

Union Cycliste Internationale (UCI)
The Ethics Commission
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Reference/subject Evaluation and recommendations on the Ethics Procedure

1. Introduction

It takes courage for a rider to file a complaint at the UCI Ethics Commission, for a number of reasons.

The Cyclists' Alliance ('TCA') has appointed an Ethics Officer in an effort to better support riders or staff members who experience mistreatment and abuse within professional cycling. The TCA Ethics Officer helps victims with filing their complaint at the UCI Ethics Commission. In this report the TCA would like to share the TCA and plaintiffs experiences before, during, and after filing complaints in order to assist with the development and enhancement of the process. We believe this will be for the benefit of all stakeholders .

The cycling world is a small world and starting a case may make a rider feel vulnerable, and lead a rider to feel her¹ career may be at stake when a case is brought to the UCI. She may be worried about their role in the case, what people are saying about it, getting bullied or feeling disadvantaged in ways that they don't expect, such as managing the fear of getting de-selected.

¹ TCA assisted multiple riders with filing a complaint. Terms referring to natural persons are applicable to both genders. Where the report mentions riders, it could also mean other victims that are bound by The Ethics Code.

Even when a perpetrator is convicted of breaching the Ethics Code, the latter often returns to work in the cycling world after serving any punishment. This brings him back to the environment where it all started, where the circumstances often haven't changed, and where it can be hard for the aggressor not to repeat old behaviour.

Given this, the chance of a victim being faced with the former perpetrator, or even worse, being required to work with him or her (where, as an example, they are the sports director at the (new) team), is much more likely to happen than any other industry outside the sport.

A rider is likely to reconsider many times before even getting to the stage of filing a complaint. It is a delicate situation, with a lack of security for the outcome, where a rider doesn't know whether the complaint will be taken seriously and whether there is sufficient evidence.

As a result, we at the TCA are of the view that it is of critical importance that the UCI Code of Ethics is robust, adequate and that riders are guided through this process.

2. Evaluation of the Ethics Code

The UCI Code of Ethics has already undergone several changes, with amendments made in 2016 and 2018. The latest, at the instigation of the International Olympic Committee, introduced the Safeguarding Toolkit, which aims to assist National Olympic Committees and International Federations in the development of policies and procedures to safeguard athletes from harassment and abuse in sports.

The UCI subsequently changed the Ethics Code on three subjects: better anonymity of the plaintiffs in order to protect the victim's privacy; dedicated reporting channels for filing complaints; and allowing teams to identify a person of contact who has the right to collect information relating to situations of sexual harassment and abuse and take action with the UCI Ethics Commission on behalf of a team or rider.

We are glad to see that the UCI Ethics Code is subject to evaluation and subsequent adjustments. By email, the secretary of the Ethics Commission confirms to be open and

interested to receive the findings that TCA has gathered. Following up on this, the TCA provides with this report recommendations on the UCI Ethics Code, the procedure and the process, from our and our members' experiences. We believe these recommendations will help us reach a common goal, namely creating a safe environment for everyone involved in cycling.

TCA evaluated the procedure by looking at whether the procedure was sufficiently clear for the plaintiffs, considering the following:

- Do riders know how to file and where to file?
- Are riders supported by the Ethics Commission?.
- Do riders know what to expect in terms of timelines?
- Did riders receive a status update with regard to the investigation and procedure as a whole, and do plaintiffs know what is expected of them during this procedure?
- Is there any care that the riders missed out on and should be subject of the UCI Ethics Commission and/or the procedure?

We, overall, found out that article 21 (that defines the parties in the procedure) and article 15 (which mentions that the Ethics Commission assists, educates and gives counselling) play a significant role when answering these questions. Unfortunately, the answers to the above were all "no" (apart from the last question, which was yes – but still resulted in a negative outcome).

Following a detailed review of the process, TCA has concluded that the following could be improved:

2.1 Recommendation 1 - Make the Victim a Party to Proceedings

Article 21. states that:

<..> the person submitting the file shall have no entitlement for proceedings to be opened, to be a party to proceedings or to be informed of any decision passed. The Ethics

Commission will have free discretion to consult this person or any other person and request his participation in proceedings.

Only the persons who are alleged to have committed a violation of the provisions of the Code and against whom proceedings have been initiated shall be considered as parties before the Ethics Commission.

We do not understand the rationale behind this clause. The person filing the complaint is the victim. There would not be a case without him or her filing the complaint. The victim is directly impacted in the case, and having gathered the courage to file, it seems unreasonable that the rider is then excluded from being a party to the procedure.

The UCI has a duty to safeguard all parties involved. The procedure should not solely protect the rights of the alleged perpetrator, but also that of the victims'.

The exclusion of the victim as a party in the procedure is, in the opinion of the TCA, a gap in this protection. The victim has an interest in knowing how the proceedings are going, what the timelines are and the content of the final decision. We have been informed by riders that this clause has kept them from filing a complaint in the first instance, because they feared that, due to this clause, the UCI wouldn't take them seriously.

By denying the victim to be a party to the proceedings, you are actually denying her access to a fair trial which is basically a human right according the law, in particular article 6 of the European Convention on Human Rights, which makes this provision 'contra legem'.

The TCA recommends that the victim is given a legal standing and can be a party to the procedure and that the Ethics Code will be adjusted to enable this.

2.2 Recommendation 2 - Provide more procedural assistance to victims

Article 15 states that the Ethics Commission gives assistance, education and counselling with regard to the Ethics Code. Specifically, it states that

<..> that the Commissions gives advice and assistance on ethical matters, particularly as regards the application of the Code.

It seems that article 21 bounces back on this duties and tasks and that the victim, not being a party, cannot take advantage of article 15.

To explain how we came to this conclusion we summarise our understanding of the process:

- The rider files a complaint at the UCI Ethics Commission.
- The secretary of the Ethics Commission confirms receiving this complaint via email and asks for more information when needed.
- This email contains referrals to the provisions of the ethic code but does not give any further information in what to expect. The plaintiffs have the feeling that they are in the 'waiting room without having insight in the procedure'.
- When the secretary asks for additional information and/or more evidence, the plaintiffs are given a deadline to send this to the Ethics Commission. There are however no deadlines 'in return'. The investigations can take up more than a year without receiving any information. Taking the tasks of article 15 into account it would be good to have more openness in the process, give further information or communicate on a more frequent basis with the victims. Telling the plaintiffs that the investigation is still ongoing -whilst it may not provide new information- makes them feel informed and is a show of respect towards the victims.
- When victims have asked for updates with regard to their case. The reaction to these requests were formal:
Unfortunately, I cannot provide you any information about the case (Art. 21 of the Code of Ethics) at the current time.
I hope you will understand.

As a result, and coupled with the impact of the Article 21 exclusion, victims feel that they are being ignored in the process.

We are of the view that this lack of information and updates creates a very unbalanced process, which is at odds with the duties provided for in Article 15. There is minimal assistance, no guiding through the process nor access to counselling, the victim does not even have to be heard by the Commission and they are leaving it solely at their discretion how and when to inform.

We have recommended that Article 21 should be adjusted and victims enabled to be a party to the procedure. That could change the way victims are given assistance, education or counselling. But apart from that we are in the view that article 15 places a firmer requirement on the Ethics Commission to assist the victims and guide them through the procedure and keep them informed.

We recommend the appointment of a trusted person at the UCI, or the appointment of a Safe Sport Director (like USA Cycling's SafeSport program).

That individual can then work on creating awareness of topics that are now subject to the Ethics Code, but also proactively manages responses to the parties (including the victim) and provide information and assistance to victims who do submit a complaint.

2.3 Recommendations - Notifying Victims of the Outcome

2.3.1 Recommendation 3: Timing press release

On completion of an investigation, the secretary of the Ethics Commission sends an email to the victim. This email basically refers to a link to the news article that is published on the UCI website. The victim is thus informed at the same time and in the same way as the general public that reads the UCI press releases.

In the Health Mate case, the victim had to read the disciplinary measurements on the UCI website. She did not receive any email or letter otherwise. We think this shows little respect

to the victim and ***we strongly recommend including a period of time between informing the victim and informing the rest of the world.***

2.3.2 Recommendation 4 - More Insight into Content of the Decision

When the investigation has come to an end, the Ethics Commission will determine whether violations of the UCI Code of Ethics were or were not committed. Considering the sanctions recommended by the UCI Ethics Commission, the matter is then handed over to the UCI Disciplinary Commission, which initiates proceedings with a view to the possibility of sanctions being imposed.

Once receiving this first decision the victims, and also the TCA, have requested substantiation to understand the rationale underlying this decision. These requests were denied, as TCA was advised that the Ethics Commission does not communicate whilst the case is treated at the Disciplinary Committee.

We understand that information is not given at a stage that the Disciplinary Committee has to decide on it. ***We would however recommend that such information, if requested, will be provided to all parties when the complaint has come to an end.***

This is for two reasons:

- (a) this has a preventive effect. It is clear which behaviour is and is not considered reprehensible; and
- (b) the plaintiff needs the content of the decision in order to know and understand what her grounds are for possibly appealing.

2.3.3 Recommendation 5 – Continue Increased Transparency On Sanctions

In the Health Mate case insight was given in the imposed sanction (but only in this case). The TCA is pleased to read this, especially because in another case this request was denied and the victim was not notified of the final decision. In a case TCA supported on, we nor the victim got a reaction on these requests for detail information.

TCA recommends not only publishing the outcome and imposed disciplinary sanctions via a press release but also in an earlier stage with the victims themselves.

The victim should be a participant in this for several reasons:

- (a) It is for instance hard to explain that perpetrators have been convicted but are nevertheless still active and working in the cycling world. Transparency may help in understanding the process and could avoid further grieve and trauma.
- (b) As Mrs. Diaconu citates in her article in Law in Sports: *“The ability to participate in proceedings is, paramount for the effective protection of survivors. Besides the general aim of seeking the best possible justice process, it also helps survivors to avoid further trauma. Without the ability to participate, there are proven risks that the survivor will disassociate from the outcome of the trial and not feel like they have been delivered justice, even if the perpetrator is sanctioned. It can also cause secondary victimization – i.e. the survivor is hurt twice, initially through the aggression itself, and then again by the fact of being ignored by the justice system.”* Whilst, as mentioned, this benefits the victim by ensuring they feel that there has been access to justice, publishing outcomes also sends as a bold signal. This has a preventative function as it makes it clear that this behaviour is not tolerated and that it will incur sanctions. The trauma of the victim cannot be felt, but the warning provided by the penalty does raise awareness and helps to strike out unacceptable behaviour from our sport.

2.4 Other recommendations

2.4.1 Recommendation 6 – Two way Time limits

Investigation on the matter has to be well executed, accurate and thorough. Whilst we at the TCA understand it takes time to get to know and understand all facts and circumstances in present cases, we feel long timelines can be counter productive.

Looking at examples of timelines:

- The Health Mate investigations took about a year (although we appreciate this was a complex case as it involved multiple victims that filed a complaint at different times). T.

- This seems however in line with other cases like Doltcini- Van Eyck. Timelines there were:
 - October 2019 - Filing the complaint in
 - December 2019 and August 2020 - No updates about the status (with referral to article 21)
 - October 2020 - The victim received an email with no content other than the link to the press release.
- Another example is a case that is formally filed in May 2020 and sent additional information to the UCI in July 2020 and which is still subject to investigation. At the time of writing this evaluation, that is a period of more than 8 months in which neither the victim nor TCA (via the Ethics Officer) received any update about the investigation or about expected timelines.
- Also the period to come to a verdict for disciplinary measures took about the same amount of time. In the Health Mate case that was from April 2020- February 2021.

This are all long periods of insecurity and instability and that may take its toll emotionally and physically on the victim, and may even impact on her racing career, all whilst the individual about whom the complaint is made may continue to be employed within the same industry and be working with or near the victim.

We believe it would benefit all parties involved in a complaint to specify leadtimes for the (i) procedure (ii) investigation (iii) the decision period and also of the (iv) period of time in which the Disciplinary Commission has to reach a verdict. The victim, as well as the alleged perpetrator, will both benefit from clarity of the procedure, specifically with regards to times.

2.4.2 Recommendation 7 - Good Ethics is more than a just a procedure

Evaluating the procedure, drawing conclusions from past cases and learn from this is a big step forward.

We also note that one of the conclusions of our evaluation is that victims were profoundly impacted and traumatised by the behaviour which led to the allegations. The procedure could not solve this, and victims were left with residual trauma.

The Ethics Procedure helps contribute towards the goal of eliminating sexual harassment and abuse . But victims often need more support. We think it begins with more active prevention of inappropriate and exceeding behaviour, and by safeguarding athletes with more robust care needed. TCA is pleased to read that UCI elaborates on this prevention and intends to raise more awareness in several ways.

We recommend having resources which offering broader support to the victim themselves.

For this we have looked at examples from other sports and governing bodies such as the IOC's Toolkit, USA Center for SafeSport and FIFA's package of care.

Assistance and support that FIFA can provide (in general)

FIFA recognises that survivors should receive basic assistance and support in accordance with their individual needs directly arising from the alleged sexual abuse. This assistance and support will comprise: counselling and psycho-social support; access to shelter services where existing; legal aid and support to deal with the psychological and social effects of the experience, as necessary, and on a case-by-case basis.

FIFA facilitates, refers and coordinates as appropriate assistance and support to victims. With this, FIFA takes a great responsibility that goes further than just arbitration. It adds care in a broader perspective. We believe that a trusted person, like a (to be appointed) SafeSports Director, could fulfill this role.

TCA understands that economic times and financial pressure make it hard to follow up on this recommendation, but think nevertheless that this (after)care is a responsibility that fits within the safeguarding and protection of all riders.

3. Finally

The issues in women's cycling differs from that from the men. There is for instance far more economic pressure (43% of the riders have to reimburse their team for i.e equipment, mechanical service, medical- and travel costs and the number of professional riders receiving zero salary has increased to 25%, and 32% earn an annual salary of less than EUR 15.000.

This imbalance of economic power often leads to riders feeling under extreme pressure and restricted financial circumstances and can mean it is difficult for riders to take action in the first instance, never mind be able to make any appeal. This only works in the favour of any alleged perpetrator and also explains why we at the TCA think that having an effective procedure at UCI level is imperative to improve safeguarding and standards in our sport, as it is often the first and only instance for a rider to make a complaint and have their voice heard, because there is simply no money for an appeal. ***This is why it is important that the Ethical Procedure runs well, and fairly, and does not act in a way which may disadvantage or discourage riders.*** Notwithstanding any of the above, all parties should be entitled to a fair, equal and transparent trial at the UCI Ethics Commission.

We therefore hope that you will take these recommendations on board, and in the spirit for which they are intended - to improve safety in our sport, to protect riders and to ensure the procedure works well for all stakeholders. We look forward to starting a dialogue with you on this report, and hope to work and cooperate on this subject now and in the future.

With best regards,

Mrs. Judith van Maanen
Ethics Officer 
The Cyclists' Alliance

	TCA Recommendations	Detail of Recommendation
1.	Make the Victim a Party to Proceedings	<p>The victim should be given a legal standing and made a party to the procedure.</p> <p>Article 21 of the Ethics Code should be adjusted to enable this.</p>
2.	Provide More Procedural Assistance To Victims	<p>Riders to benefit from Article 15 information disclosure (by being added as a party under an amended Article 21).</p> <p>Establish the appointment of a trusted person at the UCI, or the appointment of a Safe Sport Director (like USA Cycling's SafeSport program).</p>
3, 4 & 5	Notify Victims of the Outcome <ul style="list-style-type: none"> - Timing of press release - More Insight into Content of the Decision - Continue Increased Transparency On Sanctions 	<p>Include a period of time between informing the victim and informing the rest of the world.</p> <p>Information, if requested, is provided to all parties when the complaint has come to an end.</p> <p>Publish the outcome and imposed disciplinary sanctions via a press</p>

		release, but prior to this, disclose them directly to the victims.
6.	Two Way Time limits	<p>We believe it would benefit all parties involved in a complaint to specify leadtimes for the:</p> <ul style="list-style-type: none"> (i) procedure; (ii) investigation; (iii) the decision period; and (iv) the period of time in which the Disciplinary Commission has to reach a verdict.
7.	Good Ethics is More Than A Just A Procedure	<p>Providing resources which offer broader support to the victim themselves (looking at examples from IOC's Toolkit, USA Center for SafeSport and FIFA's package of care)</p>
<p>It is important the Ethical Procedure runs well, and fairly, and does not act in a way which may disadvantage or discourage riders. Notwithstanding any of the above, all parties should be entitled to a fair, equal and transparent trial at the UCI Ethics Commission.</p> <p>We hope these recommendations will be taken on board in the spirit for which they are intended - to improve safety in our sport, to protect riders and to ensure the procedure works well for all stakeholders.</p>		