

**BETWEEN**

**SLOAN FROST**

**Appellant**

**AND**

**MOTORCYCLING NEW ZEALAND**

**Respondent**

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**DECISION OF SPORTS TRIBUNAL  
1 August 2024**

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**Hearing**

29 July 2024 via Teams

**Tribunal**

John Macdonald (Chair)

**Parties**

Sloan Frost, Appellant  
Vicky Hicks, for the Respondent

**Registrar**

Helen Gould

1. Sloan Frost (Mr Frost) on behalf of his son Nixon Frost who is under the age of 16, is appealing against the decision of the Judiciary Committee (JC) of Motorcycling New Zealand (MNZ) not to reduce the net point calculation in the New Zealand Superbike Championship (NZSBK) from five rounds to four rounds due to Round 5 of NZSBK not being run.
2. The ground of appeal on which Mr Frost relies is that natural justice was denied; this is one of the grounds of appeal provided for at Rule 7.5.2 of MNZ's Manual of Motorcycle Sport (MoMS).
3. The issue for the Tribunal to decide is whether there was a breach of natural justice by MNZ in the appeal process conducted by the JC. The Tribunal's task is not to consider the merits or otherwise of the decision of the JC.
4. Mr Frost submits natural justice was denied because the JC was self-appointed, biased and it did not provide for a fair hearing. He further submits that the JC disregarded relevant evidence he had filed, including a press release sent from MNZ via an official email account, an email from the NZSBK Coordinator, text messages from the NZSBK Coordinator and a post written and posted by the NZSBK Coordinator on the MNZ NZSBK Facebook Page.
5. In response, MNZ submits that natural justice was followed throughout the process. It says that rule 7.3.2 of the MoMS provides for a Judiciary Committee to hear an appeal and provides how the JC is convened. MNZ says that Mr Frost's appeal did not fit neatly within the MoMS rules, but, in fairness to Mr Frost, they accepted the appeal under Rule 7.3.2 (f) as 'any other matter as determined by MNZ in its sole discretion'.
6. MNZ says it followed the process as set out in the MoMS.

## **Background**

7. The NZSBK Championship was made up of six rounds of racing. The Supplementary Regulations, released in August 2023 addressed rounds 1 and 2 which were taking place in December 2023. The Tribunal has not seen the full Supplementary

Regulations relating to rounds 1 and 2 but has seen an excerpt which does not contain any reference to how points would be totalled for final placings.

8. On 30 August 2023 riders were informed that points from five of the six rounds would be counted with riders able to discard their worst round.
9. The Supplementary Regulations were updated in November 2023 and again in December 2023, and they set out the regulations for the competition. The updated regulations were released prior to the first round of the competition.
10. A section in the revised regulations titled *2023/24 NZSBK – Points Scoring* provided for riders to not have to have a score from all six rounds. The provision allowed for a Gross Total which was a total of all points accumulated in the series and a Net Total which was to be made up of the riders' best rounds up to a maximum of five rounds; essentially having the effect that a rider could either drop their worst score if they competed in all six rounds, or choose to race in just five rather than six rounds.
11. At the conclusion of the section on Points Scoring the regulations state that there will be 'no allowances made' for 'any round(s) or individual race(s) unable to be run no matter the reason'.
12. In his written summary, Mr Frost says that MNZ sent an email in August 2023 explaining that riders did not have to compete in all six rounds. He provided the Tribunal with the wording from the email:

...points from five of the six rounds will be counted in 2023-24, with riders able to discard their worst round score, allowing teams and individuals to manage their budgets and choose which rounds they wish to attend and which one they might choose to skip.
13. As previously stated, the Supplementary Regulations for rounds one and two were released in August 2023 and the entry forms for those rounds were released in October 2023.
14. The Tribunal understood that Mr Frost and his son decided that they would not enter round 2 because it clashed with the Australian Championships, which Nixon had

entered. Mr Frost was therefore relying on Nixon being able to compete in rounds 1, 3, 4, 5 and 6.

15. Unfortunately, round 5 which was due to be raced on 9, 10 and 11 February 2024, was cancelled by MNZ. This meant that riders who were relying on participating in that round but had already missed a round were no longer able to compete in five rounds and so would not be able to discard their worst result.
16. Following the cancellation Mr Frost made enquiries about the implications for riders, such as Nixon, who would not be able to compete in five rounds. Mr Cavell, the NZSBK coordinator told Mr Frost that he would have to check with Mr Skelton, the Road Racing Commissioner, but that he was of the view that all classes (including those that missed out on round 5) could drop a round. He put a post on the MNZ Facebook page announcing this view.
17. The Facebook post caused some confusion amongst riders not just from Nixon's class but from other classes too, so a meeting was called for the issue to be clarified. When it became clear that some riders thought that all riders should be able to drop a round there was a call for a show of hands. Evidence provided by MNZ suggests that a majority voted to retain the five rounds but Mr Frost disputes there was a clear majority.
18. When the final results were tallied and Nixon only had four scores to contribute to his Net Total, Mr Frost appealed to the JC because in his view the person who finished first and who had five rounds of scores to make her Net Total, should have been required to drop a round to make it an even playing field.
19. The JC dismissed Mr Frost's appeal.

### **Discussion**

20. The Tribunal has considered all the evidence presented to it, some of which is referred to above.

### *Ground of appeal – Natural Justice*

21. Mr Frost contends that he did not get a fair hearing for the reasons previously outlined. He submits that the JC was self-appointed and biased. MNZ provided the Tribunal with the MoMS and the Appeal Hearing and Agenda document.

22. Having considered Mr Frost's submissions and the documents provided by MNZ it is clear to the Tribunal that MNZ had the jurisdiction to establish the JC. It is also clear that the JC established a fair and proper process which identified interested parties and provided the opportunity for the appellant and interested parties to provide written evidence to the JC and to give evidence at the hearing. That is reflected in the Appeal Hearing Agenda and Process document, which is comprehensive and clearly demonstrates that the JC provided a fair procedure. The Tribunal is also satisfied that the hearing was conducted impartially and without bias.
23. Mr Frost further submits that his evidence was disregarded or excluded. He submits that because the JC found that the press release, the email and the Facebook post, were not the official position of MNZ, the JC did not consider that evidence.
24. The Tribunal does not accept that. The JC in its decision states that it "considered the evidence presented and answers to all the questions". It also specifically mentioned in its decision that it found no merit in the contention that the Supplementary Regulations can be modified or explained by Facebook posts or press releases.
25. While the JC decided that the evidence presented by Mr Frost was insufficient to overturn the way the final placings had been decided, that is not something in respect of which the Tribunal can interfere as it has no bearing on the issue of a denial of natural justice.
26. The Tribunal is not satisfied that there has been any denial of natural justice in this case and so Mr Frost's appeal must fail.

#### *The August Supplementary Regulations*

27. Following the hearing held on 29 July 2024 the Registrar of the Tribunal made an administrative request to MNZ, for completeness sake, to provide it with the various versions of the Supplementary Regulations that had been referred to as the Tribunal did not have copies of the August and December versions.
28. It was Mr Frost who provided the August version of the Supplementary Regulations, having approached an official at MNZ to obtain a copy. Mr Frost discovered that the August Supplementary Regulations made no mention of the Points Scoring section which appears in the November and December versions.

29. Mr Frost then submitted to the Tribunal by email that the August version should have been considered by the JC.
30. The Tribunal accepts that the discovery of the August Supplementary Regulations may have strengthened Mr Frost's case in his original appeal had it been before the JC. However, the Tribunal considers that it was Mr Frost's responsibility to provide the JC with all the evidence he wished them to consider, and that the JC had gone to some lengths to provide an opportunity for Mr Frost and other interested parties to do so.
31. The August Supplementary Regulations was a published document which would reasonably have been known before or at the time of the JC appeal hearing. It is unclear, however, whether the JC considered that document. If it did not, then the Tribunal wonders whether the outcome would have been different had that material been before it.
32. The Tribunal will not be drawn into the merits of this case but if the JC was unaware of the August Supplementary Regulations, then the Tribunal suggests MNZ reconsiders the matter in the light of those regulations.

### **Decision**

33. As the Tribunal has found no breach of natural justice the appeal is dismissed

Dated: 1 August 2024



**John Macdonald**  
Chair