



MOTORSPORT NEW ZEALAND (INC)

**IN THE MATTER OF PART X OF THE NATIONAL SPORTING CODE
AND IN THE MATTER OF AN INQUIRY BY A PANEL APPOINTED**

REPORT OF THE INQUIRY PANEL APPOINTED BY MOTORSPORT NEW ZEALAND, NAMELY:

- Martin Fine (Chairman)
- Janet Phipps
- Graeme Robertson

IN RELATION TO A COMPLAINT RECEIVED FROM RACHEL MACKEY

Background

During the HRC Legends of Speed meeting held at Hampton Downs MotorSport Park, Waikato on the 26/27 March 2022, there was an alleged incident of abuse by Glenda O'Connell toward Rachel Mackey.

MotorSport New Zealand received a Letter of Complaint from Rachel Mackey on the 29 March 2022 via email and subsequently on 11 April 2022 when the event paperwork was submitted by the Stewards.

Due to a number of factors, the matter was not dealt with expeditiously and the complainant sought intervention from Sport NZ who then convened a mediation which was attended by the MotorSport NZ CEO and the Complainant. The outcome of that process resulted in an instruction to MotorSport NZ to use its internal processes to conclude the matter (the Panel is unaware of any other matters which might have been required as no documentation of that mediation was made available to it).

Following the provisions of Part X of the National Sporting Code, an Inquiry Review Panel considered the evidence and determined that an Inquiry Hearing be convened to:

- (1) Consider the circumstances around the allegation of abuse; and
- (2) Determine what action if any should be taken; and
- (3) Consider the delay in actioning the complaint and determine what action, if any maybe required to stop any reoccurrence; and
- (4) Consider any other associated matters as may be identified by the Hearing.

Inquiry Hearing

A hearing was held in Hamilton on 17 November 2022. The parties present at the hearing were Rachel Mackey and Glenda O'Connell. Mal Clunie was scheduled to attend but a closure on the Kaimai Road prevented his attendance. The Panel spoke to him by phone.

After convening the Hearing, the Chairman outlined the process of the inquiry and the Panel met with each party individually and then collectively. The parties were both assisted by a support person.

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The facts can be shortly stated:

Rachel was appointed as ACotC prior to the event in consultation with Mal and the event organisers. On arriving at the circuit, Glenda advised Mal that she was usually appointed an ACotC at meetings (and during the hearing she advised the Panel that this had been instituted on the advice of a previous Steward who had advised the organisers that this was a preferred operating procedure).

Mal acceded to this request and issued a bulletin appointing her.

During the meeting, Mal positioned himself in Race Control for the event, when he had to leave to hold a hearing, he asked Rachel to take over in his absence as CotC.

Rachel's arrival in Race Control prompted an outburst from Glenda protesting the fact that she was not required and that she, Glenda could control the meeting in the absence of the CotC.

Rachel left and did not return for the rest of the meeting. She was visibly upset by the occurrence.

Both the CotC and the Stewards reports noted that this had occurred, Mal took time to apologise to Rachel, the Stewards spoke to the parties and their report records that they felt that the air had been cleared as a result.

Rachel subsequently contacted the CEO with a copy of her complaint for follow up. Some internal processes may have been instituted, but in the absence of any action, Rachel raised the matter with Sport NZ and a mediation conference was attended.

The exact outcomes of this are unknown but subsequent to the Inquiry Hearing the Panel has become aware of a letter of apology sent to Rachel on behalf of Motorsport NZ by the CEO and Rachel indicated to the Panel that she is still awaiting some further information from the Sport.

The Panel heard from all parties and relevant comments from supporters. The inquiry was conducted initially in private, to allow information to be freely expressed, and then, with the consent of the parties, the Panel brought the parties together for a full and frank discussion.

In simple terms the outcome of the hearing is detailed below. There follows a series of issues and observations which flow from this exercise and a suggestion of further action required to address the matters raised.

Outcomes

1. The Panel found that, in the particular circumstances of the incident, the actions of Glenda did not amount to abuse of an Official.
2. The conduct was certainly worthy of an apology which was forthcoming at the hearing.
3. The Panel believe that this incident arose in circumstances of increased anxiety and stress occasioned directly by COVID and indirectly by the pressure that vaccine mandates had on the ability to run meetings at the time.
4. Unfortunately, time and delay impacted on the parties view of the incident, which could and

should have been dealt with on the day or at least during the course of the meeting at which it had occurred.

5. The lack of subsequent action exacerbated the feelings of frustration felt by the complainant which led to her seeking redress from Sport NZ.
6. At the hearing the complainant still felt let down making a positive outcome for the parties impossible to achieve.

This outcome needs to be read in the light of the observations detailed below

Observations

1. Covid restrictions were still in place at the time of the meeting at which the incident occurred, limiting the number of people in Race Control to six, but on the day, there were seven including Mal in Race Control.
2. It is evidently not usual practice at Auckland circuits for the CotC to be present in Race Control, they are usually positioned some distance away in another room with a radio, leaving the race control operators to make race management decisions.
3. At the time, due to covid restrictions only vaccinated people were able to attend events, Glenda was trying to protect herself from getting covid, by limiting her contact with people. At the same time, she was also under considerable pressure due to the unavailability of race officials due to vaccination requirements. She was running numerous meetings and felt responsible for making this happen.
4. Mal was not a regular CotC at the circuit and did not know Glenda's capabilities but as Clerk of the Course had made the decision that in his absence Rachel would stand in for him as she had done at other meetings. This was a decision he was fully entitled to make and should have expected that it would have been accepted without rancor.
5. Interestingly, Rachel as CotC and Glenda in Race Control have and do work together quite regularly, with no previous or subsequent issues between them. They continued to work together. At the hearing there did not appear to be any animosity between them.
6. Because of a perceived lack of action by MotorSport New Zealand about her complaint, Rachel went to Sport NZ. Mediation occurred.
7. CEO had previously referred the incident to the Chief Clerk of the Course (by forwarding a copy of the complaint with a note "FYI" but without any further terms of reference).
8. Subsequently, after the Sport NZ intervention, Rachel received a letter of apology from the CEO about the length of time taken to deal with her complaint.
9. The Panel was not aware of this until Rachel was questioned at the Inquiry hearing. A copy of the letter was subsequently obtained, but the Panel is astonished that the letter was not made known to them as part of the Inquiry documentation.
10. In addition, the Panel understands the CEO was requested to forward to Rachel his notes from the Sport NZ mediation and outline steps to be taken, progress and outcomes by the Sport as a consequence of the mediation. According to Rachel this hasn't occurred.
11. At the inquiry hearing Glenda offered a formal apology to Rachel which was accepted.
12. In the opinion of the Panel, based on the facts and circumstances outlined this appeared to be the proper outcome of the Inquiry and had it happened on event (or very shortly thereafter) then much of the anguish which occurred subsequently would not have arisen.



Further matters

There are learnings and concerns arising out of this Inquiry that require follow up and consideration. As a minimum the Panel requests that further consideration be given to the matters set out below:

1. Had the Panel been aware that an apology had been issued by the Sport to the complainant and had the content of that letter been disclosed to it, further action could have been taken at the inquiry as:
 - (i) the letter refers to a thorough review by an internal team but no detail of this or its outcome was provided to the Panel (which would have aided greatly in addressing outcomes and/or obviated the need for an Inquiry process in the first place);
 - (ii) if findings have been made, or actions taken, these have not been communicated to Rachel (which compounds her feelings that the matter was not taken seriously);
 - (iii) if nothing has happened then there is a further serious breach of the Sports undertakings to Rachel which makes a mockery of the apology provided and a potential breach of any undertakings given to Sport NZ;
 - (iv) two months have past since that letter was written in which the Sport undertook "to work through with the event promoter and supporting club to ensure that all parties are clearly aware of the lines of responsibility and that clear, calm communication is key in such environment". There is nothing to suggest that any of this has happened and if it has not then this is a case of further serious inaction.
2. Given the fact that MotorSport NZ relies completely on a volunteer workforce to run events, that resource must be regarded as the Sport's most precious asset. Accordingly:
 - (i) Volunteer welfare must be paramount;
 - (ii) Active steps should be taken to ensure that volunteers are treated in a proper and respectful manner and that the same standards as apply in a workplace are maintained in a volunteer work space;
 - (iii) A simple process needs to exist for any complaint or other issues to be dealt with as a priority and at a senior or specialist level;
 - (iv) Appropriate authorisations need to be in place to ensure such matters are easily escalated to be actioned by the appropriate senior officials;
 - (v) Consideration should be given to a wider review of volunteers and volunteering in MotorSport and thought should be given to this occurring at a level independent of the Administration or Executive (ie by independent review);
3. On event, there is no reason the Stewards couldn't be tasked with ensuring these simple matters are implemented and carried out. This could occur either as part of the Stewards general duties or incorporated into part of the formal Stewards meeting protocols so that formal feedback is received from every event.
4. The Panel is aware of, and this inquiry confirms to the members, that there is an increasing silo mentality particularly around Auckland organisers and that this has the potential to result in barriers to participation and departures from established practices and procedures. This needs to be addressed particularly in the light of changes to circuit ownership and operation in the area. This is something that MotorSport as an organisation needs to be seen to be leading.
5. Consideration should be put into whether national standards might be appropriate for marshals (race and rally) and rescue crews. Perhaps thought needs to be given to re-introducing the role of Chief Flag Marshal to provide a voice for timing, flag and rescue crews at circuits and the role of

Chief Rally Marshal for rallies.

On behalf of the Panel this report is dated at Hastings this 22 day of November 2022

A handwritten signature in dark ink, consisting of a series of loops and a long horizontal stroke at the end.

Martin Fine
Chairman