

## SPORT FOR LIFE SOCIETY POLICY

<b>POLICY TITLE: DISCIPLINE, COMPLAINTS, AND DISPUTE RESOLUTION</b>	
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### 1. POLICY STATEMENT

- 1.1. Any breaches of Sport for Life Society Policy, in particular those related to *'Code of Conduct'* and *'Human Resources Manual'* shall be handled using the following procedures.
- 1.2. Sport for Life Society will, through the use of Alternative Dispute Resolution, provide a mechanism to review and dispute decisions made by or on behalf of the Society.
- 1.3. To provide a mechanism for Sport for Life Society to effectively resolve disputes with its members, and avoid the harm of litigation.

### 2. DEFINITIONS

- 2.1. "Alternative Dispute Resolution (ADR)" – A series of processes that are alternatives to litigation. ADR processes include prevention, negotiations, mediation, facilitation and arbitration. The goals of an ADR system are to:
  - 2.1.1. Reduce time and costs for dispute resolution;
  - 2.1.2. Maintain or improve disputants' relationships;
  - 2.1.3. Ensure that the outcome of the system is workable, durable and implementable; and
  - 2.1.4. Develop a process that people can learn from.

The two most common forms of ADR are mediation and arbitration.

- 2.2. "Arbitration" – Is a dispute resolution process in which disputes are submitted to a neutral adjudicator through presentation of evidence and arguments. The arbitrator is empowered to render a binding decision.
- 2.3. "Arbitrator" – The role of the arbitrator will be to decide the dispute.
- 2.4. "Mediation" – Is a collaborative process in which two or more parties meet and attempt, with the assistance of a mediator, to resolve issues in dispute between them.
- 2.5. "Mediator" – Is a neutral and impartial facilitator with no decision-making power who assists parties in negotiating a mutually acceptable settlement of issues in dispute between them.

- 2.6. "Sport for Life Representative" – Any individual employed by, or engaged in activities on behalf of, Sport for Life Society including: employees, contractors, volunteers, researchers, Directors of the Board, members, committee members, and administrators.

### **3. PRINCIPLES**

- 3.1. Sport for Life Society believes in the right to access an independent alternative dispute resolution process.
- 3.2. Sport for Life Society believes an alternative dispute resolution process will strengthen the transparency and accountability of the organization.
- 3.3. Sport for Life Society believes that independent alternative dispute resolution processes are equitable to all participants.
- 3.4. Sport for Life Society believes that an effective alternative dispute resolution system offers a low cost mechanism that can lead to a quick and efficient resolution to disputes.

### **4. PROVISIONS**

#### **Preamble**

- 4.1. Sport for Life Society supports the principles of Alternative Dispute Resolution and is committed to techniques of mediation and arbitration as effective ways to resolve disputes with its members.
- 4.2. Accordingly, opportunities for mediation may be pursued at any point in a dispute where it is appropriate and where such a course of action would be mutually beneficial.
- 4.3. In the event a dispute persists after internal avenues of decision-making and appeals have been exhausted, opportunities for arbitration may be pursued. Where the continuing dispute relates to the appeal panel having made a decision which was outside its jurisdiction, having failed to follow proper procedures, or having made a decision which was influenced by bias, such a dispute may be dealt with through binding arbitration before an independent arbitrator who is acceptable to both parties in the dispute.
- 4.4. No action or other legal proceeding shall be commenced against Sport for Life Society in respect of a dispute, unless Sport for Life Society has failed to participate in arbitration in accordance with this policy.

#### **Mediation**

- 4.5. Mediation is the use by disputing parties of a neutral third party to facilitate their own resolution of their dispute. It works only when both parties agree to engage in the process and where there is some hope of a mediated solution.

Mediation only brings a dispute to an end if both parties, with the intervention and assistance of the mediator, are able to come to an agreement that resolves the dispute.

### **Arbitration**

- 4.6. Arbitration, on the other hand, employs a neutral third party to hear evidence and decide for the disputants how their conflict should be resolved. Arbitration tends to be more structured and formal than mediation. Unlike mediation, arbitration will bring finality to the dispute whether the parties agree or not; the arbitrator's decision is, and is meant to be final and binding on the parties to the dispute. Indeed, the decision of the arbitrator may not accord with the resolution suggested by either party but it will be final.

### **Neutrality**

- 4.7. In both, mediation and arbitration, the independence of the third party – whether one individual or a panel – is critical. Both methods also tend to be more successful when the mediator or arbitrator has expertise in the area being disputed.

### **SDRCC**

- 4.8. SDRCC (Sport Dispute Resolution Centre of Canada) offers national alternative dispute resolution programs and available to the Canadian sport community offering arbitration, mediation and education services, nationally accessible in both official languages and at a low cost for the parties.
- 4.9. Access to SDRCC programs and services is a guaranteed right for any member of, or any participant within, a national sport body for any dispute within the jurisdictions of those bodies.
- 4.10. The Government of Canada includes in its contribution agreements a reference to the Centre and makes it mandatory to all Multisport Service Sports Organizations receiving federal funding to refer all disputes with their members to the Centre once internal alternative dispute mechanisms have been exhausted.
- 4.11. The SDRCC can hear cases on the following national level issues:
- National team selection for an international event
  - Athlete Assistance Program funding
  - Harassment
  - Discipline
  - Eligibility
  - Interpretation of a contract
  - Doping
  - Field of play decision

- Any decision handed down by a national sport organization or a multisport organization or one of its representatives that affects one of its members

Note: Disputes at the international, provincial, municipal and local levels fall outside the jurisdiction of the Dispute Resolution Secretariat.

## **5. PROCEDURES**

### **5.1. REPORTING A COMPLAINT**

- 5.1.1. Any client or Sport for Life representative may report any complaint to the Sport for Life Society office. Such a complaint must be in writing and signed, and must be filed within fourteen (14) days of the alleged incident. Anonymous complaints may be accepted at the sole discretion of Sport for Life Society.
- 5.1.2. Clients or Sport for Life representatives may only report complaints directed at Sport for Life Society employees or volunteers as defined in the Definitions Section.
- 5.1.3. A Complainant wishing to file a complaint outside of the fourteen (14) day period must provide a written statement giving reasons for an exemption from 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 CEO or Designate of the Sport for Life Society. This decision may not be appealed.

### **5.2. DISPUTE RESOLUTION AND MEDIATION**

- 5.2.1. Before any complaint proceeds to the formal stage, the dispute will first be referred to Sport for Life Society's Chief Executive Officer (or designate) for review, with the objective of resolving the dispute via alternate dispute resolution (ADR) and/or mediation in accordance to the procedures noted below. In the event that the CEO is involved in the complaint, the Board Chair will take over the roles normally fulfilled by the CEO.
- 5.2.2. Sport for Life Society encourages all Employees, Volunteers and Clients to communicate openly, collaborate, and use problem-solving and negotiation techniques to resolve their differences. Sport for Life Society believes that negotiated settlements are usually preferable to outcomes resolved through other dispute resolution techniques. Negotiated resolutions to disputes with and among Employees, Volunteers and Clients are strongly encouraged.
- 5.2.3. Disputes may be referred to the alternative dispute resolution services of the SDRCC once the internal process has been completed.

### **5.3. CASE MANAGER**

Should the review by Sport for Life Society's Chief Executive Officer (or designate) not resolve the dispute, Sport for Life Society will appoint a Case Manager from a list of approved candidates to oversee management and administration of complaints submitted in accordance with this Policy and such appointment is not appealable. The Case Manager is not required to be associated with Canadian Sport for Life Society. The Case Manager has an overall responsibility to ensure procedural fairness is respected at all times in this Policy, and to implement this Policy in a timely manner. More specifically, the Case Manager has a responsibility to:

- i. Determine whether the complaint is frivolous or vexatious and within the jurisdiction of this Policy. If the Case Manager determines the complaint is frivolous or vexatious or outside the jurisdiction of this Policy, the complaint will be dismissed immediately. The Case Manager's decision to accept or dismiss the complaint may not be appealed;
- ii. Determine if the complaint is a minor or major infraction;
- iii. Appoint the Panel, if necessary, in accordance with this Policy;
- iv. Coordinate all administrative aspects of the complaint;
- v. Provide administrative assistance and logistical support to the Panel as required; and
- vi. Provide any other service or support that may be necessary to ensure a fair and timely proceeding.

The Case Manager will inform the Parties if the incident is to be dealt with as a minor infraction or major infraction and the matter will be dealt with according to the applicable section relating to the minor or major infraction.

This Policy does not prevent an appropriate person having authority from taking immediate, informal or corrective action in response to behaviour that constitutes either a minor or major infraction. Further sanctions may be applied in accordance with the procedures set out in this Policy.

#### 5.4. MINOR INFRACTIONS

5.4.1. Minor infractions are **single incidents** of failing to achieve expected standards of conduct that generally do not result in harm to others or to Sport for Life Society. Examples of minor infractions can include, but are not limited to, a single incident of:

- i. Disrespectful, offensive, abusive, racist, or sexist comments or behavior;
- ii. Disrespectful conduct such as outbursts of anger or argument;
- iii. Conduct contrary to the values of Sport for Life Society;
- iv. Being late for, or absent from, Sport for Life Society events and activities at which attendance is expected or required;
- v. Intoxication due to drugs or alcohol in the workplace or at events as a Sport for Life Representative;
- vi. Non-compliance with Sport for Life Society's policies, procedures, rules, or regulations; and
- vii. Minor violations of Sport for Life Society's *Code of Conduct*.

- 5.4.2. All disciplinary situations involving minor infractions will be dealt with by the appropriate person who has authority over both the situation and the individual involved. The person in authority can be, but is not restricted to being, Sport for Life representative, organizers, or Sport for Life Society decision-makers.
- 5.4.3. Provided that the Sport for Life representative being disciplined is told the nature of the infraction and has an opportunity to provide information concerning the incident, procedures for dealing with minor infractions will be informal (compared to the procedures for major infractions) and will be determined at the discretion of the person responsible for discipline of such infractions (as noted above).
- 5.4.4. Penalties for minor infractions, which may be applied singularly or in combination, include the following:
- i. Verbal or written reprimand from Sport for Life Society to one of the Parties;
  - ii. Verbal or written apology from one Party to the other Party;
  - iii. Service or other voluntary contribution to Sport for Life Society;
  - iv. Restriction of activities;
  - v. Fines; and
  - vi. Any other sanction considered appropriate for the offense.
- 5.4.5. Minor infractions that result in discipline will be recorded and records will be maintained by Sport for Life Society. Repeat minor infractions may result in further such incidents being considered a major infraction.
- 5.5. MAJOR INFRACTIONS
- 5.5.1. Major infractions are instances of failing to achieve the expected standards of conduct that result, or have the potential to result, in harm to other persons or to Sport for Life Society. Examples of major infractions include, but are not limited to:
- i. Repeated minor infractions;
  - ii. Any incident of hazing;
  - iii. Incidents of physical abuse;
  - iv. Behaviour that constitutes harassment, sexual harassment, or sexual misconduct;
  - v. Pranks, jokes, or other activities that endanger the safety of others;
  - vi. Conduct that intentionally interferes with a competition or with any athlete's preparation for a competition;
  - vii. Conduct that intentionally damages Sport for Life Society's image, credibility, or reputation;
  - viii. Disregard for Sport for Life Society's bylaws, policies, rules, and regulations;

- ix. Major or repeated violations of Sport for Life Society's Code of Conduct;
- x. Intentionally damaging Sport for Life Society property or improperly handling Sport for Life Society monies;
- xi. Abusive use of alcohol, any use or possession of alcohol by minors, or use or possession of illicit drugs and narcotics; and
- xii. Any possession or use of banned performance enhancing drugs or methods.

5.5.2. Major infractions will be handled using the Procedure for Major Infraction Hearing set out in this Policy, except where a dispute resolution procedure contained within a contract, employee agreement, or other formal written agreement takes precedence.

## 5.6. PROCEDURE FOR MAJOR INFRACTION HEARING

5.6.1. The Case Manager shall notify the Parties that the complaint is potentially legitimate and the incident shall be dealt with as a major infraction. The Case Manager shall then decide the format under which the complaint will be heard. This decision is at the sole discretion of the Case Manager and may not be appealed.

5.6.2. The Case Manager will appoint a Discipline Panel, which shall consist of a single Adjudicator, to hear the complaint. In extraordinary circumstances, and at the discretion of the Case Manager, a Panel of three persons may be appointed to hear the complaint. In this event, the Case Manager will appoint one of the Panel's members to serve as the Chair.

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

5.6.4. If a Party chooses not to participate in the hearing, the hearing will proceed in any event.

5.6.5. The Case Manager will determine the format of the hearing, which may involve an oral in-person hearing, an oral hearing by telephone, 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 Case Manager deems appropriate in the circumstances, provided that:

- i. The Parties will be given appropriate notice of the day, time, and place of the hearing;
- ii. 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;

- iii. The Parties may be accompanied by a representative, advisor, or legal counsel at their own expense;
- iv. The Panel may request that any other individual participate and give evidence at the hearing;
- v. The 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; and
- vi. The decision will be by a majority vote of Panel members.

5.6.6. If a decision may affect another party to the extent that the other party would have recourse to a complaint or an appeal in their own right, that party will become a Party to the complaint in question and will be bound by the decision.

5.6.7. In fulfilling its duties, the Panel may obtain independent advice.

## 5.7. DECISION

5.7.1. After hearing the matter, the Panel will determine whether an infraction has occurred and, if so, the sanctions to be imposed. Within fourteen (14) days of the hearing's conclusion, the Panel's written decision, with reasons, will be distributed to all Parties, the Case Manager, and Sport for Life Society.

In extraordinary circumstances, the 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. The decision will be considered a matter of public record unless decided otherwise by the Panel.

## 5.8. SANCTIONS

- 5.8.1. The Panel may apply the following disciplinary sanctions, singularly or in combination, for major infractions:
- i. Verbal or written reprimand from Sport for Life Society to one of the Parties;
  - ii. Verbal or written apology from one Party to the other Party;
  - iii. Service or other voluntary contribution to Sport for Life Society;
  - iv. Restriction of activities;
  - v. Expulsion or dismissal from Sport for Life Society;
  - vi. Payment of the cost of repairs for property damage;
  - vii. Any other sanction in accordance with Sport for Life Society's Human Resources Manual; and
  - viii. Any other sanction considered appropriate for the offense.



5.8.2. Unless the Panel decides otherwise, any disciplinary sanctions will begin immediately. Failure to comply with a sanction as determined by the Panel will result in automatic suspension until such time as compliance occurs.

5.8.3. Major infractions that result in discipline will be recorded and records will be maintained by Sport for Life Society.

#### 5.9. SUSPENSION PENDING A HEARING

5.9.1. Sport for Life Society may determine that an alleged incident is of such seriousness as to warrant suspension of an Individual pending a hearing and a decision of the Panel and/or completion of the criminal process.

#### 5.10. CRIMINAL CONVICTIONS

5.10.1. Sport for Life representative conviction for any of the following *Criminal Code* offenses will be deemed a major infraction under this Policy and will result in dismissal from Sport for Life Society upon the sole discretion of Sport for Life Society:

- i. Any child pornography offences;
- ii. Any sexual offences;
- iii. Any offence of physical or psychological violence;
- iv. Any offence of assault; and
- v. Any offence involving trafficking of illegal drugs.

#### 5.11. CONFIDENTIALITY

5.11.1. The discipline and complaints process is confidential and involves only the Parties, the Case 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 relating to the discipline or complaint to any person not involved in the proceedings.

#### 5.12. TIMELINES

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 Panel may direct that these timelines be revised.

Upon receipt of the complaint, and throughout the process, the complainant will receive regular (every 2-4 weeks) communications back from the organization on the status of their complaint.

#### 5.13. RECORDS AND DISTRIBUTION OF DECISIONS

Minor and major infractions that result in discipline shall be recorded and maintained by Sport for Life Society.

Decisions are matters of public interest and shall be publicly available with the names of the individuals redacted. Names of persons disciplined may be disclosed to the extent necessary to give effect to any sanction imposed.

#### 5.14. REFERRAL

Once a decision is received from the Panel, the Sport for Life Society Discipline, Complaints & Dispute Resolution internal process will have been completed. The next step would be to refer the dispute to the alternative dispute resolutions services of the SRDCC. This is a referral offers an external process to review the issue and make further attempts for a resolution or decision.