

SUNCOAST SPINNERS
WHEELCHAIR BASKETBALL INC.
IA36385



MEMBER PROTECTION PROCEDURES

JULY 2020

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1. Introductory provisions

1.1. Definitions

- 1.1.1. In this document:
- a. **appellant** means either the complainant or respondent appealing against a disciplinary sanction;
 - b. **club** means Suncoast Spinners Wheelchair Basketball Inc.;
 - c. **complainant** means a person who has lodged a complaint;
 - d. **day/days** means all days Monday through Sunday, including weekends and public holidays;
 - e. **management committee** means the management committee of Suncoast Spinners Wheelchair Basketball Inc.;
 - f. **party/parties** to a complaint means the complainant and the respondent;
 - g. **respondent/s** means a person, people or organisation about whom a complaint has been lodged.

1.2. Purpose

- 1.2.1. Suncoast Spinners Wheelchair Basketball recognises that people involved with the club may from time to time have grievances or complaints that need to be resolved in the interest of maintaining a positive sporting and social environment.
- 1.2.2. The club aims to provide a simple and trustworthy procedure for resolving complaints based on the principles of natural justice and procedural fairness.
- 1.2.3. These member protection procedures have been established to ensure safety and enjoyment for all people involved with club activities and provide a framework for the making and handling of complaints.

1.3. Commitment

- 1.3.1. The club is committed to the following principles:
- a. complaints will receive careful consideration through established processes that are timely and based on fairness and respect;
 - b. resolutions will be reached cooperatively and informally where possible;
 - c. a complainant will not be disadvantaged in any way as a direct result of lodging a complaint;
 - d. where a complaint is received, it will be considered in a timely and confidential manner and documented together with the steps towards resolution.

1.4. Application

- 1.4.1. These member protection procedures complement and should be read in conjunction with the rules and bylaws of Suncoast Spinners Wheelchair Basketball.
- 1.4.2. These procedures apply to all people and organisations involved in any way with the activities of the club, including:
 - a. members, participants, parents, guardians and spectators;
 - b. management committee members, volunteers, coaches, officials and employees;
 - c. suppliers, sponsors and contractors.

1.5. Adult representation

- 1.5.1. In the event that a complainant or respondent is a minor aged under 18 years, that minor must have a parent or legal guardian serve as their representative during any complaint process.
- 1.5.2. Communication regarding any such complaint must be directed to the minor's parent or legal guardian, who has been nominated to represent the complainant or respondent.
- 1.5.3. A minor is not required to attend a member protection panel hearing, if held.

2. Member protection panel

2.1. Membership of panel

- 2.1.1. The member protection panel shall comprise up to five people, any three of whom shall be responsible for handling any particular complaint.
- 2.1.2. Members of the member protection panel are appointed by the club's management committee.
- 2.1.3. Members of the member protection panel are not required to be members of the club.
- 2.1.4. It is desirable that the panel comprises at least one member who has previous experience on a similar panel, or in managing member protection issues.
- 2.1.5. One or more representatives of the member protection panel shall be available upon reasonable request to provide information to members regarding the club's member protection procedures.

3. Making complaints

3.1. Making a complaint

- 3.1.1. Any person may lodge a complaint about a person, people or organisation bound by these member protection procedures, if they feel there has been a breach of the club's rules or bylaws, as outlined in the matrix of breaches and sanctions at appendix 1.

- 3.1.2. Complaints may be lodged using the complaint form, available on the club's website.
- 3.1.3. The club's management committee may act as a complainant and initiate a complaint process under these member protection procedures, in which case the club's management committee will nominate an appropriate individual to represent the management committee.

3.2. Receiving and assessing a complaint

- 3.2.1. Once a complaint has been received by the member protection panel, an initial assessment will be conducted by one or more panel members to determine whether the complaint is:
 - a. minor and should be handled initially through informal approaches (see clause 3.2.2); or
 - b. significant and should be handled through formal approaches (see clause 3.2.3); or
 - c. frivolous and/or outside the jurisdiction of the member protection panel (see clause 3.2.4).
- 3.2.2. Signals that may indicate when to use informal approaches include if:
 - a. it is a single incident;
 - b. it appears the behaviour is unintentional;
 - c. it appears that the complaint can be resolved informally; and
 - d. the person who made the complaint agrees to informal approaches.
- 3.2.3. Signals that may indicate when to use formal approaches include if:
 - a. informal approaches have failed and/or it is unlikely that an informal process will resolve the complaint;
 - b. the behaviour is serious or longstanding; and
 - c. there is significant disagreement about what has occurred and what should happen.
- 3.2.4. If the member protection panel determines that the complaint is frivolous and/or outside the jurisdiction of the panel, the complaint will be dismissed, and the complainant notified in writing.
- 3.2.5. Any complaint which involves alleged criminal activity shall be reported immediately to the club's management committee and the appropriate authorities.

4. Handling complaints

4.1. Handling a minor complaint

- 4.1.1. If the member protection panel determines that a complaint is minor and should be handled initially through informal approaches, one or more panel members may support the complainant in finding a resolution.

- 4.1.2. If the complainant feels confident to do so, they may speak with the person, people or organisation about whom they lodged the complaint, to discuss possible solutions.

4.2. Handling a significant complaint

- 4.2.1. If the member protection panel determines that a complaint is significant and should be handled through formal approaches, the panel will select three of its members to handle the complaint.
- 4.2.2. The three selected members of the member protection panel will decide whether:
 - a. the complaint should be referred to mediation in the first instance (see section 5); or
 - b. an investigation should be conducted regarding the complaint (see section 6); or
 - c. the complaint should be referred immediately to a member protection panel hearing (see section 7); and
 - d. any interim arrangements should apply until the complaint process is completed.
- 4.2.3. Any interim arrangement mentioned in clause 4.2.2.d shall be imposed by the club's management committee.

4.3. Complaint records

- 4.3.1. Records of each complaint, including how the complaint was handled, any investigation and/or panel hearing processes and any sanctions issued, shall be kept by the club's secretary.

5. Mediation

5.1. Mediation procedures

- 5.1.1. Mediation is a process that seeks to resolve complaints with the assistance of an impartial person – the mediator.
- 5.1.2. In the event that mediation is identified as an appropriate step in dealing with a complaint, the member protection panel will appoint an appropriate mediator to help resolve the complaint.
- 5.1.3. The mediator may be:
 - a. a person or external agency chosen by agreement between the parties; or
 - b. in the absence of agreement, a person chosen by the member protection panel.
- 5.1.4. A mediator may be a member or former member of the club but in any case, must not be a person who:
 - a. has a personal interest in the dispute; or

- b. is biased against, or in favour of, any party.
- 5.1.5. The mediator to the dispute, in conducting the mediation, must:
- a. give each party every opportunity to be heard; and
 - b. allow due consideration by all parties of any written statement submitted by any party; and
 - c. ensure that natural justice is afforded to all parties throughout the mediation process.
- 5.1.6. The mediator will talk with the complainant and respondent/s about how the mediation will take place and who will participate. At a minimum, the mediator will prepare an agenda of issues to be discussed.
- 5.1.7. All issues raised during mediation will be treated confidentially.
- 5.1.8. The mediator shall not determine the dispute.
- 5.1.9. The complainant and the respondent/s will be entitled to support throughout any mediation process from a support person, provided that any such support person shall not be a legal practitioner.
- 5.1.10. If the complaint is resolved by mediation, where appropriate the mediator may seek to ensure the parties execute a document that sets out the agreement that has been reached. This agreement will be signed by the complainant and the respondent/s and a copy provided to the club's secretary. The parties involved are expected to respect and comply with the terms of the agreement.
- 5.1.11. If the complaint is not resolved through mediation, the member protection panel may:
- a. determine that an investigation is required; or
 - b. refer the complaint to a panel hearing; or
 - c. recommend to the management committee some other step or steps which it deems suitable.

6. Investigations

6.1. Investigation procedures

- 6.1.1. There will be times when a complaint will need to be investigated and evidence gathered.
- 6.1.2. An investigation helps to determine the facts relating to an alleged incident, as well as possible findings and recommendations.
- 6.1.3. Any investigation conducted by the member protection panel will be fair to all people involved.
- 6.1.4. If the member protection panel decides that a complaint should be investigated, the panel may follow the steps outlined below:
 - a. interview the complainant and record the interview in writing;
 - b. provide full details of the complaint to the respondent/s so that they can respond;

- c. interview the respondent/s to allow them to answer the complaint and record the interview in writing;
 - d. obtain statements from witnesses and collect other relevant evidence;
 - e. make a finding as to whether the complaint is:
 - i **substantiated** (there is sufficient evidence to support the complaint);
 - ii **inconclusive** (there is insufficient evidence either way);
 - iii **unsubstantiated** (there is sufficient evidence to show that the complaint is unfounded);
 - iv **mischievous, vexatious or knowingly untrue.**
 - f. provide a report to the management committee documenting the complaint, the investigation process, the evidence, the findings and any recommendations, which may include referral to a member protection panel hearing;
 - g. provide a report to the complainant and the respondent/s documenting the complaint, the investigation process and summarising key points from the investigation, as well as next steps.
- 6.1.5. The member protection panel will aim to complete the steps outlined above within 14 days.
- 6.1.6. The complainant and the respondent/s will be entitled to support throughout an investigation process from a support person, provided that any such support person must not be a legal practitioner.
- 6.1.7. The member protection panel will not conduct its own investigations into any complaint of a criminal nature.

7. Member protection panel hearings

7.1. Notice and documentation

- 7.1.1. If a member protection panel hearing is to be held in relation to a complaint, the parties to the complaint will be given a copy of the club's member protection procedures, along with at least seven days' notice of the hearing, outlining:
- a. the day, time, and venue of the hearing;
 - b. details of the complaint and any allegations;
 - c. that each party has a right to appear at the hearing to present their case;
 - d. that verbal and/or written submissions can be presented at the hearing;
 - e. that witnesses may attend the hearing to support the position of each party;

- f. that each party may have a support person attend the hearing, but legal representation will not be permitted; and
 - g. if any party is a minor, that they should be represented by a parent or guardian.
- 7.1.2. The member protection panel may collaborate with the parties to the complaint to ensure their availability on the date of the panel hearing.
 - 7.1.3. A party to a complaint is not required to attend a panel hearing and may choose not to attend.
 - 7.1.4. A copy of any investigation findings will be provided to the parties at least seven days before the hearing.
 - 7.1.5. Copies of any written documents which the parties wish to have the member protection panel consider will be provided to all parties, through the member protection panel, in advance of the hearing.

7.2. Hearing procedure

- 7.2.1. The following people will be permitted to attend the panel hearing:
 - a. three selected member protection panel members;
 - b. the parties to the complaint;
 - c. any witnesses called by the parties to the complaint;
 - d. any parent, guardian or support person required to support any party to the complaint, provided that any such person shall not be a legal practitioner.
- 7.2.2. If any party to the complaint is not present at the set hearing time and the member protection panel members consider that no valid reason has been presented for the absence, the hearing will continue subject to the panel members being satisfied that all notification requirements have been met.
- 7.2.3. If the panel considers that there is a valid reason for non-attendance of any party, or the panel does not believe the notification requirements have been met, then the hearing may be rescheduled to a later date.
- 7.2.4. One member of the member protection panel will read out the complaint, ask each respondent if they understand the complaint and if they agree or disagree with the complaint.
- 7.2.5. If the respondent agrees with the complaint, they will be asked to provide any evidence or witnesses that should be considered by the panel when recommending any sanctions.
- 7.2.6. If the respondent disagrees with the complaint, the complainant will be asked to describe the circumstances that led to the complaint being lodged, provided that:
 - a. reference may be made to brief notes;
 - b. the complainant may call witnesses;
 - c. the respondent/s may question the complainant and witnesses.

- 7.2.7. The respondent/s will then be asked to respond to the complaint, provided that:
 - a. reference may be made to brief notes;
 - b. the respondent/s may call witnesses;
 - c. the complainant may question the respondent/s and witnesses.
- 7.2.8. The complainant and respondent/s may be permitted to remain present when evidence is presented to the hearing, subject to the discretion of the member protection panel. Witnesses may be asked to wait outside the hearing until required.
- 7.2.9. The member protection panel may:
 - a. consider any evidence, and in any form, that it deems relevant;
 - b. ask questions of any person giving evidence;
 - c. limit the number of witnesses, including limiting witnesses to those people who only provide new evidence;
 - d. act in an inquisitorial manner in order to establish the truth of the complaint being considered;
 - e. take any reasonable action it deems necessary to ensure proper order is maintained during the hearing.
- 7.2.10. Video evidence, if available, may be presented. Arrangements for the viewing of this evidence shall be made entirely by the person or people wishing to offer this type of evidence.
- 7.2.11. If the panel considers that at any time during the hearing there is any unreasonable or intimidating behaviour from anyone, the panel may deny further involvement of that person in the hearing, request that the person leave the hearing and document that this has occurred.
- 7.2.12. After all of the evidence has been presented, the panel will make its decision in private. The panel must decide whether the complaint has, on the balance of probabilities, been substantiated. The panel does not need to provide written reasons for its decision.
- 7.2.13. All panel decisions will be by majority vote.
- 7.2.14. The panel shall announce its decision at the conclusion of the hearing, including details of any disciplinary sanctions that the panel intends to recommend to the management committee.
- 7.2.15. Within 24 hours of completion of the panel hearing, the panel will forward a brief report from the hearing and notice of its decision to the management committee, complainant and respondent/s, including recommendations of any sanctions to be imposed.
- 7.2.16. Within 48 hours of completion of the panel hearing, the management committee will provide written confirmation to the complainant and respondent/s regarding its decision and any disciplinary sanctions to be imposed. The respondent/s will also be notified in writing regarding the process and grounds for an appeal.

8. Discipline

8.1. Disciplinary sanctions

- 8.1.1. The club may impose disciplinary sanctions on any person, people or organisation bound by these member protection procedures.
- 8.1.2. Any disciplinary sanction imposed will be:
 - a. fair and reasonable;
 - b. based on the evidence and information presented and the seriousness of the breach; and
 - c. determined in accordance with the club's rules, bylaws and matrix of breaches and sanctions at appendix 1.

9. Appeals

9.1. Appeal procedures

- 9.1.1. Any complainant or respondent/s may lodge an appeal against a disciplinary sanction on one or more of the following grounds:
 - a. that a denial of procedural fairness has occurred;
 - b. that the sanction imposed is unjust and/or unreasonable;
 - c. that the decision was not supported by the information/evidence provided at the panel hearing; and/or
 - d. that new evidence, that was not reasonably available at the time of initial investigation or hearing, is now available and that evidence is likely to have a material bearing upon the decision in the matter.
- 9.1.2. An appeal must be lodged in writing to the club secretary, within seven days of the panel hearing.
- 9.1.3. If a written appeal is not received by the club secretary within this time, the right of appeal shall lapse.
- 9.1.4. Any appeal will be forwarded to the management committee to review and decide whether there are sufficient grounds for the appeal to proceed.
- 9.1.5. If the appellant has not shown sufficient grounds for appeal in accordance with clause 9.1.1, the appeal will be rejected. The appellant will be notified in writing, including the reasons for the decision.
- 9.1.6. If the appeal is accepted, an appeals tribunal with new panel members will be convened to hear and decide the appeal.
- 9.1.7. The hearing procedure outlined in section 7.2 shall be followed for the appeals tribunal hearing.
- 9.1.8. The decision of the appeals tribunal will be final and binding and there shall be no further right of appeal through the club's internal processes.

Appendix 1 – Matrix of Breaches and Sanctions

The following matrix outlines indicative sanctions, which may be reasonably imposed for certain types of breaches of Suncoast Spinners Wheelchair Basketball’s rules and/or bylaws. It is important to note that not all possible breaches can be foreseen, nor the circumstances within which a breach may occur. Therefore, the member protection panel and the club’s management committee shall have the power to interpret this matrix in determining any suitable sanction in the event of a breach. Any alleged criminal activity shall be reported immediately to the club’s management committee and the appropriate authorities.

Example category 1 breaches	<ul style="list-style-type: none"> ■ Using offensive language towards others ■ Ridiculing others ■ Displaying poor sportsmanship ■ Failing to follow the directions of club personnel ■ Arguing with or yelling at an official ■ Bringing the club or sport into disrepute ■ Speaking poorly of the club in a public setting ■ Failing to abide by the club’s constitution or bylaws ■ Actions which undermine the health and safety of others 	Possible category 1 sanctions	<ul style="list-style-type: none"> ■ Issuing verbal warning ■ Direction that the individual makes a verbal and/or written apology ■ Direction that the individual attends counselling to address their behaviour
Example category 2 breaches	<ul style="list-style-type: none"> ■ Repeatedly carrying out category 1 breaches ■ Failing to comply with any category 1 sanction ■ Victimising another person for making or supporting a complaint ■ Verbally abusing another person, threatening another person or creating a hostile environment within the sport ■ Discriminating against, harassing or bullying another person ■ Disclosing to any unauthorised person or organisation any club information that is of a private, confidential or privileged nature ■ Making a complaint, knowing it to be untrue, vexatious, malicious or improper ■ Wilfully causing damage to club property 	Possible category 2 sanctions	<ul style="list-style-type: none"> ■ Issuing written warning ■ Direction that the individual makes a verbal and/or written apology ■ Direction that the individual attends counselling to address their behaviour ■ Temporary suspension of membership, participation or engagement in club activities ■ Temporary suspension from certain teams, events or tournaments ■ Payment of the cost of repairs for property damage
Example category 3 breaches	<ul style="list-style-type: none"> ■ Repeatedly carrying out category 2 breaches ■ Failing to comply with any category 2 sanction ■ Physically assaulting another person ■ Engaging in an inappropriate intimate relationship with a person over whom influence, authority or power is exercised 	Possible category 3 sanctions	<ul style="list-style-type: none"> ■ Direction that the individual makes a written apology ■ Direction that the individual attends counselling to address their behaviour ■ Permanent removal from certain teams, events or tournaments ■ Termination of membership, participation or engagement in club activities