

# Bowls Canada Boulingrin (“BCB”)

## Discipline and Complaints Policy

(the “Policy”)



### DEFINITIONS

1. Terms in this Policy are defined as follows:

- a) **Athlete** – An individual who is an Athlete participant in BCB who is subject to the policies of BCB.
- b) **Complainant** – An individual 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 BCB’s policies, by-laws, rules or regulations, or the UCCMS.
- c) **Director of Sanctions and Outcomes** – Responsible for overseeing the imposition of Provisional Measures, agreed outcomes, and sanctions and for appearing before the Safeguarding Tribunal or the Appeal Tribunal in cases arising from a potential breach of the UCCMS (or other conduct rules, as applicable)
- d) **External Discipline Panel** – A Panel of one or three people who are appointed by the Independent Safe Sport Officer (or designate) to decide on complaints that are assessed under Process #2 of this Policy.
- e) **Event** - An event sanctioned by BCB or a Provincial/Territorial Organization or Member Club, and which may include a social Event.
- f) **Independent Safe Sport Officer** – the individual retained by BCB to receive Reports and to fulfill the responsibilities outlined in the *Discipline and Complaints Policy*. This individual must not be in a conflict of interest.
- g) **Internal Discipline Chair** – An individual appointed by BCB to decide on complaints that are assessed under Process #1 of this Policy. The Internal Discipline Chair may be a Director, head coach, staff member, or other individual affiliated with BCB but must not be in a conflict of interest.
- h) **Maltreatment** – as defined in the *UCCMS*
- i) **Minor** – as defined in the *UCCMS*.
- j) **Parties** – the Complainant(s) and Respondent(s).
- k) **OSIC** - Office of the Sport Integrity Commissioner, an independent division of the Sport Dispute Resolution Centre of Canada (SDRCC) which comprises the functions of the Sport Integrity Commissioner
- l) **Organizational Participant** – Refers to all categories of individual members and/or registrants defined in the By-laws of BCB who are subject to the policies of BCB, as well as all people employed by, contracted by, or engaged in activities with, BCB including, but not limited to, employees, contractors, Athletes, coaches, instructors, officials, volunteers, judges, managers, administrators, parents or guardians, spectators, committee members, and Directors and Officers.
- m) **Person in Authority** – Any Organizational Participant who holds a position of authority within BCB including, but not limited to, coaches, instructors, officials, managers, support personnel, chaperones, committee members, and Directors and Officers.
- n) **Power Imbalance** – as defined in the *UCCMS*

- o) **Provisional Suspension** – means that the Organizational Participant is barred temporarily from participating in in any capacity in any Event or activity of BCB and its Provincial/Territorial Organization and/or Member Club, or as otherwise decided pursuant to the *Discipline and Complaints Policy*, prior to the decision rendered in a hearing conducted pursuant to this Policy.
- p) **Respondent** – The Party responding to the complaint.
- q) **UCCMS** - *Universal Code of Conduct to prevent and address Maltreatment in Sport*, as amended from time to time by the Sport Dispute Resolution Centre of Canada (SDRCC)
- r) **UCCMS Participant** - An Organizational Participant affiliated with BCB who has been a) designated by BCB and b) who has signed the required consent form. UCCMS Participants may include an athlete, a coach, an official, an athlete support personnel, an employee, a contractual worker, an administrator, or a volunteer acting on behalf of, or representing BCB in any capacity.
- s) **Vulnerable Individual** - 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).

## **PURPOSE**

2. Organizational Participants are expected to fulfill certain responsibilities and obligations including, but not limited to, complying with all policies, by-laws, rules, and regulations of BCB, as updated, and amended from time to time.
3. Non-compliance with any of BCB's policies, by-laws, rules, or regulations, as applicable, may result in the imposition of sanctions pursuant to this Policy or the by-laws of BCB.

## **APPLICATION**

4. This Policy applies to all Organizational Participants and to any alleged breaches of BCB's policies, by-laws, rules or regulations, or any of those of its Provincial/Territorial Organizations or Member Clubs, that designate this Policy as applicable to address such alleged breaches.
5. In addition to being subject to disciplinary action pursuant to this Policy, an employee of BCB who is a Respondent to a complaint may also be subject to consequences in accordance with the employee's employment agreement or policies for human resources, if applicable.
6. An Organizational Participant, who is a Worker, who believes that a staff member or Director has committed Wrongdoing (as described in the *Whistleblower Policy*) may report the alleged incident(s) to the BCB Resource Person (as further described in the *Whistleblower Policy*).

## **REPORTING**

### **UCCMS Participants**

7. Incidents that involve alleged Maltreatment or Prohibited Behaviour that occurred or continued as of January 31, 2023 involving a UCCMS Participant must be reported to the OSIC (<https://sportintegritycommissioner.ca/report>) and will be addressed pursuant to the OSIC's policies and procedures.
8. Incidents that involve alleged Maltreatment or Prohibited Behaviour that occurred before January 31 2023 may be reported to the OSIC; however, the OSIC shall determine the admissibility of such complaints in accordance with the relevant and applicable OSIC Guidelines regarding the initial review and preliminary assessment, and the matter may

only proceed pursuant to the OSIC's procedures with the express consent of the Parties involved where the Parties have not been designated by BCB as a UCCMS Participant.

9. If BCB's Independent Safe Sport Officer receives a Complaint that they consider would otherwise fall within the above sections, they shall refer the matter to the OSIC and notify the individual(s) that made the Complaint of such action.

### **Organizational Participants**

10. Any complaints involving alleged breaches of BCB's policies that do not fall within Sections 5 or 6 above may be reported to the Independent Safe Sport Officer in writing as outlined in the "Report a Complaint" page of the Safe Sport section of the BCB website.
11. Notwithstanding any provision in this Policy, BCB may, at its discretion, or upon request by the Independent Safe Sport Officer, act as the Complainant and initiate the complaint process under the terms of this Policy. In such cases, BCB will identify an individual to represent BCB.
12. A Complainant who fears retribution or reprisal or who otherwise considers that their identity must remain confidential may file a complaint with the Independent Safe Sport Officer and request that their identity be kept confidential. If the Independent Safe Sport Officer considers that the Complainant's identity must remain confidential, the Independent Safe Sport Officer may ask that BCB take carriage of the complaint and act as the Complainant.<sup>1</sup>
13. In exceptional circumstances, the Independent Safe Sport Officer may direct a complaint to be managed by BCB if a Provincial/Territorial Organization and/or Member Club is otherwise unable to manage the complaint for valid and justifiable reasons, such as a conflict of interest, due to a lack of capacity or where the Provincial/Territorial Organization and/or Member Club does not have policies in place to address the complaint. In such circumstances, BCB shall have the right to request that a cost-sharing agreement be entered into with the Provincial/Territorial Organization and/or Member Club as a pre-condition to BCB managing the complaint.
14. Where the Independent Safe Sport Officer refers a matter to be managed by a Provincial/Territorial Organization or Member Club, or where a Provincial/Territorial Organization or Member Club is otherwise responsible for managing a matter (i.e., because they received the matter directly), and the Provincial/Territorial Organization and/or Member Club fails to conduct disciplinary proceedings within a reasonable timeline, BCB may, at its discretion, take jurisdiction of the matter and conduct the proceedings. In such circumstances, if the Internal Discipline Chair or External Discipline Panel decides that BCB acted reasonably in taking jurisdiction over the matter, BCB's costs to conduct the proceedings, including legal fees, shall be reimbursed by the Provincial/Territorial Organization and/or Member Club to BCB.

### **MINORS**

15. Complaints may be brought by or against an Organizational Participant who is a Minor. Minors must have a parent/guardian or other adult serve as their representative during this process.
16. Communication from the Independent Safe Sport Officer, Internal Discipline Chair or External Discipline Panel (as applicable) must be directed to the Minor's representative.
17. If the Minor's representative is not their parent/guardian, the representative must have written permission to act in such a capacity from the Minor's parent/guardian.
18. A Minor is not required to attend or participate in an oral hearing, if held, or participate in an investigation if conducted. In such circumstances, no adverse inference can be drawn against the Minor.

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<sup>1</sup> In such circumstances, the Complainant(s) may be required to provide evidence during the disciplinary process.

## **INDEPENDENT THIRD-PARTY RESPONSIBILITIES**

19. Upon receipt of a complaint, the Independent Safe Sport Officer has a responsibility to:

- a) Determine whether the complaint falls within the jurisdiction of this Policy;
- b) Determine the appropriate jurisdiction to manage the complaint by considering the following:
  - i. whether the incident occurred within the business, activities, or Events of BCB, or one of its Provincial/Territorial Organizations or Member Clubs; and
  - ii. if the Provincial/Territorial Organization or Member Club is able to manage the complaint process<sup>2</sup>.
- c) Determine whether the complaint is frivolous, vexatious or if it has been made in bad faith<sup>3</sup>;
- d) Determine if the alleged incident should be investigated pursuant to **Appendix A – Investigation Procedure**; and
- e) Choose which process (Process #1 or Process #2, as outlined below) should be followed to hear and adjudicate the matter.

## **AVAILABLE PROCESSES**

There are two different processes that may be used to hear and adjudicate complaints. The Independent Safe Sport Officer decides which process should be followed at their discretion, and such decision is not appealable.

**Process #1** - the complaint contains allegations involving the following behaviours:

- a) Disrespectful conduct or comments
- b) Minor acts of physical violence, unless the physical violence is between a Person in Authority and a Vulnerable Individual, in which case the matter will be addressed under Process #2
- c) Conduct contrary to the values of BCB or those of one of its Provincial/Territorial Organizations or Member Clubs

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<sup>2</sup> In making this assessment, the Independent Safe Sport Officer may determine that the Provincial/Territorial Organization and/or Member Club lacks the capacity to manage the complaint (which may include financial and human resource capacity), that the Provincial/Territorial Organization and/or Member Club is not the appropriate jurisdiction to manage the complaint due to its seriousness (for example, clubs should not be expected to manage serious complaints due to the complexity of conducting such a process), or that a real or perceived conflict of interest exists within the Provincial/Territorial Organization and/or Member Club.

If the Independent Safe Sport Officer determines that the Complaint or Report should be handled by a Provincial/Territorial Organization or Member Club, that organization may use its own policies to address the complaint or may adopt this Policy and appoint its own Independent Safe Sport Officer to fulfil the responsibilities listed herein. Where this Policy is adopted by a Provincial/Territorial Organization or Member Club, any reference to Independent Safe Sport Officer shall be understood as a reference to the Independent Safe Sport Officer of the Provincial/Territorial Organization or Member Club.

<sup>3</sup> As indicated in the Sport Dispute Resolution Centre of Canada's Investigation Guidelines, a Reported complaint shall not be characterized as vexatious if the evidence demonstrates that there was a reasonable basis for filing and pursuing it. For a complaint to be considered to have been made in bad faith, the Independent Safe Sport Officer must consider that it was filed consciously for a dishonest purpose or due to the moral underhandedness of the Complainant and that there was an intention to mislead.

- d) Non-compliance with the policies, procedures, rules, or regulations of BCB or those of one of its Provincial/Territorial Organizations or Member Clubs
- e) Minor violations of the policies or bylaws of BCB or those of one of its Provincial/Territorial Organizations or Member Clubs.

\*\*\* The behaviours identified above are examples only and are not a definitive list of behaviours that may be addressed through Process #1.

**Process #2** - the complaint contains allegations involving the following behaviours:

- a) Repeated incidents described in Process #1
- b) Hazing
- c) Abusive, racist, or sexist comments, conduct or behaviour
- d) Incidents that constitute Prohibited Behaviour under the *Code of Conduct and Ethics* or the UCCMS
- e) Major incidents of violence (e.g., fighting, attacking)
- f) Pranks, jokes, or other activities that endanger the safety of others
- g) Conduct that intentionally interferes with a competition or with any athlete's preparation for a competition
- h) Conduct that intentionally damages the image, credibility, or reputation of BCB or that of one of its Provincial/Territorial Organizations or Member Clubs
- i) Consistent disregard for the by-laws, policies, rules, and regulations of BCB or those of one of its Provincial/Territorial Organizations or Member Clubs
- j) Major or repeated violations of the *Code* or any other policies, by-laws, rules or regulations that designate this *Discipline and Complaints Policy* as applicable to address such alleged breaches
- k) Intentionally damaging the property of BCB, one of its Provincial/Territorial Organizations or Member Clubs, or improperly handling any of the aforementioned organizations' monies
- l) Abusive use of alcohol, any use or possession of alcohol by Minors, or use or possession of illicit drugs and narcotics
- m) A conviction for any *Criminal Code* offense

\*\*\* The behaviours identified above are examples only and are not a definitive list of behaviours that may be addressed through Process #2

### **PROVISIONAL SUSPENSIONS**

20. If it is considered appropriate or necessary based on the circumstances, immediate discipline or the imposition of a Provisional Suspension or interim measures may be imposed against any Organizational Participant by the Independent Safe Sport Officer and/or CEO after which further discipline or sanctions may be applied according to this Policy.

21. If an infraction occurs at a competition, it will be dealt with by the procedures specific to the competition, if applicable. When applied at a competition, a Provisional Suspension or sanction may be for the duration of the competition, training, activity, or Event only, or as otherwise determined appropriate by the Independent Safe Sport Officer and/or CEO.
22. Notwithstanding the above, BCB and/or Independent Safe Sport Officer may determine that an alleged incident is of such seriousness as to warrant the imposition of a Provisional Suspension of a Respondent pending completion of an investigation, assessment and/investigation by the OSIC, criminal process, the hearing, or a decision of the External Discipline Panel.
23. Any Respondent against whom a Provisional Suspension or interim measure is imposed may make a request to the Independent Safe Sport Officer or External Discipline Panel (if appointed) to have the Provisional Suspension or interim measure lifted. In such circumstances, BCB shall be provided with an opportunity to make submissions, orally or in writing, regarding the Respondent's request to have their Provisional Suspension lifted. Provisional suspensions or interim measures shall only be lifted in circumstances where the Respondent establishes that it would be manifestly unfair to maintain the Provisional Suspension or interim measures against them.
24. Any decision not to lift a Provisional Suspension or interim measure shall not be subject to appeal.

## **PROCEDURAL STEPS**

### **PROCESS #1: Handled by Internal Discipline Chair**

#### **Internal Discipline Chair**

25. Following the determination that the complaint or incident should be handled under Process #1, the Independent Safe Sport Officer will appoint an Internal Discipline Chair<sup>4</sup> who may:
  - a) Propose alternative dispute resolution techniques, if appropriate; and/or
  - b) Ask the Complainant and the Respondent for either written or oral submissions regarding the complaint or incident. Both Parties shall also have the right to submit to the Internal Discipline Chair any relevant evidence, including, but not limited to witness statements, documentary evidence or evidence from other media (i.e., photos, screenshots, videos or other recordings). Each party shall have the right to receive the other party's submissions and evidence, including the Complainant's complaint. In the case of oral submissions, each party shall have the right to be present when such submissions are made; and/or
  - c) Following receipt of the Parties' submissions, the Internal Discipline Chair may convene the Parties to a meeting, either in person or by way of video or teleconference to ask the Parties questions and to allow the Parties to ask questions of one another, if the Internal Discipline Chair deems it appropriate.
26. Following their review of the submissions and evidence related to the Complaint, the Internal Discipline Chair shall determine if any of the incidents listed in Process #1 above have occurred and, if so, determine the appropriate sanction (see: **Sanctions**). If, after hearing the Parties and reviewing their submissions, the Internal Discipline Chair considers that none of the incidents listed in Process #1 above have occurred or there is insufficient evidence to prove that the incidents occurred, they shall dismiss the Complaint.
27. The Independent Safe Sport Officer will inform the Parties of the decision, which shall be in writing and include reasons. The Internal Discipline Chair's decision will take effect immediately, unless specified otherwise by the Internal Discipline Chair. Should the circumstances require a decision to be rendered immediately or within a short timeline,

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<sup>4</sup> The appointed Internal Discipline Chair must be unbiased and not in a conflict of interest.

the Internal Discipline Chair may render a short decision, either orally or in writing, followed by a written reasoned decision.

28. Any decision rendered by the Internal Discipline Chair shall be provided to and maintained in the records of any applicable club, provincial/territorial organization and BCB (and may be distributed by BCB as required by Sport Canada or applicable policy). Decisions will be kept confidential by the parties and the aforementioned organizations and shall be retained and discarded in accordance with the relevant and applicable privacy legislation and/or applicable policy.

**PROCESS #2: Handled by Independent Safe Sport Officer and External Discipline Panel**

**Independent Safe Sport Officer**

29. Following the determination that the complaint should be handled under Process #2, the Independent Safe Sport Officer will propose the use of alternative dispute resolution methods, if deemed appropriate. Alternatively, the Independent Safe Sport Officer may appoint a designate to handle the responsibilities described in this section. References to 'Independent Safe Sport Officer' in Process #2 then apply to the Independent Safe Sport Officer's designate, if appointed, instead. If the dispute is not resolved using alternative dispute resolution methods, the Independent Safe Sport Officer will appoint an External Discipline Panel of one (1) person to hear the complaint. Thereafter, the Independent Safe Sport Officer shall have the following responsibilities:

- a) Coordinate all administrative aspects of the process and set reasonable timelines
- b) Provide administrative assistance and logistical support to the External Discipline Panel as required, including providing the External Discipline Panel with any information related to previously imposed disciplinary sanctions against the Respondent(s) of the policies of BCB, any Provincial/Territorial Organization and/or Member Club or any other sport organization that had authority over the Respondent
- c) Provide any other service or support that may be necessary to ensure a fair and timely proceeding

30. The Independent Safe Sport Officer will establish and adhere to timelines that ensure procedural fairness and that the matter is heard in a timely fashion.

31. If warranted based on the severity of the allegations and at the Independent Safe Sport Officer's sole discretion, an External Discipline Panel of three (3) people may be appointed. When a three-person External Discipline Panel is appointed, the Independent Safe Sport Officer will appoint one of the External Discipline Panel's members to serve as the Chair.

32. The Independent Safe Sport Officer, in cooperation with the External 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 may be 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.

33. The hearing will be governed by the procedures that the Independent Safe Sport Officer and the External Discipline Panel deem appropriate for the circumstances. The following guidelines will apply to the hearing:

- a) The determination of procedures and timelines, as well as a hearing duration, that is as expedient and cost-efficient as possible to ensure that costs to the Parties and BCB and/or the Provincial/Territorial Organization or Member Club are reasonable
- b) The Parties will be given appropriate notice of the day, time, and place of the hearing

- c) Copies of any written documents which any of the Parties wishes to have the External Discipline Panel consider will be provided to all Parties, through the Independent Safe Sport Officer, in advance of the hearing
- d) The Parties may engage a representative, advisor, translator, transcription services or legal counsel at their own expense
- e) The External Discipline Panel may request that any other individual participate and give evidence at the hearing
- f) If not a Party, BCB and/or the relevant Provincial/Territorial Organization and/or Member Club shall be allowed to attend the hearing as an observer and will be provided with access to any documents submitted. With the permission of the External Discipline Panel, BCB and/or the relevant Provincial/Territorial Organization and/or Member Club may make submissions at the hearing or may provide the External Discipline Panel with clarifying information that may be required for the Panel to render its decision<sup>5</sup>
- g) The External Discipline Panel shall allow any evidence at the hearing filed by the parties and may exclude any evidence is unduly repetitious or otherwise an abuse of process. The External Discipline Panel shall otherwise apply relevant and applicable evidentiary rules in relation to the admissibility and weight given to evidence filed by the parties
- h) Nothing is admissible in evidence at a hearing that:
  - i. would be inadmissible in a court by reason of any privilege under the law of evidence; or
  - ii. is inadmissible by any statute.
- i) The decision will be by a majority vote of the External Discipline Panel, when the Panel consists of three people

34. If the Respondent acknowledges the facts of the incident, the Respondent may waive the hearing, in which case the External Discipline Panel will determine the appropriate sanction. The External Discipline Panel may still hold a hearing for the purpose of determining an appropriate sanction.

35. The process will proceed in any event, even if a Party chooses not to participate in the hearing.

36. In fulfilling its duties, the External Discipline Panel may obtain independent advice.

## **DECISION**

37. After hearing the matter, the External Discipline Panel will determine whether an infraction has occurred and, if so, the sanctions to be imposed. If the External Discipline Panel considers that an infraction has not occurred, the Reported complaint will be dismissed.

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<sup>5</sup> The purpose of this provision is not to provide BCB or a Provincial/Territorial Organization and/or Member Club with the possibility to try to influence whether a sanction is imposed and, if so, the duration or nature of the sanction. Instead, this provision is intended to provide BCB or a Provincial/Territorial Organization and/or Member Club with the possibility to provide the Panel with clarifying information when the parties have sought a particular sanction against an Organizational Participant, but they have misunderstood or misrepresented fundamental elements of the programming or membership structure (or other similar issues) and, if left unaddressed, could result in the Panel imposing a sanction that is unenforceable.



38. Within fourteen (14) days of the hearing's conclusion, the External Discipline Panel's written decision, with reasons, will be distributed to all parties by the Independent Safe Sport Officer (or designate), including to BCB.
39. In extraordinary circumstances, the External Discipline Panel may first issue a verbal or summary decision soon after the hearing's conclusion, with the full written decision to be issued before the end of the fourteen (14) day period.
40. The External Discipline Panel's decision will come into effect as of the date that it is rendered, unless decided otherwise by the External Discipline Panel. The External Discipline Panel's decision will apply automatically to BCB and all of its Provincial/Territorial Organization and/or Member Club (if and when applicable), [according to the terms of the *Reciprocation Policy*].
41. Unless the matter involves a Vulnerable Individual, once the appeal deadline in the *Appeal Policy* has expired, BCB or the Provincial/Territorial Organization and/or Member Club (as applicable) shall publish on their website the outcome of the case, the provision(s) of the relevant policies that have been violated, the name(s) of the Organizational Participant(s) involved and the sanction(s) imposed, if any. If the matter is appealed, the publication provisions in the *Appeal Policy* shall apply. Identifying information regarding Minors or Vulnerable Individuals will never be published.
42. If the External Discipline Panel dismisses the Reported complaint, the information referred to in the above section may only be published with the Respondent's consent. If the Respondent does not provide such consent, the information referred to in the section above will be kept confidential by the Parties, the Independent Safe Sport Officer, BCB and the Provincial/Territorial Organization and/or Member Club (including the Respondent's club, if and when applicable) and shall be retained and discarded in accordance with the relevant and applicable privacy legislation and BCB's policies. Failure to respect this provision may result in disciplinary action being taken pursuant to this *Discipline and Complaints Policy*.
43. Other individuals or organizations, including but not limited to, Sport Canada, Provincial/Territorial Organizations and/or Member Clubs, national/provincial/territorial organizations in other sports, sport clubs, etc., may be advised of any decisions rendered in accordance with this Policy.
44. Records of all decisions will be maintained by BCB in accordance with the *Privacy Policy*.
45. When the External Discipline Panel imposes a sanction, the decision shall include, at a minimum, the following details:
  - a) Jurisdiction;
  - b) Summary of the facts and relevant evidence;
  - c) The specific provision(s) of BCB's policies, bylaws, rules or regulations that have been breached;
  - d) Which Party is responsible for the costs of implementing any sanction;
  - e) Which organization is responsible for monitoring that the sanctioned individual respects the terms of the sanction;
  - f) Any reinstatement conditions that the sanctioned individual must satisfy (if any);
  - g) Which organization is responsible for ensuring that conditions (if any) have been satisfied; and,
  - h) Any other guidance that will assist the Parties to implement the External Discipline Panel's decision.

If necessary, a Party – or the organization that is responsible for implementing or monitoring a sanction – may seek clarifications from the Panel regarding the decision so that it can be implemented or monitored appropriately.

## SANCTIONS

46. When determining the appropriate sanction, the Internal Discipline Chair or External Discipline Panel, as applicable, will consider the following factors (where applicable):
- 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 misconduct or Maltreatment;
  - c) The respective ages of the individuals involved;
  - d) Whether the Respondent poses an ongoing and/or potential threat to the safety of others;
  - e) The Respondent's voluntary admission of the offense(s), acceptance of responsibility for the misconduct or Maltreatment, and/or cooperation in the investigative and/or disciplinary process of BCB;
  - 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 or aggravating circumstances.
47. Any sanction imposed must be proportionate and reasonable. However, progressive discipline is not required, and a single incident of Prohibited Behaviour/Maltreatment or other misconduct may justify elevated or combined sanctions.
48. The Internal Discipline Chair or External Discipline Panel, as applicable, may apply the following disciplinary sanctions, singularly or in combination:
- a) **Verbal or Written Warning** - A verbal reprimand or an official, written notice and formal admonition that an Organizational Participant has violated the *Code of Conduct and Ethics* and that more severe sanctions will result should the Organizational Participant be involved in other violations
  - b) **Education** - The requirement that an Organizational Participant undertake specified educational or similar remedial measures to address the violation(s) of the *Code of Conduct and Ethics* or the UCCMS
  - c) **Probation** - Should any further violations of the *Code of Conduct and Ethics* or the UCCMS 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
  - d) **Suspension** - Suspension, either for a set time or until further notice, from participation, in any capacity, in any program, activity, Event, or competition sponsored by, organized by, or under the auspices of BCB. A suspended Organizational Participant is eligible to return to participation, but reinstatement may be subject

to certain restrictions or contingent upon the Organizational Participant satisfying specific conditions noted at the time of suspension

- e) **Eligibility Restrictions** - Restrictions or prohibitions from some types of participation but allowing participation in other capacities under strict conditions
- f) **Permanent Ineligibility** - Ineligibility to participate in any capacity in any program, activity, Event, or competition sponsored by, organized by, or under the auspices of BCB
- g) **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

49. The Internal Discipline Chair or External Discipline Panel, as applicable, may apply the following presumptive sanctions which are presumed to be fair and appropriate for the listed Maltreatment:

- a) Sexual Maltreatment involving a Minor Complainant, or a Complainant who was a Minor at the time of the incidents complained of, shall carry a presumptive sanction of permanent ineligibility or expulsion from membership or registration
- 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 allegations of a crime against a person, if justified by the seriousness of the offence, the presumptive sanction shall be a period of suspension until a final determination is made by the applicable process.

50. An Organizational Participant's conviction for certain *Criminal Code* offenses involving harmful conduct shall carry a presumptive sanction of permanent ineligibility from participating with BCB. Such *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

51. Unless the External Discipline Panel decides otherwise, any disciplinary sanctions will begin immediately, notwithstanding an appeal.

52. Failure to comply with a sanction as determined by the External Discipline Panel will result in an automatic suspension until such time as compliance occurs.

### **OSIC SANCTION**

53. As a Program Signatory to the OSIC, BCB will ensure that any sanctions or measures imposed by the OSIC's Director of Sanctions and Outcomes ("DSO") will be implemented and respected within BCB's jurisdiction (including at the provincial, territorial and club level) once BCB receives appropriate notice of any sanction or measure from the OSIC.

### **APPEALS**

54. The decision of an Internal Discipline Chair or External Discipline Panel, as applicable, may be appealed in accordance with the *Appeal Policy*.

### **CONFIDENTIALITY**

55. The disciplinary process is confidential and involves only BCB, the Parties, the Independent Safe Sport Officer (and any designates), the Internal Discipline Chair, the External Discipline Panel, and any independent advisors to the External Discipline Panel.

56. Notwithstanding the above, BCB recognizes that it is required to notify Sport Canada of all reported complaints and reports of potential complaints.

57. 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, unless BCB is required to notify an organization such as an international federation, Sport Canada or other sport organization (i.e., where a Provisional Suspension or interim measures have been imposed and communication is required to ensure that they may be enforced), or notification is otherwise required by law.

58. Any failure to respect the confidentiality requirement may result in further sanctions or discipline by the Internal Discipline Chair or External Discipline Panel (as applicable).

### **TIMELINES**

59. 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 Independent Safe Sport Officer may direct that these timelines be revised.

### **STATISTICAL REPORTING**

60. BCB shall maintain a general statistical report of the activity that has been conducted pursuant to this *Discipline and Complaints Policy*. This report shall not include any information that is confidential under this Policy, or that has been ordered to be kept confidential by a Panel, but may include the number of complaints Reported to the Independent Safe Sport Officer, and statistics regarding the number of cases that were resolved through alternative dispute resolution, the Internal Discipline Chair process, and the External Discipline Chair process. Further, statistics shall be kept of the number of appeals filed pursuant to the *Appeal Policy* and whether the appeals were upheld, partially upheld or dismissed.

### **PRIVACY**

61. The collection, use and disclosure of any personal information pursuant to this Policy is subject to BCB's *Privacy Policy*.

62. BCB, its Provincial/Territorial Organizations and/or Member Clubs, or any of their delegates pursuant to this Policy (i.e., Independent Safe Sport Officer (and any designate), Internal Discipline Chair, External Discipline Panel), shall comply with BCB's *Privacy Policy* (or, in the case if a Provincial/Territorial Organization or Member Club, the applicable *Privacy Policy*) in the performance of their services under this Policy.

## Appendix A – Investigation Procedure

### **Determination**

1. When a complaint is submitted pursuant to the *Discipline and Complaints Policy* and is accepted by the Independent Safe Sport Officer, the Independent Safe Sport Officer will determine if the incident should be investigated.

### **Investigation**

2. The Independent Safe Sport Officer will appoint an Investigator. The Investigator must be an independent third-party skilled in investigating. The Investigator must not be in a conflict-of-interest situation and should have no connection to either party.
3. Federal and/or Provincial/Territorial legislation related to Workplace Harassment may apply to the investigation if Harassment was directed toward an employee in a Workplace. The Investigator should review workplace safety legislation, the organization's policies for human resources, and/or consult independent experts to determine whether legislation applies to the complaint.
4. The investigation may take any form as decided by the Investigator, guided by any applicable Federal and/or Provincial/Territorial legislation. The investigation may include:
  - a) Interviews with the Complainant
  - b) Witness interviews
  - c) Statement of facts (Complainant's perspective) prepared by Investigator, acknowledged by the Complainant and provided to the Respondent
  - d) Interviews with the Respondent
  - e) Statement of facts (Respondent's perspective) prepared by Investigator, acknowledged by the Respondent and provided to the Complainant

### **Investigator's Report**

5. Upon completion of their investigation, the Investigator shall prepare a report that should include a summary of evidence from the parties (including both statements of facts, if applicable) and recommendations from the Investigator of whether, on a balance of probabilities, a breach of the *Code of Conduct and Ethics* or the UCCMS occurred. The Investigator may also make non-binding recommendations regarding the appropriate next steps (i.e., mediation, disciplinary procedures, further review, or investigation).
6. The Investigator's Report will be provided to the Independent Safe Sport Officer who will disclose, at their discretion, all or part of it to BCB and the relevant Provincial/Territorial Organizations and/or Member Clubs (if applicable) and to External Discipline Panel. The Independent Safe Sport Officer may also disclose the Investigator's Report – or a redacted version to protect the identity of witnesses – to the parties, at their discretion, with any necessary redactions.
7. Should the Investigator find that there are possible instances of offence under the *Criminal Code*, the Investigator shall advise the Complainant and BCB or the Provincial/Territorial Organization and/or Member Club to refer the matter to police.
8. The Investigator must also inform BCB or the Provincial/Territorial Organization and/or Member Club (as applicable) of any findings of criminal activity. BCB or the Provincial/Territorial Organization and/or Member Club (as applicable)

may decide whether to report such findings to police but is required to inform police if there are findings related to the trafficking of prohibited substances or methods (as indicated in the version of the World Anti-Doping Agency's Prohibited List currently in force), any sexual crime involving Minors, fraud against BCB or any Provincial/Territorial Organization(s) and/or Member Club(s) (as applicable), or other offences where the lack of reporting would bring BCB or the Provincial/Territorial Organization and/or Member Club (as applicable) into disrepute.

### **Reprisal and Retaliation**

9. An Organizational Participant who submits a complaint to BCB or who gives evidence in an investigation may not be subject to reprisal or retaliation from any individual or group. Any such conduct may be subject to disciplinary proceedings pursuant to the *Discipline and Complaints Policy*.

### **False Allegations**

10. An Organizational Participant who submits allegations that the Investigator determines to be malicious, false, or for the purpose of retribution, retaliation or vengeance 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. BCB or any Provincial/Territorial Organization(s) and/or Member Club(s) (as applicable), or the Organizational Participant against whom the allegations were submitted, may act as the Complainant.

### **Confidentiality**

11. The Investigator will make reasonable efforts to preserve the anonymity of the Complainant, Respondent, and any other party. However, BCB and its Provincial/Territorial Organizations and Member Club recognize that maintaining full anonymity during an investigation may not be feasible.

### **Privacy**

12. The collection, use and disclosure of any personal information pursuant to this Procedure is subject to BCB's *Privacy Policy*.
13. The Investigator will comply with BCB's *Privacy Policy* (or, in the case of a Provincial/Territorial Organization and/or Member Club, the applicable *Privacy Policy*) in the performance of their services under this Procedure.

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Approved: January 2023