

Hamish Hopkinson
Convenor of Committees
University Sport New Zealand

22 July 2008

Ross Blanch
Chair
Disciplinary Appeals Committee
University Sport New Zealand

Dear Hamish

1. Thank you for forwarding the letter from Massey Albany Team Manager Adele Adamson regarding the decision of the University Sport New Zealand (USNZ) Disciplinary Committee ("the Committee") held on Thursday 17 April 2008 in Rotorua.
2. I have read Adele's letter and the notes from the Committee Hearing of 17 April and I have also reviewed the USNZ Disciplinary Policy and the summaries of recent Disciplinary Committee Hearings as background prior to making my recommendations.

BACKGROUND AT ROTORUA

3. The Committee was convened following a complaint about the behaviour of Massey Albany Ultimate Frisbee competitors and supporters. It was alleged that the Massey Albany competitors consumed alcohol during and on the field of play during a competition game with Auckland University.
4. The Committee ruled that what happened was contrary to the USNZ Code of Behaviour, was dangerous and was detrimental to the reputation and image of the event. The Committee also noted that this was the second year running that Massey Albany Ultimate Frisbee had been involved in a situation of this nature.
5. The Committee determined that Massey Albany be banned from participating in all USNZ Ultimate Frisbee competitions until 30 April 2009. Furthermore the Massey Albany Ultimate Frisbee team were disqualified from the 2008 competition and a letter of apology was requested. The Committee also recommended that Massey Albany conduct their own investigation to identify particularly culpable individuals within the team, discipline them as appropriate and advise USNZ of the action taken.
6. The Committee Chair, Hamish Hopkinson, advised Massey Albany team management of the Committee's decision immediately after the completion of the Hearing. The written transcript of the Hearing notes was forwarded to Massey Albany in on 11 July 2008. The same day a letter appealing the decision was received by the USNZ office.

THE APPEAL

7. Massey Albany has appealed against the decision of the Committee to ban them from entering an Ultimate Frisbee team in USNZ events until 30 April 2009.
 - a. I note that they have explicitly accepted their disqualification from the 2008 USNZ Games and that Adele's letter includes an unreserved apology for the team's behaviour.
8. They are appealing the 12 month ban on the following grounds:
 - a. Banning Massey Albany from participating in USNZ Ultimate Frisbee competitions until 30 April 2009 will be detrimental to USNZ Ultimate Frisbee events over that period.

- b. The people who brought the keg to the event were supporters not competitors.
 - c. The competitors who consumed alcohol during the event were misled about the appropriateness of that behaviour by one Massey Albany student who they perceived to be knowledgeable.
 - d. Banning Massey Albany from participating in USNZ Ultimate Frisbee competitions until 30 April 2009 will reduce their overall team size at USNZ events, reduce their opportunities to introduce new students to USNZ events, and reduce their chances of winning either the Tertiary Challenge or the 2009 Small Campus trophy.
 - e. The punishment is inconsistent with other punishments handed out by the Committee previously.
 - f. Banning Massey Albany from participating in USNZ Ultimate Frisbee competitions until 30 April 2009 goes against the USNZ mission statement.
 - g. The behaviour of the team was regarded as “in good fun” by most of the people present at the time.
 - h. Banning teams from participating in USNZ events is not outlined as a form of disciplinary action in the USNZ Code of Behaviour.
 - i. The Massey Albany Team Manager took all appropriate action to prevent this kind of problem.
9. I have also noted two other points that are made in the body of the appeal letter that merit a response even though they are not included in the summary of the grounds for appeal. Those issues are as follows:
- a. That this incident generated far less adverse publicity for USNZ than the hitherto unpunished Victoria students’ motel incident.
 - b. That USNZ has used images of Massey Albany Ultimate Frisbee teams playing “Scrumpy-style” in its promotional materials, and has therefore to some extent sanctioned that behaviour.

THE PROCESS

10. I draw your attention to the Committee rules regarding the Appeals process. The key points and their relevance to this particular case are noted below with my observations in bold.
- a. A decision of the Committee may be appealed by the lodging of an Appeal Form by the University Team Manager within one (1) hour of notification of the decision made by the Committee. **The Massey Albany appeal was communicated by letter to USNZ nearly three months after the Committee decision was conveyed to Massey Albany Team Management.**
 - b. The Appeal Form must be accompanied by the lodgement fee of \$100. **No appeal lodgement fee was made by Massey Albany.**
 - c. [An appeal] may be lodged after the one (1) hour deadline (and may be heard) only at the absolute discretion of the Convenor of Committees. **The Convenor has referred this matter to me for consideration.**
 - d. [The parties in the appeal – in this case Massey Albany] has the right to appear before the USNZ Disciplinary Appeals Committee to state their case ... [but] the intention to appear must be noted on the Appeal Form. **Massey Albany has not asked to appear before the Appeals Committee.**
 - e. The Convenor of Committees in consultation with the Chair of the USNZ Disciplinary Appeals Committee shall decide whether or not a procedural irregularity has occurred or new evidence has been brought forward. **No new evidence has been submitted as part of the appeal letter. There has been no suggestion from Massey Albany that there has been any procedural irregularity.**
11. Based on this information it is absolutely clear that USNZ is under no obligation of any kind to progress this appeal to the USNZ Disciplinary Appeals Committee. The appeal has been made outside the stipulated timeframe and has not included the required lodgement fee. Accordingly there is no need to progress the issue further unless the Convenor of Committees, at his absolute discretion, wishes to do so.
12. In accordance with the USNZ Disciplinary Policy, the Convenor of the Committees has chosen to consult with me (acting as Chair of the Disciplinary Appeals Committee) regarding whether the appeal letter from Adele raises any new evidence or procedural irregularities that might merit USNZ revisiting this

issue. As noted above the appeal letter does not meet either of the stipulated criteria that USNZ is required to consider.

- 13. Therefore my recommendation is that the Convenor of Committees should not use his discretion to progress this appeal to the Disciplinary Appeals Committee. The decision of the USNZ Disciplinary Committee of 17 April 2008 should be upheld on the grounds that the Massey Albany appeal is**
- a. procedurally invalid**
 - b. fails to raise any issues that invalidate the original decision**
 - c. fails to provide any relevant new evidence that was unavailable to the Disciplinary Committee Hearing on 17 April**

RESPONSE TO MASSEY ALBANY

14. If the appeal was to proceed further, my comments regarding each of the issues raised in their appeal letter would be as follows:
- a. Detrimental to USNZ Ultimate Frisbee events.
 - i. The Committee are not obliged to take into account the effect of reduced participation in subsequent USNZ events when handing out punishments. Clearly banning any team from participating will reduce the number of teams that can compete in an event but this has to be balanced against the severity and frequency of the offence. In this case the Committee took the view that this was effectively a second offence and was “a very serious situation.” This is not a legitimate ground for appeal.
 - b. Supporters brought the keg to the event.
 - i. It is worth noting that the USNZ Code of Behaviour applies to supporters as well as competitors. This is explicitly stated in 2.1 (b) of the USNZ Disciplinary Policy.
 - ii. Secondly it is irrelevant who brought the alcohol to the event. What matters is that it was the competitors who were consuming it. This is patently not grounds for an appeal.
 - c. Someone misled our competitors.
 - i. Put simply ignorance of the rules is not an excuse. All competitors agree to the Code of Conduct when they read and signed the registration form. This would not be considered legitimate grounds for appeal in any circumstances.
 - d. Detrimental to Massey Albany performance and participation in USNZ events.
 - i. The Committee are not obliged to take into account how significant or otherwise a particular sports code is to the campus concerned in a Committee hearing. See 14.a.i above.
 - e. Inconsistent with other USNZ punishments.
 - i. I agree that the punishment handed out in Rotorua is more severe than the other examples displayed on the USNZ website. However it has to be noted that this was:
 - 1. a second offence
 - 2. consumption of alcohol while playing sport is dangerous; and
 - 3. linking drinking games to sports brings USNZ into serious disrepute far more so than either competing naked or drinking to excess at a social event.
 - ii. The severity of the punishment reflects the severity and recurrent nature of the offence.
 - f. Contravenes USNZ mission statement.
 - i. The punishment does not contravene the USNZ mission statement – to suggest that it does is to suggest that any penalty barring someone from participating in any USNZ event contravenes the mission statement. On that basis USNZ would be unable to even disqualify a competitor(s) during an event. The Disciplinary Policy (6.1 (d)) makes it quite clear that suspending persons or teams from future events is a legitimate punishment.
 - g. It was all “good fun.”

- i. This is irrelevant.
- h. Banning teams is not allowed for in the Code of Behaviour.
 - i. 6.1 (d) states that the Committee can “suspend the person/persons/**team** from future USNZ events.”
- i. Team Management took all appropriate steps to prevent this.
 - i. This is irrelevant.
- j. Comparison with motel incident.
 - i. This comparison is irrelevant as the Victoria students’ motel incident is still under investigation, and may yet be the subject of disciplinary action.
- k. “Unofficially” sanctioned by USNZ through use of “scrumpy” game in promotional materials.
 - i. This point was rejected at the initial hearing in April. It was noted in the Committee’s report that only Massey Albany participants would have recognised from the images that a drinking game was being played. Notwithstanding that USNZ are unwise to use video or still photo footage of the “scrumpy” game in any promotional capacity. I would strongly recommend that the images be withdrawn from whatever forum(s) they are or have been used by USNZ.

15. Finally I would like to refer to points 11 c and 11 d of the Committee decision regarding this matter. It would be my hope that these matters could be progressed to the satisfaction of both USNZ and Massey Albany (noting that a letter of apology has already been received) and that the door remains open to review the Committee decision once those matters have been settled.

Ross Blanch – USNZ Disciplinary Appeals Committee
22 July 2008