



2016 Australian Paralympic Team Policy



2.6 Disciplinary hearings and appeals

a) Policy purpose

To describe the processes for dealing with any issues of inappropriate behaviour, breaches of the Team Membership Deed or APC, IPC or Games Organising Committee policies, codes of conduct or any other relevant document outlining expected standards and rules of behaviour as published from time to time.

b) Preamble

The APC is committed to dealing with issues of inappropriate behaviour or breaches of policies and standards in a fair and timely manner.

The APC Member Protection Policy sets out the processes to be followed when there is a perceived breach of any of the APC codes of conduct. It covers areas which include discrimination and harrassment, including sexual harrassment.

During periods of formal membership of the Australian Paralympic Team this Disciplinary Hearing and Appeals policy covers all areas of behaviour which may, in the opinion of the Australian Paralympic Team Chef de Mission, form a breach or breaches of the Team Membership Deed or APC, IPC or Games Organising Committee policies, codes of conduct or any other relevant document outlining expected standards and rules of behaviour as published from time to time, as well as those areas covered under the APC Member Protection Policy.

To the extent of any inconsistency this policy shall take precedence over sections 15, 16, 17, 18 and 21 of the APC Member Protection Policy during periods of formal membership of the Australian Paralympic Team.

c) Policy statement

During periods of formal membership of the Australian Paralympic Team this Disciplinary Hearing and Appeals policy shall be used to determine whether a hearing should be held, the conduct of that hearing and the appeals process.



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d) Implementation procedures

(i) Complaints

Any matter regarding breaches of discipline may be raised first orally to the Australian Paralympic Team Chef de Mission, or Deputy Chef de Mission, then in writing by the completion and lodgement of an incident report form by a Team Member with a member of the Team Headquarters office.

In the first instance, any matter will be directed to the Chef de Mission or Deputy Chef de Mission. Time shall be of the essence.

(ii) Investigation

The Chef de Mission will nominate the Deputy Chef de Mission to investigate the complaint and ascertain whether or not it appears to them that, prima facie, there has been a breach. They shall then be responsible for recommending to the Chef de Mission whether or not a matter warrants a formal disciplinary action hearing.

(iii) Mediation

Prior to any disciplinary action hearing the investigating Deputy Chef de Mission shall attempt to resolve the matter through mediation to the satisfaction of all affected parties provided that the Deputy Chef de Mission may, after taking into account the wishes of the complainant and his or her own assessment, decide that a mediation should not take place.

(iv) Disciplinary action hearings

If the matter cannot be resolved through mediation, the Chef de Mission shall have the sole responsibility for determining if a matter warrants a formal disciplinary action hearing, based on a written report from the investigating Deputy Chef de Mission.

If the matter is determined to be heard at a disciplinary action hearing, this hearing will be chaired by the Chef de Mission or his / her nominee, and will include two other members deemed by the Chef de Mission to be appropriate for the specific circumstances. At all times the principles of procedural fairness must be observed.

The hearing shall be conducted in any manner as determined by the Chair so long as the principles of procedural fairness and natural justice are observed. The complainant(s) and any Team Members against whom a complaint has been made may be accompanied by a friend or representative.

As soon as possible after the conclusion of the hearing, the Chair of the disciplinary action hearing panel shall prepare a written report which summarises the hearing and the decisions of the disciplinary action hearing panel.

The Chef de Mission or their representative shall inform the Team Member and any affected persons of the decision of the panel.



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At this time the decision of the disciplinary action hearing panel shall be in force.

(v) Appeals

Should the complainant(s) and any Team Member(s) against whom a complaint has been made believe that the finding of the disciplinary action hearing is improper due to procedural unfairness or a misconstruction of the facts, the Team Member shall have a right to an appeal.

A Team Member wishing to appeal the decision of the disciplinary action hearing must advise the Chef de Mission of their desire for an appeal within 6 hours of being advised of the outcome of the first instance hearing and provide a document setting out the grounds of the appeal as soon as possible after that.

The Team General Counsel has the sole responsibility for determining if the grounds for appeal are of a nature substantial enough to grant a Team Member an appeal hearing.

If so determined, the Chef de Mission shall instigate an appeal hearing. This appeal hearing shall be heard by an appeal panel consisting of the APC President, or an APC Board member designated by the APC President, as the "Chair", together with two suitably qualified nominees who are independent of the issue and available to hear the matter.

The appeal panel shall be advised on procedural matters by the Team General Counsel.

The appeal hearing shall convene (via teleconference if necessary) as soon as reasonably possible after receipt of the Team Member's notice of grounds of appeal.

The appeal hearing shall be conducted in any manner as determined by the Chair so long as the principles of procedural fairness and natural justice are observed.

The appeal hearing has the capacity to uphold the decision of the disciplinary action hearing or amend the decision in any way considered fair in light of the facts presented.

The decision of the appeal hearing shall be final.

e) Implementation procedures

- Matters regarding breaches of discipline raised in writing by any Team Member.
- Procedure followed (section d of this document).
- Appeals can be made (section d of this document)
- Final outcome/judgment is final, and penalty is served if applicable.



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f) **Applicability**

This policy refers to all Team Members.

This policy is effective during periods of formal membership of the Australian Paralympic Team.

g) **Conditions**

In the event that a complaint is made against any of the people named in this policy as having responsibility for any aspect of the implementation of this policy, then their role in the implementation of this policy shall be filled by an alternate nominated by the President of the APC.

h) **Definitions**

Period of membership of the Australian Paralympic Team – from the time a Team Member boards the flight or journey which will directly end at a point of entry into the host city of the Paralympic Games, to the time a Team Member arrives at their home port on return or, if they do not travel with the team in one or both directions, from the time they sign into the Village to the time they sign out of the Village, whichever is applicable.

Team Executive – the Australian Team Chef de Mission and Deputy Chef de Mission (s).

Team General Counsel – a suitably qualified person appointed by the APC to provide advice and support to the Chef de Mission regarding any legal questions or issues.

Team Headquarters office – the administration space located within the Australian Team allotment at the Paralympic Village.

Team Member – a person selected by the APC to the 2016 Australian Paralympic Team as either an athlete or team official.

i) **Policy officer/contact**

This policy is managed by the Chef de Mission.

j) **Authority**

This policy is authorised by the APC Board for immediate implementation.



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k) Related policies

- Member Protection
- Child Protection
- APC Codes of Conduct
- APC Anti-doping
- Smoking and Alcohol
- Incident Reporting
- Grievance Resolution

l) References:

Flowchart of processes on the following page.

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DISCIPLINARY HEARING AND APPEALS

