

Schedule A

Code of Conduct

9 September 2023

A1 GOVERNANCE AND CONSTITUTION

All SCTNZ Members shall:

- A1.1 Abide by and respect the regulations governing sport as well as the organisations and individuals administering those regulations;
- A1.2 Respect the efforts of the appointed and elected representatives of SCTNZ and organizations governing the sport of swimming.
- A1.3 Abide by the rules and regulations of the SCTNZ;
- A1.4 Follow procedures for enforcement of the Code of Conduct; and
- A1.5 Accept judgments made by the Board or approved under the Quality Assurance Contract.

A2 PROFESSIONAL CONDUCT

All SCTNZ Members must demonstrate their professional conduct and shall:

- A2.1 Represent themselves and their professional standing in an honest manner without bringing the teaching/coaching profession or the SCTNZ into disrepute;
- A2.2 Use their SCTNZ accreditation status and membership to represent their ability in an honest manner, not to gain unwarranted favours;
- A2.3 Be professional in, and accept responsibility for, their actions;
- A2.4 Extend professional courtesy to other teachers, coaches, athletes and parents by keeping all parties informed in matters of swimmers entering/leaving training programmes;
- A2.5 Reject the use of performance enhancing drugs in sport and abide by the guidelines set forth by National and International regulatory bodies;
- A2.6 Exercise a standard of care consistent with their professional qualifications as a coach;
 - A2.7 Refrain from engaging in, supporting, or showing complacency toward any form of sexual harassment towards athletes and colleagues;
 - A2.8 Refrain from engaging in, supporting, or showing complacency toward any form of verbal, physical and emotional abuse;
- A2.9 Refrain from engaging in, supporting, or showing complacency toward any form of improper discriminatory practices on the basis of race, religion, ethnic background or special ability/disability of athletes;
- A2.10 Refrain from engaging in, supporting, or showing complacency toward any form of cyber bullying, in accordance with the SNZ Member Protection Policy;
- A2.11 Show concern for the health, safety and welfare of athletes and colleagues; and
- A2.12 Honour the responsibilities given to a coach by keeping all relevant qualifications up to date.

A2.13 In all matters concerning the change of organisational affiliation by an athlete, action should be initiated exclusively by the athlete. Neither the swimming coach nor an agent acting on behalf of the coach should initiate such action.

A2.14 When accepting an athlete for training, a swimming coach should, where practicable, notify the athlete's immediate past coach of the intention to change coaching affiliation.

A3 ATHLETES

In relation to the athletes, all Members shall:

- A3.1 Make decisions based upon the best interests of their athletes sporting, education and vocational careers;
- A3.2 Acknowledge the individual talents and potential of athletes;
- A3.3 Set appropriate training programmes based upon the development level of the athlete;
- A3.4 Maintain a balanced emphasis of sporting involvement within educational and career objectives;
- A3.5 Direct their observations and recommendations regarding all aspects of swimming to the appropriate persons for the betterment of the sport;
- A3.6 Be constructive in their criticism and direct comments and observation to the relevant individuals and organizations;
- A3.7 Avoid gossip, innuendo and malicious comments;
- A3.8 Respect the health and dignity of athletes to compete on the basis of their abilities, within the rules of sport; and
- A3.9 Refrain from using the influence of a coaching position to encourage inappropriate intimacy between coach and athlete.

A4 RELATIONSHIP WITH THE SCTNZ QUALITY ASSURANCE CONTRACT

- A4.1 Members who breach the Code of Conduct may find themselves the subject of a complaint and subject to the SCTNZ Quality Assurance Contract. Some complaints will concern what SCTNZ considers "major infractions". These are breaches of the Code of Conduct that result, or have the potential to result, in material harm to other persons, SCTNZ or the sport of swimming. Where a major infraction has occurred SCTNZ will be entitled to charge a reasonable penalty as outlined in the Schedule of Charges.
- A4.2 Examples of major infractions include but are not limited to:
 - a) Activities or behaviour that unethically interfere with a competition or with any athlete's preparation for a competition;
 - b) Activities that recklessly or calculatedly endanger the safety of others;
 - c) Deliberate disregard for the Rules, policies and regulations of SCTNZ;
 - d) Conduct that intentionally damages the image, credibility or reputation of SCTNZ;
 - e) Behaviour that the Member knows or ought to know constitutes sexual misconduct; and
 - f) Abusive use of alcohol or illegal drugs.

- A4.3 Repeated minor infractions may be considered a major infraction. Minor infractions are single incidents of breaching the Code of Conduct or Constitution that generally do not result in harm to anyone. Examples of minor infractions include, but are not limited to:
- a) Single instances of disrespectful comments, behaviour, or bullying (including cyber bullying) directed toward others;
 - b) Single instances of unsportsmanlike conduct; and
 - c) Single instances of non-compliance with the Rules, policies and regulations of SCTNZ.

Schedule B

Quality Assurance Contract

B1 REASONS FOR POWERS AND OBLIGATIONS

- B1.1 SCTNZ and its Members agree that these contract terms will govern the handling of disciplinary concerns and complaints.
- B1.2 SCTNZ membership accreditation is a quality assurance to clubs, parents and would-be learners. The tangible value of membership depends on the reliability of that assurance. The more consistently SCTNZ can uphold its standards the more value those stakeholders get from membership, and in return attribute to it. Accreditation may be worth only its perceived value after the last public scandal.
- B1.3 Ineffectiveness, delay, or a perceived inability to enforce membership standards can negate quality control, cost and effort. They can destroy the trust of athletes, parents and SCTNZ stakeholders. They can dissolve clubs and other organisations. They can discourage volunteers.
- B1.4 Like any reputation-dependent service provider, the SCTNZ must balance speed, economy and early finality in standards enforcement against pressures for unachievable certainty of facts and 'natural justice'. Frequently matters of reputation cannot be resolved promptly or economically if calibration of fault, responsibility or consequences is required with undue precision.
- B1.5 SCTNZ, Members, swimmers, clubs, and parents who rely on its accreditation therefore want disciplinary powers to be exercised in good faith, but with their interests in speed, economy and finality to take priority. People should not seek or retain membership unless they accept that keeping the cost of membership reasonable is predicated on Members:
- a) Facilitating speedy and inexpensive resolution of investigation and complaint resolution processes;
 - b) Recognising that sometimes quality assurance processes will occur in ways that in hindsight could have been better handled;
 - c) Meeting SCTNZ costs attributable to processes triggered by the actions, relationships or involvements of Members, whether or not they are eventually found to be at fault, to minimise cross subsidies from Members who do not attract such costs; and
 - d) Accepting good faith decisions that are intended to be final.
- B1.6 Subject to that basis of the contract, the SCTNZ will endeavour to investigate concerns and to resolve complaints efficiently and fairly. Cost recovery measures will help SCTNZ avoid financial danger from actions of individual Members, enhance their incentives to minimise avoidable costs to themselves and SCTNZ, and protect the wider membership.

B2 INTERPRETATION

- B2.1 In this Schedule (unless the context indicates otherwise):

Disciplinary Process means the Quality Assurance Contract;

Subject Member means the person who is the subject of a complaint under the Quality Assurance Contract procedures, whether or not they remain a Member.

B3 LODGING A COMPLAINT

- B3.1 Complaints are ordinarily submitted by delivery of a completed SCTNZ Complaint Form. This form shall be available on the SCTNZ website and can be posted or emailed to SCTNZ addresses supplied on that form
- B3.2 SCTNZ in its discretion may accept a complaint communicated to a SCTNZ Board Member or employee. The Board may require subsequent completion of a complaint form.
- B3.3 Complainants may be required in the form or otherwise to indemnify SCTNZ for costs and liabilities, in particular for complaints found to be false as provided in Clause B8.4.
- B3.4 **Own Initiative complaints:** SCTNZ may initiate a complaint process without an external complaint if it appears to it the circumstances warrant investigation or determination of matters that could justify complaint.
- B3.5 **Criteria:** A complaint should specify the grounds for considering that the Subject Member:
- a) has breached the Code of Conduct, Constitution or any rules made under this Constitution; and/or
 - b) has engaged in conduct which is unbecoming of a Member and prejudicial to the interests of SCTNZ.
- B3.6 **Procedures for Initial handling:** The Board may from time to time determine its procedures for handling complaints to the point a complaint is referred to the Ethics Committee.
- B3.7 **Timeframe for handling complaints:** The Board will endeavour to resolve complaints in a timely manner. The Board has the discretion to suspend Membership during investigations into major infractions, if it considers this appropriate.

B4 ETHICS COMMITTEE CONSIDERS COMPLAINT

- B4.1 **Decision not to Consider:** The Ethics Committee may decline to further consider a complaint if it considers the complaint is petty, frivolous, inconsequential or malicious; or if it appears that further investigation is not warranted.
- B4.2 **Referring a Complaint:** Where the Ethics Committee considers that a matter in a complaint should be referred to the Police or other authority, the Committee may suspend its processes in whole or in part or decline to investigate or deal further with the complaint or matter until it has been considered or dealt with by the relevant authority. The Committee may decide at any time to:
- a) Resume the SCTNZ Disciplinary Process;
 - b) Take interim steps to protect the reputation of SCTNZ and its Members and to serve the interests of people who rely on SCTNZ and its Members;
 - c) Take no further action; or
 - d) Undertake further investigations as it sees fit under these procedures.
- B4.3 **Composition of the Ethics Committee:** An Ethics Committee shall comprise at least three persons appointed by the Board and agreeing to undertake such duties. The Committee should have no less than three and up to seven Members, including up to three Board Members. The President of the Board shall determine the composition of an Ethics Committee and appoint a chair taking account of experience, actual or perceived conflicts of interest and workload.
- B4.4 **Conflicts of Interest:** Members acknowledge that good reputation, expertise and availability are the overriding qualification for Ethics Committee Members. People with relevant personal

experience and standing may be scarce. Previously expressed personal views of Ethics Committee Members or connections with other SCTNZ Members or personnel shall not be a disqualifying conflict of interest unless there is evidence of personal animus against the Subject Member or an objective and reasonable third party would expect a material bias due to the previous connections or opinions.

- B4.5 **Committee Procedures:** An Ethics Committee will determine its own procedures. Unless otherwise resolved by a Committee, only the chair of the Committee will speak publicly for the Committee. An Ethics Committee may employ a person to exercise its investigatory powers and to organise material and processes for the Committee. An official of the SCTNZ may be used by an Ethics Committee for such purposes.

B5 ETHICS COMMITTEE INVESTIGATES COMPLAINT

- B5.1 **Providing Notice:** The Ethics Committee shall advise the Subject Member of the complaint if that has not already occurred. The Ethics Committee shall provide reasonable opportunity for the Subject Member to make representations to the Ethics Committee. The Committee may determine whether and how to hear the Subject Member in person. Such a hearing may be by committee Members and the Subject Member joined by electronic means.
- B5.2 **Powers of Inspection:** The Ethics Committee may require the Subject Member to procure or provide access to information including any records (including phone and email records), papers or accounts. The Ethics Committee may inspect, copy or take notes from such information.
- B5.3 **Non-cooperation:** The Ethics Committee may draw adverse conclusions from silence or non-cooperation or failure to supply answers to reasonable questions on matters appearing to be within the knowledge, or what should be the knowledge, of the Subject Member.
- B5.4 **Consulting Third Parties:** The Ethics Committee may consult experts such as lawyers, doctors or professional sport coaches, and seek and interview any persons they consider likely to be useful witnesses in the course of investigating the complaint.
- B5.5 **Committee Findings:** The Ethics Committee will submit a written report or reports to the Board on their findings including their recommendations. They may, but are not obliged to, invite comment of the Subject Member or the complainant or any other person, on a draft report.
- B5.6 **Committee Recommendations:** The Ethics Committee may recommend:
- a) The complaint be dismissed;
 - b) The complaint be upheld in whole or part;
 - c) Any other action the Ethics Committee considers appropriate, including further investigation or a finding of breaches or other actionable conduct by the Subject Member or another Member which may not have been the subject of the complaint; and/or
 - d) Any special cost recovery or service charge considerations.

B6 BOARD MAKES DECISION

- B6.1 **Decision:** The Board may receive the report, and thereby elect to allow the recommendations of the Ethics Committee to become the relevant decision of SCTNZ, or decide:
- a) No further action be taken;

- b) The findings be made available to third parties, including the Subject Member's employer and/or Regional and National Associations, or news media;
- c) A letter of reprimand which becomes part of the Subject Member's professional record be taken into account when future coaching or teaching appointments concerning the Member are being considered;
- d) The Subject Member's membership be cancelled or suspended for a set period of time;
- e) The complaint be considered a major infraction as outlined in the Code of Conduct; and/or
- f) To take any other action the Board considers appropriate.

B6.2 **Notification:** The decision of the SCTNZ Board shall be communicated to both the Subject Member and the Complainant.

B7 APPEAL

- B7.1 **Appeal form:** Upon notification of the decision under Clause B6.2 any party to the complaint may make a written request for appeal to the President of the Board outlining the grounds on which the appeal is made.
- B7.2 **Composition of the Appeal Committee:** On receipt of an application for appeal, the President shall request the Board to appoint a three Member Appeal Committee not including Members of the Board or relevant Ethics Committee. Members of the panel from which Ethics Committees are drawn may be Members of an Appeal Committee.
- B7.3 **Appeal Committee Procedure:** The Appeal Committee shall consider the appeal and make recommendations about it to the Board who will then consider these recommendations and either:
- a) Uphold the original decision; or
 - b) Issue a revised decision based on the recommendations of the Appeal Committee.
- B7.4 **Cost Liability:** SCTNZ may decline to progress an Appeal until any outstanding service charges under Clause B8 have been paid. After final determination of an appeal the Board may reconsider the cost charged under Clause B8 and adjust the liability, including returning all or part of costs previously paid.

B8 COST RECOVERY

- B8.1 The purpose of cost recovery is to protect SCTNZ from the damage of uncapped exposure to costs and litigation and to ensure that parties to a Disciplinary Process cannot calculate on discouraging SCTNZ as a voluntary body of limited means from doing its duty, by prolonging proceedings or using technical objections strategically.
- B8.2 **Service Charges:** Subject Members will ordinarily be charged the costs of the Disciplinary Process. In exceptional circumstances the Board may direct payment of less than the amount that would be payable in accordance with the Schedule of Charges in Schedule C.
- B8.3 **Discretion:** When exercising the discretion in Clause B8.2 the Board shall have regard to:
- a) the findings and recommendations of the Ethics Committee;
 - b) the length of the disciplinary process;
 - c) the expenses incurred during the disciplinary process;

- d) the time and costs of third parties to the complaint;
- e) any behaviour by the Subject Member which prolonged the disciplinary process;
- f) the actual or perceived reputational damage to SCTNZ; and
- g) any other matter the Board considers appropriate.

B8.4 Complainants May Be Charged: If the Ethics Committee finds on the balance of probabilities a complaint has been falsely made or that it was mischievous, baseless or malicious, SCTNZ may direct the costs of the disciplinary process be charged to a complainant. Complainants may be required to accept such liability as a condition of acceptance of the complaint.

B8.5 Basis for Charges: The cost of the disciplinary process may be recovered as actual costs and/or as standardised service charges. Service charges include:

- a) compensation for the travel and time of the Board, Ethics Committee and Appeal Committee Members;
- b) reasonable costs or estimates of costs for third party expenses; and
- c) a reasonable penalty, but only where fault is found in the conduct of the Subject Member.

B8.6 Reasonable penalty: reasonable penalty may be charged for major infractions of the Rules as outlined in the Code of Conduct. Reasonable penalty is a genuine pre-estimate of loss resulting from breaches of the terms of the contract of membership represented by the Code of Conduct, Quality Assurance Contract, the Constitution or any other rule made in accordance with the Constitution. These damages may include provisions for out of pocket costs, estimates of reasonable time and opportunity costs and estimates of the financial effects to SCTNZ and its Members from reputational damage and steps necessary to mitigate it.

B8.7 Calculating the Debt Due: The Board shall keep a record of the hours, actions taken, and people involved in handling a complaint. This information will be used to calculate the charges as per the SCTNZ Schedule of Charges at Schedule C.

B8.8 Charging the Debt: Service charges and reasonable penalty will be invoiced as a debt due to SCTNZ from the appropriate party unless the amount is reduced under Clauses B8.2 and B8.3.

B9 TRANSITIONAL PROVISIONS

B9.1 SCTNZ Jurisdiction: A Member who withdraws from SCTNZ or has their membership cancelled or suspended shall remain bound by Quality Assurance Contract and Schedule of Charges in respect of any complaint arising from conduct or events during the period of membership that will apply until the conclusion of the investigation and final decision on the complaint irrespective of the date of such withdrawal or cancellation.

B9.2 Groups Not liable for Reasonable penalty: SCTNZ Category 6 Members may not be charged reasonable penalty.

B10 PUBLICATION/PRIVACY

B10.1 Notification of Findings: Whether and how SCTNZ notifies, comments, facilitates or causes the publication of processes and decisions under these procedures is for its discretion, under the usual direction of the Board. SCTNZ may (without limitation) have regard to the interests of:

- a) the SCTNZ and the wider membership;

- b) the Subject Member against whom the complaint was made;
- c) the person(s) who made the complaint;
- d) Members of the public who employ or may consider employing the Subject Member or other Members;
- e) swimmers and their families generally; and
- f) the public.

Schedule C

Schedule of Charges

C1. This schedule sets out the amount of service charges and reasonable penalty payable for the disciplinary process and breaches of the Rules.

Calculating the Service Charge

C2. The standard level of charges are as follows:

Hours spent ¹	Standard Charge per Hour (per Person) ²
During the operation of Schedule 2 Clauses B3 - B6	\$125
During the operation of Schedule 2 Clause B7	\$150

C3. The relevant standard charge shall be multiplied by the hours spent and number of persons involved to produce the total service charge.

Calculating Reasonable penalty

C4. The following table sets the genuine pre-estimates of loss caused by a major infraction of the Code of Conduct:

Major Infraction	Genuine pre-estimate
Localised Attention	\$5,000
Swimming Industry Attention	\$10,000
National Attention	\$20,000

C5. SCTNZ shall determine what level of attention the major infraction has attracted and charge the reasonable penalty in conjunction with the service charges.

C6. When determining the level of attention, SCTNZ may consider whether the major infraction is likely to discourage volunteers, contributions, donations or parents having their children participate in swim programmes with the Subject Member.

¹ Half hours shall be rounded up.

² The basis for these charges and genuine pre-estimates of a reasonable penalty is set out in the SCTNZ Quality Assurance Contract Policy Statement.