and ascertain whether it can be handled by some informal counselling or bringing together of the relevant parties to talk it over (mediation). The President may delegate this role to another person (Complaint Handler/Manager) who will be responsible for investigating the complaint. This person needs to be independent of both the complainant and respondent, they may be one of the more experienced well respected members of the Club/Zone.

It is much better for the wellbeing of the Club or Zone to resolve minor issues early, particularly if they are the result of a misunderstanding. By laws are often used to clarify some of the grey areas.

However, if it is a serious matter or repeated behavioural issues, this may not be appropriate. A range of steps have been set out in the Pony Club policies for dealing with groups or individuals who engage in any of the behaviours prohibited by Pony Club Association NSW.

This document provides guidance for those with a complaint or concern, those who have had a complaint made against them and those who are responsible for handling a complaint.

All complaints will be handled based on the principles of procedural fairness (natural Justice) that is:

- ❖ Confidentiality will be maintained:
- ❖ Both the person making the complaint (complainant) and the person the complaint is against (respondent) will be given full details of what is being said against them, and have the opportunity to respond (give their side of the story);
- ❖ Irrelevant matters will not be taken into account;
- ❖ Decisions will be unbiased and fair;
- ❖ And any penalties imposed will be fair and reasonable.

Standard of Proof

The standard of Proof for determining whether a breach of the Code of Conduct has occurred is “*on the balance of probabilities*”. This means that the decision maker must be satisfied that a breach of the code is more probable than not.

The level of proof, whilst still being on the balance of probabilities will rise in accordance with the seriousness or importance of the issue to be determined. For example an allegation of being rude to an official will have a lesser level of proof than an allegation of theft.

Pony Club Complaints Procedures

Pony Club Association NSW aims to provide a simple procedure for complaints based on the principles of procedural fairness (natural justice). Any person (a complainant) may report a complaint about a person bound by this policy. Such complaints should be reported to their Member Protection Information Officer



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(MPIO) or to their Club/ Zone President. The President is responsible for appointing the Complaint Handler/Manager and for selecting and appointing the complaints committee/panel if required.

A complaint may be dealt with informally or formally depending on its severity. The complainant usually decides this, unless the MPIO or the Club/PCA President considers that the complaint would be better dealt with another way and/or the law requires the complaint / allegation to be reported to an appropriate authority.

All complaints will be dealt with promptly, seriously, sensitively and confidentially.

The lowest level at which a matter can be dealt with shall always be preferred. Therefore if a complaint relates to behaviour or an incident that occurred at the Club level or involves people operating at the Club level, then the complaint should be reported to and handled by the relevant Club President (or MPIO) in the first instance.

Or if it occurred at the Zone level or involves people operating at the Zone level, but not in your Club, then the complaint should be reported to and handled by the relevant Zone MPIO or President in the first instance.

Only matters that relate to or occur at the National level or cases referred from Club and Zone level should be referred to the State office. All matters referred to the State office must be in writing.

If a matter has been referred to Pony Club Australia (National Body) or an outside agency such as the police or Department of Sport and Recreation or Australian Sports Commission, then it cannot be considered by PCA NSW, until all other investigation has been completed. Likewise once a complaint has been referred to the Zone, then the Club investigation must stop.

Individuals and organisations may also pursue their complaint externally under anti-discrimination, child protection, criminal or other relevant legislation. Whilst under review by an outside agency, all internal reviews and investigations of the complaint will be stopped. Unless advised in writing that the external investigation has been completed, no further action will be taken by the Pony Club.

Vexatious Complaints & Victimisation

Pony Club Association NSW aims for our complaints procedure to have integrity and be free of unfair repercussions or victimisation. If at any point in the complaints process the MPIO or the State President considers that a complainant has made an untrue complaint or the complaint is vexatious or malicious, the matter may be referred to the Complaint Handler/Manager for appropriate action which may include disciplinary action.

Pony Club will take all necessary steps to make sure that people involved in a complaint are not victimised. Disciplinary measures can be imposed on anyone who harasses or victimizes another person for making a complaint.

Best Outcome

Complaints may be resolved by agreement between the people involved with no need for disciplinary action.

Mediation

Mediation may occur after the start of investigation of a complaint. Mediation allows those involved to be heard, and to come up with mutually agreed solutions. If a complainant wishes to resolve the complaint with the help of a mediator, the relevant President will, in consultation with the complainant, arrange for a



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neutral person to mediator where possible. Lawyers are *not able* to negotiate on behalf of the complainant and/or the respondent.

Formal Complaint and Grievance guidelines

If the informal approach to resolving the matter does not address the problem. The President will appoint a Complaint Handler/Manager who will be responsible for investigating the complaint. This person needs to be independent of both the complainant and the respondent. The first step is to receive and note the written and signed statement(s) from the person(s) making the complaint. All complaints (other than informal complaints) must be made in writing and signed and dated.

The Complaint Handler will arrange for a letter to be sent to the Respondent detailing the alleged complaint and giving a reasonable amount of details to enable the person to make an informed response.

The Complaint Handler will then consider the signed statements, and at this stage make a recommendation to the President. The complaint at this stage may be dismissed with no further penalty. If so the Complaint Handler will arrange a letter to both parties, outlining the decision and reasons. At this point the matter is then closed.

If the Complaint Handler is not satisfied that the matter has been resolved, the following process should be followed:

- a) Form a complaint committee/panel consisting of the Complaint Handler, President (ex officio), and suitable committee members to make a group of between 3 and 5.
- b) Call a meeting on a confidential basis and any committee/panel member who has a conflict of interest should declare it and leave the meeting.
- c) Consider the written submissions at the meeting. Do not take sides, do not listen to gossip, do not consider issues other than the relevant ones or take into account statements which are not signed.
- d) The committee/panel needs to decide whether the complaint has been “substantiated on the balance of probabilities” (i.e. more probable than not). As the seriousness of the allegation increases, so too must the level of satisfaction of the committee/panel that the complaint has been substantiated.
- e) Make full notes of discussions and append these in a sealed envelope (after confirmation that they are correct and complete) to the minutes. Do not distribute these notes with the minutes but place them in a safe and confidential place for later reference if required.
- f) If after full and dispassionate consideration of the facts, the committee/panel is of the view that the matter is on the balance of probabilities of sufficient seriousness that it should be taken further, then a letter should be sent to the “offending” person setting out the factual findings of the committee and inviting that person to respond, in writing, within 14 days. If the offender is under age 18, all matters must be addressed to their parent of guardian.

When the “offender’s” response has been received, the committee should reconvene to consider their response. The same procedure as in b) through to e) should be adopted.

If, after considering the response, the committee is of the view that the offender has been exonerated or that the matter has already been resolved or is so trivial that no further action should be taken, then the Complaint Handler should notify the offender and complainant of this. The matter will then be closed.

If, however, the committee considers that the written response is inadequate or not credible it may invite the “offender” to personally attend a complaint committee meeting where they can make a verbal



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response, or answer questions. The complaint committee/panel should keep an open mind and not start thinking of penalties until this process is completed.

Once this has been completed, the committee/panel should meet in confidence to consider its options. In considering its options, the complaint committee/panel may also have regard to the following:

- the age of the member
- the member's experience within the Club
- the member's standing within the Club
- whether the member has previously offended
- the seriousness of the matter (for example, does it involve cruelty or improper conduct, especially in public)
- the effect that the disciplinary action will have upon the member and his family
- Whether the member seems genuinely contrite and prepared to mend his ways

The disciplinary options that may be considered are as follows: (these are not exhaustive)

- counselling
- official warning
- that they make a public apology
- removal of privileges for a period of time
- withholding of prizes, certificates or awards
- suspension from Club, Zone and/or State competition for a period of time
- suspension from rallies or restriction of activities at rallies
- withdrawal from other Pony Club activities (e.g., camps, squads, parades)
- suspension of Club membership for a period of time
- impose a monetary penalty, for example where the person deliberately damaged property
- recommendation that the member not be accepted as a member next year

The committee/panel, having determined a course of action, should inform the "offender" of its decision in writing. In some circumstances it may wish to defer or suspend the expulsion or suspensions upon the member entering into a formal agreement to mend his ways and right any wrongs done by him.

Where a committee/panel is of the opinion that a suspension of membership for a substantial time (for example 6 months) or expulsion is the appropriate penalty, and where it is not intended to suspend such penalty then the committee/panel would be wise to notify the State Office of the PCA NSW on a confidential basis prior to notifying the offender of its decision.

In all other cases, instructors or Club officers who need to know the penalty should be informed on a confidential basis.