
Dispute Resolution Policy

1. SCOPE AND PURPOSE

This Dispute Resolution Policy (the "Policy") establishes a formal, transparent, and standardised framework for the adjudication and resolution of grievances and disputes within Gauteng Climbing. This Policy is enacted to ensure that all registered athletes, coaches, technical officials, parents, and volunteers are afforded their right to procedural fairness and administrative justice, as contemplated in Section 33 of the Constitution of the Republic of South Africa.

2. OBJECTIVES

Gauteng Climbing is committed to providing a forum for the resolution of conflicts in a manner that is impartial, objective, and consistent with the principles of natural justice. All proceedings conducted under this Policy shall be governed by the organisation's core values—integrity, inclusivity, professionalism, and unity—and shall be executed in strict accordance with the **Gauteng Climbing** constitution and the relevant codes of conduct.

3. GUIDING PRINCIPLES

The following are guiding principles rooted in Section 33 of the Constitution and the Promotion of Administrative Justice Act (PAJA).

- **Respect:** All parties are treated with dignity and fairness.
- **Legality and Constitutionalism:** All decisions must be made in strict accordance with the Gauteng Climbing Constitution, SA Climbing regulations, SASCOG and the National Sport and Recreation Act.
- **Substantive Reasonableness:** Decisions must be supported by the facts presented and be proportionate to the issue at hand.



- **Procedural Fairness (Natural Justice):**
 - Audi Alteram Partem ("Hear the other side") - Every party has the right to be notified of allegations against them and afforded a reasonable opportunity to respond and present evidence.
 - Nemo Iudex in Causa Sua ("No one should be a judge in their own cause") - All adjudicators and panel members must be impartial, independent, and free from any actual or perceived bias.
- **Accountability and Transparency:** individuals whose rights are adversely affected have the right to receive written reasons for a decision. All proceedings must be documented to ensure transparency and to facilitate any potential future judicial review.
- **Alternative Dispute Resolution (ADR) First:** Parties are encouraged to resolve disputes through mediation or conciliation before proceeding to formal arbitration, to save time and costs. ADR proceedings should be conducted in private to protect the reputation of the individuals and the organisation.
- **Confidentiality:** The handling of all personal data during a dispute must strictly adhere to the Protection of Personal Information Act to ensure privacy and data security.
- **Timeliness:** Disputes are addressed promptly to minimize disruption.

4. RESOLUTION PROCESS

Informal Resolution

1. Core Characteristics

- **Voluntary Participation:** All parties must agree to engage in the process; it cannot be forced upon a member.
- **Confidentiality:** Discussions held during informal resolution are typically "without prejudice", meaning they cannot be used as evidence if the matter later proceeds to a formal hearing or court.

- **Non-Binding unless Agreed:** The process itself does not result in a binding "ruling" from the organisation, but if a settlement is reached and signed, it becomes a legally binding contract.
- **Relationship-Focused:** Unlike formal procedures that seek to determine guilt, informal resolution aims at restorative justice—repairing the relationship and ensuring a harmonious environment.

2. Common Informal Methods

- **Direct Negotiation:** The parties attempt to resolve the issue through face-to-face discussions or correspondence without a third party.
- **Facilitation:** A neutral internal person (e.g. a club captain or a Designated Safety Officer) acts as a conduit to help parties communicate more effectively.
- **Informal Mediation:** A third party assists the disputing sides in reaching their own voluntary agreement. The mediator has no authority to impose a decision.
- **Apology and Restitution:** Often, an informal process concludes with a verbal or written apology, or an agreement to cease certain behaviours.

3. Legal Requirements in South Africa

- **Exhaustion of Internal Remedies:** Courts and bodies like the South African Sports Confederation and Olympic Committee (SASCOC) generally require that all internal processes—starting with informal ones—be exhausted before they will intervene.
- **Procedural Fairness:** Even in an informal setting, the organisation must act fairly. If a committee member or DSO is "facilitating", they must remain impartial to avoid claims of bias later.
- **Documentation:** While the process is informal, it is a legal best practice to record that the attempt was made and what the outcome was, ensuring compliance with the POPI Act regarding the storage of such records.

4. When it is NOT Appropriate

An informal resolution should not be used for serious misconduct, including:

- Allegations of sexual harassment or assault.
- Severe financial fraud or theft.
- Cases involving significant safety risks or systemic discrimination.

Formal Submission

1. Mandatory Procedural Requirements

For a formal decision to be legally valid and resistant to judicial review, the following steps must be strictly observed:

- **Adequate Notice:** The respondent must be provided with a formal written notice of the allegations or the nature of the dispute, typically at least 48 to 72 hours before the hearing.
- **Right to Representation:** The person affected may be assisted by a representative, including legal counsel at their own cost, subject to the chairperson's discretion to ensure fairness and efficiency.
- **Disclosure of Evidence:** Reasonable efforts must be made to share relevant documents and evidence to be used against a party in advance to allow for the preparation of a proper defence.
- **The Right to be Heard:** Parties must be given a reasonable opportunity to present their own evidence, call witnesses, and to question or respond to evidence.

2. The Adjudication Process

- **Impartial Chairperson:** The hearing must be presided over by a reasonably independent chairperson or panel with no personal interest in the dispute.

- **Standard of Proof:** In civil or organisational matters, the chairperson decides whether the allegations are proven on a balance of probabilities (i.e., it is more likely than not that the event occurred), rather than the criminal standard of "beyond reasonable doubt".
- **Written Reasons:** Under South African law, any person whose rights are adversely affected by an administrative decision has a right to receive a written statement explaining the reasons for that decision.

3. Outcomes and Appeals

- **Formal Sanctions:** If the respondent is found responsible, the chairperson may impose formal penalties such as written warnings, suspensions, fines, or expulsion, provided these are consistent with the organisation's constitution.
- **Internal Appeal:** A formal process must include a right to appeal the decision to a higher internal body within a specified timeframe (usually 5 to 7 days).
- **External Escalation:** Once all internal remedies are exhausted, the matter may be escalated to national sports bodies such as SASCO.

4. Legal Context

- **Mandatory Mediation:** Parties are required to provide a mediator's report or certificate before they can proceed to formal litigation or trial dates, emphasizing that formal processes should be a last resort.
- **POPIA Compliance:** Throughout the formal process, the organisation must ensure that all personal data and records of the proceedings are handled in strict accordance with the Protection of Personal Information Act (POPIA).

5. Committee Review

- The Committee acknowledges receipt within 3 working days.
- A designated Dispute Resolution Panel (minimum of 3 impartial members) reviews the matter.
- Both parties may present evidence or statements.

President: Carmen Bouwer | Vice President:
Secretary: Bridgette Erdey | Treasurer: Lee Atkinson
Committee Members: Debbie McGowan | Anton Redelinghuys | DJ Van Wyk | Heidi Marais

Mediation

1. Mandatory Procedural Commencement

The process should begin with a formal exchange of notices:

- **Notice of Agreement or Opposition:** At the earliest stage of any formal dispute, each party should serve a notice stating whether they agree or oppose referring the matter to mediation.
- **Statement of Reasons:** If a party opposes mediation, they must provide clear, substantive reasons why the dispute is not suitable for the process.

2. Selection of a Mediator

The mediator must be a neutral, independent third party. The following factors may be taken into account when selecting a mediator:

- **Accreditation:** Mediators must be certified by a Recognised Mediation Organisation (RMO), such as the Dispute Settlement Accreditation Council of South Africa (DiSAC) or the National Accreditation Board of Family Mediators (NABFAM).
- **Expertise:** For sports-related disputes, it is recommended to select a mediator with specific experience in administrative law or sports governance.
- **Fees:** Unless otherwise agreed, the costs of the mediator are typically shared equally between the parties.

3. The Mediation Agreement and Process

Before the session begins, parties must sign a formal Agreement to Mediate, which outlines:

- **Confidentiality:** All discussions are strictly "without prejudice." Nothing said or documented during mediation can be used as evidence in subsequent court or disciplinary proceedings.
- **Authority to Settle:** Parties attending must have the full legal authority to negotiate and sign a binding settlement on the day.

4. Conclusion and Reporting

At the end of the mediation process, certain formal steps must be followed:

- **Mediator's Report:** The mediator must issue a report within 10 business days of concluding the process. This report does not disclose confidential details but confirms whether a full, partial, or no settlement was reached.
- **Enforcement:** If a settlement is reached, it is reduced to writing and signed by all parties. This agreement is legally binding as a contract and can be made an Order of Court for immediate enforcement if necessary.

5. Appeal

- Appeals may be lodged with SA Climbing within **7 days** of the decision being communicated in writing.
- Appeals must be based on procedural error, bias, or new evidence.

5. SANCTIONS AND REMEDIES

Depending on the nature of the dispute, remedies may include:

- Apology or corrective action
- Warning or reprimand
- Suspension from events or activities
- Referral to SA Climbing or external authorities

Sanctions must:

- Be proportionate
- Be consistent with prior decisions
- Take mitigating factors into account (age, intent, prior conduct)

6. RECORD KEEPING

All disputes and resolutions are documented and securely stored. Records are retained for 5 years for accountability and compliance. Records are confidential, but may be shared with the following as appropriate:

- SA Climbing
- SASCO
- Legal authorities where required

7. COMMUNITY COMMITMENT

Gauteng Climbing is committed to fostering a culture of **unity, respect, and shared responsibility**. Dispute resolution is not punitive but restorative, aiming to strengthen relationships and uphold the motto: **Climb | Connect | Transcend**.