



Motorcycling NSW Limited

Judicial Process



Index

Section 1	Introduction
Section 2	Systematic Process
Section 3	Office
Section 4	Inspector
Section 5	Arbitration & Disciplinary Tribunal
Section 6	Appellate Body
Section 7	General (Through all Phases)
Section 8	Penalties & Charges
Section 9	Frequently Asked Questions
Section 10	Appendixes & Standard Forms



Introduction

Section 1

The Judicial Process consists of several levels of judiciary, each with a specific role in ensuring the rules and the protection of the sport and its members are maintained.

The Judicial process consists of:

- The MNSW office (administrative)
- Board appointed MNSW Inspectors
- Board appointed Arbitration and Disciplinary Tribunal
- Elected Appellate Body (chaired by an appointed legal practitioner)

Each serves a different and exclusive role governed by a strict set of procedures. This ensures that all matters are dealt with in a clear, thorough and transparent manner.

THE MNSW OFFICE

The Motorcycling NSW office only holds an administrative function in the judicial process. The office are responsible to liaise with all parties, make arrangements, organise hearing times, provide information and enact such tasks as to ensure the judicial process is run in an orderly and smooth fashion and that each step of the process is conducted with all checks and measures in place. The General Manager has the responsibility of determining which complaints and incidents need to be investigated based on the information received either formally or informally. The General Manager can appoint an inspector however does not have the authority to instigate charges. The MNSW Board of Directors has no authority to instigate charges but may also appoint an inspector.

MNSW APPOINTED INSPECTORS

Motorcycling NSW appointed inspectors are appointed by the MNSW Board of Directors. Their role is to make enquiries into the matters that have been presented to them by the MNSW office and any incident that stems from that inspection which is reported to MNSW in writing. The inspectors are governed by general completion rules outlined within the Manual of Motorcycle Sports.

The appointment of the inspector must be made in writing.

An appointed inspector is the only person authorized to institute charges against any party.

The recommendation of the Inspector must be made in writing to the MNSW office to arrange a hearing.

ARBITRATION AND DISCIPLINARY TRIBUNAL (A&D)

The Arbitration and Disciplinary Tribunal is a subcommittee of the MNSW Board of Directors. In referring to the Judicial Process any function of the SCB is deferred to the A&D Tribunal. The Board of Directors cannot over rule the A&D unless they have acted outside the General Competition Rules or are in breach of this policy.

The A&D Tribunal consists of panel members who have been appointed by the MNSW Board of Directors. The Tribunal is arranged and organized by the MNSW office upon receipt of a recommendation of charges being laid by the MNSW Inspector.

Three members experienced in the sport conduct the hearing. They are responsible to hear the allegations and determine suitable outcomes for those involved. The Tribunal is not bound by the rules of evidence and can contact or hear from any parties they deem necessary to make a fair determination.

The Tribunal provides a determination in writing (need not be unanimous) to the office who provides the determination, and a written copy of the outcome to those that have a material interest in the outcome only. This notification must be delivered via registered post.

Legal representation may be present, however the A&D are under no obligation to call any person, and do so as they see fit.

Again, the MNSW office does not have input into this function.

APPELLATE BODY

The Appellate Body may consist of one legal practitioner and two other members from within the sport (Legal practitioner must be the chair). The appointed legal practitioner can elect to hear the matter alone. The appellate body consists of four elected members, of whom two will be selected to sit with the Legal Practitioner for each hearing if determined necessary by the Chairperson. This panel is elected by the member clubs at the annual elections for a two year term.

The Appellate Body is the highest level of judicial appeal in NSW. An applicant must have exhausted all lower options prior to applying to the appellate body. The appellant makes application to the appellate body requesting the right to appeal the decision of the A&D Tribunal sighting new evidence, a breach of procedure, breach of rules or severity of punishment. This appeal must be in writing. The document tendered to MNSW will be forwarded to the legal practitioner to determine if rights of appeal exist. It must not be altered or amended and will be forwarded to the legal practitioner as presented to MNSW.

If an appeal is granted by the legal practitioner, a hearing is arranged by the MNSW office. It is chaired by the legal practitioner and the two members from the sport (if required). The appellant may provide legal counsel at the hearing. The Appellate Body will hear the case and make a determination, which will be forwarded to MNSW in writing and in turn the appellant.

If the legal practitioner determines that the appellant has no grounds for appeal, the matter is considered closed and the ruling of the Arbitration and Disciplinary Tribunal is final.



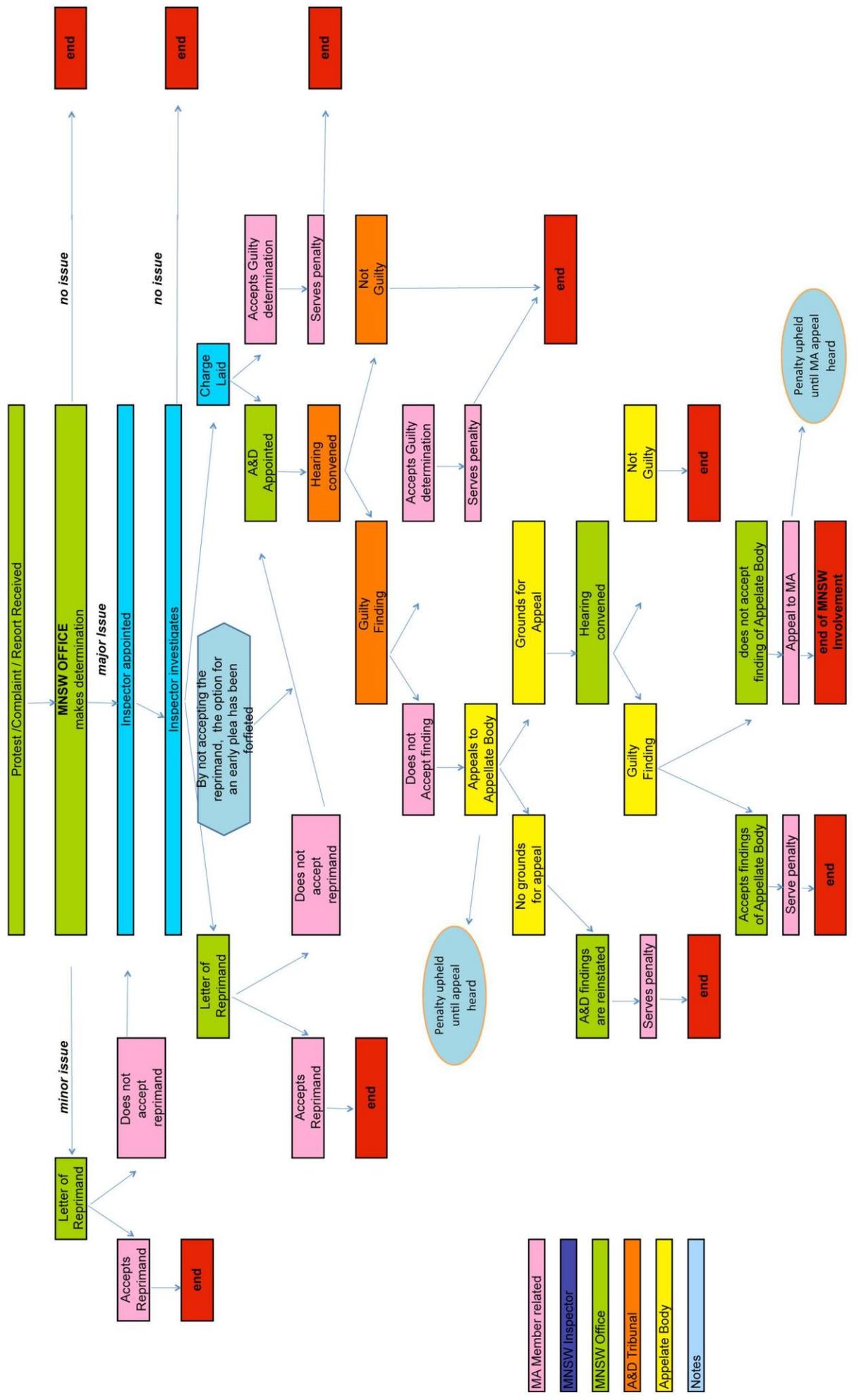
Systematic Process

Section 2

SYSTEMATIC PROCESS

1. A formal or informal complaint is received in the office, the GM (appointed MPIO) or in absence, the Office Manager determines if the matter should be referred to an inspector
2. If the matter is not referred to an inspector, the GM may decide to send a letter of reprimand or dismiss the complaint.
3. If the matter is referred to the inspector, a written authority is presented to the inspector with all relevant information upon their appointment.
4. The inspector then takes whatever steps they feel necessary to make an informed determination of the complaint and matters arising from their inspection. During the inspection they may call, contact or inform themselves of information they feel necessary to make a thorough and transparent determination.
5. The inspector provides a written report to the MNSW office with recommendations whether charges should be instigated. The inspector may also choose to recommend a reprimand of those involved which will be sent by the MNSW office.
6. If no charges are laid, the matter is completed and no further action can be taken.
7. If charges are laid, the MNSW office arranges a hearing of the A&D Tribunal.
8. Those with a material interest in the outcome of the hearing are informed and will receive notification via registered mail.
9. The parties involved may be present in person or by phone. They will receive a copy of the inspectors report, Stewards report and Clerk of Course report. If the initial complaint is received in writing to the office, this document will not be provided to any party other than the tribunal, to protect those involved.
10. The A&D will hear the case and make a determination which will be provided to MNSW in written format outlining the decision and the reason for it plus and a penalty if applicable.
11. This will be forwarded to those that have a material interest in the outcome in writing via registered mail.
12. Once received those involved may appeal the decision of the A&D to the Appellate Body in accordance with the appeal procedures, which must be provided with each determination.
13. To appeal a decision of the A&D Tribunal, a detailed appeal notice outlining the grounds for appeal must be presented to MNSW with the appropriate lodgment fee. This appeal notice will be forwarded to the chair of the Appellate Body.
14. That exact document will be forwarded to the legal practitioner to determine if grounds for appeal exist
15. If it is determined that grounds for appeal do not exist, the appellant is notified in writing with the written response from the legal practitioner. The matter is considered complete and the decision of the A&D Tribunal is final.
16. If in the opinion of the Appellate Body, grounds to appeal do exist the appellant is notified in writing and a hearing is arranged by the MNSW office.
17. Either the legal practitioner alone or the legal practitioner and the two elected members from within the sport may hold the hearing.
18. The Appellate Body will provide a written determination on their ruling.
19. The MNSW office will notify those that have a material interest in writing of the Appellate Bodies' determination.
20. Through all stages of the judicial process, any request made to the MNSW office will be referred to either the inspector or the chairperson of the respective judicial level to determine and instruct the office as to the appropriate action.
21. Any determination of a hearing will be sent to the parties involved via registered post. Notification via email, in person or via telephone will not be undertaken.

FLOW CHART OF JUDICIAL PROCESS



- MA Member related
- MNSW Inspector
- MNSW Office
- A&D Tribunal
- Appellate Body
- Notes



Office

Section 3

Judicial Process

Any Inspector, member of the A & D or Appellate Body that may have a conflict or a perceived conflict of interest, or a personal stake in the decision, shall take NO part in the process at all.

Office

1. Complaint/report or query is received in the office. If the office believes that further action is required, will collate info and send to an inspector.
2. Office can also send a general warning letter offering the alleged aggrieved party the opportunity for an Inspector to be appointed. If an official reprimand has been sent, it must be acknowledged by the alleged offending party, signed and returned to the office.
3. Office sends a letter to an inspector with a timeframe for the inspection to be completed (approx 21 days). Included with letter of appointment are the following documents:
 - a. Original Incident Report, Complaint or Letter
 - b. Officials Reports
 - c. Contact Details for anyone listed in the incident
 - d. All Officials details
 - e. Permit and Permit Application
 - f. Copy of Track Licence
4. Once an inspector is appointed, the office has no authority to speak to those involved. The inspector and the office are open to discuss the issues at the inspectors request.
5. The General Manager, via the office, can elect (where appropriate) to refer any parties directly to the Arbitration and Disciplinary Tribunal on advice from the appointed Inspector without a category of offence being noted for the Arbitration and Disciplinary Tribunal to adjudicate and apply an appropriate penalty, if found guilty. Any such cases forfeit the right for an Early Acknowledgement.



Inspector

Section 4

Inspector

1. The inspector is responsible to determine if charges and category of charge are to be laid only after:
 - a. Reading all of the paperwork
 - b. Making themselves knowledgeable of the facts
 - c. Calling all parties noted, and any witnesses at the inspectors discretion.
2. (Witnesses and those parties are told that the conversations are to be recorded, any person refusing to have their conversation recorded can either be disregarded by the Inspector, or the conversation can continue at the Inspectors discretion. (Where parties refuse to be recorded it is recommended by the office that the conversation terminate, as the information is considered unreliable))
3. Any person who refuses recording may have the option submit to a signed statement of authenticity.
4. Upon speaking to all parties, the Inspector has to consider if charges should be instigated and against whom, also the severity (category) of the charge must be decided by the inspector. If charged, the Inspector must note the actual indiscretion ie. 4.3.1.1 (g) 'Acts in a reckless or dangerous manner while competing' and the category.
5. The inspectors responsibility is to determine and reccomend if a charge should be laid and to determine the appropriate category of the breach. It is MNSW policy that if a charge is recommended then the MNSW office or Directors will adhere to that recomendation.
6. Should the appointed Inspector not recommend a category of charge then the matter will have the option of being referred directly to the Arbitration and Disciplinary Tribunal via the General Manager and the option of an Early Acknowledgement will be removed.
7. Charges can only be laid for offences as listed in the Offences section in the GCR. Breaches of the code of conduct must be noted as: "Infringement (List Offence) in relation to (code of conduct)"
8. The Inspector should complete an Inspectors Report (Appendix A) outlining why the charge should be laid and the rationale for the decision. This standard form will ask the inpector "do you recommend A & D proceeding commence in relation to this matter." This form will be forwarded to the A & D for their information prior to the meeting (at least 7 days). The office has the authority to question the inspector on their determination of the category based on precedents.
9. The Inspector may also recommend that the case does not warrant charges however, certain persons should be reprimanded via letter.

10. Reprimand (Appendix B) is sent from the office with the option to send to A & D if person chooses. (If an official reprimand has been sent, it must be acknowledged by the alleged offending party, signed and returned to the office).
11. A Log of all calls made to parties and witnesses must be kept showing the date, commencement time of call, end time of call and the nature of the call eg. Abusive or if the call was unsuccessful or a message left.
12. Once notified of the charge (Appendix C) , the person may choose to:
13. Accept a guilty plea and therefore the punishment is as per list for early acknowledgement. (Appendix D)
14. Have the matter heard by the A & D Tribunal (Appendix E) and is notified that the penalty is a minimum of X months and a maximum of Y (as per schedule) if they are found guilty of the offence.
15. The accused party has 14 days to respond
16. If the party accepts the early acknowledgement, they are notified in writing and a suspension will commence from the day their acceptance and licence is returned to MNSW.
17. This acceptance of an early acknowledgement would negate any appeal, this must be clearly noted on their letter.
18. If a letter of reprimand is sent to the accused who refuses to accept the reprimand and chooses to proceed with an A&D hearing, if found guilty by the A&D, a penalty as per the schedule must be imposed.
19. If speaking with a minor, the inspector must always ask the permission of the parent/ guardian first.



Arbitration & Disciplinary Tribunal

Section 5

A & D Tribunal

1. The A & D Tribunal will be selected on a rotational basis by the office based on:
 - a. Availability of persons
 - b. Discipline and Club of Person Charged
 - c. Consideration of Chairperson
 - d. Involvement in meeting where incident occurred
2. Tribunal members must never approach persons involved in a case they will hear. Sometimes this is not possible - if the person attends a race meeting for example, but it can be made clear that the case is not for discussion and if the person makes an approach, the Tribunal member must ensure that he or she retained a witness within hearing distance of the conversation, preferably in immediate and obvious company. If not, the member must remove themselves from the hearing panel.
3. An appropriate time and place be ascertained for the hearing (usually office)
4. The Chairperson is sent three separate enveloped packages in the mail with:
 - a. Original Incident Report
 - b. Officials reports
 - c. Contact Details for anyone listed in the incident
 - d. All Officials details
 - e. Permit and Permit Application
 - f. Copy of Track Licence
 - g. Copy of recordings (from Inspector) - Chairperson's package only
 - h. Inspectors Log
 - i. Inspectors Findings
5. The Chairperson reads his package of the above items and determines if there is any objection to the other members selected for the A & D Hearing. If there is no objection the Chairperson forwards the packages to the other members via post. If the Chairperson has an objection, he must inform the office ASAP so that a new member can be selected.
6. The Chairperson has the right to send the packages to the other members when he sees fit to do so, this may be straight after he receives them, or closer to the meeting - the minimum amount of time for the other members of the A & D to have their packages is 7 days prior to meeting.
7. All parties are informed of the time and place of the hearing.
8. On the day, the A & D Members must meet half an hour before the hearing to outline the procedure and the way the hearing will be conducted.
9. The inspector is invited to attend the hearing or is to be available by phone. He/ she should also be briefed on his role in the hearing - He/ she is not there as a 4th tribunal member.

10. Any person who is asked to be available by phone (Appendix F) should be called immediately after it is determined they will not be needed as a courtesy.
11. Where it becomes obvious during a hearing that a Tribunal member has an interest, that member should immediately declare such interest and seek discharge from any further participation. The hearing should be adjourned and resumed only after another member has been appointed.
12. The inspector is a pseudo “prosecutor’s witness” but only to the A & D and does not face the accused. The inspector may be contacted several times.
13. After hearing those involved and the A & D are satisfied of a decision then they are to ensure all people not required are notified that they are not going to be required.
14. The A & D should not issue a penalty outside of those permissible in the GCR
 - a. A Reprimand
 - b. A fine no greater than \$5000.00
 - c. Relegation
 - d. Exclusion
 - e. Suspension of no more than 24 months
15. The A & D should not issue a suspension of less than those prescribed in the schedule for the category of the infringement
16. The A & D are not to inform anyone other than the office of the decision determined.
17. Decisions of the A & D need not be unanimous. Majority decisions can help with A & D members to abstain or excuse themselves from the decision if a conflict of interest, or a personal stake in the decision becomes apparent during the course of the hearing.
18. The penalty must be noted on a standard form (Appendix G) outlining the charge, the penalty, the commencement date, the amount of fine and the repercussions of not complying.
- 19. Suspension of sentences is not permitted.**
20. Penalties should not be outside our jurisdiction eg. Anger Management Courses
21. The Chairperson of the A & D may consult the General Manager for clarification purposes only.
22. A & D members must not discuss the matter with each other, or the inspector, or the office prior to the hearing.
23. A & D members must not conduct their own investigations into the matter
24. A & D members found to have breached the above will be withdrawn from that hearing and all future hearings. They will be dismissed from the A & D Tribunal.

25. The A&D must, if the party is found guilty, impose a penalty in accordance with the listed schedule for that category of infringement. Unless the infringement is a category 1 first offence, the penalty must include all aspects as noted in the schedule:
- i. Eg. A person is found guilty of a category 2 infringement. The tribunal must impose a suspension between 6 months and 12 months, must also impose a monetary penalty between \$500.00 and \$1000.00 and impose a loss of points for the round or the event. All parts must be imposed.
26. If the person is guilty, the penalty must be as per schedule. A person will only escape a penalty if they are found not to have infringed.
27. The A & D tribunal has the authority to vary the category recommended by the Inspector by 1 level in either direction. Category 1 infringements can only be increased and must never be decreased.
28. Any hearing referred to the Arbitration and Disciplinary Tribunal without a noted category must be heard by the Tribunal and an appropriate category determined. Only if a matter is presented to the Arbitration and Disciplinary Tribunal without a category noted and the parties involved in the matter accept immediate responsibility for their actions then in this circumstance the Arbitration and Disciplinary Tribunal are granted the authority to impose a penalty equal to the Early Acknowledgement penalty for that category of offence.
29. In cases where the rider is not directly involved in the incident, the A & D has the authority to vary the category recommended by 2 (two) levels for the rider only.
30. Penalties must be issued to the rider as well as anyone else the A & D sees fit and is allowable within the GCR. All penalties must be in accordance with the schedule. The rider, regardless of age must be issued the penalty even if the infringement is noted by the parent, guardian, mechanic or support person.
- 31. Only if the A & D fail to follow the schedule, the MNSW office with approval of the MNSW Directors issue the correct infringement as per the schedule.**



Appellate Body

Section 6

Appellate Body

1. Appeals should only be allowed on the following basis:
 - a. Technical (judicial) error by the A & D
 - b. New Evidence - This should be limited to new eye witness accounts or technical (scientific) information
 - c. Conflict or corruption of one or more members of the A & D. This must be an actual conflict not a perceived one, and must be proven to have influenced the decision of the A & D. Majority decisions by the A & D should help.
 - d. Natural justice denied by the A & D
 - e. Corruption or interest by the Inspector or a member of the A & D must also always constitute grounds for appeal.
2. **A person should not be allowed to appeal simply because they do not like the decision of the A & D. There must be actual grounds for appeal.**
3. The legal expert appointed by MNSW will decide if there is a case for appeal.
4. The appellate body should receive a package on the night with the A & D Decision and Rationale etc.
5. Too harsh a sentence or an appeal for a reduced sentence is not grounds for appeal as the open and transparent penalty table given to the accused has extinguished this option. That is, they knew what to expect if convicted, they therefore cannot say it is too harsh or unreasonable.
6. The Appellate Body is there to hear only the technicalities mentioned previously, they are not there to rehear the case.
7. The legal practitioner is present to ensure due legal process is followed by the other members of the Appellate Body. He or she should only have a casting vote on the outcome. He or she should advise of any "unsafe" conclusions and/or decisions of the Appellate Body. He or she are there to advise the elected /appointed members of the Appellate Body.
8. The Appellate Body should decide the outcome of the appeal, the legal rep should advise if the decision follows guidelines and is "legally safe". The Appellate Body then gives the decision to the office at a later date. The outcome should not be given on the night. Again, this should offer a level of protection to the participants.
9. Should the accused wish to appeal further, the decision is out of Motorcycling NSW's jurisdiction and no longer involves MNSW unless requested.
10. The Appellate Body may alter the category as they see fit, however any penalty issued must be commensurate with the schedule.



General (Through all Phases)

Section 7

Through all Phases

1. Only the accused will be notified of the penalty as well as the MNSW Board of Directors.
2. At the conclusion of the appeal time frame, MNSW will notify all members of the level of judiciary the case reached. Eg. Went to A & D therefore all A & D members will be notified.
3. Inspectors should be informed of all cases.
4. Results of the Appellate body Hearings are passed on to all members of the Appellate Body.
5. If you appeal at any level and are found innocent, you shall be refunded your appeal fees.
6. An electronic copy of all A&D and Appellate Body hearings must be kept
7. Results of details of hearings must not be discussed by judicial members in any MNSW open forum such as committee meetings/ general meetings or club meetings.



Penalties & Charges

Section 8

Penalties

- All fines are due and payable within the suspension period or 6 months, whichever is the **lesser**
- If a 2nd offence is committed within 24 months of a first offence, but is in a different category, then average the 2nd offence penalties.
- **If a breach is proved the minimum penalty for the category must apply**
- **Suspensions are not lifted until ALL PARTS of the penalty are adhered to.**

Categories

Category 1	Early Acknowledgement	Penalty
1st	1 month suspension and/or \$250 fine + loss of points from that event/ round. Early acknowledgement penalty to be determined by Inspector.	A monetary fine of no less than \$300.00 but no greater than \$1500.00 and/ or a licence suspension no less than 3 months but no greater than 6 months. A loss of points for that event or round must always be imposed.
Subsequent	4 month suspension + \$500 fine + loss of points from that event/ round	Minimum 6 months suspension + \$500 fine + loss of points from that event/ round Maximum 24 months + \$1000 fine + loss of points from that event/ round

Category 2	Early Acknowledgement	Penalty
1st	4 months suspension + \$500 fine + loss of points from that event/ round	Minimum 6 months suspension + \$500 fine + loss of points from that event/ round Maximum 12 months suspension + \$1000 fine + loss of points from that event/ round
Subsequent	7 months suspension + \$1000 fine	Minimum 9 months suspension + \$1000 fine + loss of points from that event/ round Maximum 24 months suspension + \$1500 fine + loss of points from that event/ round

Category 3	Early Acknowledgement	Penalty
1st	10 months suspension + \$750 fine + loss of points from that event/ round	Minimum 12 months suspension + \$750 fine + loss of points from that event/ round Maximum 18 months suspension + \$1500 fine + loss of points from that event/ round
Subsequent	15 months + \$1500 fine + loss of points from that event/ round	Minimum 18 months suspension + \$1500 fine + loss of points from that event/ round Maximum 24 months suspension \$5000 fine + loss of points from that event/ round

Category 4	Early Acknowledgement	Penalty
1st	12 months suspension + \$1000 fine + loss of points from that event/ round	Minimum 18 months suspension + \$1000 fine + loss of points from that event/ round Maximum 24 months suspension + \$5000 fine + loss of points from that event/ round
Subsequent	18 months suspension + \$2000 fine + loss of points from that event/ round	Minimum 24 months suspension + \$2000 fine + loss of points from that event/ round Maximum 24 months suspension + \$5000 fine + loss of points from that event/ round

Category of Breaches – As noted within that years General Competition Rules

Rule	Breach
4.3.1.1 b	Acts in a manner which is prejudicial to the sport or Breaches the Code of Conduct
4.3.1.1 c	Behaves in an offensive or abusive manner toward any competitor or any official exercising authority under these Rules
4.3.1.1 d	Bribes or attempts to bribe, directly or indirectly, any competitor, Controlling Body, appellate body or official exercising authority under these Rules
4.3.1.1 e	Offers, receives or offers to receive, directly or indirectly, any bribe in respect of the exercise of any authority under these Rules
4.3.1.1 f	Enters, or attempts to enter, any inelligible person, body or machine while competing
4.3.1.1 g	Acts in a reckless or dangerous manner while competing
4.3.1.1 h	Disobeys the lawful direction, order or requirement of any Controlling Body, Appellate Body, Inspector or Official under these Rules.
4.3.1.1 i	Obstructs or misleads any Official in the exercise of any of the powers and duties conferred on that official by these Rules
4.3.1.1 j	Assaults and competitor or any official exercising authority under these Rules - Early Acknowledgement not available for assault of an Official
4.3.1.1 k	Without reasonable cause, fails to participate in a competition for which entrant fees have been paid by or on behalf of that person or body or in the case of Speedway a competitor who has nominated for that competition,
4.3.1.1 l	Does any act, the direct or indirect purpose of which is to breach or cause to be breached any agreement between any Promoter, entrant, or rider in respect of any competition
4.3.1.1 m	Participates in any competition for which that person or body has failed to complete an entry form or pay entrant fees
4.3.1.1 n	Being a Promoter advertises, and/or programs riders who have not entered the meeting
4.3.1.1 o	Being a Promoter, club, entrant or rider knowingly publishes false information concerning the results of any competition
4.3.1.1 p	Promotes, participates in, or officiates at any competition which is cabale of being sanctioned by MA but which is not authorized under these Rules
4.3.1.1 q	Uses other than the prescribed fuel in any competition
4.3.1.1 r	Fails to comply with the direction of an authorised official to submit to a fuel test under these Rules
4.3.1.1 s	Being an entrant causes or permits the rider entered by the entrant, or any Support person of that rider not to comply with these Rules
4.3.1.1 t	Being a competitor where any of the Support persons fails to comply with any of these Rules
4.3.1.1 u	Commits a doping offence under MA's Anti-Doping Policy
4.3.1.1 v	Being an official knowingly: i) Signs a record of measurement as a personal record when it was not, ii) Assists in the promotion or conduct of any competition which is not authorised under these Rules, or iii) Fails to comply with these Rules, is liable to be penalised under these Rules

* Current as at 2010. May change with each subsequent year.



Frequently Asked Questions

Section 9

FREQUENTLY ASKED QUESTIONS

Who can make a complaint?

Any member, guardian, official or entrant may make a complaint to MNSW. All complaints must be made in writing containing all contact details and names of parties involved (rider numbers and class are acceptable).

Will all complaints be inspected?

No, the GM or in absence, the Office Manager will determine if a complaint should be inspected or determine the appropriate steps to be taken. Once referred to an inspector, MNSW has no input into the process.

Can a member refuse to speak with an inspector or attend a hearing?

Yes, the member is not obligated to participate, however if required a hearing will still proceed in their absence and any decision will be binding.

Who will be informed of any charges laid?

If charges are instituted, only the parties charged will be notified.

Who sits on an Arbitration and Disciplinary Tribunal?

Both the A&D Tribunal and Appellate Bodies comprise of members selected from a group of appointed (Elected for Appellate Body) members. The actual members who sit on the tribunals will be selected by MNSW subject to considerations such as availability, conflicts of interest, discipline of riders involved, relationships and alike.

Who will be informed of the decision of the A&D or Appellate Body?

Only those that have a material interest in the outcome and the MNSW Board of Directors will be informed of the decisions of any of the judicial levels. Other members of the judicial process will also be informed for education purposes, only after any appeal timeframes have expired.

Will a member receive a copy of any paperwork prior to the hearing?

A member (including those charged with offences) will receive a confirmation of the time, date, and venue for the hearing. The invitation will outline the charge laid, the alleged incident the venue of the incident and the date the incident occurred. A copy of the inspectors report will also be sent out to the Arbitration and Disciplinary Tribunal panel and the member charged with the offence.

Will those charged receive a copy of the inspectors report or the original complaint?

The following paperwork will be sent to all parties involved in the hearing:

- Confirmation letter
- Inspectors report
- Stewards report
- Clerk of Course report

If the initial complaint is received in writing to the office, this document will not be provided to any party other than the tribunal, to protect those involved. Each person charged is instructed on his/her letter that they are not to contact any member of the judicial panel or any person involved with the hearing. This process is done in order to protect the integrity and safety of the complainant, any witnesses, the inspector and officials.

Can I contact the MNSW office for further information?

MNSW, including the GM, will not divulge any information other than that contained within the confirmation of hearing.

Do I need to bring anything to a hearing?

Generally, no, anything specific you will need to bring will be requested in writing prior to the hearing.

What is the timeframes involved in the process?

Once a complaint is received, the MNSW office will within one week refer it to an inspector or take the appropriate action. Once an inspector receives the required information, the timeframe is not bound to ensure a thorough and comprehensive inspection is conducted. After an inspection is completed, if charges are recommended, a hearing will be convened usually within three weeks subject to availability of panel members and those involved. Those members involved may be able to participate via telephone.

May a member contact an inspector / members of the A&D Tribunal or Appellate Body directly?

A member must never contact the inspector directly. If a member should need to contact the MNSW Inspector, he/she should contact the MNSW Office and a message will be passed on to the inspector to contact the member. Under no circumstances should a member contact a member of the A&D Tribunal or Appellate Body directly or approach them at a race meeting. All members of the judicial process are advised not to discuss judicial matters outside of a hearing or inspection.

Are officials or MNSW Board Members immune from inspection or hearings?

No, any member can be referred to an inspector for any action. MNSW office staff (who are not members) cannot be investigated; however, any concern stemming from interaction with MNSW staff should be referred to the GM of the company. For any dispute involving the GM, written complaints should be made directly to the MNSW Board of Directors.

Can a member who has been charged by an inspector select the members of the A&D Tribunal to hear their matter?

No, the allocation of panel members is decided by the MNSW office.

Can a member who appeals the decision of the A&D Tribunal select the members of the Appellate body to hear their matter?

No, the allocation of panel members is decided by the MNSW office.

If the individual involved believes a panel member has a conflict of interest in relation to their hearing, what should they do?

The member should inform the Tribunal prior to the hearing proceeding.



Appendixes & Standard Forms

Section 10

APPENDIX A

INSPECTOR'S REPORT.

TO.DANIEL GATT	DATE. 30 MAY 2009
FROM.	(Inspector name)
SUBJECT.	Investigation into Angela Ellsmore
EVENT.	Lawson Cup Club Day 27 June 2009
YOUR REF.	Permit No. 09/99999
MY REF.	AE Lawson Cup 270609 (or similar)

Upon my appointment to this investigation I received the following items:

Copy of permit application	<input type="checkbox"/>
Copy of permit	<input type="checkbox"/>
Copies of Track Licences	<input type="checkbox"/>
Copy of Clerk of Course Report	<input type="checkbox"/>
Copy of Steward Report	<input type="checkbox"/>
Copies of profiles including names and contact details of members	<input type="checkbox"/>
Other: (Please do not use any names)	
•	
•	
•	
•	

I familiarized myself with the contents of that documentation.

Background.

Details on background

The Incident.

Details on the incident

The Investigation.

This is only a brief summary of events, please ensure you do not use any names or specific transcripts here, these will be noted on the separate witness statements which will not be released to any member other than the tribunal.

APPENDIX A

Findings.

(Brief Summary)

Did the defendant breach the GCR? (Please circle) YES NO

If Yes, which GCR was breached? (Please indicate number and wording)

In your opinion what is the category of this breach? (Refer table)

Do you recommend A & D proceedings commence in relation to this matter? (Please circle)

YES NO

If No, what are your recommendations?

Any further information?

Signed Inspector

Date

APPENDIX B

16th September 2009

Mr XXXX YYYYYY
Address 1
Address 2

REGISTERED POST

Mr YYYYYYYY,

Re: Investigation into actions - XXXX YYYYY

Recently, you were contacted by an MNSW appointed Inspector and by the Arbitration & Disciplinary Tribunal in relation to an incident that occurred on May X at Round 1 of the Honda RJays Series run by St George MCC. Enclosed within the Inspectors report, a transcript of your discussions with him noting his specific request that you not contact anyone else in relation to your discussions with him. It has become apparent that you disregarded this instruction by the MNSW Inspector.

On a separate occasion you were contacted by the Arbitration & Disciplinary Tribunal to verify your version of events; this differed substantially to your initial observations. At the recommendation of the Arbitration & Disciplinary Tribunal, an investigation into your contradictory actions was commenced by a second MNSW appointed Inspector.

It has been determined by that MNSW Inspector that the reports of the initial Inspector and also the Arbitration & Disciplinary Tribunal were accurate, it is also the opinion of the Inspector that you have committed a category 1 breach of GCR 4.3.1.1(h) and 4.3.1.1 (i),

4.3.1.1 - Any promoter, licensee or Support person, who

(h) – Disobeys the lawful direction, order or requirement of any Controlling Body, appellate body, inspector or official under these Rules.

(i) - Obstructs or misleads any official in the exercise of any of the powers and duties conferred on that official by these Rules.

If it is your understanding that this matter has been reported incorrectly and you are dissatisfied with the Inspectors findings, or if you believe that you have had incorrect claims made against you by the Arbitration & Disciplinary Tribunal or the Inspector's we would ask that you notify MNSW. MNSW will then arrange for an Arbitration and Disciplinary Tribunal to convene to hear these allegations.

MNSW will not condone any action by a rider or their representatives that will result in such steps being required. We remind you that it is a punishable offence under section 4.3.1.1 of the 2009 Manual of Motorsport to act in such a manner.

APPENDIX B

Mr YYYYY, this infringement has been noted and will not be accepted in the future, any further breach of a similar nature may result in penalties being administered to your competition licence and you as its holder.

It is the opinion of the MNSW appointed Inspector that an official letter of reprimand be sent to you. At this stage, no further action will be taken in relation to this matter other than this correspondence

As always I am available to discuss this matter, should the need arise.

Regards,

Daniel Gatt
General Manger

APPENDIX B

Name, The Motorcycling NSW appointed inspector has charged you with being in breach of the following GCR(s)

- 4.3.1.1(h) *Disobeys the lawful direction, order or requirement of any Controlling Body, appellate body, inspector or official under these Rules.*
- 4.3.1.1(i) - *Obstructs or misleads any official in the exercise of any of the powers and duties conferred on that official by these Rules.*

It is the opinion of the Motorcycling NSW appointed inspector that a letter of reprimand be sent to you.

Please read the letter carefully. If you acknowledge that the letter is true and correct please sign the below 'acknowledgement of reprimand' letter and return it to:

Motorcycling NSW Limited
Attn: General Manager
PO Box 9172
HARRIS PARK NSW 2150

Once this acknowledgement is signed and received by the MNSW Office it will be kept on file confidentially, and will only be reviewed again if you are involved in another matter that is brought before an Inspector. You are given 14 days from the date that you have collected this letter from the Post Office to return the acknowledgement.

APPENDIX B

Name:	Mrs Jane Doe		
I am the authorised Parent Guardian of:	Little Johnny Doe		
<input type="checkbox"/>	I have received a reprimand letter from Motorcycling NSW. This letter was received by me on (date) _____		
<p>I acknowledge that I have received a letter of reprimand from Motorcycling NSW. I understand that there will be no further repercussions or penalties issued to me in relation to this matter other than this letter. I accept that a breach occurred and that the facts appear to have been accurately reported to the MNSW Inspector. I understand that I have the option to have this matter heard by an Arbitration & Disciplinary Tribunal should I wish to, I also acknowledge that if this matter is heard before an Arbitration & Disciplinary Tribunal that I may be found guilty by that panel and a penalty may apply.</p>			
Signed _____ (Parent/ Guardian)		Date _____	
<small>Office Use Only</small> Date Defendant Received Notification: _____		<small>Office Use Only</small> Date acknowledgement received office: _____	

OR

Name:	Mrs Jane Doe		
I am the authorised Parent Guardian of:	Little Johnny Doe		
<input type="checkbox"/>	I have received a reprimand letter from Motorcycling NSW. This letter was received by me on (date) _____		
<p>I <u>DO NOT</u> accept the letter of reprimand. I request that an Arbitration and Disciplinary Tribunal to be convened to hear these allegations. I understand that by not accepting the reprimand and by pursuing the option of an Arbitration and Disciplinary Tribunal that the option of an Early Acknowledgement is no longer available to me. I understand that my penalty, if I am found guilty, will be as per the schedule of penalties for a Category 1 breach of GCR 4.3.1.1 (h) and 4.3.1.1 (i) (below)</p>			
Signed _____ (Parent/ Guardian)		Date _____	
<small>Office Use Only</small> Date Defendant Received Notification: _____		<small>Office Use Only</small> Date received office: _____	

Category 1	Penalties Administered by the A & D Tribunal
	A monetary fine of no less than \$300.00 but no greater than \$500.00 and/or a licence suspension no less than 3 months but no greater than 6 months. A loss of points for that event or round must always be imposed.

APPENDIX C

15 September 2009

First Name Surname
Address 1
Address 2

Dear First Name,

RE: Breach of GCR 4.3.1.1(b)

Event: Happy Valley Springs
Date: 27th June 2010
Incident: Incident involving yourself and Daniel Gatt
Approx timeframe: During Riders Briefing

The Motorcycling NSW appointed inspector has charged you with being in breach of the following GCR(s)

4.3.1.1(b) Acts in a manner which is prejudicial to the sport of Breaches the Code of Conduct.

In this matter the MNSW Inspector has deemed this to be a Category 1 Breach of the GCR's. The following table outlines the penalties for a Category 1 Offence:

Category 1	Early Acknowledgement	Penalties Administered by the A & D Tribunal
	1 month suspension + \$250 fine + loss of points from that event/ round	A monetary fine of no less than \$300.00 but no greater than \$500.00 and/or a licence suspension no less than 3 months but no greater than 6 months. A loss of points for that event or round must always be imposed.

Early Acknowledgement – If you choose to take the Early Acknowledgement option, you acknowledge that a breach has occurred and agree to be held accountable with the above penalty noted under Early Acknowledgement being your only administered penalty.

Should you choose not to take the Early Acknowledgement option Motorcycling NSW will convene a hearing of Arbitration and Disciplinary Tribunal to hear the allegations against you (once proceedings begin for the A & D you will no longer be given the option of an

APPENDIX C

Early Acknowledgement). If you are found guilty of this Category 1 offence, the penalties will be as per the "Penalties Administered by the A & D Tribunal" heading.

Please advise Motorcycling NSW of how you wish to proceed. Please complete the below form and return to the MNSW office within 7 days of receiving this notification, failure to do so will see an Arbitration and Disciplinary Hearing convened with the Early Acknowledgement option being negated.

If you have any queries please contact me in the office on 02 9635 9177.

Regards,

Angela Ellsmore
Motorcycling NSW

Name: Mrs Jane Doe	
I am the authorised Parent Guardian of: (if under 18 years of age)	Little Johnny Doe
<input type="checkbox"/> I wish to accept the Early Acknowledgement Option	<input type="checkbox"/> I DO NOT wish to accept the Early Acknowledgement Option
I have read the above letter carefully and acknowledge that I understand the Early Acknowledgement Option that is offered to me. I acknowledge that if I should accept the Early Acknowledgement Option by ticking the above box that a hearing of the Arbitration and Disciplinary Tribunal will be avoided and that my penalty will be as per the Early Acknowledgement Option. I also acknowledge that if I should choose not to take the Early Acknowledgement Option and a Hearing of the A & D Tribunal is convened, that the option of an Early Acknowledgement is negated and that if I am found guilty my penalty will be within the boundaries set out in the letter above.	
Signed _____ (Parent/ Guardian if applicable)	Date _____
Office Use Only Date Defendant Received Notification: _____	Office Use Only Date acknowledgement received office: _____

If you choose to accept the Early Acknowledgement Option please enclose the original Competition Licence when returning this document.

APPENDIX D

15 September 2009

First Name Surname
Address 1
Address 2

Dear First Name,

RE: Breach of GCR 4.3.1.1(b) - Acceptance of Early Acknowledgement

Motorcycling NSW has received from you a signed letter stating that you wish to accept the Early Acknowledgement Option for a breach of the above noted GCR.

As outlined in the document that you have received, signed and returned to MNSW the penalty for Early Acknowledgement will commence from the date the acceptance and licence was returned to MNSW, 14 September 2009.

We remind you that the Early Acknowledgement Option that you have chosen to take carries the following penalty for a Category 1 Breach

Category 1	Early Acknowledgement
	1 month suspension + \$250 fine + loss of points from that event/ round

Your Competition Licence will be suspended until 15 November 2009. The Imadethisup Motorcycle Club has been notified that any points that were accrued by you for this round are to be discounted. Your fine is due and payable before 14 November 2009. If this fine remains unpaid, the suspension period will extend until the fine is paid in full.

We remind you that any suspension excludes you from riding at any MA permitted event for the period listed from the above date, this includes but is not limited to ride days, coaching schools, and practice or race events.

If you have any queries in relation to any of the above please contact me in the office on 02 9635 9177.

Regards,

Angela Ellsmore
Motorcycling NSW

APPENDIX E

15 September 2009

Angela Ellsmore
67 High Street
HARRIS PARK NSW 2150

REGISTERED POST

Re: Lawson Cup Club Day - 27 June 2009

We refer to the above matter and confirm that a meeting of the MNSW Arbitration & Disciplinary Tribunal will be convened in the offices of Motorcycling NSW located at 9 Parkes Street, Harris Park on **30th August 2009 at 7.00pm.**

The Tribunal is being convened to hear allegations that on 27th June 2009 you breached the following rules:

4.3.1.1(b) Acts in a manner which is prejudicial to the sport or breaches the Code of Conduct

4.3.1.1(c) Behaves in an offensive or abusive manner toward any competitor or official exercising authority under these Rules

While the Tribunal prefers parties to attend in person, the following will be considered as alternatives:

- A representative
- A written submission; and/or
- To be available to receive a telephone call from the Tribunal

You should make your own arrangements for any witnesses you may wish to call to give evidence.

Please advise the MNSW Office by 12.00 noon on 22nd August 2009 as to whether you will be attending the hearing or if you will be represented.

If you or your representative fail to attend and do not provide a submission, the tribunal will proceed in your absence and a finding will be made on the evidence presented on the night.

We advise entry to the building will be via the laneway at the rear of the property. If you experience problems accessing the office on the night of the tribunal, kindly telephone 9635 3244 for assistance.

Angela Ellsmore
Motorcycling NSW Limited

APPENDIX F

15 September 2009

Daniel Gatt
9 Parkes Street
HARRIS PARK NSW 2150

Dear Daniel,

RE: A & D TRIBUNAL – Lawson Cup Club Day 27 June 2009

We refer to the above matters at the above event and confirm that a meeting of the MNSW Arbitration & Disciplinary Tribunal will be convened in the offices of Motorcycling New South Wales located at 67 High Street, Harris Park on the 30th August 2009 at 7.00pm.

You have provided a statement to the appointed MNSW Inspector and we would appreciate if you were to be available to participate via telephone conference on the night if you are required to further clarify your statements to the Arbitration and Disciplinary Tribunal.

The phone numbers we have on record are (h) – xx xxxx xxxx (m) - xxxx xxx xxx

If you are unable to be contacted on the evening or the numbers we have listed are not correct, it would be appreciated if you could contact MNSW prior to midday on the 22nd August 2009.

Yours faithfully

Angela Ellsmore
Motorcycling NSW Limited

APPENDIX H

Witness Statements as compiled by Inspector

Witness # (eg. 1)	
Name	
Initial date of contact	
Matter	

Question:

Answer

Question:

Answer: