

BETWEEN

X

Appellant

AND

MOTORCYCLING NEW ZEALAND

Respondent

AND

Y

Interested Party

**DECISION OF SPORTS TRIBUNAL
21 NOVEMBER 2025**

Hearing

30 October 2025 – virtual by Microsoft Teams

Present

Father X, father (of X) and representative for Appellant
Vicky Hicks, Operations Manager for the Respondent
Mother Y, mother (of Y) and representative for Interested Party

Tribunal

Warwick Smith (Acting Chair)
Andrea Twaddle (Deputy Chair)
Sam Fellows (Member)

Registrar

Luke Macris

Introduction

1. This appeal arises out of an incident in a junior off-road motorcycle race. One of the young riders fell from his motorcycle coming out of the final corner on the track, and he says that the fall was caused by unfair interference by another young rider in the race. The rider who fell lodged a protest after the race, but the protest was dismissed by a Protest Committee. The Protest Committee decision was appealed to a Judiciary Committee established by the Respondent Motorcycling New Zealand (MNZ), but the Protest Committee's decision was upheld, and the appeal was dismissed. The young rider who fell from his motorcycle (the Appellant, "X") now appeals to this Tribunal against the decision of the MNZ Judiciary Committee.
2. X, who is a minor, filed his appeal to the Tribunal by his father (Father X), on 25 May 2025.
3. The race was one of the events at the NZ Junior Motocross Championships ("the Championships") which were held at Pukekohe from 11-13 April 2025. The Championships is a national-level age grade event, and X and the other young rider involved in the incident ("Y") are two talented riders in their age category.
4. X says that Y executed a passing manoeuvre on the inside of the track as the two riders were coming into the last corner, and in so doing he came into contact with X's bike, causing X to fall. X says that this passing manoeuvre constituted "interference" and "foul or unfair riding" under MNZ's rules, and that Y should have been disqualified and penalised by the MNZ Judiciary Committee. Y denies that there was any unfair contact or other interference with X and says that he had completed the passing manoeuvre (without any contact) before X fell off his bike. He contends that the manoeuvre was legitimate under the MNZ rules.
5. That is the background of the dispute, but the Tribunal is not required in this decision to determine whether Y did or did not ride unfairly and contravene the relevant MNZ rule. That is because the available grounds for appeal to the Tribunal against the Judiciary Committee decision are limited to procedural issues associated with the conduct of the appeal before the Judicial Committee. Was there any denial of natural justice in that process? Did the Judiciary Committee act outside its powers or jurisdiction? Has substantially new evidence become available after the Judiciary Committee gave its decision? Those are the issues with which this decision is primarily concerned.

Protest Hearing

6. The protest was lodged by Father X on behalf of X promptly after the race. The protest alleged that the passing manoeuvre made by Y constituted “interference” and “foul or unfair riding”, contrary to r. 6.10 of the *Manual of Motorcycle Sport – Off Road* (MOMS).¹
7. The protest form submitted by Father X, with the assistance of the Steward for the Championships (“the Steward”), stated:

Details of Protest: I was in the inside rut on a corner where [Y] has wheelied onto me which caused me to crash.
8. A Protest Committee was convened to hear the protest soon after the protest was lodged. There were three members of the Protest Committee, one of whom was the Steward. The Steward was also the Chair of the Protest Committee.
9. At or about the time Father X lodged the protest, X’s mother (“Mother X”) had located an independent person who claimed to have seen Y “wheelie” into X in the course of making the passing manoeuvre. Mother X took this person to Father X, and Father X introduced him to the Steward (while the Steward was on his way into the room where the Protest Committee hearing would be held (or shortly after the Steward had entered that room)). Father X left the witness talking to the Steward. The Steward spoke briefly to the witness, who told him what he had seen. However, the Steward was busy making arrangements for the Protest Committee hearing at that stage, including locating the two other members who would make up the Committee, and he says that he did not then have the time to speak to the witness at any length. He did not regard the brief conversation he had with the witness as itself constituting evidence for the Protest Committee hearing, which had not at that point been convened. The Steward did not take the name or other details of the witness, and the witness left the area before the Protest Committee hearing began. No written statement was taken from the witness, and it appears that his oral statements made to the Steward were not conveyed to, and were therefore not considered by, the Protest Committee.
10. The Protest Committee did receive and consider a video of the passing manoeuvre incident, apparently handed in by a spectator. However, there were some concerns

¹ It was common ground between the parties that this rule applied to the conduct of the riders in the race, and that the provisions of the MOMS governing a rider’s rights to protest, to appeal to the MNZ Judiciary Committee if dissatisfied with the decision of the protest committee, and to appeal to this Tribunal against any decision of the Judiciary Committee, are all applicable in this case.

about the quality of this video (it was apparently a video of a video, and there was a “pause” button on the screen which at times partially obscured the riders). Father X says that neither he nor Father Y were given an opportunity to see or make submissions on the video before or at the Protest Committee hearing.

11. The Protest Committee disallowed the protest, giving the following reasons:

REASON/S: After viewing video evidence we find that rule 6-10 has not been broken and that it was a racing incident rather than an unsafe passing manoeuvre.

X's appeal to Judiciary Committee

12. X appealed the decision of the Protest Committee to the MNZ Judiciary Committee, in accordance with MOMS r. 7.3.2(a). The appeal document, although undated, appears to have been lodged with MNZ within the three working days allowed for lodging such appeals (r.7.3.3 of the MOMS). On that basis, MNZ would have had the appeal not later than Wednesday, 16 April 2025.
13. The appeal was made on the basis that there was contact between X and Y, caused by Y, during the passing manoeuvre, and the passing manoeuvre constituted “interference”, and “foul or unfair riding”, under MOMS r. 6.10.
14. In his appeal document, Father X said that he had located an independent witness shortly after the race who had seen the passing manoeuvre incident. Father X said that he had taken the witness into the clubrooms, where the Steward talked to him and took his statement of the incident. Father X then said: “We have asked to see this but have not been shown a copy.”
15. MOMS r. 7.3.10(e) set out the powers of the Judiciary Committee. The clause materially provides:
- e) A Judiciary Committee shall be entitled to:
- i. Dismiss the proceedings at any stage; or....
- iii. In the case of proceedings brought under Rule 7.3.2(a)² quash or amend either or both of the original decision and the original penalty imposed; and/or
16. The process and rules of procedure to be followed by the Judiciary Committee for a hearing were set out at MOMS rr. 7.3.8 to 7.3.11.

² This clause deals with appeals to the Judiciary Committee against decisions of a steward and / or a protest committee.

Communications with the parties before the Judiciary Committee hearing

17. In the period leading up to the appeal hearing, the Judiciary Committee communicated with the parties, setting out a timetable for submissions and a date for the hearing (which would be conducted by video link). In an email sent to X and Father X dated 29 April 2025, the Judiciary Committee stated:

As the appellant you are invited to make a written submission to support your position. Should you wish to do so, please ensure your submission is sent to us no later than 4pm on the 2nd May 2025.

18. There were various documents attached to that email. Those of relevance were the original copy of the video of the incident used by the Protest Committee, and a document titled *Appeal Hearing Agenda and Process*. The Agenda document included the statement:

Additional evidence or submissions may be tabled during the hearing.

19. In an email dated 29 April 2025, Father X replied, attaching a copy of a better-quality video of the incident that he had obtained. His email included the following:

As per my letter of Appeal, there was an independent witness who gave a statement to the steward straight after the race. Please can we have a copy of this statement to review for our submission.

20. In an email dated 2 May 2025, the Judiciary Committee acknowledged receipt of the new, better-quality, video. In relation to the independent witness referred to by Father X, the Judiciary Committee stated:

We have not received a copy of the statement with the information sent it [sic], but have asked for it, once it is received it will be circulated to all parties.

21. In an email dated 1 May 2025, Father X provided the Judiciary Committee with his appeal submission setting out his interpretation of both the relevant MOMS rules and a number of screen captures (taken from the new video) of the passing manoeuvre incident.

22. By email dated 2 May 2025, the Judiciary Committee forwarded to X and Father X the submissions and documents it had received from Father Y (on behalf of Y). In addition to his written submissions for Y, Father Y submitted statements from three individuals who were said to be expert and / or experienced in off-road motorcycle racing, setting out their respective interpretations of the incident based off the better-quality video. Father Y also submitted three separate videos – two of them showed examples of what

were said to be similar racing incidents from other events, and one showed X giving a podium speech following the incident.

23. The Judiciary Committee hearing was scheduled for the evening of 8 May 2025. On the morning of that day, Father X submitted a statement in support of X's appeal, by Mr. Lindsey Heilesen. In this statement, Mr. Heilesen responded to the three expert statements which had been submitted by Father Y and set out his own expert opinion on the passing manoeuvre incident (after he had viewed the better-quality video that Father X had provided).

Judiciary Committee hearing

24. The Judiciary Committee hearing was held online by video conference, on the evening of 8 May 2025. The hearing was recorded on video, and a copy of the video recording has been provided to the Tribunal.
25. Present at the Judiciary Committee appeal hearing were: X and Father X, Y and Father Y, the Steward, the Judiciary Committee panel (made up of three MNZ Committee members), and Ms Vicky Hicks (MNZ Operations Manager).
26. At the beginning of the hearing, the Chair of the Judiciary Committee advised Father X that the statement of Mr. Heilesen would not be considered by the Committee, as the statement had been submitted after the filing date the parties had been given before the hearing. Father X asked the Committee to reconsider this decision, and accept the statement. He advised that Mr. Heilesen had been expected to attend the hearing as a support person and table his submission, but had had to withdraw at late notice due to a family emergency. When the Chair confirmed that the Committee would not receive the statement, Father X asked to have his objection formally noted. Father X referred to the *Appeal Hearing Agenda and Process* document that had been sent to the parties, and in particular to the statement in that document that "Additional evidence or submissions may be tabled during the hearing". He submitted that the 2 May 2025 filing deadline set by the Judiciary Committee only applied to any submissions that he and X might wish to provide.
27. The parties then made submissions to the Judiciary Committee, and each was permitted to ask any questions of the other (through the Committee).

28. Near the end of the hearing, the Steward was questioned by the Chair about Father X's concern that a statement, believed to have been made by the independent witness at the Protest Committee hearing, had not been produced. The Steward replied:

And by the time I got in the door, he, there was the witness, was saying 'oh yeah I saw everything', you know, he ran into him and knocked him off his bike, much along the lines of what [X] has given as the grounds for the for the protest. But at that point, I'm sort of trying to gather up people to, to start a formal process to get, get the necessary people there to fill out the form. And I sort of didn't realise it was a formal witness statement at that point. He's then disappeared, so I don't know who he was or how to contact him.

Judiciary Committee decision

29. The Judiciary Committee issued a written decision on 13 May 2025. The decision referred to the relevant MOMS rules and set out the Committee's views on the passing manoeuvre incident itself. It dismissed the appeal and upheld the view of the Protest Committee on the basis that Y had passed X "without contact being made" and that the manoeuvre was a racing incident that had not caused sufficient interference to find Y guilty of foul or unfair riding as defined in MOMS r. 6.10.
30. On the issue of whether contact had occurred during the passing manoeuvre incident, the Judiciary Committee said:

The [Xs] claim [Y] contacted [X] during the overtake. The [Ys] dispute this.

In the absence of any independent witnesses, the Judiciary Committee must make their determination on the basis of the video clip.

....

What must also be considered, is [Father X's] accusation of interference, during the overtaking move.

No independent corroboration of the claim that contact occurred, during the overtaking move, is available. None can be seen on the video.

31. On its decision not to accept the statement of Mr. Heilesen, the Committee said:

It was noted that a late submission on behalf of [X] would not be accepted, because it had been received after the submission deadline (2 May 2025)....Submissions received were tabled and oral submissions heard.

X's right to appeal

32. X then filed his appeal to this Tribunal against the decision of the Judiciary Committee.
33. It is accepted by the parties that X had a right of appeal to the Tribunal, and that he exercised that right within the 14 day appeal period prescribed by r. 7.5.1 of the MOMS.

Grounds of appeal

34. The grounds of any appeal to this Tribunal against a decision of the MNZ Judiciary Committee are limited by clause 7.5.2 of the MOMS. Under that clause, an appeal can only be filed on the grounds:
- a. that natural justice was denied;
 - b. that the Judiciary Committee acted outside of its powers and/or jurisdiction;
 - c. that substantially new evidence has become available after the decision which is being appealed from was made.
 - d. In respect of a penalty imposed the penalty was either excessive or inappropriate.
35. Subparagraph d of those grounds has no application in this case, as the Judiciary Committee did not impose any penalty. The appeal in this case is based on grounds a, b, and c above.

Pre-hearing Steps in the Tribunal

36. The Tribunal held two pre-hearing conferences (via Teams), on 1 July 2025 and 9 September 2025. At the first pre-hearing conference, the Tribunal formally joined Y as an Interested Party in the proceedings, and it confirmed that X would be represented by Father X and Y would be represented by Father Y.
37. Timetable orders were made at the second conference for the filing of formal statements of evidence, on the basis that the Tribunal would also receive and consider the written statements that were before the Judiciary Committee.
38. Father X filed written submissions and three additional statements of evidence. The three additional statements were from: Father X, Mother X, and the independent witness referred to above (Daniel Spencer) who had been identified and located by Father X after the Judiciary Committee hearing.
39. MNZ filed written submissions and a brief additional statement from the Steward.
40. No additional evidence was submitted by Father Y, he having previously indicated that, although he or Mother Y would attend the hearing, they were content to rely primarily on the evidence and submissions to be presented by MNZ.

41. Neither MNZ nor Father Y required any of the witnesses who had provided signed statements for X to attend the hearing so that they could be cross-examined on their statements. Father X did require the Steward to attend the hearing for cross-examination.

The statements of Mother X, Father X, Daniel Spencer, and the Steward

42. Mother X said in her statement that she spoke to a number of spectators after the race, asking if anyone had seen the passing manoeuvre incident. She was referred by a spectator to a gentleman who introduced himself as “Danny”. Danny told her that he’d “*seen number 16 wheelie into [X]*”. She asked Danny if he would be willing to make a statement to the Steward, and he said that he would. She then took him to the clubrooms entrance where she left him with Father X, telling Father X that Danny “*saw what happened*”. Father X then led Danny into the clubrooms.
43. In his statement of evidence, Father X confirmed that the Steward filled out the protest form for him and X as both were with the Steward in the clubrooms. X then returned to the pit area. Mother X then arrived at the clubrooms with a gentleman who had told her that he had seen the incident and was prepared to give a statement. Father X said that he didn’t know this witness and did not then know what he would say. He brought the witness into the clubrooms and told the Steward that the person had seen the incident and was prepared to give a statement. Father X then told the Steward that he was going back to the pits to bring X back to the clubrooms for the protest hearing. When Father X left, the Steward and the witness were talking in the clubrooms.
44. Father X says that he returned to the clubrooms with X somewhere between 5-10 minutes later. The witness had gone. The Steward did not mention to Father X what the witness had said, nor did he tell Father X that there was any need for him to present the witness to the Protest Committee. Father X says that he believed that he had already presented the witness to the Chair of the Protest Committee, and he assumed that the witness’ views on the foul / unfair riding issue would be taken into consideration.
45. The Protest Committee hearing then started minutes after Father X and X had returned to the clubrooms. The witness statement was not mentioned during the hearing, and no-one had the opportunity to comment on what the witness may have said.
46. After the Judiciary Committee hearing, Father X and Mother X were able to identify “Danny” as Mr. Spencer, and he has since provided a brief statement in this appeal.

Mr. Spencer said in his statement: *"I spoke to the official, on the day, and he took a statement. My view of the incident was from the seating on the Club House Deck, in line with the area of the incident in question. The way I saw it happen was that Bike Number 16 wheelied into the side of [X] causing him to crash. This is what I told the official"*.

47. The Steward provided a short statement dated 13 October 2025. In it, he said that at no time during the Protest Committee hearing were any witness statements given or any witnesses called by either party. He said that, as he was making his way into the clubrooms immediately after the race to ascertain what the complaint was about, *"a spectator commented that had seen what had happened but failed to leave me his details"*.

Sports Tribunal Hearing 30 October 2025

48. The hearing before the Tribunal was held via Microsoft Teams on 30 October 2025. Father X represented X. Ms Hicks represented MNZ. Mother Y appeared by consent to represent Y.
49. The Steward was the only witness to give oral evidence before the Tribunal.
50. In his answers to questions from the Tribunal, the Steward confirmed that he was aware that Father X raised the issue of the statement from an independent witness at the time of or fairly soon after he lodged his appeal to the Judiciary Committee, and that he raised the issue again in emails to MNZ on 29 or 30 April 2025. The Steward said that he told MNZ, *"probably verbally"*, that there was in fact no such independent statement. In answer to the Tribunal's question: *"How long before the 8th of May was it that you think you told [MNZ] about that?"*, the Steward replied *"...within a week, but before the 8th of May, or within a few days. Certainly by the 8th of May."*
51. Father X, Mother Y, and Ms Hicks all made oral submissions in support of their respective cases. At the conclusion of the hearing, the Tribunal reserved its decision.

Tribunal Decision

Issue No. 1 – Allegation that Natural Justice was denied

What is meant by Natural Justice?

52. MOMS r. 7.3.8 dealt with the issue of the procedure to be followed at Judiciary Committee meetings. Except as provided in the MNZ Constitution, or in Chapter 7 of the MOMS, the Committee was entitled to determine its own practices and procedures. However, in each case the Judiciary Committee was required under MOMS r.7.3.8.(a) to “ensure that any affected party has a reasonable opportunity to be heard and present their case, and shall ensure that all proceedings are determined in accordance with the principles of natural justice.”
53. Natural justice has been described as “an administrative law concept, and can be summarised as “a duty lying on everyone who decides anything” to “act in good faith and fairly listen to both sides”.³
54. This Tribunal has described the application of natural justice in the context of the hearing of an appeal by an appeals committee convened by a National Sports Organisation, in the following terms:⁴

[61] Normally natural justice is not observed on an appeal unless:

- (a) the appellant presents his case, preferably at an oral hearing but at least by written submissions and is given the opportunity to provide any relevant evidence. The respondent is entitled to be made aware of these submissions and evidence.
 - (b) The respondent likewise has a right to present its case by way of submission and any relevant evidence and the appellant is to be made aware of these submissions and evidence.
 - (c) Both parties should have the right to comment on and question the submissions and, if necessary, the evidence of the other party.
55. And in *Anon v New Zealand Canoe Polo Association* ⁵ this Tribunal noted that there should be “some flexibility of thought when approaching appeal processes to ensure natural justice is served”.

Did the Judiciary Committee process in this case meet the requirements of natural justice?

56. The principal issues are whether the Judiciary Committee erred in not providing Father X with sufficient opportunity to produce additional evidence at the hearing (or at an adjourned hearing), in the form of a statement or oral evidence from the independent

³ Elizabeth Toomey, *Sports Law in New Zealand* (4th ed.) at p. 64, citing *Board of Education v Rice* [1911] AC 179 at 182 per Loreburn LJ

⁴ *Rex Jenkins v Boxing New Zealand* ST 16/2010 at [61].

⁵ *Anon v New Zealand Canoe Polo Association*, ST 08/2023 at [20]

witness Mr. Spencer and the statement of Mr. Lindsey Heilesen that Father X sought to rely on at the hearing. The Tribunal is satisfied that, although the Steward and the Judiciary Committee acted in good faith throughout, the Committee did err in these two respects. The Tribunal is also satisfied that, in the result, Father X did not have a fair opportunity to present his case. The Tribunal's reasons for coming to those views are set out below.

57. We think it was not unreasonable for Father X, having introduced the witness to the Steward / Chair of the Protest Committee with the advice that the witness had seen the incident and was prepared to give a statement, to have assumed that the witness duly made a statement for the Protest Committee. If that had occurred, Mr. Spencer's statement to the Protest Committee would have automatically been admitted as evidence before the Judiciary Committee, under r. 7.3.9(b) of the MOMS.⁶
58. In fact, and unbeknown to Father X at the time, Mr. Spencer did not remain in the area after he had spoken to the Steward, and he did not make a formal written statement. The Steward was busy with other matters that had to be attended to before the Protest Committee hearing, and Mr. Spencer left the area before the Protest Committee hearing was convened without leaving the Steward with his name or any contact details. Although the witness had told the Steward that he had seen Y "wheelie" into X's bike as the two riders were negotiating the final corner of the race, that information was apparently not conveyed to the Protest Committee. In any event, it was not treated as evidence for the purposes of that hearing.
59. Father X made it clear by not later than 16 April 2025 that he wished to rely in the appeal on the statement he believed Mr. Spencer had given to the Protest Committee. When he received no response from MNZ or the Judiciary Committee on that issue, he repeated his request for a copy of the independent witness' statement in an email he sent to MNZ on 29 April 2025. He said that he wished to be able to take the statement into account in his submissions for the appeal hearing, which had to be filed by 2 May 2025. In a response email dated 2 May 2025, the Judiciary Committee said that it had not received a copy of the statement Father X had referred to but had asked for it. The Committee said that once the statement was available it would be circulated to all parties.

⁶ Subject to the Judiciary Committee's discretion to admit additional evidence that was not available at the Protest Committee hearing, the Judiciary Committee was required to give its decision based only on the evidence produced at the Protest Committee hearing.

60. It appears that Father X was not told before the Judiciary Committee hearing six days later that there was in fact no statement from the independent witness.
61. The result of that is that Father X did not in our view have a fair opportunity to identify and locate Mr. Spencer, obtain a statement from him, and apply to the Judiciary Committee to have that statement considered by the Committee at its hearing on 8 May 2025. We do not think there can be any doubt that Mr. Spencer's independent evidence of what he saw would have been accepted as being relevant to the decision the Judiciary Committee had to make. Indeed, the Committee effectively acknowledged that in its decision given on 13 May 2025, when it said: "In the absence of any independent witness, the Judiciary Committee must make their determination based on the video clip." And a little later in the determination, the Committee said: "No independent corroboration of the claim that contact occurred, during the overtaking move, is available. None can be seen on the video clip."
62. The Judiciary Committee appears to have taken the view that, as no formal evidence from Mr Spencer was in fact given before the Protest Committee, MOMS r. 7.3.9(b) applied, and the Committee could not consider what Mr. Spencer might say or what he might have told the Steward shortly before the Protest Committee hearing. It appears that the Judiciary Committee did not turn its mind to the discretions it had (i) under MOMS r. 7.3.9(b) to hear "new evidence that was not available at the time of the first hearing" (which appears to have been the case here, where Mr Spencer left the area shortly before the Protest Committee hearing, and the Steward had no means of contacting him) and (ii) under MOMS r. 7.3.8(e) to adjourn the hearing to permit Mr. Spencer's evidence to be heard. In the Tribunal's view, the Judiciary Committee erred in apparently failing to consider the possible exercise of those discretions, on the basis that Father X had not had a fair opportunity to obtain a statement of clearly relevant evidence, the general nature of which was known, and to put that evidence before the Committee.
63. The position would probably have been different if MNZ and / or the Judiciary Committee had notified Father X soon after he lodged his appeal that "Danny" did not make any formal written statement for the Protest Committee hearing. If that had occurred, the Tribunal is satisfied that Father X would have made every effort to identify and locate Mr. Spencer, as he was later able to do, and submit his statement to the Judiciary Committee by 2 May 2025 with an application to have it considered under the proviso to MOMS r. 7.3.9(b). Given the importance the Judiciary Committee appears to have placed on the apparent absence of any eye-witness evidence

corroborating X's account of the passing manoeuvre incident, we think there is little doubt that the Committee would have admitted and considered Mr. Spencer's statement if Father X had been given a reasonable opportunity to file it.

64. The procedural unfairness to Father X was if anything compounded at the Judiciary Committee hearing, when the Steward (quite properly) advised the Committee that Mr. Spencer had told him (in the brief conversation they had before the Protest Committee hearing) that he "*saw everything. You know he ran into him and knocked him off his bike*". The Steward advised the Judiciary Committee that what Mr. Spencer told him then was "*much along the lines of what [X] has given as the grounds for the protest.*" At very least the Committee then knew that there was evidence that might have been given that would have been very favourable to X, and it should have turned its collective mind to the question of whether Father X had been given a fair opportunity to produce the evidence and ask the Committee to take it into account under MOMS r. 7.3.9(b). In our view, Father X was not fairly afforded that opportunity, and that resulted in a breach of natural justice.
65. The other "natural justice" issue is the Judiciary Committee's refusal to receive and consider the statement Father X submitted from Mr. Lindsey Heilesen. This statement was in the nature of expert opinion evidence, and it had not been provided to the Protest Committee. Father X says that this statement was produced in response to three statements of a similar nature that had been submitted by Father Y on 2 May 2025, and that the fairness of the case required that he have the opportunity to respond. Father X also relies on the statement in the Judiciary Committee's "Agenda" document, circulated before the hearing, that "*Additional evidence or submissions may be tabled during the hearing*".
66. The Judiciary Committee might conceivably have rejected Mr. Heilesen's statement on the grounds that it wasn't evidence before the Protest Committee, and that it was entitled to exercise its discretion not to admit the document on that account. But it did not do that. It rejected the statement on the basis that Father X did not get the document in by the 2 May 2025 deadline for filing submissions.
67. In the Tribunal's view, the advice in the Agenda was clearly capable of misleading a party into believing (if it was not in fact the case) that he or she was entitled to "table" statements of evidence even during the hearing itself. A right of that sort might be particularly important with a reply statement, where the justice of the particular case might call for the appellant to have the opportunity to reply to some new or surprising

evidence submitted by the opposing party on the last day for the parties to file their submissions. In these circumstances, the Tribunal considers that there was procedural unfairness to X, amounting to a breach of natural justice, in exercising a discretion to allow the submission of 'new' evidence from Father Y, without allowing Father X the opportunity to respond to it. Necessarily any reply from Father X could only reasonably have been filed after the 2 May 2025 deadline for submissions.

Issue No. 2 – Did the Judiciary Committee act outside of its powers and/or jurisdiction?

68. Father X submitted that the Judiciary Committee acted outside of its powers and/or jurisdiction under the MOMS in its interpretation of r. 6.10, by “applying their own context, making determinations on matters such as the degree of interference, the threshold for foul or unfair riding and creating a new give way rule / criterion”. He submitted that the Judiciary Committee could not “completely change the rules by applying their own interpretation to the rule, creating a requirement of contact and specifying that there needs to be a degree of, or in their words, “sufficient” interference”. Father X also submitted that the Judiciary Committee wrongly added their own give way criterion, “thereby making their ruling vastly different from what it would have been if rule 6.10 had been applied as written.”
69. MNZ submitted that the Judiciary Committee acted squarely within its powers and jurisdiction in reaching its decision. It contended that the Judiciary Committee was empowered not only to apply the written rules but also to interpret them in context, including making determinations on matters such as the presence and degree of interference and the threshold for a foul. MNZ submitted that interpretations of this sort are inherent in the Judiciary Committee’s decision-making function and fall squarely within their jurisdiction.
70. Specifically on the issue of whether contact between the riders was essential to a finding of foul or unfair riding under MOMS r. 6.10, MNZ contended that the Judiciary Committee was entitled to determine whether contact was necessary in the context of a particular incident.
71. MNZ submitted that the Judiciary Committee correctly applied the applicable standard of proof (on the balance of probabilities, as prescribed by MOMS r. 7.3.10(b)) in determining whether any conduct amounted to interference under MOMS r. 6.10, and its findings were precisely the types of determinations that the Judiciary Committee is empowered to make, assessing the facts, applying the rules, and forming a judgment

as to whether a breach occurred. The Committee's finding that the incident did not cause sufficient interference is expressly stated in its written decision.

72. In its decision, the Judiciary Committee set out the text of MOMS r. 6.10, which states:

When overtaking, the onus is on the overtaking competitor to overtake without causing interference to the overtaken competitor. Any competitor guilty of foul or unfair riding shall be excluded, suspended, disqualified or otherwise punished.

73. The Tribunal accepts MNZ's submissions on this issue. First, it was undoubtedly within the powers of the Judiciary Committee to dismiss the appeal, which is the action that it took. Under MOMS r. 7.3.10(e)(i), the Committee was expressly permitted to "dismiss the proceedings at any stage", and it effectively did that when it found (on the evidence it regarded as admissible) that there had been no breach of MOMS r. 6.10.

74. Secondly, we do not believe it was the intention of the MOMS that the Tribunal should have a general power to review and overturn findings of the Judiciary Committee on matters of fact, or decisions it might make on the correct interpretation of a rule in the MOMS in the context of a particular case.

75. Thirdly, and quite apart from those considerations, we note that the context of the Committee's findings on whether there had been contact between the two riders was that Father X had himself alleged that contact had occurred. It was therefore necessary and appropriate for the Committee to make a finding on that issue. Relying solely on the video clip, the Committee determined that no contact had in fact occurred, and that Y had completed the passing manoeuvre (without contact) before X fell from his bike. Nor did the Committee reach its decision solely on the basis of its finding of "no contact". It clearly did consider the issue of "interference" under MOMS r. 6.10, finding that any "interference" that might be said to have occurred as a result of the passing manoeuvre was insufficient to amount to foul or unfair riding. Foul or unfair riding was always the substantial issue under MOMS r. 6.10 – no penalty could be imposed under the clause without a finding that foul or unfair riding had occurred.

76. For those reasons, Father X has not made out his case that the Judiciary Committee exceeded its jurisdiction or powers, and the appeal on that ground is dismissed.

Issue No. 3 – Did substantially new evidence become available after the decision which is being appealed from was made?

77. Given the Tribunal's findings on the first issue (that natural justice was denied when Father X was unable to produce the evidence of Mr. Spencer and Mr. Heilesen), there is no need for the Tribunal to address this issue.

Remedy

78. Father X submitted that if any of the grounds of appeal were upheld, the Tribunal should proceed to hear all aspects of the appeal against the Protest Committee decision, including whether there was a breach of MOMS r. 6.10 by Y and, if so, whether a penalty should be imposed (and if so what penalty). He submitted that the appropriate penalty if the Tribunal followed that course would be to deduct 7 points from Y in the relevant class, to restore the situation to what it would have been if there had been no interference by Y, and X had won the race.
79. For MNZ, Ms. Hicks submitted that if the appeal were successful, the Tribunal should remit the matter to MNZ with a direction that the appeal is to be reheard before a differently constituted Judiciary Committee. She submitted that competitors in the relevant age category have been waiting some time to have the overall placings in the category finalised, and that a new Judiciary Committee hearing could be convened relatively quickly. If the Tribunal elected to hear all aspects of the appeal itself there would need to be additional evidence and submissions on the issues of breach and (if necessary) penalty, and the further delays that would entail would be contrary to the best interests of not only the parties to the appeal but also to other competitors in the class.
80. Rule 7.5.3 of the MOMS provides that appeals to the Sports Tribunal shall be heard and determined in accordance with the Rules of the Sports Tribunal. Rule 58(a) of the Tribunal's Rules sets out the Tribunal's powers on hearing an appeal such as this. The rule materially provides:
-Unless [the relevant] constitution, rules or regulations expressly or impliedly provide otherwise, the Tribunal may make any decision that the body appealed from was capable of making on the original application or may refer the matter back to that body for further consideration, with such directions (if any) which the Tribunal determines to give.
81. The Tribunal accepts Ms. Hicks' submissions on this issue. While the MOMS does not expressly exclude the ability of the Tribunal to hear all aspects of an appeal (including issues of breach and penalty), the Tribunal notes that the right to appeal to the Tribunal

in this case was limited to issues of process (breach of natural justice, Judiciary Committee exceeding its powers, or fresh evidence becoming available after the hearing) – there was no right of appeal to the Tribunal on the ground that the decision of the Judiciary Committee was simply wrong. The intention of the MOMS therefore appears to have been that, absent any process deficiencies, the decision of the Judiciary Committee on the issue of breach should be final. That consideration tends to favour the view that the issue of breach or no breach should be sent back to MNZ for further consideration, rather than the Tribunal deciding the issue itself.

82. The Tribunal is also mindful of the fact that it has no expertise in the sport of off-road motorcycling, whereas a freshly constituted MNZ Judiciary Committee can be expected to have that expertise. That will be the case not only on the issue of breach of MOMS r. 6.10, but also on the question of what if any penalty should be imposed if the Committee finds that a breach occurred.
83. Finally, the Tribunal accepts Ms. Hicks's submissions that the dispute is likely to be resolved more quickly if the case is referred to MNZ for further consideration, and that that will be in the best interests of the parties and of other riders in the class.
84. For the above reasons, the Tribunal refers the matter back to MNZ, for the appeal from the decision of the Protest Committee to be reheard by a freshly constituted Judiciary Committee which (as proposed by Ms. Hicks) is to contain none of the members who sat on the Committee that considered the appeal on 8 May 2025.

Directions

85. The appeal is to be reheard in accordance with the rules governing MNZ Judiciary Committee proceedings as set out in the MOMS as soon as may be practical, having regard to the need to ensure that each of the affected parties has a reasonable opportunity to be heard and present their case (see MOMS r. 7.3.8.(a)).
86. On the question of what evidence is to be considered on the rehearing, the Tribunal **directs** the Judiciary Committee to consider:
 - a. The video clips considered by the Protest Committee and by the previous Judiciary Committee.
 - b. all of the written statements that were considered at the hearing convened by the previous Judiciary Committee on 8 May 2025;
 - c. the statement of Mr. Daniel Spencer (in the form provided to the Tribunal); and

- d. the statement of Mr. Lindsey Heilesen (in the form presented to the previous Judiciary Committee but ruled inadmissible by it).
87. Subject to r. 7.3.9(b) of the MOMS (new evidence not to be allowed by the Judiciary Committee unless it was not available at the time of the first hearing i.e., the Protest Committee hearing), the Judiciary Committee may also exercise all or any of the discretionary powers relating to evidence that it has under r. 7.3.9(a) of the MOMS. Without limiting the Judiciary Committee's powers under r. 7.3.9(a), the Judiciary Committee may make a request under r. 7.3.9(a)(vi) to Mr. Daniel Spencer to attend the rehearing to answer any questions the Judiciary Committee may wish to put to him (or that the Judiciary Committee may permit the parties to put to him) relating to Mr. Spencer's statement referred to at para 86(c) above. The Judiciary Committee may take into consideration Mr. Spencer's answers to any such questions in coming to its decision. In the event that such a request to attend is made to Mr. Spencer and he does not attend, it will be for the Judiciary Committee to consider what weight if any it should put on Mr Spencer's written statement.
88. For the avoidance of any doubt, the parties are to be permitted to make any additional submissions (including submissions on the effect of evidence that was not presented to or admitted by the previous Judiciary Committee), at such times and in such manner as the new Judiciary Committee may direct.

Result and Tribunal Orders

89. The Tribunal upholds the appeal and refers the matter back to MNZ for rehearing and further consideration by a differently constituted MNZ Judiciary Committee panel, in accordance with the directions given at [85-88] of this decision.

Costs and Publication

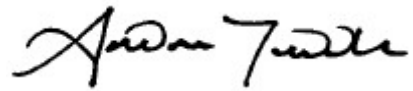
90. None of the parties was represented by counsel, so the Tribunal does not anticipate that any issues of costs will arise. However, the parties should have the opportunity to make any costs claims if they wish to do so. In accordance with Tribunal Rule 30, the parties have 14 days from the release of this decision to bring any application for costs to the Tribunal for consideration.
91. As the parties are both minors, this decision has been issued with the names of the parties and their parents anonymised by the use of the designations "X" and "Y".

Subject to that, this decision will be published by the Tribunal (with the names of X and Y and their parents anonymised) in the normal way.

Dated: 21 November 2025

A handwritten signature in black ink, appearing to read 'Warwick', with a long, sweeping horizontal stroke extending to the right.

Warwick Smith
Acting Chair

A handwritten signature in black ink, appearing to read 'Andrea Twaddle', with a stylized, cursive script.

Andrea Twaddle
Deputy Chair

A handwritten signature in black ink, appearing to read 'Sam', with a large, stylized 'S' and a horizontal stroke.

Sam Fellows
Tribunal Member