

# SECTION VIII - COMPLAINT MANAGEMENT

## Code of Conduct and Ethics (The “Code”)

### Purpose

1. The purpose of this Code is to ensure a safe and positive environment within the programs, activities, and events of the Organization (WUFC) by making Participants aware that there is an expectation, at all times, of appropriate behaviour consistent with the applicable Club’s core values and policies. The Club supports equal opportunity, prohibits discriminatory practices and is committed to providing an inclusive environment in which all individuals can safely participate in sport and are treated with respect and fairness.

### Application of this Code

2. This Code applies to any Participant’s conduct during the business, activities, and events of the Club including, but not limited to competitions, practices, evaluations, training camps, travel associated with Club activities, the office environment and any meetings organised as part of Club business.
3. This Code also applies to Participants’ conduct outside of the business, activities, and events of the Club when such conduct adversely affects the Club’s relationships (and the work and sport environment) or is detrimental to the image and reputation of the Club. Such applicability will be determined by the Club, as applicable, at its sole discretion.
4. This Code applies to Participants active in the sport or who have retired from the sport where any claim regarding a potential breach of this Code occurred when the Participant was active in the sport.
5. In addition, breaches of this Code may occur when the Participants involved interacted due to their mutual involvement in the sport or, if the breach occurred outside of the sport environment, if the breach has a serious and detrimental impact on the Participant(s).
6. Any Participant who violates this Code may be subject to sanctions pursuant to the *Discipline and Complaints Policy*. In addition to facing possible sanctions pursuant to the *Discipline and Complaints Policy*, a Participant who violates this Code during a competition may be removed from the competition or training area, and the Participant may be subject to further sanctions, *including criminal proceedings*.

### Persons in Authority and Maltreatment

7. When they are a Person in Authority, Participants are responsible for knowing what constitutes Maltreatment. The categories of Maltreatment are not mutually exclusive, nor are the examples provided in each category an exhaustive list. Rather, what matters for the assessment of the Maltreatment is whether the conduct falls into one or more of the categories, not into which category it falls. Abuse, assault, Harassment, bullying, and hazing can be experienced in more than one category of Maltreatment.
8. Maltreatment can be any of the prohibited behaviours and conduct, provided the Maltreatment occurs in any one or a combination of the following situations (The physical location(s) where the alleged Maltreatment occurred is not determinative):
  - a) Within a sport environment;
  - b) When the Participant alleged to have committed Maltreatment was engaging in sport activities;
  - c) When the Participants involved interacted due to their mutual involvement in sport; or

- d) Outside of the sport environment where the Maltreatment has a serious and detrimental impact on another Participant.
9. It is a violation of the Code for sport administrators or other Persons in Authority to place Participants in situations that make them vulnerable to Maltreatment. This includes, but is not limited to, instructing an Athlete and coach to share a hotel room when traveling, or hiring a coach who has a history of Maltreatment.

### **Responsibilities**

10. Participants have a responsibility to:
- a) Refrain from any behaviour that constitutes Maltreatment, Discrimination, Harassment, Workplace Harassment, or Workplace Violence
  - b) Maintain and enhance the dignity and self-esteem of other Participants by:
    - i. Treating each other with the highest standards of fairness, honesty, respect and integrity;
    - ii. Focusing comments or criticism appropriately and avoiding public criticism of Athletes, coaches, officials, organizers, volunteers, employees, or other Participants;
    - iii. Consistently demonstrating the spirit of sportsmanship, sport leadership, and ethical conduct;
    - iv. Acting, when appropriate, to correct or prevent practices that are unjustly discriminatory; and
    - v. Ensuring adherence to the rules of the sport and the spirit of those rules.
  - c) Refrain from the use of power or authority in an attempt to coerce another person to engage in inappropriate activities
  - d) Refrain from consuming tobacco products, cannabis, recreational drugs, or performance enhancing while participating in the programs, activities, competitions, or events of the Club;
  - e) In the case of Minors, not consume alcohol, tobacco, or cannabis at any competition or event;
  - f) In the case of adults, not consume cannabis in the Workplace or in any situation associated with the events of the Club (subject to any requirements for accommodation), not consume alcohol during training, competitions, or in situations where Minors are present, and take reasonable steps to manage the responsible consumption of alcohol in adult-oriented social situations.
  - g) When driving a vehicle:
    - i. Have a valid driver's license;
    - ii. Not be under the influence of alcohol or illegal drugs or substances;
    - iii. Have valid car insurance;
    - iv. Refrain from holding a mobile device, or engage in any other form of distracted driving; and
    - v. Comply with, and are responsible for abiding by all applicable provincial/territorial motor vehicle legislation.
  - h) Respect the property of others and not wilfully cause damage
  - i) Promote sport in the most constructive and positive manner possible
  - j) Refrain from engaging in deliberate cheating which is intended to manipulate the outcome of a para-classification, competition and/or not offer or receive any bribe which is intended to manipulate the outcome of a competition
  - k) Adhere to all federal, provincial/territorial, municipal and host country laws
  - l) Comply, at all times, with the By-laws, policies, procedures, and rules and regulations of the Club, as applicable and as adopted and amended from time to time
  - m) Report any ongoing criminal investigation, conviction, or existing bail conditions involving a Participant of the Club, including, but not limited to, those for violence, child pornography, or possession, use, or sale of any illegal or prohibited substance or method
  - n) This reporting includes matters with other members of the public ie where a matter involves a member of the club and a member of the public.

### **Directors, Committee Members, and WUFC Staff**

11. In addition to section 10 (above), Directors, Committee Members, and staff of the Club will have additional responsibilities to:
- a) Function primarily as a Director or Committee Member or staff member of the Club (as applicable) and not as a member of any other Club or constituency
  - b) Ensure their loyalty prioritizes the interests of the Club
  - c) Ensure that financial affairs are conducted in a responsible and transparent manner with due regard for all fiduciary responsibilities
  - d) Conduct themselves openly, professionally, lawfully and in good faith
  - e) Be independent and impartial and not be influenced by self-interest, outside pressure, expectation of reward, or fear of criticism
  - f) Behave with decorum appropriate to both circumstance and position
  - g) Exercise the degree of care, diligence, and skill required in the performance of their duties pursuant to applicable laws
  - h) Maintain confidentiality of private Club information
  - i) Respect the decisions of the majority and resign if unable to do so
  - j) Commit the time to attend meetings and be diligent in preparation for, and participation in, discussions at such meetings
  - k) Have a thorough knowledge and understanding of all governance documents

### **Coaches, Instructors, Trainers, and Athlete Support Personnel**

12. In addition to sections 10 (above, as applicable), coaches, instructors, trainers and athlete support personnel have many additional responsibilities. The coach-Athlete relationship is a privileged one and plays a critical role in the personal, sport, and athletic development of the Athlete. Coaches must understand and respect the inherent power imbalance that exists in this relationship and must be extremely careful not to abuse it, either consciously or unconsciously. Coaches, instructors, trainers, and athlete support personnel will:
- a) Avoid any behaviour that abuses the Power Imbalance inherent in the coaching position to (i) establish or maintain a sexual relationship with an Athlete that they are coaching, or (ii) encourage inappropriate physical or emotional intimacy with an Athlete, regardless of the Athlete's age
  - b) Ensure a safe environment by selecting activities and establishing controls that are suitable for the age, experience, ability, and fitness level of the Athletes
  - c) Prepare Athletes systematically and progressively, using appropriate time frames and monitoring physical and psychological adjustments while refraining from using training methods or techniques that may harm Athletes
  - d) Avoid compromising the present and future health of Athletes by communicating and cooperating with sport medicine professionals in the diagnosis, treatment, and management of Athletes' medical and psychological treatments
  - e) Support the coaching staff of a training camp, provincial/territorial team, or national team, should an Athlete qualify for participation with one of these programs
  - f) Accept and promote Athletes' personal goals and refer Athletes to other coaches and sport specialists as appropriate
  - g) Provide Athletes (and the parents/guardians of Minor Athletes) with the information necessary to be involved in the decisions that affect the Athlete
  - h) Act in the best interest of the Athlete's development as a whole person
  - i) Report any ongoing criminal investigation, conviction, or existing bail conditions to the Club (as applicable), including those for violence, child pornography, or possession, use, or sale of any illegal or prohibited substance or method
  - j) Respect Athletes competing for other jurisdictions and, in dealings with them, not encroach upon topics or actions which are deemed to be within the realm of 'coaching', unless after first receiving approval from the coaches who are responsible for the Athletes

- k) Not engage in a sexual or intimate relationship with an Athlete of any age in which the coach is in a position of trust or authority
- l) Disclose to the Club any sexual or intimate relationship with an athlete over the age of majority and immediately discontinue any coaching involvement with that athlete
- m) Recognize the power inherent in the position of coach and respect and promote the rights of all participants in sport. This is accomplished by establishing and following procedures for confidentiality (right to privacy), informed participation, and fair and reasonable treatment. Coaches have a special responsibility to respect and promote the rights of participants who are in a vulnerable or dependent position and less able to protect their own rights
- n) Dress professionally and in Club sanctioned clothing, and use appropriate language

### **Athletes**

13. In addition to section 10 (above), Athletes will have additional responsibilities to:

- a) Adhere to their Athlete Agreement (if applicable)
- b) Report any medical problems in a timely fashion, when such problems may limit their ability to travel, practice, or compete
- c) Participate and appear on-time and prepared to participate to their best abilities in all competitions, practices, training sessions, and evaluations
- d) Properly represent themselves and not attempt to participate in a competition for which they are not eligible by reason of age, classification, or other reason
- e) Adhere to any rules and requirements regarding clothing and equipment
- f) Dress to represent the sport and themselves with professionalism
- g) Act in accordance with applicable policies and procedures and, when applicable, additional rules as outlined by coaches or managers

### **Officials**

14. In addition to section 10 (above), officials will have additional responsibilities to:

- a) Maintain and update their knowledge of the rules and rules changes
- b) Not publicly criticize other officials
- c) Work within the boundaries of their position's description while supporting the work of other officials
- d) Act as an ambassador of the sport by agreeing to enforce and abide by national and provincial/territorial rules and regulations
- e) Take ownership of actions and decisions made while officiating
- f) Respect the rights, dignity, and worth of all Participants
- g) Act openly, impartially, professionally, lawfully, and in good faith
- h) Be fair, equitable, considerate, independent, honest, and impartial in all dealings with others
- i) Respect the confidentiality required by issues of a sensitive nature, which may include discipline processes, appeals, and specific information or data about Participants
- j) Honour all assignments unless unable to do so by virtue of illness or personal emergency, and in these cases inform a supervisor at the earliest possible time
- k) When writing reports, set out the actual facts to the best of their knowledge and recollection
- l) Dress in proper attire for officiating

### **Parents/Guardians and Spectators**

- 15.** In addition to section 10 (above), parents/guardians and spectators at events are expected to:
- a) Encourage Athletes to compete within the rules and to resolve conflicts without resorting to hostility or violence
  - b) Condemn the use of violence in any form
  - c) Never ridicule a participant for making a mistake during a competition or practice
  - d) Respect the decisions and judgments of officials, and encourage Athletes to do the same
  - e) Support all efforts to remove verbal and physical abuse, coercion, intimidation, and sarcasm
  - f) Respect and show appreciation to all competitors, and to coaches, officials and other volunteers
  - g) Never harass competitors, coaches, officials, parents/guardians, or other spectators

## **Discipline and Complaints Policy**

### **Purpose**

2. Participants are expected to fulfill certain responsibilities and obligations including, but not limited to, complying with the Club's policies, By-laws, rules and regulations, and *Code of Conduct and Ethics*. Non-compliance may result in sanctions pursuant to this Policy.

### **Discipline Chair**

3. The Discipline Chair will be a Director of the Board, or an individual appointed by majority by the Board, to handle the duties of the Discipline Chair.
4. The Discipline Chair appointed to handle a complaint or incident must be unbiased and not in a conflict of interest situation.

### **Application of this Policy**

5. This Policy applies to all Participants.
6. This Policy applies to matters that may arise during the Club's business, activities, and events including, but not limited to, competitions, practices, tryouts, training camps, travel associated with the Club's activities, and any meetings.
7. This Policy also applies to Participants' conduct outside of the Club's business, activities, and events when such conduct adversely affects relationships within the Club (and its work and sport environment), is detrimental to the image and reputation of the Club, or upon the acceptance of the Club. Applicability will be determined by the Club at its sole discretion.
8. This Policy also applies to alleged breaches of the *Code of Conduct and Ethics* by Participants who have retired from the sport where any claim regarding a potential breach of the *Code of Conduct and Ethics* occurred when the Participant was active in the sport. In addition, this Policy will apply to breaches of the *Code of Conduct and Ethics* that occurred when the Participants involved interacted due to their mutual involvement in the sport or, if the breach occurred outside of the sport environment, if the breach has a serious and detrimental impact on the Participant(s).
9. This Policy does not prevent immediate discipline or sanction from being applied as reasonably required. Further discipline may be applied according to this Policy. Any infractions or complaints occurring within competition will be dealt with by the procedures specific to the competition, if applicable. In such situations, disciplinary sanctions will be for the duration of the competition, training, activity, or event only.
10. An employee of the Club who is a Respondent will be subject to appropriate disciplinary action per the Club's policies for human resources as well as the employee's Employment Agreement, if applicable. Violations may result in a warning, reprimand, restrictions, suspension, or other disciplinary actions up to and including termination of employment.

### **Adult Representative**

11. Complaints may be brought for or against a Participant who is a minor. Minors must have a parent/guardian or other adult serve as their support during this process, but should not be present in a professional capacity.
12. Communication from the Discipline Manager must be directed to the minor's representative.

13. A minor is not required to attend an oral hearing, if held.

### **Reporting a Complaint**

14. Any Participant may report any complaint to the Club. A complaint must be In Writing and must be filed within fourteen (14) days of the alleged incident or within fourteen (14) days of the end of the sport/league/competitive season, at the discretion of the individual filing the complaint.

15. A Complainant wishing to file a complaint outside of the fourteen (14) day period must provide a written statement giving reasons for an exemption to this limitation. The decision to accept, or not accept, the complaint outside of the fourteen (14) day period will be at the sole discretion of the disciplining manager. This decision may not be appealed.

16. At the Club's discretion, the Club may act as the Complainant and initiate the complaint process under the terms of this Policy. In such cases, the Club will identify an individual to represent the Club.

17. Resignation or lapsing of membership after a complaint is filed does not preclude discipline being pursued under this Policy.

### **Disciplining Manager**

18. Upon the receipt of a complaint, the appropriate Manager will oversee management and administration of complaints submitted in accordance with this Policy. The manager will be the Board member responsible for the area of concern e.g. admin, coaching, players etc. The Manager must not be in a conflict of interest and must have no affiliation or connection with either party. If there is conflict, the Executive will provide a new manager.

19. The Manager has a responsibility to:

- a) Determine whether the complaint is frivolous and/or within the jurisdiction of this Policy
- b) Propose the use of informal *dispute resolution if possible*.
- c) Determine if the complaint should be investigated (per **Appendix A – Investigation Procedure**)
- d) Assemble the Discipline Panel, if necessary
- e) Coordinate all administrative aspects and set timelines
- f) Provide administrative assistance and logistical support to the Discipline Panel as required
- g) Provide any other service or support that may be necessary to ensure a fair and timely proceeding

### **Procedures**

20. If the Manager determines the complaint is:

- a) Frivolous or outside the jurisdiction of this Policy, the complaint will be dismissed immediately
- b) Not frivolous and within the jurisdiction of this Policy, the Manager will notify the Parties that the complaint is accepted and of the applicable next steps

21. The Manager's decision to accept or dismiss the complaint may not be appealed.

22. The Manager will establish and adhere to timelines that ensure procedural fairness and that the matter is heard in a timely fashion.

23. After notifying the Parties that the complaint has been accepted, the Manager will assemble a Discipline Panel, consisting of a minimum of two and maximum of three members to hear the complaint. The members of the Discipline Panel must be unbiased and not in a conflict of interest.

24. The Manager, in cooperation with the Discipline Panel, will then decide the format under which the complaint will be heard. This decision may not be appealed. The format of the hearing, which may involve direct communication with the Parties, an oral in-person hearing, an oral hearing by telephone or other communication medium, a hearing based on a review of documentary evidence submitted in advance of the hearing, or a combination of these methods. The hearing will be governed by the procedures that the Manager and the Discipline Panel deem appropriate in the circumstances, provided that:
- a) The Parties will be given appropriate notice of the day, time, and place of the hearing, in the case of an oral in-person hearing or an oral hearing by telephone or other communication medium
  - b) Copies of any written documents which the parties wish to have the Discipline Panel consider will be provided to all Parties, through the Manager, in advance of the hearing
  - c) The Parties may be accompanied by a support person if required. The support person does not participate but offers support to the participant. They are also bound by the confidentiality of the proceedings.
  - d) The Discipline Panel may request that any other individual participate and give evidence at the hearing
  - e) The Discipline Panel may allow as evidence at the hearing any oral evidence and document or thing relevant to the subject matter of the complaint, but may exclude such evidence that is unduly repetitious, and shall place such weight on the evidence as it deems appropriate
  - f) The decision will be by a majority vote of the Discipline Panel
25. If the Respondent acknowledges the facts of the incident, the Respondent may waive the hearing, in which case the Discipline Panel will determine the appropriate sanction. The Discipline Panel may still hold a hearing for the purpose of determining an appropriate sanction.
26. The hearing may proceed in any event, even if a Party chooses not to participate in the hearing.
27. If a decision may affect another party to the extent that the other party would have recourse to a complaint or an appeal in its own right, that party will become a Party to the current complaint and will be bound by the decision.
28. In fulfilling its duties, the Discipline Panel may obtain independent advice.

### **Decision**

29. After reviewing the matter, the Disciplining manager will determine whether an infraction has occurred and, if so, the sanctions to be imposed. The Discipline Manager and Panel will issue a verbal decision shortly after the investigation has concluded, with the full written decision to be issued to the Executive within fourteen (14) days. The decision will be considered a closed matter unless decided otherwise by the Executive.

### **Sanctions**

30. Prior to determining sanctions, the Disciplining manager will consider factors relevant to determining appropriate sanctions which include:
- a) The nature and duration of the Respondent's relationship with the Complainant, including whether there is a Power Imbalance;
  - b) The Respondent's prior history and any pattern of inappropriate behaviour or Maltreatment;
  - c) The ages of the individuals involved;
  - d) Whether the Respondent poses an ongoing/potential threat to the safety of others;
  - e) The Respondent's voluntary admission of the offense(s), acceptance of responsibility for the Maltreatment, and/or cooperation in the process of the Club;
  - f) Real or perceived impact of the incident on the Complainant, sport organization or the sporting community;



- g) Circumstances specific to the Respondent being sanctioned (e.g. lack of appropriate knowledge or training regarding the requirements in the *Code of Conduct and Ethics*; addiction; disability; illness);
- h) Whether, given the facts and circumstances that have been established, continued participation in the sport community is appropriate;
- i) A Respondent who is in a position of trust, intimate contact or high-impact decision-making may face more serious sanctions; and/or
- j) Other mitigating and aggravating circumstances

31. Any sanction imposed must be proportionate and reasonable. However, progressive discipline is not required and a single incident of Maltreatment or other prohibited behaviour may justify elevated or combined sanctions.

32. The Discipline Panel may apply the following disciplinary sanctions, singularly or in combination:

- a) **Circle of trust** – in matter of basic disrespectful behaviour, the COT will be created for those involved to hear the impact, apologise where needed, and make commitments for future behaviour expectations
- b) **Education** - The requirement that a Participant undertake specified educational or similar remedial measures to address the violation(s) of the *Code of Conduct and Ethics*
- c) **Verbal or Written Warning** - A verbal reprimand or an official, written notice and formal admonition that a Participant has violated the *Code of Conduct and Ethics* and that more severe sanctions will result should the Participant be involved in other violations
- d) **Probation** - Should any further violations of the *Code of Conduct and Ethics* occur during the probationary period, will result in additional disciplinary measures, likely including a period of suspension or permanent ineligibility. This sanction can also include loss of privileges or other conditions, restrictions, or requirements for a specified period of time
- e) **Suspension** - Suspension, either for a set time or until further notice, from participation, in any capacity, in any program, practice, activity, event, or competition sponsored by, organized by, or under the auspices of the Club. A suspended Participant is eligible to return to participation, but reinstatement may be subject to certain restrictions or contingent upon the Participant satisfying specific conditions noted at the time of suspension
- f) **Eligibility Restrictions** - Restrictions or prohibitions from some types of participation but allowing participation in other capacities under strict conditions
- g) **Permanent Ineligibility** - Permanent ineligibility to participate in any capacity, in any program, activity, event, or competition sponsored by, organized by, or under the auspices of the Club
- h) **Other Discretionary Sanctions** - Other sanctions may be imposed, including, but not limited to, other loss of privileges, no contact directives, a fine or a monetary payment to compensate for direct losses, or other restrictions or conditions as deemed necessary or appropriate

33. The Discipline Panel may apply the following presumptive sanctions which are presumed to be fair and appropriate for the listed Maltreatment:

- a) Sexual Maltreatment involving a Complainant who is a minor shall carry a presumptive sanction of permanent ineligibility;
- b) Sexual Maltreatment, Physical Maltreatment with contact, and Maltreatment related to interference or manipulation of process shall carry a presumptive sanction of either a period of suspension or eligibility restrictions.
- c) While a Respondent has pending charges or dispositions in violation of the criminal law, the presumptive sanction shall be a period of suspension

In any of the situations noted above a) to c), the complainant should be advised at the outset that it their prerogative to report their concerns to the RCMP, regardless of the status of the Club's internal

investigations. This also includes those cases of harassment as defined by regulation and including, for example, unwanted attention.

34. A Participant's conviction for a *Criminal Code* offense shall carry a presumptive sanction of permanent ineligibility from participating with the Club. *Criminal Code* offences may include, but are not limited to:
- a) Any child pornography offences
  - b) Any sexual offences
  - c) Any offence of physical violence
  - d) Any offence of assault
  - e) Any offence involving trafficking of illegal drugs
35. Unless the Discipline Panel decides otherwise, any disciplinary sanctions will begin immediately, notwithstanding an appeal. Failure to comply with a sanction as determined by the Discipline Panel will result in an automatic suspension until such time as compliance occurs.
36. Infractions that result in discipline will be recorded and records will be maintained by the Club.

#### **Suspension Pending a Hearing**

37. The Club may determine that an alleged incident is of such seriousness as to warrant suspension of a Participant pending completion of a criminal process, the hearing, or a decision of the Discipline Panel.

#### **Confidentiality**

38. The discipline and complaints process is confidential and involves only the Parties (including support persons), the Manager, the Discipline Panel, witnesses, and any independent advisors to the Discipline Panel. Once initiated and until a decision is released, none of the Parties will disclose confidential information relating to the discipline or complaint to any person not involved in the proceedings. Breaches of confidentiality may in itself lead to disciplinary action being taken against the participant.

#### **Reprisal and Retaliation**

39. A Participant who submits a complaint to the Club or who gives evidence in an investigation may not be subject to reprisal or retaliation. Any such conduct may constitute Maltreatment and will be subject to disciplinary proceedings pursuant to the *Discipline and Complaints Policy*.

#### **False Allegations**

40. A Participant who submits allegations that the Investigator determines to be malicious, false, or for the purpose of retribution, retaliation or vengeance (or that otherwise fall within the definition of Maltreatment) may be subject to a complaint under the terms of the Discipline and Complaints Policy and may be required to pay for the costs of any investigation that comes to this conclusion. The Organization or the Participant against whom the allegations were submitted, may act as the Complainant.

#### **Timelines**

41. If the circumstances of the complaint are such that adhering to the timelines outlined by this Policy will not allow a timely resolution to the complaint, the Discipline Panel may direct that these timelines be revised.

#### **Records and Distribution of Decisions**

42. Other individuals or organizations, including but not limited to, national sport organizations, provincial sport organizations, sport clubs, etc., may be advised of any decisions rendered in accordance with this Policy.

## **Appeals Procedure**

43. The decision of the Discipline Panel may be appealed in accordance with the *Appeal Policy*.

All appeals will be sent to the President of the Board, and if warranted, the President will appoint a Board member, not included in the first process, to review the appeal.

### **Timing of Appeal**

44. Participants who wish to appeal a decision have seven (7) days from the date on which they received notice of the decision to submit, in writing to the Club, the following:

- a) Notice of the intention to appeal
- b) Contact information and status of the Appellant
- c) Name of the Respondent and any Affected Parties, when known to the Appellant
- d) Date the appellant was advised of the decision being appealed
- e) A copy of the decision being appealed, or description of decision if written document is not available
- f) Grounds for the appeal
- g) Detailed reasons for the appeal
- h) All evidence that supports these grounds
- i) Requested remedy or remedies
- j) An administration fee of one hundred dollars (\$100), which will be refunded if the appeal is upheld

### **Grounds for Appeal**

44. A decision cannot be appealed on its merits alone. An appeal may only be heard if there are sufficient grounds for appeal. Sufficient grounds include the Respondent:

- a) Made a decision that it did not have the authority or jurisdiction (as set out in the Respondent's governing documents) to make
- b) Failed to follow its own procedures (as set out in the Respondent's governing documents)
- c) Made a decision that was influenced by bias (where bias is defined as a lack of neutrality to such an extent that the decision-maker appears not to have considered other views)
- d) Failed to consider relevant information or took into account irrelevant information in making the decision
- e) Made a decision that was grossly unreasonable

45. The Appellant must demonstrate, on a balance of probabilities, that the Respondent has made a procedural error as described in the 'Grounds for Appeal' section of this Policy and that this error had, or may reasonably have had, a material effect on the decision or decision-maker.

46. If the President is satisfied there are sufficient grounds for an appeal, a Board member, not involved in the first investigation, will review the appeal. In extraordinary circumstances, and at the discretion of the President, a Panel may be appointed to hear the appeal. In this event, the President will appoint one of the Panel's members to serve as the Chair.

### **Procedure for Appeal Hearing**

47. The President shall notify the Parties that the appeal will be heard, and confirm the format under which the appeal will be heard. This decision is at the sole discretion of the President and may not be appealed. If the President is implicated in the appeal, another member of the executive will be chosen

48. If a Party chooses not to participate in the hearing, the hearing will proceed in any event.
49. The format of the hearing may involve an oral in-person hearing, an oral hearing by telephone or other electronic means, a hearing based on a review of documentary evidence submitted in advance of the hearing, or any combination of these methods. The hearing will be governed by the Appeal Manager, as deemed appropriate in the circumstances, provided that:
- a) The hearing will be held within a timeline determined by the panel
  - b) The Parties will be given reasonable notice of the day, time and place of the hearing
  - c) Copies of any written documents which the parties wish to have the Panel consider will be provided to all Parties in advance of the hearing
  - d) The Parties may be accompanied by a support representative
  - e) The Panel may request that any other individual participate and give evidence at the hearing
  - f) The Panel may allow as evidence at the hearing any oral evidence and document or thing relevant to the subject matter of the appeal, but may exclude such evidence that is unduly repetitious and shall place such weight on the evidence as it deems appropriate
  - g) If a decision in the appeal may affect another party to the extent that the other party would have recourse to an appeal in their own right under this Policy, that party will become a party to the appeal in question and will be bound by its outcome
  - h) The decision to uphold or reject the appeal will be by a majority vote of Panel members, if applicable
50. In fulfilling its duties, the Appeals Manager or panel may obtain independent advice.

#### **Appeal Decision**

51. The Manager shall issue their decision, in writing and with reasons, within fourteen (14) days after the review's conclusion. In making its decision, the manager will have no greater authority than that of the original decision-maker. The Manager may decide to:
- a) Reject the appeal and confirm the decision being appealed
  - b) Uphold the appeal and refer the matter back to the initial decision-maker for a new decision
  - c) Uphold the appeal and vary the decision

The manager's written decision, with reasons, will be communicated to all Parties, and the President

#### **Timelines**

52. If the circumstances of the appeal are such that adhering to the timelines outlined by this Policy will not allow a timely resolution to the appeal, the Appeal Manager and/or Panel may direct that these timelines be revised.

#### **Confidentiality**

53. The appeals process is confidential and involves only the Parties, the Appeal Manager, the Panel, and any independent advisors to the Panel. Once initiated and until a decision is released, none of the Parties will disclose confidential information to any person not involved in the proceedings.

#### **Final and Binding**

54. No action or legal proceeding will be commenced against the Club or Participants in respect of a dispute, unless the Club has refused or failed to provide or abide by the dispute resolution process and/or appeal process as set out in the Club's governing documents.

## Appendix A

### Definitions

The following terms have these meanings in this Code:

- a) **Athlete** – An individual who is an Athlete Participant in the Club who is subject to the policies of the Club
- b) **Abuse** – Includes Psychological Maltreatment, Physical Maltreatment, Neglect, and/or Grooming of Vulnerable Participants by Persons in Authority and which can have the following warning signs:
  - a) Recurrent unexplained injuries
  - b) Alert behaviour; child seems to always be expecting something bad to happen
  - c) Often wears clothing that covers up their skin, even in warm weather
  - d) Child startles easily, shies away from touch or shows other skittish behaviour
  - e) Constantly seems fearful or anxious about doing something wrong
  - f) Withdrawn from peers and adults
  - g) Behaviour fluctuates between extremes (e.g., extremely cooperative or extremely demanding)
  - h) Acting either inappropriately beyond their age (like an adult; taking care of other children) or inappropriately younger than their age (like an infant; throwing tantrums)
  - i) Acting out in an inappropriate sexual way with toys or objects
  - j) New adult words for body parts and no obvious source
  - k) Self-harm (e.g., cutting, burning or other harmful activities)
  - l) Not wanting to be alone with a particular child or young person
- c) **Bullying** - is offensive behaviour and/or abusive treatment of a Participant that typically, but not always, involves an abuse of power. Examples of behaviour that may constitute Bullying include, but are not limited to:
  - i. Spreading malicious rumours, gossip or innuendos with the intent of causing harm or suffering to a Participant;
  - ii. Excluding or isolating a Participant socially with the intent of causing them harm or suffering;
  - iii. Making offensive jokes or derogatory comments to a Participant or to others;
  - iv. Yelling, verbally berating or using profanity;
  - v. Assigning unreasonable duties or workload which are unfavourable to a Participant; or
  - vi. Any form of cyber bullying which can include:
    - a. Sending mean or threatening emails or text/instant messages;
    - b. Posting embarrassing photos of someone online
    - c. Creating a website to make fun of others
    - d. Pretending to be someone else
    - e. Tricking someone into sending pictures or videos or revealing personal information
    - f. Sending personal information (including pictures and videos) about someone else to a third-party
- d) **Discrimination** – Differential treatment of an individual based on one or more prohibited grounds which include race, citizenship, national or ethnic origin, colour, religion, age, sex, sexual orientation, gender identity or expression, marital status, family status, genetic characteristics, or disability
- e) **Harassment** – A course of vexatious comment or conduct against a Participant or group, which is known or ought reasonably to be known to be unwelcome. Types of behaviour that constitute Harassment include, but are not limited to:
  - i. Written or verbal abuse, threats, or outbursts;
  - ii. Persistent unwelcome remarks, jokes, comments, innuendo, or taunts;

- iii. Racial harassment, which is racial slurs, jokes, name calling, or insulting behaviour or terminology that reinforces stereotypes or discounts abilities because of racial or ethnic origin;
- iv. Leering or other suggestive or obscene gestures;
- v. Condescending or patronizing behaviour which is intended to undermine self-esteem, diminish performance or adversely affect working conditions;
- vi. Practical jokes which endanger a person's safety, or may negatively affect performance;
- vii. *Hazing* – which is any form of conduct which exhibits any potentially humiliating, degrading, abusive, or dangerous activity expected of a junior-ranking individual by a more senior individual, which does not contribute to either individual's positive development, but is required to be accepted as part of a team or group, regardless of the junior-ranking individual's willingness to participate. This includes, but is not limited to, any activity, no matter how traditional or seemingly benign, that sets apart or alienates any teammate or group member based on class, number of years on the team or with the group, or ability;
- viii. Unwanted physical contact including, but not limited to, touching, petting, pinching, or kissing;
  - ix. Deliberately excluding or socially isolating a person from a group or team;
  - x. Persistent sexual flirtations, advances, requests, or invitations;
  - xi. Physical or sexual assault;
  - xii. Contributing to a *poisoned sport environment*, which can include:
    - a. Locations where material that is discriminatory is displayed (e.g., sexually explicit posters and racial/racist cartoons)
    - b. Groups where harassing behaviour is part of the normal course of activities
    - c. Behaviour that causes embarrassment, awkwardness, endangers a person's safety or negatively affects performance.
      - xiii. Behaviours such as those described above that are not directed towards a specific person or group but have the same effect of creating a negative or hostile environment; and
      - xiv. Retaliation or threats of retaliation against a person who reports harassment to the Club
- f) **Participants** – Refers to all categories of individual members and/or registrants defined in the By-laws of the Club who are subject the policies of the Club, as well as all people employed by, contracted by, or engaged in activities with, the Club including, but not limited to, employees, contractors, athletes, coaches, instructors, officials, chaperones, volunteers, managers, administrators, committee members, parents or guardians, spectators, and Directors and Officers
- g) **Person in Authority** – Any Participant who holds a position of authority within the Club including, but not limited to, coaches, instructors, officials, managers, support personnel, chaperones, committee members, and Directors and Officers
- h) **Vulnerable Participants** – Includes Minors and vulnerable adults (people who, because of age, disability or other circumstance, are in a position of dependence on others or are otherwise at a greater risk than the general population of being harmed by people in positions of trust or authority)
- i) **Workplace** – Any place where business or work-related activities are conducted. Workplaces include but are not limited to, the registered office(s), work-related social functions, work assignments outside the registered office(s), work-related travel, the training and competition environment, and work-related conferences or training sessions
- j) **Workplace Harassment** – Vexatious comment or conduct against a worker in a Workplace that is known or ought reasonably to be known to be unwelcome. Workplace Harassment should not be confused with legitimate, reasonable management actions that are part of the normal work/training function, including measures to correct performance deficiencies, such as placing someone on a

performance improvement plan, or imposing discipline for workplace infractions. Types of behaviour that constitute Workplace Harassment include, but are not limited to:

- i. Bullying;
  - ii. Workplace pranks, vandalism, or hazing;
  - iii. Repeated offensive or intimidating phone calls or emails;
  - iv. Inappropriate sexual touching, advances, suggestions or requests;
  - v. Displaying or circulating offensive pictures, photographs or materials in printed or electronic form;
  - vi. Psychological abuse;
  - vii. Excluding or ignoring someone, including persistent exclusion of a person from work-related social gatherings;
  - viii. Deliberately withholding information that would enable a person to do their job, perform or train;
  - ix. Sabotaging someone else's work or performance;
  - x. Gossiping or spreading malicious rumours;
  - xi. Intimidating words or conduct (offensive jokes or innuendos); and
  - xii. Words or actions which are known, or ought reasonably to be known, as offensive, embarrassing, humiliating, or demeaning.
- k) **Workplace Violence** – The use of or threat of physical force by a person against a worker in a Workplace that causes or could cause physical injury to the worker; an attempt to exercise physical force against a worker in a Workplace that could cause physical injury to the worker; or a statement or behaviour that it is reasonable for a worker to interpret as a threat to exercise physical force against the worker in a Workplace that could cause physical injury to the worker. Types of behaviour that constitute Workplace Violence include, but are not limited to:
- i. Verbal or written threats to attack;
  - ii. Sending to or leaving threatening notes or emails;
  - iii. Physically threatening behaviour such as shaking a fist at someone, finger pointing, destroying property, or throwing objects;
  - iv. Wielding a weapon in a Workplace;
  - v. Hitting, pinching or unwanted touching which is not accidental;
  - vi. Dangerous or threatening horseplay;
  - vii. Physical restraint or confinement;
  - viii. Blatant or intentional disregard for the safety or wellbeing of others;
  - ix. Blocking normal movement or physical interference, with or without the use of equipment;
  - x. Sexual assault; and
  - xi. Any attempt to engage in the type of conduct outlined above

## Definitions

1. The following terms have these meanings in this Policy:

- a) *“Athlete”* – An individual who is an Athlete Participant in the Club
- b) *“Complainant”* – A Participant or observer who makes a report of an incident, or a suspected incident, of Maltreatment or other behaviour that is a violation of the standards described in the *Code of Conduct and Ethics*
- c) *“Days”* – Days including weekends and holidays
- d) *“Discipline Chair”* – An individual (typically the President or designate) appointed to attempt to resolve disputes by mediation or other alternative dispute resolution techniques
- e) *“Maltreatment”* – As defined in the *Code of Conduct and Ethics*
- f) *“Participants”* – Refers to all categories of individual members and/or registrants defined in the By-laws of the Club who are subject to the policies of the Club, as well as all people employed by, contracted by, or engaged in activities with the Club including, but not limited to, employees, contractors, Athletes, coaches, instructors, officials, volunteers, managers, administrators, committee members, parents or guardians, spectators, and Directors and Officers
- g) *“Power Imbalance”* – As defined in the *Code of Conduct and Ethics*
- h) *“Respondent”* – The alleged infracting Party



## Appendix B – Investigation Procedure

### Determination

45. When a complaint is submitted pursuant to the *Discipline and Complaints Policy*, the Disciplining Manager will determine if the incident should be investigated.

### Investigation

46. The Disciplining Manager will be the Investigator. The Investigator must not be in a conflict of interest situation and should have no connection to either party. In such cases, a new manager will be appointed.

47. Federal and/or Territorial legislation related to Workplace Harassment may apply to the investigation if Harassment was directed toward a worker in a Workplace. The manager should review workplace safety legislation, the Club's policies for human resources, and/or consult independent experts to determine whether legislation applies to the complaint.

48. The investigation may take any form as decided by the manager, guided by any applicable Federal and/or Territorial legislation. The investigation may include:

- a) Interviews with the Complainant
- b) Witness interviews
- c) Statement of facts (Complainant's perspective) prepared by the manager, acknowledged by the Complainant and provided to the Respondent
- d) Interviews with the Respondent
- e) Statement of facts (Respondent's perspective) prepared by manager, acknowledged by the Respondent and provided to the Complainant

### Manager's Report

49. Upon completion of their investigation, the Manager shall prepare a report that should include a summary of evidence from the parties (including both statements of facts, if applicable); with recommendations on whether, on the balance of probabilities, a breach of the *Code of Conduct and Ethics* occurred. This report will form the basis of the manager's decision.

50. Should the manager find that there are possible instances of offence under the *Criminal Code*, particularly related to Criminal Harassment (or Stalking), Uttering Threats, Assault, Sexual Interference, or Sexual Exploitation, the Investigator shall advise the Complainant and the Board to refer the matter to police.

51. The manager must also inform the Club of any findings of criminal activity. The Club may decide whether to report such findings to police, but is required to inform police if there are findings related to any sexual crime involving Minors, fraud against the Club, or other offences where the lack of reporting would bring the Club into disrepute.

### Confidentiality

52. The Manager will make reasonable efforts to preserve the anonymity of the complainant, respondent, and any other party. However, the Club recognizes that maintaining full anonymity during an investigation may not be feasible.