



DISPUTES AND DISCIPLINARY MATTERS

1. GENERAL

- 1.1 The jurisdiction and control of all disputes or disciplinary matters concerning a permanent or temporary employee of MPS, contractor or service provider, shall be the responsibility of the MPS Executive Committee and shall be dealt with in accordance with the Basic Conditions of Employment Act No.75 of 1997, and other relevant legislation, regulation and guidelines.
- 1.2 Other disputes or disciplinary matters concerning any registered member of MPS, which includes inter alia clubs, coaches, athletes, officials, volunteers and administrators and relating to any aspect of an aquatics discipline, breach of MPS General Code of Conduct or MPS Codes of Conduct relating to coaches or competitors shall fall under the jurisdiction of the MPS Executive Committee and/or its duly appointed Disciplinary Committee, other than the following circumstances:
 - 1.2.1 If the matter involves an allegation made against a member of the MPS Executive Committee, other than the President and Vice-President, then the jurisdiction and control of the matter will be escalated to the MPS Executive.
 - 1.2.2 If the matter involves an allegation made against the President or Vice-President, then the jurisdiction and control of the matter will be escalated to the MPS Executive for investigation. Should the allegation be found to be valid, the matter will be escalated to SSA.
- 1.3 Where a dispute or disciplinary matter occurs at an aquatics event held under the auspices of MPS, the Technical Official responsible for the conduct of the event or the President or Vice-President, shall have the authority and discretion to exclude any person(s) from the remainder of the event, as they may consider appropriate in the circumstances.
- 1.4 If a decision is made to exclude any person(s) from an event in accordance with Section 1.3, a written report shall be submitted by the Technical Official, President or Vice-President concerned, to the Executive Committee within 7-days after the event.
- 1.5 Any allegation of a dispute or potential disciplinary action made verbally to any person must be confirmed in writing to the General Secretary to be referred to the Executive Committee for consideration. Only written disputes or complaints will be entertained by MPS.
- 1.6 The Executive Committee has the mandate to investigate any allegation or complaint lodged in writing, to determine the merit or validity of such an allegation or complaint. The MPS Executive Committee can at its own discretion



MPUMALANGA

Province Swimming / Provinsie Swem
Non-Profit Organization No. 031-811-NPO



appoint a task team from members of the Executive Committee or external members to investigate any allegation or complaint and report back to the Executive Committee; provided such an investigation shall be limited to facts finding and/or gathering of information and statements only. The task team may not engage in any deliberations between parties concerned.

- 1.7 Any investigation into any complaint, disputes or disciplinary matter must be conducted effectively and expeditiously, giving due respect to all parties involved.
- 1.8 Any report of any aspect of a dispute or disciplinary matter made to the media, or any attempt to take the matters outside the sphere of MPS's jurisdiction by resorting to the media, which includes social media, shall constitute misconduct on the part of the person(s) concerned.
- 1.9 Any individual, affiliate or associate member taking legal action against MPS in respect of any dispute or disciplinary matter, prior to the conclusion of any investigation or resolution process, including any appeal against a finding or sanction, will immediately have their membership suspended.
- 1.10 The suspension in these circumstances shall not be imposed, or shall be lifted immediately, if the President or the Executive Committee is satisfied that the investigation, or proceedings, have not been conducted effectively, or expeditiously, and so, taking all factors into consideration, the individual, affiliate or associate member may have been unfairly excluded from competing or performing other functions.
- 1.11 The Executive Committee has the delegated authority to address any dispute or complaint and impose appropriate sanctions based on the merits of the complaint; provided any allegation or complaint deemed of a serious or complex nature may be escalated to an independent Disciplinary Committee.
- 1.12 The MPS Disciplinary Committee shall be appointed by the Executive Committee for a four (4) year term in accordance with each Olympic Cycle.
- 1.13 The MPS Disciplinary Committee has the delegated authority to propose any sanction deemed appropriate upon conclusion of a disciplinary hearing or proceeding. A report containing the decision, reasons for decision, proposed sanction and reasons for proposed sanction will be compiled by the Chairperson of the MPS Disciplinary Committee to be tabled at the next Executive Committee for ratification.
- 1.14 The MPS Executive Committee may accept the recommendations of the MPS Disciplinary Committee or amend any recommendation if deemed necessary.



MPUMALANGA

Province Swimming / Provinsie Swem
Non-Profit Organization No. 031-811-NPO



- 1.15 All parties to a dispute or disciplinary shall be notified of the resolutions taken within 7-days of ratification by the Executive Committee.
- 1.16 No member of the Executive Committee or Disciplinary Committee, including the General Secretary, shall be allowed to discuss any dispute or disciplinary matter under investigation with any third party prior to the conclusion of the disciplinary process.

2. SANCTIONS

- 2.1 Any individual Member, Club, District or Associate Member may be sanctioned:
 - 2.1.1 In the case of violation of the Constitution, By-Laws, Rules and/or decisions, and/or
 - 2.1.2 For bringing the sport, SSA, MPS into disrepute.
- 2.2 Sanctions shall be recommended and imposed by the Executive Committee of MPS and may consist of one or more of the following:
 - 2.2.1 Verbal advice;
 - 2.2.2 Written warning, subject to or without conditions;
 - 2.2.3 Fine (not exceeding R1000.00);
 - 2.2.4 Suspension from specific activities for a specified period of time; and/or;
 - 2.2.5 Expulsion from MPS for a specified time limit, or lifetime.
- 2.3 Sanctions shall be enforced immediately upon the decision being made by the Executive Committee of MPS.
- 2.4 MPS shall notify the Individual, Club or District of the sanctions imposed.
- 2.5 A District, Club or an Individual Member sanctioned by the Executive Committee of MPS may appeal to MPS no later than 14 working days after the sanction has been issued by MPS.
- 2.6 During the period in which the Individual Member, Club or District is awaiting for the appeal to be heard, that member may not participate in any MPS or SSA activities, unless special permission has been granted by MPS.
- 2.7 Any lifetime suspension or suspension related to serious misconduct will be referred to SSA for ratification and to ensure the same sanction is applied by all provincial affiliates and SSA in respect of the person concerned.

3. APPEALS

- 3.1 An individual or affiliate member receiving a sanction imposed by virtue of **Section 2** may appeal in writing to the President no later than 14 working days after the sanction has been imposed.



MPUMALANGA

Province Swimming / Provinsie Swem
Non-Profit Organization No. 031-811-NPO



- 3.2 The notice of appeal shall include details of whether the appeal is against the finding of the disciplinary process or the sanction imposed, the rationale for the appeal and the details of any additional person(s), document(s) or additional evidence that they wish to rely upon.
- 3.3 When submitting a notice of appeal, the applicant must deposit the sum of R1000.00 with the General Secretary of MPS.
- 3.4 The appeal shall be heard by an independent Appeals Committee, to be appointed by the Executive Committee on an ad hoc basis and comprising of the following members:
 - 3.4.1 One member from the legal fraternity
 - 3.4.2 One executive member from Swimming South Africa or one member with current or previous sports arbitration background
 - 3.4.3 One member from the Mpumalanga Department of Culture, Sport & Recreation
 - 3.4.4 Two (2) registered members from MPS with no direct or indirect relationship to the applicant
- 3.5 During the period in which an individual or affiliate member is waiting for an appeal process to be concluded, the member may not participate in any MPS or SSA activities, unless permission has been granted by the President.
- 3.6 The appeal hearing may alter any or all of the findings and/or sanctions imposed at the initial hearing and may retain, or return, the deposit in part or whole at its sole discretion.

Within 7-days after conclusion of the appeal hearing, a report containing the findings and/or sanctions will be forwarded to the Executive Committee and the applicant by the General Secretary. The Executive Committee has no delegated authority to amend the findings of the Appeals Committee.

4. PROCEDURE WHEN SUBMITTING A COMPLAINT OR GRIEVANCE

- 4.1 All complaints by MPS affiliated members must be submitted, in writing, to their club.
- 4.2 The affiliated MPS club must submit said grievance or complaint, within 7 days, to the MPS Secretary.
- 4.3 Should the affiliated member not receive feedback from their club, or should they be dissatisfied with the handling of said complaint or grievance by their club, may, after said 7 days, submit their grievance/complaint to the MPS Secretary - ensuring the club is copied in communication.



MPUMALANGA

Province Swimming / Provinsie Swem
Non-Profit Organization No. 031-811-NPO



4.3.1 Club members must submit the original complaint/ grievance, for verification, process which was submitted to their club/school.

4.3.2 The following information must be provided for MPS to investigate allegations:

4.3.2.1 Complainants' name, surname, ID number, contact details and swimming club or school they are affiliated with;

4.3.2.2 A complete description the complaint including full details and or supporting documents;

4.3.2.3 Details of when and where the incident took place.

4.3 Procedure when a complaint is received:

4.3.1 The MPS secretary will acknowledge receipt of complaint or grievance via email, within 48 hours, and will refer the complaint or grievance to the MPS Executive Committee whereby they reserve the right to forward the complaint onto the relevant District or Disciplinary Committee.

4.3.2 If the complaint or grievance is against an Executive Committee - or Disciplinary Committee member, the said person will not be included in the investigation or ruling process;

4.3.3 The complainant must be willing to comply with all requests during the investigation/disciplinary process. ie. The complainant must testify in the disciplinary hearing if required;

4.3.4 If an extension of time is necessary for investigation purposes of the complaint or grievance, MPS will communicate such in writing;

4.3.5 MPS will communicate the date on which a decision will be taken as well as MPS' response in writing;

4.3.6 In the event of the complaint or grievance not being resolved to the satisfaction of the complainant, the outcome may be APPEALED. (see 3. APPEALS)

