



**NZKC AGILITY COMMITTEE
PO BOX 40438
UPPER HUTT 5140**

CLUBS COMPLAINTS PROCEDURE

This procedure is designed to help clubs deal with “in house” complaints not arising from any NZKC sanctioned event. It is not designed to be contrary to, or take the place of, the procedures for complaints arising from an NZKC Show as defined under the NZKC Rules and Regulations.

Where possible, matters that can be resolved informally should be so resolved if all parties agree. It is preferable that matters not be allowed to escalate due to time delays in procedure.

In the event that a Club receives a formal complaint, specific action should be taken to investigate the complaint promptly, appropriately and fairly.

Natural Justice

Clubs should observe the processes of fairness and natural justice, covered within this document. We offer you this extract from a Court judgement of Lord Justice Lawton in *Maxwell v Department of Trade and Industry* [1974] 2 All ER 122 where he said:

"From time to time ... lawyers and judges have tried to define what constitutes fairness. Like defining an elephant, it is not easy to do, although fairness in practice has the elephantine quality of being easy to recognise. As a result of these efforts a word in common usage has acquired the trappings of legalism: 'acting fairly' has become 'acting in accordance with the rules of natural justice', and on occasion has been dressed up with Latin tags. This phrase in my opinion serves no useful purpose and in recent years it has encouraged lawyers to try to put those who hold inquiries into legal straitjackets.... For the purposes of my judgment I intend to ask myself this simple question: did the [decision-maker] act fairly towards the plaintiff?"

Fairness and natural justice do NOT mean the club cannot hear a complaint, come to a decision, and impose a penalty. But the club must act fairly.

Rules

Each club must make sure it operates in accordance with its own written rules. Those are what gives the club the power to operate. For the benefit of all involved, the rules should include the formal aspects of a complaints procedure. If a club is not sure that their rules are adequate, they are welcome to consult Brian Priest at NZKC, brian@nzkc.org.nz or on 021 222 2222

Disputes Committee

Each club should have a Disputes Committee made up of the President and/or Vice-President and between 3 and 5 other members who should also be members of the club committee. However knowledgeable non-committee members may be included and in addition, an external knowledgeable person may be appointed to this committee at the time it is convened.

Any member of the Disputes Committee with a conflict of interest in a matter should stand aside for that matter. In a club where everyone knows everyone it may not be obvious when a conflict of interest exists. When in doubt, seek advise.

The President may wish to nominate an external person to chair meeting/s.

Timing

The Disputes Committee should be convened within 21 days of the complaint being lodged with the club. In any event, all reasonable steps should be taken at the time of the alleged event, to prevent a recurrence of the behaviour on which the complaint is based prior to the Disputes Committee being convened.

The club may ask that some person/s or dog/s do not attend events (for example, weekly training) until the Disputes Committee meets.

Investigation

The President of the Club (or Vice-President in his absence) may appoint two members of the Disputes Committee to investigate the circumstances surrounding the events reported in the complaint. If appointed, these investigators will conduct the following interviews and write up a report to be completed a minimum of 48 hours prior to the date and time of the Disputes Committee Hearing.

If appointed, the investigators will interview:

- the complainant
- the respondent (the person accused) and
- any witnesses to the event

A support person may be present with each party while they are interviewed if desired. The investigators will advise all parties of the necessity of confidentiality and consequent breaches.

The investigators will prepare a report regarding the facts of the situation based 'on balance of probabilities'

The report will include:

- the basis of the complaint
- the response of the respondent to the allegation(s)
- a summary of any information provided by witnesses
- any reasons why one persons evidence is preferred over another's
- details of the investigation
- when appropriate, any recommendation to the organisation about how to prevent this type of thing happening again

Disputes Committee Hearing

Notice of the date and time of the hearing shall be provided to all parties no less than 7 days prior to the hearing taking place. Both the complainant and the respondent shall in addition, be given copies of the report from the investigators at least 24 hours prior to the hearing date and time.

The President of the club, Vice-President in his absence, or any other person nominated by the President, will Chair the Hearing. Meeting decorum must be strictly observed during the Hearing process with all comments/statements being directed to the Chair.

Rights of the Respondent

The respondent must be given the opportunity to:

- understand that the investigation/hearing is unbiased, where both sides have the right to be heard
- know what the complaint is about and who it is made by
- respond to the complaint and have their account heard

Decision Making

The committee will:

- receive the investigators report
- consider the report
- provide the complainant and the respondent with the opportunity to respond to it and comment on what they feel is appropriate action
- determine whether the complaint is to be upheld
- determine what (if any) disciplinary action is appropriate
- determine if any changes are needed to the way the policy and procedures are put into practice

Possible disciplinary actions

These may include:

- verbal or written apology
- a letter of reprimand
- restrictions on the freedom of dogs on the grounds
- exclusion from the grounds of dog or handler
- temporary suspension
- any other measures the disciplinary committee considers appropriate and is within their Club rules/Constitution
- a combination of any of the above

Record keeping

A confidential record must be kept of formal complaints. This record should include a record of the investigation, the decision of the Disputes Committee and what action was taken. A copy of the record of any upheld complaint should be forwarded to the NZKC Agility Committee (and NZKC Obedience Committee if appropriate).

Retaliation

Retaliation against an individual who has filed a complaint, participated in any procedure under the policy, or been associated with a person who filed a complaint, will be treated as harassment and will not be tolerated.

Support for the parties involved

The Club will ensure that both the complainant and respondent has the opportunity to have access to appropriate support. The support person or people are also bound to confidentiality. Everyone has the right to seek advise.

Confidentiality

All parties involved in the investigation of complaints are required to keep any and all information on the complaint confidential during the course of the investigation and should be advised that ongoing confidentiality may be required.

Clubs must adopt a privacy policy. An example could be: This club collects some information about members, who have a right to inspect and correct any inaccuracies. Where a complaint is made, a record will be kept of the complaint and any decision reached. People have rights under the Privacy Act.

Right of appeal

The club must adopt a policy on appeals. It should be worded similarly to the following example.

Either the complainant or the respondent may appeal against a decision or penalty. An appeal in writing must be lodged within 14 days of the decision or penalty being imposed. The party lodging the appeal must write to the club and the NZKC, stating their grounds for appeal. The NZKC will consider the matter fairly and render a decision in good time.

A club adopting this policy can take it as read from this document that NZKC agrees to be the appeal authority.

A club may adopt an alternative appeal policy as long as it is fair.