



# **MEMBER PROTECTION POLICY MANUAL**

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Current as at August 2020

## SWIMMING NEW ZEALAND MEMBER PROTECTION POLICY MANUAL

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**1. INTRODUCTION:**

Swimming is a sport that values teamwork, cooperation, diversity, inclusion and leadership and one that can be enjoyed by people of all ages and abilities. Swimming New Zealand (SNZ) is committed to ensuring that a diverse range of participants continue to enjoy our sport for years to come and to providing a safe environment in which to do so.

SNZ has developed the Membership Protection Policy Manual (the Policy) to reinforce its commitment to providing an environment for participants of all ages and backgrounds that is safe, free from harassment and abuse, and promotes respectful and positive behaviour and values.

This Policy includes a Code of Conduct that forms the basis of appropriate, ethical and acceptable conduct which everyone must abide by. It also includes a number of Position Statements that clearly set out SNZ's expectations in relation to behaviour and conduct, including the protection of our members under the age of 18, and a series of policies that guide members through the complaints, disputes, disciplinary and appeals processes.

**2. PURPOSE OF THE MEMBERSHIP PROTECTION POLICY MANUAL:**

This is an essential part of SNZ's proactive and preventative approach to tackling inappropriate behaviour within our sport. SNZ expect all administrators, coaches, athletes and support staff to assist it to promote and deliver a safe and responsible environment for all participants.

The policies herein will provide a resource for all members that clearly articulates the type of behaviour that is expected from members and to provide a clear process that can be followed should expected behaviours be not be adhered to.

The position statements and policies that follow aim to ensure our core values, good reputation and positive behaviours and attitudes are always maintained. The goal of the Policy is to assist us in ensuring that every person involved in our sport is treated with respect and dignity and is safe and protected from abuse. The policy statements will inform everyone involved in our sport of his or her legal and ethical rights and responsibilities and the standards of behaviour that are required and expected.

SNZ is committed to eliminating discrimination, harassment, child abuse and other forms of inappropriate behaviour from our sport. As part of this commitment, SNZ will appoint a Membership Protection Advisor (MPA) who will work with SNZ, regions and clubs to help enforce the policies contained in this manual and offer skilled advice and support in the event that disciplinary action against any person or organisation bound by this manual be required.

This Policy Manual:

- Has been made pursuant to the Constitution of Swimming New Zealand and has been endorsed by the SNZ Board.
- Will operate until replaced or rescinded.
- May be amended from time to time by resolution of the SNZ Board. A 'current' version of the Membership Protection Manual will be always available on the SNZ website. [www.swimmingnz.org.nz](http://www.swimmingnz.org.nz)

### 3. WHO DOES THIS POLICY APPLY TO:

The policies, position statements and information contained within this manual apply to the following people, unless they have varied their agreement with SNZ by consenting to be bound by a policy which complements or supersedes this information contained within this manual, whether they are in a paid or unpaid/voluntary capacity:

- Any person or organisation that is a member of, or affiliated to, SNZ;
- Persons appointed or elected to SNZ's Board, committees and sub-committees;
- Employees and volunteers of SNZ and organisations affiliated to SNZ;
- Support personnel appointed or elected to SNZ teams and squads (e.g. managers, physiotherapists, psychologists, masseurs, sport trainers, etc);
- National coaches and assistant coaches;
- Athletes, including national representative athletes;
- Technical Officials and other officials involved in the regulation of the sport;
- Athletes, coaches, officials and other personnel participating in events and activities, including camps and training sessions, held or sanctioned by clubs, regions and SNZ; and
- Parents, guardians, spectators and sponsors to the full extent that is possible, including where spectators, parents/guardians and sponsors, who or which agree in writing (whether on a ticket, entry form or otherwise) to be bound by this policy.

The policies, position statements and information contained within this manual also apply to and shall be adopted by SNZ's Regional Associations, members clubs and associated organisations (referred to herein as 'affiliate organisations') and furthermore shall apply to members, athletes and officials from those associated organisations.

Member associations are required to adopt and implement this Policy and to provide proof to Swimming New Zealand of the approval of the Policy by the relevant Board in accordance with its Constitution. Member Associations must also undertake to ensure that affiliated clubs and individual members are bound by this policy and are made aware of this policy and of its contents.

The policies, position statements and information contained within this manual will continue to apply to a person even after they have stopped their association or employment with SNZ if disciplinary action, relating to an allegation against that person, has commenced prior to that person ceasing their association with SNZ.

### 4. RESPONSIBILITIES OF SNZ REGIONAL ASSOCIATIONS, AND

**MEMBERS CLUBS:** SNZ, its regional associations and member clubs

must:

- 4.1 Adopt, implement and comply with the policies, position statements and information (including any updates) contained within this manual;
- 4.2 Make such amendments to its/their Constitution, Rules or Policies necessary for 4.1 to be enforceable;
- 4.3 Publish, distribute and promote this manual and the consequences of breaches;
- 4.4 Promote and model appropriate standards of behaviour at all times;
- 4.5 Promptly deal with any breaches or complaints made under these policies in a sensitive, fair, timely and confidential manner;
- 4.6 Apply these policies consistently;
- 4.7 Recognise and enforce any penalty imposed under these policies;
- 4.8 Ensure that a copy of this manual is available or accessible to the persons and associations to whom these policies apply;

- 4.9 Appoint appropriately qualified people to receive and manage complaints and allegations;
- 4.10 Monitor, review and update these policies from time to time as appropriate.

## 5. RESPONSIBILITIES OF THE INDIVIDUAL:

Individuals bound by these policies are responsible for:

- 5.1 Making themselves aware of these policies and complying with their standards of behaviour;
- 5.2 Placing the safety and welfare of children above other considerations;
- 5.3 Being accountable for their own behaviour;
- 5.4 Following the procedures outlined in these policies regarding child protection concerns;
- 5.5 Co-operating in providing a discrimination, child abuse and harassment free sporting environment;
- 5.6 Understanding the possible consequences of breaching these policies; and
- 5.7 Complying with any decisions and/or disciplinary measures imposed pursuant to these policies.

## 6. DEFINITIONS OF ABUSE & HARASSMENT:

SNZ considers the following definitions and examples of abuse and harassment applicable to all its members.

### Physical Abuse:

Physical abuse is any act that results in inflicted injury to a person. Injuries caused through abuse/neglect are known as non-accidental injury. They may include, but are not restricted to:

- Shaking, hitting, kicking, pushing, throwing, burning, or, training methods that are inappropriate for the age and physiological development of the athlete. Any strength training should be used with extreme caution as it can be harmful if not conducted appropriately.

### Sexual Abuse:

Sexual abuse is any act or acts that result in the sexual exploitation of a person whether consensual or not. It may be perpetrated by an adult, older child or similar aged athlete. It may include, but is not restricted to:

- Non-contact abuse such as: exhibitionism, suggestive behaviours or comments; exposing children to any obscene or inappropriate material or images; and
- Contact abuse such as: touching breasts, genital areas or any inappropriate contact;

### Emotional/Psychological Abuse:

Emotional abuse is any act or omission that results in impaired psychological, social, intellectual and/or emotional functioning and development of a person. It may include, but is not restricted to:

- Rejection or isolation; inappropriate or continued criticism, threats, humiliation or accusations of the child or young person; exposing children to, or involvement in anti-social or illegal activities; bullying actions such as sarcasm, persistent teasing, tormenting.

### Neglect:

Neglect is any act or omission that results in impaired psychological functioning, injury and/or development of a person. It may include, but is not restricted to:

- Failing to provide medical care when necessary; neglectful supervision, defined by failure to provide developmentally appropriate supervision of the child or young person or athlete, leading to increased risk of harm; abandonment – leaving a child or young person in a situation without arranging necessary care for them and with no intention of returning.

Sexual Harassment:

Sexual harassment is described as ‘unwanted, unwelcome or uninvited sexual attention’. Some of the behaviours that lead to sexual harassment are, but not limited to:

- Someone who draws another person into emotional intimacy through developing inappropriate friendships; someone who is coercive about their rights to demand favours from children; inappropriate flattery; someone who is coerced into divulging personal information; jokes; display of offensive material; or propositions.

Discrimination:

Discrimination is defined as the unjust or prejudicial treatment of different categories of people, especially on the grounds of race, age, or sex.

**7. MEMBERSHIP PROTECTION ADVISOR (MPA):**

SNZ will appoint a Membership Protection Advisor (MPA). The MPA will work with regions and clubs to help them enforce the policies contained in this manual and offer expert advice and support should disciplinary action against any person or organisation bound by these policies be required.

The MPA is someone who has a professional background or experience in child/membership protection issues and is the point of contact for anyone who has concerns or would like to discuss an issue around child/member safety.

*Anyone who has a child safety concern is able to bypass the MPA and go directly to the Police at any time.*

## Code of Conduct

Swimming New Zealand expects all members, supporters, advisors, staff and associates of Swimming NZ, and its affiliate organisations, to abide by a Code of Conduct that upholds the principles and values of the organisation.

Respect the rights, dignity and worth of others	<ul style="list-style-type: none"> <li>• Be fair, considerate and honest in dealings with others.</li> <li>• Refrain from any form of abuse, harassment, discrimination or victimisation towards others.</li> <li>• Be professional in, and accept responsibility for, your actions.</li> </ul>
Maintain high standards of integrity	<ul style="list-style-type: none"> <li>• Operate within the rules of Swimming New Zealand and maintain an uncompromising adherence to standards, regulations and policies.</li> <li>• Advocate a sporting environment free of drugs and other performance enhancing substances within the guidelines of the New Zealand Sports Drug Agency and the World Anti-Doping Code.</li> <li>• Advocate a sporting environment free of match fixing.</li> <li>• Be a positive role model.</li> <li>• To not provide comment to any media on behalf of Swimming New Zealand.</li> <li>• To not speak to any media in a negative way regarding Swimming New Zealand or its affiliated stakeholders.</li> <li>• Never act in a way that may bring disrepute or disgrace to Swimming NZ members, its stakeholders and/or sponsors, potential sponsors and/or partners.</li> </ul>
Provide a safe and fair environment for athletes, spectators, event staff and anyone else involved with the event and the sport at large	<ul style="list-style-type: none"> <li>• Make a commitment to providing a quality service.</li> <li>• Operate within the Constitution, Rules, Policies and Procedures on Swimming New Zealand.</li> <li>• Adopt appropriate risk management strategies to ensure that the event is safe.</li> <li>• Ensure equipment and facilities meet safety standards.</li> <li>• Ensure equipment, rules, training and the environment are appropriate for the age, physical and emotional maturity, experience and ability of the participants.</li> <li>• Seek advice and assistance from professionals when additional expertise is required.</li> <li>• Maintain appropriate records.</li> </ul>

Any breach of the Code of Conduct may result in disciplinary action taken under the Swimming NZ Disciplinary Procedure and Appeals Policy that forms part of Swimming NZ's Membership Protection Policy.

These important membership documents can be found here: [www.swimmingnz.org.nz](http://www.swimmingnz.org.nz)

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## APPENDIX to the Code of Conduct

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A Team Manager will:

- Agree to abide by the code of conduct.
- Be responsible for the overall welfare and wellbeing of team members and officials when travelling with a team.
- Maintain a 'duty of care' towards team members and be accountable for the management of the team.
- Have a sound working knowledge of SNZ Constitution, SNZ Swimming Rules, and Policies, and ensure that the conduct of the affairs of the team is in accordance with these and or any other policies and guidelines determined by SNZ.
- Foster a collaborative approach to the management of the team.

A Coach will:

- Agree to abide by the Code of Conduct.
- Respect the rights, dignity and worth of every individual athlete as a human being regardless of gender, disability, ethnic origin or religion.
- Not participate in sports betting or gambling activity associated with swimming events and/or swimming results in which they are participating or have been directly involved in.
- Respect the talent, developmental stage and goals of each athlete in order to help each athlete reach their full potential.
- Maintain high standards of integrity operating within the rules of the sport and in the spirit of fair play, while encouraging your athletes to do the same.
- Advocate a sporting environment free of drugs and other performance enhancing substances within the guidelines of the New Zealand Sports Drug Agency.
- Not disclose any confidential information relating to their athletes without written prior consent.
- Be a positive role model for the sport and athletes and act in a way that projects a positive image of coaching whereby all athletes are deserving of equal attention and opportunities ensuring the athlete's time spent with you is a positive experience.
- Be fair, considerate and honest with athletes encouraging and promoting a healthy lifestyle whereby you refrain from smoking and drinking alcohol around athletes.
- Display high standards in your language, manner, punctuality, preparation and presentation.
- Be professional and accept responsibility for your actions.
- Refrain from initiating a relationship with an athlete but must also discourage any attempt by an athlete to initiate a sexual relationship with you, explaining the ethical basis of your refusal.
- Accurately represent personal coaching qualifications, experience, competence and affiliations.
- Refrain from criticism of other coaches.
- Make a commitment to providing a quality service to your athletes seeking continual improvement through ongoing coach education, and other personal and professional development opportunities.
- Provide a safe environment for training and competition protecting your athletes from any form of personal, verbal or physical abuse.

A Swimmer will:

- Agree to abide by the Code of Conduct.
- Not participate in sports betting or gambling activity associated with swimming events and/or swimming results in which they are participating or have been directly involved in.
- Never argue with or verbally abuse an official. Always use the appropriate rules and guidelines to resolve a dispute.



- Conduct yourself in a sportsman-like manner and respect fellow swimmers, coaches, managers, staff, officials and the achievements of opponents.
- Not bully or take an unfair advantage of another competitor.
- Cooperate with your coach, manager, teammates and opponents.
- Refrain from possessing, or consuming prohibited substances while in SNZ camps or on tours.
- Not consume or purchase alcohol and tobacco while in SNZ camps or on Tours without the agreement of the Team Manager and Head Coach.
- Comply with training, competition, curfew and behaviour requirements directed by SNZ, while in camp or on tours.

A Technical Official will:

- Agree to abide by the code of conduct.
- Not participate (or benefit from assisting others involved) in sports betting or gambling activity associated with swimming events and/or swimming results in which they are participating or have been directly involved in.
- Be consistent, objective and courteous when making decisions.
- Compliment and encourage all participants.
- Condemn unsporting behaviour and promote respect for all competitors.
- Emphasise the spirit of competition rather than the errors.
- Encourage and promote rule changes, which will make the participation more enjoyable.
- Be a good sport yourself.
- Keep up to date with the latest trends in officiating and the principles of growth and development of young people
- Remember the importance of setting an example. Your behaviour and comments should be positive and supportive.
- Place the safety and welfare of the participants above all else.
- Give all competitors and participants a 'fair go' regardless of their gender, ability, cultural background or religion.

An Administrator, Committee Member, Support Staff and/or Associate will:

- Agree to abide by the code of conduct.
- Be fair, considerate and honest with others.
- Not participate (or benefit from assisting others involved) in sports betting or gambling activity associated with swimming events and/or swimming results in which they are participating or have been directly involved in.
- Be professional in all actions. Ensure language, presentation, manner and punctuality reflect high standards.
- Resolve conflicts fairly and promptly through established procedures.
- Maintain strict impartiality.
- Maintain a safe environment for others.

A Parent Guardian will:

- Agree to abide by the code of conduct.
- Remember that children participate in sport for their enjoyment, not yours.
- Encourage children to participate, but will not force them.
- Focus on the child's efforts and performance rather than winning or losing.
- Encourage children always to compete according to the rules and to settle disagreements without resorting to hostility or violence.
- Never ridicule or yell at a child for making a mistake or losing a competition.
- Remember that children learn best by example.
- Support all efforts to remove verbal and physical abuse from sporting activities.
- Respect the decisions of officials and coaches and teach children to do likewise.
- Show appreciation for coaches, officials and administrators.

## Swimming NZ Code of Conduct Agreement Form

I, \_\_\_\_\_  
Full Name

of \_\_\_\_\_  
Club

I agree to the following terms:

- I agree to abide by Swimming NZ Code of Conduct as set out above.
- I acknowledge that Swimming New Zealand may take disciplinary action against me if I breach the Code of Conduct. I understand that Swimming New Zealand is required to implement a complaint handling procedure in accordance with the principles of natural justice in the event of an allegation against me.
- I acknowledge that disciplinary action against me for a proven or established breach may include suspension or loss of my Swimming NZ membership, depending on the seriousness of the breach.

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

### 3.1 CHILD PROTECTION:

SNZ, its regional associations and member clubs have a responsibility to ensure that appropriate policies and procedures are established to safeguard all members, and in particular, children from any threat of or form of abuse or harassment while participating in any aspect of our sport. For the purpose of this Child Protection Position Statement, children are defined as under 18 years of age.

The responsibility for safeguarding athletes, children and young people lies with all adults who play a role in their lives. This refers to all people who work directly and indirectly with children, including those responsible for the administration and coordinating of the swimming environment.

SNZ aims to foster an environment within the sport that ensures the safety and wellbeing of all members. An awareness of this Child Protection Position Statement amongst all people who are involved with children and young people in swimming also assists in reducing risk to swimming organisations, coaches, officials, volunteers, parents and supporters.

Adults should at all times establish and maintain appropriate professional boundaries in their relationships with athletes.

#### 3.1 (b) GOOD PRACTICE GUIDELINES:

*Good practice amongst adult coaches, officials and volunteers means:*

- The safety and wellbeing of children/young people must be paramount at all times.
- Athletes are treated with dignity and respect.
- Good practice is promoted to reduce the possibility of abusive situations.
- Always working in an open environment avoiding private or unobserved situations.
- Always encouraging open communication.
- At camps or 'away/out of town' meets, adults must not enter the room of children / young people or invite children / young people into their room unless:
  - The adult is the parent or assigned caregiver of the child / young person; or
  - The adult and the children / young people are attending a team meeting in the room and more than 5 people are present; or
  - A child / young person is in need of urgent medical attention, in which case an adult will do everything possible to ensure that another adult is in the same room at the same time.
- Concerns regarding safeguarding children/young people are referred and dealt with according to the steps within this Position Statement.
- Securing parental consent in writing to act in loco parentis, if the need arises to administer emergency first aid and/or other medical treatment.
- Ensuring any form of abuse or sexual harassment directed at a child from others, whether this is from another child or adult, is challenged and reported to the Membership Protection Advisor.
- Knowing and understanding the Child Protection Position Statement.
- Where a coach believes it is necessary to touch an athlete in order to correct technique, it is important that they:
  - Consult with the parent/caregiver first if present; and/or

- Ensure the child is made aware of the purpose of the contact and gives consent; and/or
- Consider the appropriateness of the ways in which technique is corrected involving touch.

*All coaches, officials and volunteers must ensure:*

- They never take, or are in the presence of, children/young people in secluded places where they will be alone, irrespective of gender.
- Wherever possible should not share a room with a child other than their own;
- They never deliberately reduce a child/young person to tears as a form of control;
- They never deliberately do something to make someone feel diminished or embarrassed;
- They never use inappropriate language, or allow other children to use inappropriate language unchallenged (e.g. swearing, name calling/put downs, sarcasm, innuendo, sexualised connotations, culturally or racially offensive comments);
- They never leave a pool or training venue before all swimmers have been collected or are continuing to be supervised by appropriate adults;
- They never cause a swimmer to lose self-esteem by embarrassing, humiliating or undermining the individual;
- They never yell or shout at swimmers as a reprimand or in response to anger;
- They never make sexually suggestive comments or actions to, or in the vicinity of a child/young person, even in fun;
- They never touch a child / young person, unless they have the approval of a parent (for the purposes of technique or stroke correction), or in the case that the swimmer is 18 years or over, approval of the swimmer themselves; except in the case of a medical emergency, in which case they shall do everything possible to ensure that another adult is present at the same time.
- They never engage in rough, physically or sexually provocative games; and
- They never engage in, or allow unchallenged, any form of abuse or sexual harassment as described in this Position Statement.

The relationship between coaches/club officials who hold a position of trust and responsibility with athletes, particularly, but not limited to those under 18 years, must be professional and appropriate at all times.

### **3.1 (c) HANDLING CONCERNS/DISCLOSURES:**

As a trusting adult, disclosures of abuse or sexual harassment may be made to you by the person affected or another person or, you may directly observe concerning behaviour. The following is a guide to handling disclosures or concerning observations:

- If you have observed behaviour by another person to a child that causes you concern, you do not have to discuss this with the child/young person but can contact the Membership Protection Advisor to seek advice. Your name will be kept confidential from those whom you are reporting concerns about.
- At any time, you are able to bypass the Membership Protection Advisor and report your concerns directly to Oranga Tamariki or the Police. You are not required to provide your name or details should you do this, however, if you do, they will be kept confidential by these agencies.

### **3.1 (d) LEGAL/PRIVACY ISSUES:**

When disclosures or observations of child abuse are made that fall in the remit of this Child Protection Policy, those to whom disclosure is made are required in all circumstances to follow the procedures outlined. All those involved in dealing with issues of Child Protection are required to respect the provisions of confidentiality which relate to their responsibility. The Privacy Act 1993 and the Health Information Privacy Code 1994 authorises disclosure of information necessary to prevent or lessen serious and imminent harm to any individual (to the extent necessary) to statutory social workers or the Police.

The Children, Young Persons and their Families Act 1989 also gives way to privacy under certain circumstances. These deal with the reporting of child abuse (Section 15) and protection of an individual from proceedings (disciplinary, civil and criminal) when disclosing child abuse to either a Oranga Tamariki social worker or the Police (Section 16).

Upon request, information can or must be released to a Oranga Tamariki social worker, police officer or care and protection coordinator (Section 66 CYF Act 1989).

### **3.1 (f) WORKING WITH CHILDREN CHECKING REQUIREMENTS:**

Child abuse is illegal and all complaints to the Police and/or Oranga Tamariki could result in an investigation which could result in criminal charges.

New Zealand is currently making significant changes in order to improve the safeguarding of children through legislation and policy. Standard screening and vetting procedures to safeguard children from those who wish to access children through sport should be seen as best practice.

### **3.1 (g) SCREENING AND VETTING REQUIREMENTS:**

Child abusers often seek to work with children. Robust and consistent screening and vetting will help you assess whether people are suitable to work with children. As the new legislation comes into effect, screening and vetting processes will become mandatory for government funded contractors working with children. Therefore, this is not just a Swimming New Zealand requirement; it may be a legal requirement.

The following outlines the Screening and Vetting processes for Paid or unpaid employment of coaches and, the appointment of team managers for away meets. Swimming New Zealand, Regional Associations and Member Clubs are required to:

1. Carry out an Identity Verification – this is where proof is required for people to verify who they say they are, including previous identities;
2. Check a person's referees (verbal or written) about his/her suitability for the role;
3. If there is any uncertainty as to suitability arising from the checking, check with the Child Protection Advisor if the person is suitable to work with children (they will only be allowed to provide a 'yes' or 'no' as they are bound by Privacy Laws in regards to discussing further detail);
4. Obtain a signed consent form from the applicant for a check of Justice records.
5. Undertake the check of Justice records;
6. Make an assessment as to whether the person may be unsuitable to work with people under the age of 18 years if the person doesn't agree to a records check after explaining why it is a requirement of our policy. If unsatisfied, do not appoint them;

7. This information should be updated and reassessed every three years;
8. Protect the privacy of the person who is checked and maintain confidentiality of any information obtained through the checking process; and
9. Return all information or paperwork to the person if they are not appointed.
10. Those who have conviction(s) for child sex offences or violent crimes against children are not permitted to work with children affiliated to Swimming New Zealand.

*Note: Clubs may be required to provide written assurances to their Regional Association and Swimming New Zealand that they have carried out the Screening and Vetting processes for those acting as coaches or team managers at away meets conducted by Regional Associations or Swimming New Zealand.*

### 3.2 TAKING IMAGES/VIDEOS OF CHILDREN:

#### **General:**

There is the potential for images or videos of children to be used inappropriately or illegally. Any devices that have the ability to take/record images or videos are included in this Position Statement, including the use of telescopic or zoom lens.

It is possible for images or video to be taken with any device without the knowledge of the subject. Swimming New Zealand requires all its members to be vigilant in changing rooms and other areas of the pool and to report immediately any concerns arising from the taking or recording of images or video. Swimming New Zealand disallow the use of camera phones, videos and cameras inside changing areas, showers and toilets.

Always be vigilant for people who don't appear to be relatives or friends of those who are swimming, but seem to spend a lot of time videoing or taking images of them. Report these incidents to the organisers or the pool management immediately.

Swimming New Zealand encourages that all individuals and associations, wherever practicable, obtain the permission from a child's parent/guardian before taking an image or video of a child that is not their own. Taking an image or video of a medal or award presentation or a team photo are exceptions to this requirement to seek permission. Similarly, videoing or livestreaming for broadcasting events, and the taking of media photographs are also exceptions to this requirement to seek permission.

#### **Parental Photography:**

Parental photography forms an enduring part of each family's record or their child's progress, celebration of success and achievement and is an established social practice.

In the interest of protection of your son/daughter, while Swimming New Zealand recognises parents/caregivers may want to take images or video of their son/daughter, spectators wishing to do this must be aware that:

- They may be asked to cease using photographic or video devices by an official; and
- They may be required to seek consent directly with their club for photographic/video use outside of swimming meets, e.g. training sessions, camps etc.

The athlete of the parent/caregiver wishing to record images/video must be the main subject in the images/video. No images or videos are to be taken of other children as the main subject without appropriate consent.

No images or videos of children should be uploaded onto any electronic device or website by any person without the consent of the parent/caregiver if the child is less than 18 years.

**Swimming NZ Photography:**

If Swimming New Zealand or its Regional Associations or Member Clubs use an image of a child, they will not display personal information such as residential address, email address or telephone numbers without gaining consent from the parent/guardian. They will not display any information about hobbies, likes/dislikes, school, etc as this information can be used as grooming tools by paedophiles or other persons. They will only use appropriate images/videos of a child relevant to our sport and ensure that the child is suitably clothed in a manner that promotes the sport, displays its successes, etc. where possible they will seek permission to use these images.

**Official Photographers/Video Operators:**

Official event photographers wishing to take either photographs or video at Swimming New Zealand events must seek accreditation and produce their professional identification for their details to be recorded.

Official event photographers wishing to take either photographs or video at Regional swimming events must seek accreditation with the Region and produce their professional identification for their details to be recorded.

Ideally this should be requested at least five working days before an event. Parental consent must still be given for use of images for promotional purposes and these images/video must be stored securely.

**Regional Associations and Member Clubs:**

If you are wishing to take photographic or video images of your regional or club swimmers to make your region or club known either externally or internally, it is recommended you:

- Attempt to seek consent from the athlete and/or the parent/caregiver if the subject is under 18 years;
- State clearly the intended purpose/use of the images;
- Confirm whether you intend to publish the athletes names alongside the image; and
- Securely store the photography or video and annotate them with the date they were taken.

It is important to note that an athlete may be under an external agency's protection order that may not be known to another parent, coach, volunteer or official photographer. Images of this nature may compromise the safety of the person the images are of.

**3.3 ELECTRONIC & SOCIAL MEDIA/NETWORKING:**

Swimming New Zealand acknowledges the enormous value of social networking websites, such as (but not limited to) Facebook and Twitter, to promote our sport and celebrate the achievements and success of the people involved in our sport.

We expect all people bound by this policy to conduct themselves appropriately when using social networking sites to share information related to our sport.

Social media postings, blogs, status updates and tweets:

- must not use offensive, provocative or hateful language.

- must not be misleading, false or injure the reputation of another person.
- should respect and maintain the privacy of others.

### 3.3 (a) **Children and Electronic & Social Media/Networking:**

Many children and young people communicate using one or more of the electronic and social networking platforms, which are available to them. Ideally, communication should be conducted between the coach/another adult and the parent of the child, however, if you need to communicate directly with the child/athlete, you need to observe the cautions stated below.

Swimming New Zealand recommends the following cautions:

- If coaches use phone text or any other social networking means to communicate directly with athletes of any age, content remains brief and functionally related to swimming and avoids any social comment;
- Any electronic communication by a coach with an athlete of any age remains professional but brief;
- Do not include personal information of yourself or others in social media channels;
- Do not use offensive, provocative or hateful language or images;
- Use your best judgement – do not publish something that makes you feel the slightest bit uncomfortable and, never write/publish if you are feeling emotional or upset (or are intoxicated);
- Always ask for a person's permission before posting their picture on a social networking forum;
- Never comment on rumours, do not deny or affirm them or speculate about rumours; and
- Always use electronic and social network forums to add value and promote the sport in a positive way.

### 3.4 **CYBER BULLYING/SAFETY:**

Swimming New Zealand regards bullying and harassment in all forms as unacceptable in our sport. Bullying has the potential to cause great anxiety and distress to the person targeted by hurtful or derogatory comments or statements.

The introduction over recent years of technologies and communication tools, such as smart phones and social networking websites, have greatly increased the potential for people to be bullied through the electronic delivery of unwanted and inappropriate comments. Swimming New Zealand will not tolerate abusive, discriminatory, intimidating or offensive statements being made online. In some cases, such bullying is a criminal offence.

Frustration at a referee, teammate, coach or sporting body should never be communicated on social networking websites.

*If children are involved in suspected Cyber Bullying/Safety issues, either as the perpetrator or victim, please refer to 3.1 in this Membership Protection Policy for the appropriate follow up and management.*

### 3.5 **ANTI-DISCRIMINATION AND HARASSMENT:**

Swimming New Zealand aims to provide a safe sporting environment where all those involved in its activities are treated with dignity and respect and, without harassment or discrimination.

Swimming New Zealand recognises that all those involved in its activities cannot enjoy themselves, perform to their best or be effective or fully productive if they are being treated unfairly, discriminated against or harassed because of their age, disability, family



responsibilities, gender identity, homosexuality or sexual orientation, medical, marital status, political belief, pregnancy or breastfeeding, race, religion, gender or social origin.

Swimming New Zealand opposes all forms of harassment, discrimination and bullying. This includes treating or proposing to treat someone less favourably because of a particular characteristic, imposing or intending to impose an unreasonable requirement, condition or practice which has an unequal, disproportionate effect on people with a particular characteristic; or any behaviour that is offensive, abusive, belittling, intimidating or threatening – whether this is face-to-face, indirectly or via communication technologies such as mobile phones, tablets and computers.

*If children are involved in your concerns around discrimination or harassment as either the perpetrator or victim, please refer to 3.1 in this Membership Protection Policy for the appropriate follow up and management.*

### **3.6 SEXUAL RELATIONSHIPS:**

Swimming New Zealand takes the position that consensual intimate relationships (whether or not of a sexual nature) between coaches and the adult athletes they coach, should be avoided as they can have harmful effects on the athlete involved, on other athletes and coaches and on the sport's public image. These relationships can also be perceived to be exploitative due to the differences in authority, power, maturity, status, influence and dependence between the coach and the athlete.

If an athlete attempts to initiate an intimate sexual relationship with a coach, it is the coach's responsibility to discourage the approach and to explain why such a relationship is not appropriate.

The coach or athlete may wish to seek advice or support from another adult if they feel harassed. Our complaints process is outlined in 8.1 of this policy.

*If children under the age of 18 are involved in your concerns around sexual relationships as either the perpetrator or victim, please refer to 3.1 in this Membership Protection Policy for the appropriate follow up and management.*

### **3.7 PREGNANCY:**

Pregnant women should be treated with respect and any unreasonable barriers to their full participation in our sport should be removed.

Swimming New Zealand recommends that pregnant women wanting to participate in our sport consult with their medical advisors to ensure they make informed decisions about participation. Pregnant women should be aware that their own health and wellbeing, and that of their unborn children, should be of the utmost importance in their decision making about the way they participate in our sport.

### **3.8 GENDER IDENTITY:**

Everyone bound by this policy must treat people who identify as transgender fairly and with dignity and respect. This includes acting with sensitivity and respect where a person is undergoing gender transition. Swimming New Zealand will not tolerate any unlawful discrimination or harassment of a person who identifies as transgender or transsexual or who is thought to be transgender.

Swimming New Zealand recognises there is debate over whether a male to female transgender person obtains any physical advantage over other female participants. If issues of performance advantages arise, Swimming New Zealand will seek advice on the application of those laws in the particular circumstances.

Swimming New Zealand is aware that the International Olympic Committee (IOC) has established criteria for selection and participation in the Olympic Games. Where a transgender person intends competing at an elite level, we will encourage them to obtain advice about the IOC's criteria which may differ from the position taken by Swimming New Zealand.

### **3.9 RESPONSIBLE SERVICE AND CONSUMPTION OF ALCOHOL:**

Swimming New Zealand is committed to conducting sporting and social events in a manner that promotes the responsible service and consumption of alcohol. In general, our position that:

- Event hosts must comply with the law at all times, including the Sale of Liquor Act.
- Event hosts must prevent drunkenness, minors accessing liquor, and understand that irresponsible liquor practices lead to problems both on and off the premises.
- At events held or endorsed by Swimming NZ where alcohol is served, food and low-alcohol and non-alcoholic drinks should also be available; and
- Safe transport options should be considered as part of any event held where alcohol is served.
- Alcohol-free social events should be provided for young people and families.

### **3.10 SMOKE FREE ENVIRONMENT:**

Swimming New Zealand is committed to conducting sporting and social events in a manner that promotes a smoke free environment. The following policies should be applied to sporting and social events:

- No smoking shall occur at or near any sporting event or competition involving persons under the age of 18 years. This policy shall apply to coaches, athletes, officials and volunteers; and
- Social functions shall be smoke free.

### **3.11 ANTI-DOPING AND ILLICIT DRUGS IN SPORT:**

Swimming New Zealand has adopted the Sports Anti-Doping Rules (as amended from time to time by the Board of Drug Free Sport New Zealand) and the FINA anti-doping rules as its anti-doping policy.

Swimming New Zealand is committed to providing a drug-free sport in which members can compete. Breaches of the Sports Anti-Doping Rules shall be dealt with in accordance with those Rules.

This position statement is designed to help prevent the uptake of illicit drug use and reduce the drug-related harm to individuals, families and stakeholders of Swimming New Zealand and the broader community.

Some illicit drugs may be legitimately used under the supervision of a physician for a clinically justified purpose and then only if approved by Swimming New Zealand or Drug Free Sport NZ for each specific application. If you are using a prohibited substance for a legitimate reason and wish to compete you should obtain a Therapeutic Use Exemption from Drug Free Sport NZ. The possession and use of illicit drugs is subject to New Zealand laws.

### **3.13 COMPLAINTS PROCEDURE:**

A complaint, dispute or issue of concern is constituted when formally submitted in writing. SNZ has three policies/guidelines that apply to complaints and disputes (full policies found in Section Five), namely:

#### **3.13 (a) Informal Decision Making Guidelines:**

The purpose of the Informal Decision Making Guidelines is:

- To provide a simple process to deal with an informal complaint or minor dispute that can be easily managed by a club, and enabling the parties to resolve the issue(s) without needing to escalate the matter to a formal complaint via the Complaints and Disputes Policy.

#### **3.13 (b) Complaints and Disputes Policy:**

The purpose of the Complaints and Disputes Policy is:

- To provide a clear and effective procedure for a party or parties to make a complaint regarding people involved in swimming.
- To provide processes to resolve disputes that arise between people involved in the sport of swimming in New Zealand.

#### **3.13(c) Disciplinary Procedure and Appeals Policy:**

The purpose of the Disciplinary Procedure and Appeals Policy is:

- To provide processes to deal with alleged breaches of the Code of Conduct and significant breaches of Swimming New Zealand policies.
- To provide a process to determine appeals against a decision involving suspension, expulsion, penalty or material detriment to an individual.

Complaints/disputes should be resolved at the lowest level practicable. However, a club or region should consider whether it should advise its region, in the case of a club, or SNZ, in the case of a region, of the dispute so they can provide any advice they may have and be prepared for any media or other enquiries they receive.

*If the concern or safety of children is involved in a complaint or dispute, either as the perpetrator or victim, you at any time able to bypass the formal process above and report your concerns directly to Oranga Tamariki or the Police.*

#### **3.13(d) Improper Complaints & Victimisation:**

SNZ aims for any complaints to have integrity and be free of unfair repercussions or victimisation against the person making the complaint. If at any point in the complaints process a complainant has knowingly made an untrue complaint or the complaint is malicious or intended to cause distress to the person complained of, the matter may be dealt with as a disciplinary matter under the Disputes & Disciplinary Policy.

**4.1. Introduction:**

Swimming NZ (SNZ) is committed to providing an inclusive culture that fosters and promotes diversity at all levels and values the different experiences and viewpoints that each individual within a diverse group brings, and to treating every individual with respect. SNZ recognises that to deliver outstanding service and breakthrough solutions to our diverse participant community, it too must be diverse.

SNZ recognises and celebrates its diversity and strives to grow to reflect the diversity of its participants. SNZ values and respects the contributions, ideas and experiences of people from all backgrounds and strives to provide a culture where individual diversity is recognised and celebrated.

**4.2. Operating Principles:**

SNZ views *diversity* as including but not limited to differences in skills, education, race, ethnicity, gender, age, sexual orientation, cultural background, family responsibilities, physical abilities and beliefs.

SNZ recognises *inclusion* as the organisational means by which diverse individuals are culturally and socially accepted, welcomed, equally treated and enabled to reach and contribute their full talents.

**4.3. Scope:**

This policy applies to every level and aspect of the business including but not limited to the Board and Staff across SNZ.

**4.4. The Policy:**

This policy provides a framework for SNZ's current and future diversity and inclusion initiatives. SNZ strives for a culture of inclusion in which the unique contributions of all are recognised and valued, where people are free to be themselves. Diversity is embraced, and we promote a work environment that is encouraging of difference and free from harassment and discrimination. SNZ is committed to providing opportunities and initiatives that assist all to reach their potential and will regularly benchmark and report on its diversity progress, policy and objectives.

**4.5. Policy Objectives:**

Each year SNZ's Board will set measurable objectives to promote diversity and inclusion, including gender and pay equality. The Board will require that for each paid and unpaid position eg national coaching positions, at least one suitably qualified and experienced female applicant will be considered and interviewed.

The Board will review and disclose annually in its annual report a diversity statement on the composition of the SNZ Board and staff.

**4.6. Accountability**

The Chief Executive Officer (and/or his/her delegates) is accountable to the SNZ Board for the successful implementation of this policy. To ensure this occurs, the Board will monitor and report progress on diversity and inclusion initiatives as appropriate, but at least annually.

## 5.1 INFORMAL DECISION MAKING GUIDELINES:

### 5.1 (a) Introduction

People involved in running sports clubs do so out of a shared passion for the sport and a desire to help young people achieve and thrive. Most people are volunteers and willingly give a lot of their time to running club activities. Taking on a role in managing a swimming club, region or affiliate organisation carries many responsibilities and can be challenging. It may require you to make decisions or run processes you are not used to doing.

These Guidelines are designed to help people involved in swimming administration use good processes to make fair decisions and deal with any complaints in an efficient and effective way. The guidelines should be read in conjunction with Swimming New Zealand's Constitution and other supporting policies.

### 5.1 (b) Running a decision making process

Decision makers (individual officials or committees) need to follow clear, fair processes to achieve an effective and fair result for all involved. This is particularly relevant to decisions that impact other people (a member, athlete, a parent, coach, other official). If these processes are not fair or people are dissatisfied about the outcome, they may make a complaint or become unhappy in general with the club or sport. Good decision making is supported by good communication. Where a decision maker communicates in a prompt, calm, reasonable way, parties are more likely to be satisfied.

### 5.1 (c) The issue

The first step to good decision making is to identify exactly what the issue is that requires a decision or resolution. The decision maker (see 5.1 e) will need to work out what the issue is, the proper process or rules to follow, and decide how to gather relevant information in order to make the decision. Decision makers are asked to check through any applicable process or policy before taking any steps.

Once the issue has been identified, it should then be possible to decide where to direct it for resolution or a decision. The decision making process should be:

1. an informal complaint or low-level dispute should be resolved by the club or region following these *Informal decision Making Guidelines*.
2. a complaint about someone involved in swimming would be managed under the *Complaints and Disputes Policy*; and
3. a breach of a Swimming NZ policy would be managed under the *Disciplinary Procedure and Appeals Policy*.

### 5.1 (d) Fair processes - are there rules?

It is important to find out whether there is any policy, rule or special process that applies to making the decision. These may be documents such as a club constitution or membership rules, policies, selection guidelines, or a code of conduct. Swimming New Zealand's constitution, policies and procedures should also be checked. Advice might be required to determine what the relevant rules are.

If there is no policy or process that applies, plan the process. You might ask other people involved in the sport at a senior level if they have dealt with a similar issue before, and how they dealt with it.

If suitable advice cannot be obtained within your club environment, then advice can be sought by contacting the Membership Protection Advisor on [mpa@swimming.org.nz](mailto:mpa@swimming.org.nz).

#### **5.1 (e) Who is the decision maker?**

Whenever a decision has to be made, identify who is responsible for decision making. A decision maker might be an individual official, eg club Chair or President, a committee or sub-committee of a club, the relevant Regional Association, or Swimming NZ. The decision needs to be made at the right level by the person or people who have the required authority or power.

Another important thing to consider is the rule against bias. Decisions should be made by people who can be fair minded and impartial. If anyone involved in making the decision has a bias in favour of or against someone affected by the decision, that decision will be affected by bias (or the appearance of bias). Independent people should be brought in or the person with a bias should step aside for that decision making process.

Decisions should not be made by people directly involved in the issue or who stand to gain some monetary or other benefit for themselves, their family or close friends. This is called having a conflict of interest. For example, a committee member should not be involved in a decision to award a contract to themselves or a family member, or to determine a dispute involving themselves or a close friend or family member.

#### **5.1 (f) Steps for good decision making**

Once you know what process you are going to run, inform the people involved how you are going to proceed. Any rules need to be given to the people affected by the decision making process.

If a decision is being made that affects a person's rights, they should be informed about it, given relevant information, told the process, advised of the possible outcomes and given the chance to explain their perspective or respond to the issue. They should be heard by the decision maker, before a decision is reached. These steps are sometimes called the rules of natural justice and they are important to ensure fairness to the people involved.

It may be necessary to obtain documents or information about the issue from the people involved. It is important that all the relevant information and documents gathered are properly obtained and reliable. If personal information is being gathered, it needs to be kept securely and only used for the purpose it was collected for. If information needs to be disclosed to other people, the person it is about should be consulted.

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

The decision should be recorded in writing with a simple explanation of:

- the issue,
- any applicable policy or rule,
- the facts and any evidence relied on,
- any submissions or explanations by anyone involved, and
- the reason for the decision.

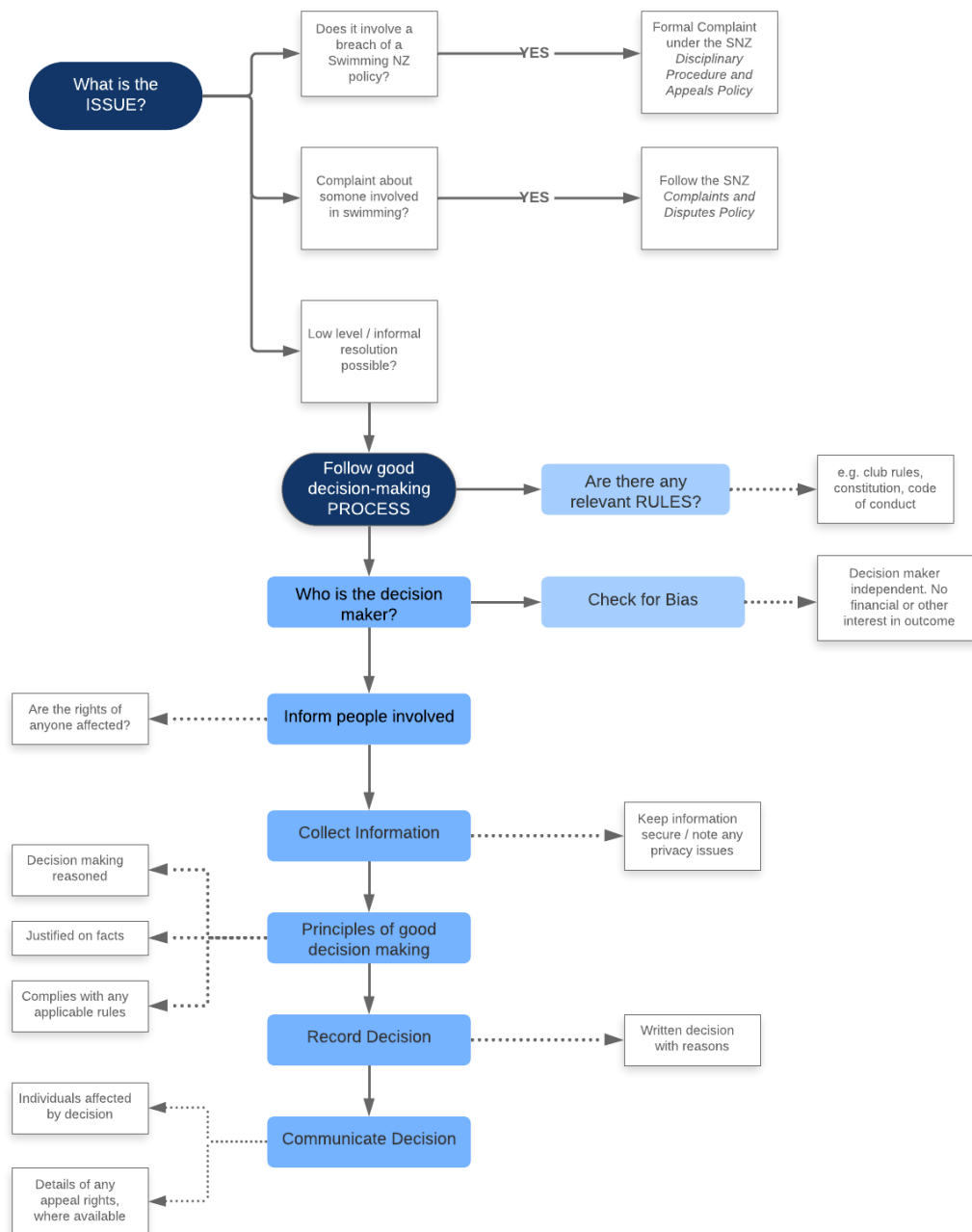
The people affected should be informed of the decision, ideally in writing so there is less opportunity for confusion or misunderstanding of the final decision or the process. Where a

decision can be appealed, details of the appeal process will be provided. Not all decisions can be appealed, see Section 3 of the *Disciplinary Procedure & Appeals Policy* for information on Appeals.

The people involved may need some support and follow up – are they OK, do they need some help, how did they find the process?

Note that although people involved in swimming are mostly volunteers, some are employees. If someone is an employee, they need to have a written employment agreement, and to be treated fairly under New Zealand 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 and reasonably.

**Decision Making Flowchart:**



## 5.2 COMPLAINTS AND DISPUTES POLICY:

### 5.2 (a) Purpose:

Swimming NZ believes that all volunteers, athletes and supporters associated with any of its clubs deserve and should, at all times, show respect and understanding for each other.

The purpose of the *Complaints and Disputes Policy* is:

- To provide a clear and effective procedure for people to make a complaint regarding people involved in swimming.
- To provide processes to resolve disputes that arise between people involved in the sport of swimming in New Zealand.

People may complain about a wide variety of actions, decisions or processes that affect them. When people involved in swimming get into disagreements or disputes it can become a significant issue. Responding quickly, fairly and thoughtfully to address complaints and disputes is important to everyone involved.

Disputes between people involved in swimming or complaints should be raised at the local level in the first instance eg your club or region. If complaints involve alleged serious breaches of the Code of Conduct or Swimming NZ's policies, the matter should be addressed under the *Disciplinary Procedure and Appeals Policy*.

### 5.2 (b) Scope:

This policy applies to anyone involved in the sport of swimming in New Zealand (including volunteers, athletes, spectators, club members, service providers, and families of athletes).

Complaints may be made about matters such as:

1. actions or decisions of Club members or officials;
2. processes not being managed well (or at all);
3. low level disputes or disagreements between members;
4. unprofessional or upsetting behaviour;
5. delays or failure to communicate about matters affecting a person.

Parties are always encouraged to try to resolve less serious matters between themselves wherever possible. The Swimming NZ *Informal Decision Making Guidelines* (5.1 above) can assist with a Club or Regional Association's efforts to resolve matters informally.

This policy allows for a clear complaints procedure where disputes or complaints cannot be resolved informally.

Note that serious complaints (e.g. unethical, dishonest or illegal behavior; harassment (sexual or otherwise); bullying; health and safety risks; unlawful discrimination; and offensive / insulting language or behaviour) may be serious breaches of Swimming NZ policies. These will be assessed and may be dealt with under the *Disciplinary Procedure and Appeals Policy*. (5.3 below).

This complaints process is not intended to apply to selection decisions or eligibility.

If you are unsure whether the *Complaints and Disputes Policy* applies to your situation, the Swimming NZ Membership Protection Advisor can provide guidance and can be contacted on [mpa@swimming.org.nz](mailto:mpa@swimming.org.nz)



## 5.2 (c) Formal complaints procedure:

Complaints must be made in writing as soon as possible after the event(s). Use the attached Complaints Form where possible.

Any complaint or dispute should be dealt with at the lowest level possible. For example:

1. any concerns about the way someone involved in swimming has behaved or made a decision should be raised **directly with the person concerned**, unless there are safety reasons or the matter is too serious to try to resolve it this way.
2. If self-managed informal resolution isn't successful or appropriate, a complaint can be raised with the **relevant Club or Region**.
3. If the issue is not resolved at Club level or the Club is involved in the issue, it should be escalated to the **relevant Regional Association**.
4. Where a complaint cannot be resolved at Club or Regional Association level, it should be **directed to Swimming NZ**.

Every effort must be made to resolve the matter at the lowest level possible.

If the complaint involves the safety of children in any way, the Swimming NZ Membership Protection Advisor should be contacted immediately. If the complaint involves serious risk to the safety of children, then the Police or Oranga Tamariki (Ministry for Children) should be contacted immediately.

Membership Protection Advisor:           mpa@swimming.org.nz

Where a formal complaint is made and referred to Swimming NZ, the Chief Executive Officer (CEO) may refer it to the Membership Protection Advisor (MPA) who will assess it and make a recommendation about where the complaint should be directed, what process should be followed, and who the decision maker should be.

Options might include an informal process using the *Informal Decision Making Process (5.1 above)*, an investigation, facilitation or mediation, or a disciplinary process using this *Complaints and Disputes Policy* or the *Disciplinary Procedure & Appeals Policy*

The CEO will acknowledge receipt of a complaint within 3 working days of receiving it. Details of the complaint will be entered into a confidential Complaints Register held by the CEO.

Matters to be considered by the MPA to determine how the complaint will be managed include:

- what the complaint is about;
- how serious or urgent the complaint is;
- whether there is a prescribed process for the type of complaint;
- Whether the matter can be dealt with under the Informal Decision making Guidelines;
- whether the matter should be dealt with under the Disciplinary and Appeals Policy;
- whether the complaint may indicate a systemic problem;
- what risks the complaint raises for the club / region / Swimming NZ; and
- what kind of resolution the complainant is seeking?

After considering these matters, a recommendation can be made by the MPA to the CEO as to whether:

- there is no clear basis for the complaint and no action should be taken (and an explanation given to the complainant); or

- the complaint can be resolved informally utilising the *Informal Decision Making Guidelines (5.1)*;  
or
- a formal process is needed.

The person or body which is responsible for dealing with the complaint (or the decision maker) must advise the individual or Club of the complaint made against them and outline the process for handling the complaint. If the person is under 18 years of age their parent/guardian must also be notified.

Further information may be sought from the complainant and any other relevant parties.

Wherever possible and where appropriate, the complaint should be assessed on the written material provided. In some situations, the decision maker may decide it appropriate to meet with the person the complaint is made against. The person the complainant is made against should be allowed a support person present.

Any such meeting should occur within 14 days of receipt of the complaint. Where the complaint has been escalated to Swimming NZ or there are geographical or access limitations, a meeting may be held by phone or video-conferencing.

The Membership Protection Advisor remains available at all times to advise the Decision Maker on the correct process to be followed.

#### **5.2 (d) Communicating the Outcome:**

Once the complaint/investigation process has been concluded, the Decision Maker will advise the person the complaint is made against of the outcome of the complaint verbally within 5 days of the decision being made, followed by written confirmation. Any applicable appeal right will be outlined in the written outcome.

The Decision Maker will advise the complainant of the outcome. This should be in writing and after the person complained about has been advised of the outcome. The complainant will be advised of:

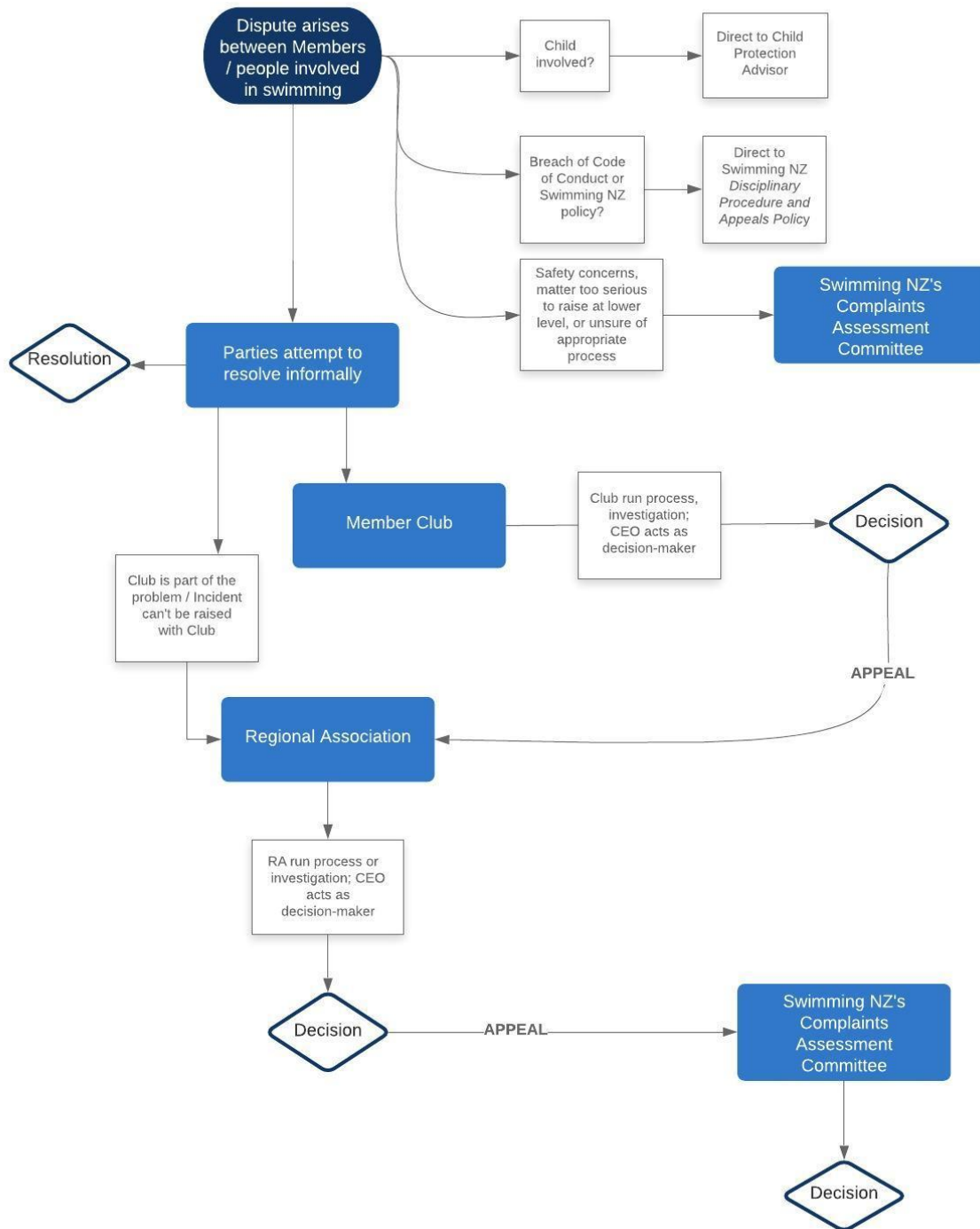
- the outcome of the complaint
- the reasons for any decisions that have been made
- any remedy that is offered, and
- information about any other remedy that might be available, such as to seek a review or appeal.

All paperwork relating to the complaint will be filed for safe keeping.

The details of all complaints are to be treated as confidential unless otherwise agreed between the parties.

All matters related to a complaint should be recorded in writing and placed on the complaints file including, summaries of phone conversations, witness statements, and supporting documents.

Formal Decision Making Flowchart:



## Swimming New Zealand Complaints Form

<b>Name</b>	
<b>Contact details</b>	Phone: Email: Address:
<b>Affiliation</b>	Club / Swim School: Regional Association:
<b>Age</b>	<input type="checkbox"/> Under 18 <input type="checkbox"/> 18 years or over
<b>If you're making a complaint on behalf of someone else:</b>	
<b>Child's name</b>	
<b>Child's contact details</b>	
<b>Complainant's role / status</b> <i>(highlight which applies)</i>	<input type="checkbox"/> Administrator (volunteer) <input type="checkbox"/> Athlete <input type="checkbox"/> Coach / Assistant Coach <input type="checkbox"/> Employee (paid) <input type="checkbox"/> Official <input type="checkbox"/> Parent <input type="checkbox"/> Spectator <input type="checkbox"/> Support Personnel <input type="checkbox"/> Other – provide details:
<b>Details of person complained about</b>	Name: Club / Swim School: Regional Association: Under 18 / 18 years or over

<b>Person complained about – role / status</b>	<input type="checkbox"/> Administrator (volunteer) <input type="checkbox"/> Athlete <input type="checkbox"/> Coach / Assistant Coach <input type="checkbox"/> Employee (paid) <input type="checkbox"/> Official <input type="checkbox"/> Parent <input type="checkbox"/> Spectator <input type="checkbox"/> Support Personnel <input type="checkbox"/> Other – provide details:
<b>Nature of complaint</b>	<input type="checkbox"/> Formal <input type="checkbox"/> Informal
<b>Nature of complaint</b> <i>(tick as many as relevant)</i>	<input type="checkbox"/> Harassment <input type="checkbox"/> Discrimination <input type="checkbox"/> Unfair decision <input type="checkbox"/> Sexual harassment <input type="checkbox"/> Selection dispute <input type="checkbox"/> Coaching <input type="checkbox"/> Sexuality <input type="checkbox"/> Personality clash <input type="checkbox"/> Verbal abuse / Bullying <input type="checkbox"/> Race <input type="checkbox"/> Physical abuse / Assault <input type="checkbox"/> Religion <input type="checkbox"/> Disability <input type="checkbox"/> Victimisation <input type="checkbox"/> Pregnancy <input type="checkbox"/> Child Abuse <input type="checkbox"/> Other – provide details:
<b>Date of Incident</b>	
<b>Location of Incident</b>	<input type="checkbox"/> Competition <input type="checkbox"/> Training <input type="checkbox"/> Other – provide details:
<b>Description of Incident / Complaint</b>  <i>(Use additional sheets if required)</i>	

<b>Details of any Witnesses</b>	(1) Name: Contact Details: (2) Name: Contact Details: (3) Name: Contact Details:
<b>Action take so far (if any) to attempt to resolve matter, or ensure a child's safety</b>  <i>(Use additional sheets if required)</i>	
<b>Government Agency Contacted (including the Police)</b>	Who: When: Advice Provided:
<b>Complainant</b>	Name: Signature: Date:

This record and any notes must be kept in a confidential and safe place. If the complainant is of a serious nature or is escalated to and/or dealt with at the national level, the original must be forwarded to your Club (where appropriate).

## 5.3 DISCIPLINARY PROCEDURE & APPEALS POLICY

### 5.3 (a) Purpose:

Swimming NZ believes all volunteers, athletes and supporters associated with any of its Clubs deserve and should at all times show respect and understanding for each other.

The purpose of the *Disciplinary Procedure and Appeals Policy* is:

- To provide processes to deal with alleged breaches of the *Code of Conduct* and significant/serious breaches of Swimming New Zealand policies.
- To provide a process to determine appeals against a decision involving suspension, expulsion, penalty or material detriment to an individual.

### 5.3 (b) Scope:

#### 5.3 (b) i *Resolution by the Club:*

- a. Where there is an alleged breach of the *Code of Conduct* or breach of a Swimming NZ policy, the incident should initially be raised with the relevant Club. The Club may be able to resolve the issue by taking informal steps such as holding a meeting, reviewing a process or decision, or requesting an apology is given.
- b. Where the Club has no rules that deal with disciplinary matters, the Club will determine the matter in accordance with this Disciplinary Procedure and Appeals Policy. In such situations:
  - i. The club committee will choose the members of the panel to consider the matter;
  - ii. In relation to breaches of the *Code of Conduct* and Swimming NZ policies, there will be a right of appeal to Swimming NZ only in accordance with Rule 4 (Appeals).
- c. Where a satisfactory resolution cannot be reached by the Club, the issue is too serious to be addressed informally or the Club is unable to run a proper process (e.g. where the Club is involved in the alleged breach), the matter will be dealt with by the Regional Association whose Member is allegedly in breach.
- d. Where a satisfactory resolution cannot be reached by either the Club or Regional Association, the alleged breach may be escalated to Swimming NZ.

#### ii *Resolution by a Regional Association*

- a) Where any breach or dispute is to be determined by a Regional Association it will be determined in accordance with the rules of that Regional Association.
- b) Where a Regional Association has no rules that deal with disciplinary matters, the Regional Association will determine the matter in accordance with this *Disciplinary Procedure and Appeals Policy*. In such situations:
  - i. The board (or executive committee) of the Regional Association will choose the members of the panel to consider the matter;
  - ii. In relation to breaches of the *Code of Conduct* and Swimming NZ policies, there will be a right of appeal to Swimming NZ only in accordance with Rule 4 (Appeals).

### 5.3 (c) Requirements for the use of this Disciplinary Procedure and Appeals Policy:

In relation to alleged breaches of the *Code of Conduct* and Swimming NZ policies, this *Disciplinary Procedure and Appeals Policy* will only apply where:

- (a) The alleged breach is by a member of Swimming New Zealand;
- (b) The Club or Regional Association which has jurisdiction to determine the breach requests that Swimming NZ determine the breach in accordance with this *Disciplinary Procedure and Appeals Policy* and the CEO agrees; or
- (c) Where the CEO considers in its sole discretion that the breach is of such seriousness and significance to the sport of swimming that it should be determined by it under this *Disciplinary Procedure and Appeals Policy*.

#### i. *Disputes between Members*

This Policy does not apply to low level disputes that arise between members. These should instead be resolved under the *Informal Decision Making Guidelines or Complaints and Disputes Policy*. However, disputes raised under the *Complaints and Disputes Policy* that are sufficiently serious that they are escalated to Swimming NZ will be subject to this policy.

#### ii. *Relationship to the Swimming NZ Constitution*

This Policy must not be interpreted as restricting or limiting the powers of Swimming NZ, the Board, or the CEO as provided for in the Constitution or the powers of a Regional Association under its rules.

#### iii. *Relationship to law*

Any action taken under this Policy will be without prejudice to any right or remedy a member, Swimming NZ or a Regional Association may have in law.

#### iv. *Doping*

This Policy does not apply to violations of New Zealand's Sports Anti-Doping Rules. Members will be bound by the provisions of:

- The World Anti-Doping Policy;
- Any FINA or IOC anti-doping rules; and/or
- The New Zealand Sports Anti-Doping Rules.

#### v. *Selection appeals*

This Policy will not apply to appeals against:

- A Member's non-selection to a New Zealand swimming team;
- A Member's non-nomination to a New Zealand Olympic or Commonwealth Games Team.

#### vi. *Complaints involving children*

If the complaint involves the safety of children in any way, the Swimming NZ *Child Protection Guidelines* must be followed and the Membership Protection Advisor must be informed at [mpa@swimming.org.nz](mailto:mpa@swimming.org.nz)

### 5.3 (d) Process and Investigations:

#### 1. *Introduction*

- a. A process for resolving an alleged breach of the *Code of Conduct* or significant breach of a Swimming NZ policy may be simple and straightforward, or it may be more formal and include looking at documents, data, and interviewing witnesses.



- b. All processes for resolving matters must be run in good faith and follow the principles of natural justice. This includes not jumping to conclusions before going through a proper process. A simple test for processes and decisions is 'what would a fair and reasonable person have done in the circumstances'?
- c. Key elements of a fair process:
- The person complained about, or accused of the breach, should be told details of the allegation(s);
  - the person complained about, or accused of the breach, should be given a reasonable opportunity to respond; and
  - any explanations should be fully considered before conclusions are reached;
  - the outcome, with a summary of the allegation, the evidence considered, any submissions made and the reasons for the decision should be recorded in writing and given to the people directly involved.

## **2. Investigation of Possible Breaches**

- a) Where a formal complaint is made or referred to Swimming NZ, the Chief Executive Officer (CEO) may refer it to the Membership Protection Advisor (MPA) who will assess it and make a recommendation about where the complaint should be directed, what process should be followed, and who the decision maker should be. Options might include an informal process, investigation, facilitation or mediation, or a disciplinary process.
- b) The CEO/ will acknowledge receipt of a complaint within 3 working days of receiving it. Details of the complaint will be entered into a Complaints Register.
- c) The complaint will be assessed with the following matters to be considered:
- what the complaint is about;
  - how serious or urgent the complaint is;
  - whether there is a prescribed process for the type of complaint;
  - whether the matter should be dealt with under the Disciplinary and Appeals Policy;
  - whether the complaint may indicate a systemic problem;
  - what risks the complaint raises for the Club / organization / Swimming NZ; and
  - what kind of resolution the complainant is seeking.
- d) After considering these matters, a recommendation can be made by the MPA to the CEO as to whether:
- there is no clear basis for complaint and no action can be taken (and an explanation given to the complainant); or
  - the complaint can be resolved informally; or
  - a formal process is needed.
- e) Where this Policy applies, the CEO may decide at his/her sole discretion to investigate alleged breaches of the *Code of Conduct* or any Swimming NZ policies or may appoint a suitably qualified/experienced person to undertake an investigation.
- f) Any Member, Board Member, Regional Association Board Member, President, or MPA may report a breach of the Code of Conduct or any Swimming NZ policies to the CEO. Any action in relation to that complaint will be at the CEO's sole discretion.
- g) The CEO may postpone the investigation of any alleged breach or enforcement where there is a separate investigation by an outside agency.

- h) When undertaking an investigation of a possible breach, the CEO may require a Member to provide information for the purpose of determining whether there is a case to answer.
- i) Where the CEO determines there is a case to answer in relation to the allegation the CEO will convene a Panel in accordance with Rule 5 below.
- j) Where the CEO determines that there is no case to answer the CEO will take no further action in relation to the allegation.
- k) In relation to alleged breaches of a Swimming NZ policy regarding child welfare, the CEO may delegate any of their powers of investigation under this rule to another suitably qualified individual.

### **3. Appeals:**

#### ***Appeals from Regional Members and Member Clubs:***

- a. A Member may appeal a decision made by a Club or Regional Association only if the outcome is:
  - Suspension;
  - Expulsion;
  - Penalty; or
  - Any other material detriment.
- b. A decision made by a Club or Regional Association can only be appealed to Swimming NZ on the ground that the decision and/or penalty (as listed above) is incorrect, excessive or manifestly unjust.
- c. Any appeal to Swimming NZ should be provided in writing to the CEO within 28 days of the date of the decision appealed against.
- d. The written notice will:
  - i. Include a copy of the decision being appealed against;
  - ii. Include a summary of the reasons why the Member wishes to appeal against the decision;
  - iii. Indicate whether the Member wishes to appeal against a part of the decision (and if so the grounds for doing so) or wishes to have a rehearing of the entire matter;
  - iv. Be copied to the Regional Association or Member Club which made the decision being appealed against.
- e. Upon receipt of the notice the Swimming NZ CEO may either:
  - i. Convene a Panel in accordance with Rule 5.1 (Appointment of Panel) below; or
  - ii. Require that the Regional Member / Member Club and the Member submit to the jurisdiction of the Sports Tribunal for the hearing of the appeal.

### **4. Hearing:**

#### ***a) Appointment of Panel***

The CEO will appoint a panel of enquiry of three individuals made up as follows:

- An appropriately qualified person (for example, a lawyer, a Justice of the Peace, or HR professional) who will act as the Panel's Chair;
- two other people the CEO thinks are suitable to hear the matter.

#### ***b) Conflict of Interest***

No person may sit on the Panel who has an actual or potential conflict of interest which may affect their impartiality in hearing the matter before them.

c) *Procedures to be adopted*

In hearing any matter under this Policy, the Panel will have the right to determine all procedures to be adopted.

d) *Non-attendance by party at hearing*

Once a hearing date is decided and notified to the people directly involved in the appeal, the Panel can make a determination on the available evidence on or after the date set for the hearing, whether or not any party attends the hearing or makes written submissions.

e) *Documents*

Where a party to the hearing wants to rely on documents, these must be sent to any other party and the Panel at least two business days before the date convened for the hearing. The Panel can exclude any documents not sent to them in accordance with this rule.

f) *Witnesses*

The Panel can, in relation to any hearing, require the attendance of any person and ask any questions and call any evidence as the Panel, in its absolute discretion, thinks fit. The Panel has no legal power to compel witnesses to attend, other than Members who are contractually required to do so.

g) *Written Submissions*

Any party to a hearing (including the CEO and/or the Child Protection Advisor) may make written submissions to the Panel as long as these are copied to the Panel and the other parties before the hearing.

h) *Representation/Support Person*

At any hearing any Member may be represented by a lawyer, advocate, or support person who can make submissions on that Member's behalf. A representative or support person cannot give evidence on that Member's behalf.

i) *Confidentiality*

All hearings before the Panel will be confidential and any matters discussed will be held in the strictest confidence between those in attendance at the hearing.

## 5. *Determination*

a) *General justice and fairness*

The Panel will make its determinations in the following manner:

- Consistent with natural justice;
- Consistent with any contractual or employment rules that apply;
- Based on the evidence presented to the Panel; and
- Reflective of the seriousness of the breach.

b) *Written Reasons*

The Panel will provide a written determination to the parties, which sets out the reasons for the determination, as soon as possible after the hearing.

c) *Determinations final and binding*

Subject only to the right of appeal set out in Rule 4, all Determinations of the Panel will be final and binding.

d) *Determinations Confidential*

All determinations of the Panel will be confidential between the parties unless the Panel determines that publication of the determination is in the best interests of the sport (for example, to deter others from similar conduct).

e) *Manifest error*

The Panel may at any time correct, vary or set aside a determination where there is a manifest error in the determination.

f) *What the Panel can determine*

After hearing the evidence, the Panel can make one or more of the following orders:

- a) In relation to alleged breaches of the *Code of Conduct* or Swimming NZ policies:
  - (i) Make an order that the Member is found to have breached the *Code of Conduct* or a Swimming NZ Policy and will commit no further breach;
  - (ii) Find the alleged breach of the *Code of Conduct* or Swimming NZ Policy to have been proven and impose a sanction;
  - (iii) Find the alleged breach of the *Code of Conduct* or Swimming NZ Policy or any part to be proven, but decline to take any further action in the matter;
  - (iv) Find the alleged breach of this *Code of Conduct* or Swimming NZ Policy or any part of it not proven and dismiss the allegation.
  
- b) In relation to an appeal by a Member from a decision of a Regional Association or Member Club:
  - (i) Allow the appeal and set aside the decision being appealed against and substitute its own decision; or
  - (ii) Dismiss the appeal.

## 6. *Sanction*

### *Sanctions Available*

If a Member is found to have breached any part of the *Code of Conduct* or Swimming NZ policies, the Panel can impose one or more of the following sanctions:

- (a) Issue a written warning;
- (b) Direct that the Member attend counselling to address their behaviour as a condition of their membership;
- (c) Withdrawal of any awards, placings, records, activities or events sanctioned by Swimming New Zealand;
- (d) Suspend the Member's membership rights in Swimming New Zealand for a stated period;
- (e) Suspend the Member from participating in any swimming related activity which is run under the auspices of Swimming New Zealand, a Regional Association or a Member Club;
- (f) Require an apology, or order reparation or compensation to any Member affected by the breach;
- (g) Recommend the expulsion of the Member from either Swimming New Zealand, the Member's Regional Association or Member Club;
- (h) Enforce any sanction imposed by the IOC, FINA 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 Panel considers appropriate;
- (j) Where the Member is a Regional Association or Member Club:
  - (i) direct that any funding granted or given to it by Swimming New Zealand cease from a specified date;
  - (ii) Direct that any rights or privileges or benefits provided cease from a certain date;
  - (iii) A direction that Swimming New Zealand cease to sanction events held by or under its auspices.
- (k) Decline to take any further action.
  
- (l) In determining what sanction to impose the Panel 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;
- (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 or spectator;
- (g) Any mitigating circumstances.

**7. Child Protection**

- a. Where a determination involves child protection concerns the safety of the child is the priority and the Panel must consult with the Child Protection Advisor assigned to the matter before making any determination or imposing any sanction.
- b. Without limiting the generality of the remedies available to the Panel and this rule, the Panel may suspend the enforcement of any such remedy on such terms and conditions as it thinks fit.

**8. Costs**

Each party will be responsible for bearing its own costs in relation to the Hearing.

**9. Appeals to the Sports Tribunal:**

At its sole discretion, Swimming NZ may refer or allow an appeal of a decision of the Board of Swimming NZ to the Sports Tribunal. Any appeal will be decided under the rules of the Sports Tribunal and the outcome will be binding on the Member, Club, Regional Association and/or Swimming NZ.

