

SPORT FOR LIFE SOCIETY PROCEDURE

TITLE: DISCIPLINE AND COMPLAINTS PROCEDURE	
Date Created: December 1, 2020	Number of Pages: 10

*Note: In the following information asterisks * indicate a definition or section adapted from the UCCMS*

Definitions

1. The following definitions have these meanings in this Procedure:
 - a) **Case Manager** – An independent individual (or individuals) appointed by the Sport for Life Society to receive and administer complaints
 - b) **Clients** – Users of the Sport for Life Society’s services, including NSOs, PSOs, MSOs, and any person or entity retaining Sport for Life Society expertise
 - c) ***Complainant** – A Representative 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*
 - d) **Maltreatment** – As defined in the *Code of Conduct and Ethics*
 - e) **Parties** – the Complainant and Respondent
 - f) ***Power Imbalance** – A Power Imbalance may exist where, based on the totality of the circumstances, a Representative has supervisory, evaluative, a duty of care, or other authority over another Representative. Maltreatment occurs when this power is misused. A Power Imbalance may exist, but is not presumed, where an intimate relationship existed before the working relationship commenced (e.g., a relationship between two spouses or life partners, or a sexual relationship between consenting adults that preceded the working relationship)
 - g) **Representative** – Any individual employed by, or engaged in activities on behalf of, the Sport for Life Society including: employees, contractors, consultants, Learning Facilitators, the Board of Directors, volunteers, researchers, and administrators
 - h) ***Respondent** – The Representative responding to a complaint

Purpose

2. Representatives are expected to fulfill certain responsibilities and obligations including, but not limited to, complying with the policies, By-laws, rules and regulations of the Sport for Life Society. Non-compliance may result in the imposition of sanctions pursuant to this Procedure.

Principles

3. *The following principles guide the findings and determinations under this Procedure:
 - a) Any form of Maltreatment violates the integrity of Representatives and Clients and undermines the values of Canadian sport.
 - b) Sanctions imposed will reflect the seriousness of the Maltreatment and the harm to those affected and the values of Canadian sport.
 - c) This Procedure and its processes will be:
 - i. Harmonized (applied to all Representatives across Canada)
 - ii. Fair (procedural and substantive due process for all Representatives)
 - iii. Comprehensive (all forms of Maltreatment addressed, and potential sanctions)

- described)
- iv. Expert-informed (the determination of Maltreatment and impositions of sanctions will be informed by those with expertise in such areas as sport, child abuse, and the law)
 - v. Trauma-informed (acknowledgement of the physical, psychological and emotional effects of trauma, and avoidance of re-traumatization)
 - vi. Evidence-driven (evidence of Maltreatment required, where evidence or “proof” of maltreatment may include the words/report of a complainant if found credible by the relevant authorities. Depending upon the nature of the Maltreatment, physical evidence, corroboration or third-party verification may not be needed)
 - vii. Independent administration (free from all conflicts of interest)

Application of this Procedure

4. This Procedure applies to matters that may arise during the business, activities, and events of the Sport for Life Society.
5. This Procedure also applies to Representatives’ conduct outside of the business, activities, and events of the Sport for Life Society when such conduct adversely affects the relationships (or the work environment) of the Sport for Life Society, is detrimental to the image and reputation of the Sport for Life Society, or upon the acceptance of the Sport for Life Society. Accordingly, applicability of this Procedure will be determined by the Sport for Life Society upon its sole discretion.
6. *This Procedure applies to alleged breaches of the *Code of Conduct and Ethics* by Representatives who are no longer involved with the organization where any claim regarding a potential breach of the *Code of Conduct and Ethics* occurred when the Representative was involved with the organization. In addition, this Procedure will apply to breaches of the *Code of Conduct and Ethics* that occurred when the Representatives involved interacted due to their mutual involvement with the organization or, if the breach occurred outside of the work environment, if the breach has a serious and detrimental impact on the Representative(s).
7. In addition to being subject to disciplinary action pursuant to these *Discipline and Complaints Procedure*, an employee of the Sport for Life Society 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.

Reporting a Complaint

8. Any person may report a complaint to the Sport for Life Society or to the Sport for Life Society’s Case Manager (when identified). If a Case Manager has not been previously identified, the Sport for Life Society will appoint an independent Case Manager and direct that person to receive the complaint.
9. The Sport for Life Society’s Case Manager will be an independent third-party and may be contacted here:

Brian Ward
W&W Dispute Resolution Services Inc.
safesport_wdrs@primus.ca
10. Complaints or incident reports should be made in writing and the person making the complaint may contact the Sport for Life Society’s Case Manager for direction. The Case Manager may accept any

report, in writing or not, at their sole discretion.

11. At its discretion, the Sport for Life Society may act as the Complainant and initiate the complaint process under the terms of this Procedure. In such cases, the Sport for Life Society will identify an individual to represent the organization.

Case Manager Responsibilities

12. Upon receipt of a complaint, the Case Manager has a responsibility to:
 - a) Determine whether the complaint is frivolous and/or within the jurisdiction of this Procedure and, if so, the complaint will be dismissed immediately and the Case Manager's decision to dismiss the complaint may not be appealed;
 - b) Propose the use of alternative dispute resolution techniques;
 - c) Determine if the alleged incident should be investigated pursuant to **Appendix A – Investigation Procedure**; and/or
 - d) Choose which process (Process #1 or Process #2) should be followed, and may use the following examples as a general guideline:

Process #1 - the Complainant alleges the following incidents:

- a) Disrespectful, abusive, racist, or sexist comments or behaviour
- b) Disrespectful conduct
- c) Minor incidents of violence (e.g., tripping, pushing, elbowing)
- d) Conduct contrary to the values of the Sport for Life Society
- e) Non-compliance with the organization's policies, procedures, rules, or regulations
- f) Minor violations of the *Code of Conduct and Ethics*

Process #2 - the Complainant alleges the following incidents:

- a) Repeated minor incidents
- b) Any incident of hazing
- c) Behaviour that constitutes harassment, sexual harassment, or sexual misconduct
- d) Major incidents of violence (e.g., fighting, attacking, sucker punching)
- e) Pranks, jokes, or other activities that endanger the safety of others
- f) Conduct that intentionally damages the organization's image, credibility, or reputation
- g) Consistent disregard for the by-laws, policies, rules, and regulations
- h) Major or repeated violations of the *Code of Conduct and Ethics*
- i) Intentionally damaging the organization's property or improperly handling the organization's monies
- j) Abusive use of alcohol or use or possession of illicit drugs and narcotics
- k) A conviction for any *Criminal Code* offense

PROCESS #1: Handled by Discipline Chair

Discipline Chair

13. Following the determination that the complaint or incident should be handled under Process #1, the Case Manager will appoint a Discipline Chair who may:
 - a) Recommend alternative dispute resolution techniques per the *Dispute Resolution Procedure*;
 - b) Make a decision;
 - c) Ask the Complainant and the Respondent for either written or oral submissions regarding the complaint or incident; or

- d) Convene the parties to a meeting, either in person or by way of video or teleconference in order to ask the parties questions.
14. Thereafter, the Discipline Chair shall determine if a breach occurred and, if so, if one or more sanctions should be applied (see: **Sanctions**).
15. The Discipline Chair will inform the Parties of the decision, which will take effect immediately.
16. Records of all sanctions will be maintained by the Sport for Life Society.

Request for Reconsideration

17. If there is no sanction, the Complainant may contest the non-sanction by informing the Discipline Chair, within five (5) days of receiving the decision, that the Complainant is not satisfied with the decision. The initial complaint or incident will then be handled under Process #2 of this Procedure.
18. If there is a sanction, the sanction may not be appealed until the completion of a Request for Reconsideration. However, the Respondent may contest the sanction by submitting a Request for Reconsideration within five (5) days of receiving the sanction. In the Request for Reconsideration, the Respondent must indicate:
 - a) Why the sanction is inappropriate;
 - b) Summary of evidence that the Respondent will provide to support the Respondent's position; and
 - c) What penalty or sanction (if any) would be appropriate.
19. Upon receiving a request for reconsideration, the Discipline Chair may decide to accept or reject the Respondent's suggestion for an appropriate sanction.
20. Should the Discipline Chair accept the Respondent's suggestion for an appropriate sanction, that sanction will take effect immediately.
21. Should the Discipline Chair not accept the Respondent's suggestion for an appropriate sanction, the initial complaint or incident will be handled under Process #2 of this Procedure.

PROCESS #2: Handled by Case Manager

Case Manager

22. Following the determination that the complaint or incident should be handled under Process #2, the Case Manager has a responsibility to:
 - a) Propose the use of alternative dispute resolution techniques per the *Dispute Resolution Procedure*
 - b) Appoint the Discipline Panel, if necessary
 - c) Coordinate all administrative aspects and set timelines
 - d) Provide administrative assistance and logistical support to the Discipline Panel as required
 - e) Provide any other service or support that may be necessary to ensure a fair and timely proceeding
23. The Case Manager will establish and adhere to timelines that ensure procedural fairness and that the matter is heard in a timely fashion.

24. The Case Manager may propose using alternative dispute resolution with the objective of resolving the dispute. If applicable, and if the dispute is not resolved, or if the parties refuse to attempt alternative dispute resolution (such as mediation or a negotiated settlement) the Case Manager will appoint a Discipline Panel, which shall consist of a single Arbitrator, to hear the complaint. At the discretion of the Case Manager, a Discipline Panel of three people may be appointed to hear the complaint. In this event, the Case Manager will appoint one of the Discipline Panel's members to serve as the Chair.
25. The Case 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 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. The hearing will be governed by the procedures that the Case 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 Case Manager, in advance of the hearing
 - c) The Parties may engage a representative, advisor, or legal counsel at their own expense
 - 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
26. 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.
27. The hearing will proceed in any event, even if a Party chooses not to participate in the hearing.
28. In fulfilling its duties, the Discipline Panel may obtain independent advice.

Decision

29. After hearing the matter, the Discipline 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 Discipline Panel's written decision, with reasons, will be distributed to all parties, the Case Manager, and to the Sport for Life Society. In extraordinary circumstances, the 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. The decision will be considered a matter of public record unless decided otherwise by the Discipline Panel.

Sanctions

30. *Prior to determining sanctions, the Discipline Chair or Discipline Panel, as applicable, 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 and/or 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 Sport for Life Society;
 - f) Real or perceived impact of the incident on the Complainant 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 involvement 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 single factor, if severe enough, may be sufficient to justify the sanction(s) imposed. A combination of several factors may justify elevated or combined sanctions.
32. *The Discipline Chair or 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 a Representative has violated the *Code of Conduct and Ethics* and that more severe sanctions will result should the Representative be involved in other violations
 - b) **Education** - The requirement that a Representative undertake specified educational or similar remedial measures to address the violation(s) of the *Code of Conduct and Ethics*
 - c) **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. This sanction can also include loss of privileges or other conditions, restrictions, or requirements for a specified period of time
 - d) **Suspension** - Suspension, either for a set time or until further notice, from involvement, in any capacity, in any program, activity, or event sponsored by, organized by, or under the auspices of the Sport for Life Society. A suspended Representative is eligible to return to involvement, but reinstatement may be subject to certain restrictions or contingent upon the Representative satisfying specific conditions noted at the time of suspension
 - e) **Eligibility Restrictions** - Restrictions or prohibitions from some types of involvement but allowing involvement in other capacities under strict conditions
 - f) **Permanent Ineligibility** - Permanent ineligibility to participate, in any sport, in any capacity, in any program, activity, event, or competition sponsored by, organized by, or under the auspices of the Sport for Life Society and/or any sport organization subject to the UCCMS
 - 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
33. *The Discipline Chair or 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, 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.
 - b) While a Respondent has pending charges or dispositions in violation of the criminal law, the presumptive sanction shall be a period of suspension
34. A Representative's conviction for a *Criminal Code* offense shall carry a presumptive sanction of permanent ineligibility from participating with the Sport for Life Society. *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. Records of all decisions will be maintained by the Sport for Life Society.

Interim Measures Pending a Hearing

37. The Sport for Life Society may determine that an alleged incident is of such seriousness as to warrant interim measures against a Representative pending completion of an investigation, criminal process, the hearing, or a decision of the Discipline Panel. Interim measures may take many forms including but not limited to:
- a) The imposition of conditions upon the continued participation of the Representative in the activities or work of Sport for Life Society, such as but not limited to:
 - i. work activity limited to administrative duties
 - ii. to complete duties at home
 - iii. work with different Clients
 - iv. perform duties under direct supervision at all times
 - b) Suspension of the Respondent from participation in the activities or work of Sport for Life Society, with or without pay, or under such other terms as are seen to be appropriate.
 - c) Security arrangements

Confidentiality

38. The discipline and complaints process is confidential and involves only the Sport for Life Society, the parties, the Case Manager, the Discipline Chair, the Discipline Panel, 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.
39. Any failure to respect the aforementioned confidentiality requirement may result in further sanctions or discipline by the Discipline Chair or Discipline Panel (as applicable).

Timelines

40. If the circumstances of the complaint are such that adhering to the timelines outlined by this Procedure will not allow a timely resolution to the complaint, the Case Manager may direct that these timelines be revised.

Records and Distribution of Decisions

41. Other individuals or organizations, including but not limited to, national sport organizations, Provincial/Territorial sport organizations, sport clubs, etc., may be advised of any decisions rendered in accordance with this Procedure.

42. *The Sport for Life Society recognizes that a publicly-available searchable database or registry of Respondents who have been sanctioned, or whose eligibility to participate in sport has in some way been restricted, may be maintained and may be subject to provisions in the UCCMS.

Appendix A – Investigation Procedure

Determination

1. When a complaint is submitted pursuant to the *Discipline and Complaints Procedure*, the Case Manager will determine if the incident should be investigated.

Investigation

2. The Case Manager 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 a worker 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* occurred.
6. The Investigator's Report will be provided to the Case Manager who will disclose it (or a summary), at their discretion, to the Sport for Life Society and/or to the parties.
7. Should the Investigator 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 Sport for Life Society to refer the matter to police.
8. The Investigator must also inform the Sport for Life Society of any findings of criminal activity. The Sport for Life Society 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 the Sport for Life Society, or other offences where the lack of reporting would bring the Sport for Life Society into disrepute.

Reprisal and Retaliation

9. *A Representative who submits a complaint to the Sport for Life Society or who gives evidence in an investigation may not be subject to reprisal or retaliation from any individual or group. Any such conduct may constitute Maltreatment and will be subject to disciplinary proceedings pursuant to the *Discipline and Complaints Procedure*.

False Allegations

10. A Representative 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 Procedure* and may be required to pay for the costs of any investigation that comes to this conclusion. The Sport for Life Society or the Representative against whom the allegations were submitted, may act as the Complainant.

Confidentiality

11. The Investigator will make every effort to preserve the confidentiality of the complainant, respondent, and any other party. However, the Sport for Life Society recognizes that maintaining anonymity of any party may be difficult for the Investigator during the investigation.