



SOUTH AFRICAN EQUESTRIAN FEDERATION

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REPORT OF THE LEGAL AND JUDICIAL COMMITTEE TO THE SAEF OGM TO BE HELD 11 MAY 2019

1. GENERAL FEEDBACK

Since inception in early March 2018, the SAEF Legal and Judicial Committee were initially inundated with requests for assistance from various Disciplines/Members regarding disputes between members, constitutional matters, disputes between Disciplines and SAEF Districts & Provinces regarding issuing of Colours, Colours Policies and many more, also complaints of racism, etc.

When the SAEF President convened the founding meeting at which the Committee was briefed with regard to its functions, its powers and jurisdiction and the procedures to be followed, it was decided and agreed that in all instances the Committee would only become involved once all the internal remedies available to the complainant have been exhausted. It however soon became clear that many of the Members of the SAEF (the Disciplines) do not have their required structures in place, regarding Legal Committees within their organizations. Because of this fact, the SAEF Legal and Judicial Committee were in some instances required to become involved with trivial disputes and disagreements between parties and had to assist with matters which were not really part of their function and responsibility, however the majority of the disputes were amicably resolved, without having to be escalated to a higher level.

It is necessary for the Committee to now request the various Disciplines to urgently become compliant in this regard. Complaints must first be lodged with the relevant discipline or district/provincial committee and only if that body is unable to resolve the matter should it be referred to the SAEF Legal Committee. The constitutions of all the disciplines and the district and provincial bodies require those bodies to have their own legal and disciplinary committees and to follow prescribed dispute resolution procedures. As offered previously - the SAEF Legal and Judicial Committee is prepared to provide guidance to the Legal and Disciplinary Committees of provinces, districts and disciplines.

The Committee requires that all disputes and disciplinary complaints must in future be referred to it in terms of the SAEF Constitution and its Code, which sets out the Procedure of Avoidance and Resolution of Disputes and Disciplinary Matters. The Constitution sets out the powers, jurisdiction and functions of the Committee and any Judicial Commission that it may convene for the hearing of a matter. The Code prescribes the procedures to be followed and contains the forms for referral of disputes or institution of disciplinary proceedings.

The SAEF Legal Committee offered that it would organize dispute resolution training for the Legal Committees of its member bodies, if they indicate that they would like this to happen. The Committee have to date not yet received any request for such training.

It is important to recognize that less formal alternative dispute resolution mechanisms, particularly mediation, should be used to resolve issues to the satisfaction of all concerned.

On 18 January this year the Chair of the Legal and Judicial Committee, Cheryl Loots, resigned and her resignation was accepted by the SAEF EXCO. The Committee appreciates her hard work and effort as well as the experience and advise that she has brought to the Committee. The SAEF EXCO have recently appointed Adv Johan Raubenheimer in her place. The Committee welcomes this step and will without doubt gain a lot from his experience and expertise in order to fulfil the necessary duties and functions of the Committee as effectively as possible.

2. LEGISLATION

The court case, concerning pony heights, which were heard during 2018 came at great cost to all parties involved, not only financially, but also putting our beloved sport in the limelight for the wrong reasons and attracting bad publicity at the same time. This type of litigation should be avoided at all cost and every Member should be wary of escalating matters to that level. The sad part of this issue is that, in retrospect, the matter could have been resolved by dispute resolution. This type of court action may easily result in the SAEF being accused to be a dictatorial institution who is not scared of taking out the big stick and of spending the member's contributions on unnecessary and costly litigation.

3. DISCIPLINARY PROCEEDINGS/DISPUTES

The disciplinary matters and disputes which have been referred to the Committee, have all been settled without having to convene official disciplinary hearings, after the Committee investigated and systematically summarized the matters and issued the Committee's views to the parties based on the constitutions involved and the law and assisted/coached the parties to resolve the matters and to come to an agreement.

Matters which were handled included disputes between parties, interpretation of constitutions, allegations of racism, assistance with structuring, application of colours policies, etc. Disciplines/parties involved and/or assisted were Endurance, Show Jumping, Dressage, Tent Pegging, Mounted Archery, Carriage Driving, Eden District Federation, SANESA and some individual members as well as non-members/relatives of individual members.

Regarding the complaints of racism, which matter was also referred to the Human Rights Commission by the complainants, were seen in a very serious light and therefore an attorney was co-opted, pro bono, and instructed to investigate the allegations as a matter of urgency and to compile an unbiased report with recommendations to the Committee. The attorney, Mr Joseph Sithole, investigated the matter by obtaining detailed statements from the complainants, witnesses, as well as interviewing the person against whom the allegations were brought. Eventually he compiled a report, ruling that the allegations were a result of misinterpretation of what was said and meant in the context of the discussions where the case originated from. The report, which were well put together and professionally presented, was accepted by the Committee and presented to the complainants and they accepted the outcome, completely clearing the person who were implicated. We sincerely thank Mr Sithole for his time and effort and his help to speedily resolve this sensitive issue.

4. GENERAL REGULATIONS

Regarding the draft SAEF General Regulations which were circulated during 2018, it was reported by the Committee that the Regulations have elicited a fair amount of comment and some controversy and that the following process was suggested to be discussed and commented on by the SAEF Council to try to achieve an acceptable/workable document:

1. The Legal Committee should review the Rules and Regulations of all the Disciplines, which in any event require SAEF approval.
2. Amendments should be recommended and implemented where necessary.
3. The items not included in the DA's Rules & Regulations can then be specified in the SAEF General Regulations, for all the DA's to comply with, together with the "*most important and non-negotiable items, not interfering with Discipline Specifics*".

Fanus Ferreira

Member: Legal and Judicial Committee of the SAEF

6 May 2019