

MOTORCYCLING AUSTRALIA POLICY

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| Title: | Complaints Resolution Policy |
| Commencement Date: | 11 August 2020 |
| Next Review Date: | August 2022 |
| Responsible Persons: | Motorcycling Australia Board |
| Authority: | This Policy is made under clause 15 of the MA Constitution. It is binding on all MA Members and volunteers, and all employees of MA and its State Controlling Bodies, and is to be interpreted in accordance with the MA Constitution. |

1. INTRODUCTION

1.1 Background

1.1.1 Any and all rules, policies and regulations previously enacted by Motorcycling Australia Limited (**MA**) concerning the handling of Complaints are withdrawn to the extent they deal with the handling of Complaints, and replaced by this Complaints Resolution Policy (**Policy**), subject to **clause 1.1.2(a)**.

1.1.2 Where a Complaint:

- (a) is submitted prior to the Commencement Date, it must be dealt with under the policies and processes of MA existing at the time;
- (b) relates to allegations that occurred prior to the Commencement Date, but is submitted after the Commencement Date, it will be dealt with under this Policy; or
- (c) is being dealt with at the time of an amendment to this Policy, it will continue to be processed under the version of this Policy in force at the time MA receives the Complaint.

1.2 Definitions and Interpretation

1.2.1 **Affiliate** means any incorporated association or company that has been accepted as an affiliate of MA or of an SCB, including (as applicable) clubs, districts, regions and zones.

1.2.2 **Complainant** means the person(s) or entity(ies) who lodge(s) a Complaint under this Policy.

1.2.3 **Complaint** means a complaint as defined in **clause 1.3**.

1.2.4 **Complaint Form** means the complaint form in **Schedule 1**.

- 1.2.5 **Complaints Manager** means the person appointed by MA to manage Complaints under this Policy, or their delegate. The Complaints Manager must not be the same person as the Decision Maker for the relevant Complaint.
- 1.2.6 **Constitution** means the MA Constitution.
- 1.2.7 **Decision Maker** means the person appointed by MA to make certain decisions in relation to the resolution of Complaints under this Policy, or their delegate. The Decision Maker must not be the same person as the Complaints Manager for the relevant Complaint.
- 1.2.8 **Disciplinary Action** means disciplinary action brought against a Member by MA or by another Member (including, for example, an official exercising authority delegated to them, or an SCB) under the Constitution, any Eligible Policy, or other rules of MA recognising this Policy, alleging the Member has breached the Constitution or one or more of the rules, regulations, policies and/or directions of MA.
- 1.2.9 **Eligible Policy** means all by-laws, rules, regulations, policies and procedures of MA except:
- (a) those outlined in **Schedule 5**; and
 - (b) MA's anti-doping policy.
- 1.2.10 **Mediation** means the mediation of a Complaint under the Process in **clause 4.2**.
- 1.2.11 **Member** has the meaning given by the Constitution.
- 1.2.12 **NST** means the National Sports Tribunal established under the NST Legislation.
- 1.2.13 **NST Eligible Matter** means a Complaint that alleges a breach of an Eligible Policy that, for Mediation, or referral to the NST, or an appeal to the NST (as the case may be), is within the NST's jurisdiction as prescribed in **Schedule 6**.
- 1.2.14 **NST Legislation** means and includes the National Sports Tribunal Act 2019 (Cth) (NST Act), National Sports Tribunal Rule 2020 (Cth), National Sports Tribunal (Practice and Procedure) Determination 2020 (Cth) and National Sports Tribunal Act 2019 - Principles for Allocating a Member to a Dispute 2020.
- 1.2.15 **Personal Grievance** means any form of grievance between two or more people (including individuals and body corporates) that does not concern or allege a breach of an Eligible Policy.
- 1.2.16 **Process** means the chosen process for resolving a Complaint under this Policy, with each option outlined in **clause 4**.
- 1.2.17 **Protected Disclosure** means, where MA is a "regulated entity"¹ under the whistleblower laws² in the *Corporations Act 2001 (Cth)*, a disclosure of information to MA that qualifies for protection under those laws³.
- 1.2.18 **Respondent** means the person(s) or entity(ies) who is the subject of a Complaint.

¹ Refer to section 1317AAB of the [Corporations Act 2001](#) (Cth).

² As above, Part 9.4AAA.

³ As above, s 1317AA.

- 1.2.19 **Sanction** means a sanction imposed on a Respondent under **clause 4.8**.
- 1.2.20 **SCB** means a state controlling body affiliated to and recognised by MA as a Member and its delegate within that SCB's state or territory borders.
- 1.2.21 **Sport** means the sport of motorcycling.
- 1.2.22 **Tribunal** means the tribunal to which the Complaint is referred for determination under the Process, being either the NST or MA Internal Tribunal as provided in this Policy.
- 1.2.23 Headings are for convenience only and do not affect interpretation and unless the context indicates a contrary intention:
- (a) "includes" in any form is not a word of limitation;
 - (b) a reference to "month" is to a calendar month; and
 - (c) a reference to "\$" or "dollar" is to Australian currency.

1.3 What is a Complaint?

1.3.1 A Complaint includes both:

- (a) a complaint lodged with MA, using the Complaint Form, alleging that a Member has breached an Eligible Policy; and
- (b) Disciplinary Action commenced against a Member.

1.3.2 A Complaint does not include allegations or information:

- (a) that constitutes a Protected Disclosure;
- (b) to the extent that it is or involves a Personal Grievance;
- (c) that is not made in good faith or is mischievous, vexatious or knowingly untrue, as determined by the Complaints Manager in accordance with **clause 3.2**;
- (d) where the respondent is not a Member and/or MA has no legal jurisdiction over the Respondent; or
- (e) that does not refer to a breach of an Eligible Policy.

1.4 Requirements for SCBs and Affiliates

- 1.4.1 SCBs and other Affiliates must adopt and implement this Policy (with the necessary incidental amendments) as their complaints management policy for Complaints arising under any Eligible Policy.

1.5 Standard of Proof

- 1.5.1 The standard of proof that applies to decisions made by the Decision Maker (Investigation & Decision) or a Tribunal under this Policy is "balance of probabilities".

- 1.5.2 For a Decision Maker or Tribunal to find something has been proven on the balance of probabilities, they must be satisfied that on the evidence put before them the alleged fact or matter is more probable than not. In reaching such conclusion, the Decision Maker or Tribunal must consider all relevant factors including the nature and seriousness of the allegations and the impact of the potential sanctions that may be imposed if the allegations are proven.
- 1.5.3 For the avoidance of doubt, the standard of proof requires greater certainty for a more serious allegation compared with a less serious allegation.

1.6 Confidentiality

1.6.1 All Complaints, including any information disclosed in relation or in response to a Complaint, must be kept confidential other than for an Approved Purpose.

1.6.2 **Approved Purpose** means disclosures by MA to:

- (a) the parties to the Complaint (Respondent and Complainant) to ensure a fair process;
- (b) third parties within or outside MA to facilitate the proper handling of the Complaint under this Policy;
- (c) external agencies (e.g. the Police, a child welfare department, State/Territory fair trading authority, the Australian Securities & Investments Commission) so they can deal with the alleged conduct the subject of a Complaint;
- (d) Members to alert them to the identity of, and information directly concerning any Sanction imposed on, the Respondent; and
- (e) as required by law or to any court or the NST.

1.7 Sending and Receipt of Documents

1.7.1 Any notice or other material required to be provided by one party to one or more other parties under this Policy (**document**) may be given by:

- (a) sending it to an email or other electronic address nominated by the recipient party;
or
- (b) post or hand delivering it to that party's registered office.

1.7.2 A document is taken to have been received under this Policy if sent by email or other electronic transmission, on the date of the document's transmission, or if hand delivered, on the date of delivery or if sent by post, 3 business days after it was sent.

2. MAKING A COMPLAINT

2.1 Submitting a Complaint

2.1.1 A person may submit a Complaint by completing the Complaint Form and submitting it to MA by the process advised by MA from time to time and/or to the following email address mail@ma.org.au.

- 2.1.2 A Complaint Form must be completed properly and in full at the time of submission, failing which MA is not obliged to accept and/or process the Complaint under this Policy.
- 2.1.3 MA is not obliged to accept and/or deal with a Complaint unless or until a Complaint Form is submitted to it.

2.2 Proper Recipient

- 2.2.1 The Complaints Manager may, upon receipt of a Complaint, refer it to the appropriate level within the Sport in accordance with **clause 3.2.3**.
- 2.2.2 For the purposes of **clause 2.2.1**, allegations the subject of a Complaint occur at the:
 - (a) MA level where they relate to behaviour, an incident or circumstances that occurred at or involve individuals operating at MA level;
 - (b) SCB level where they relate to behaviour, an incident or circumstances that occurred at or involve individuals operating at SCB level; or
 - (c) Affiliate level where they relate to behaviour, an incident or circumstances that occurred at or involve individuals operating at Affiliate level.
- 2.2.3 Complaints shall be dealt with by the level of the Sport at which it is alleged to have occurred unless referred by an Affiliate to the relevant SCB, or by an SCB to MA, and the Complaint is accepted by that level.

3. RECEIPT AND INITIAL ASSESSMENT

3.1 Initial Threshold Questions

- 3.1.1 Upon receipt of a complaint, the Complaints Manager must initially determine whether it:
 - (a) is or is not a Complaint and/or has been properly submitted;
 - (b) is a Protected Disclosure, in which case it must be dealt with under MA's whistleblower policy and the complainant notified under **clause 3.3**;
 - (c) requires mandatory reporting to occur under child protection or other laws, in which case the Complaints Manager must do so and notify the complainant under **clause 3.3**; and/or
 - (d) relates to child abuse, child welfare or the safety of a child or young person under 18 years of age, in which case it must be dealt with under MA's Child Welfare Code of Conduct and the Complainant notified under **clause 3.3**;

(the Initial Threshold Questions).

3.1.2 In the case of a complaint under:

- (a) **clause 3.1.1(b)**, any Process under this Policy is permanently discontinued;
- (b) **clauses 3.1.1(c) or 3.1.1(d)**, the Process under this Policy is suspended unless and until the matter is referred back for resolution under this Policy.

3.1.3 If the Complaint does not satisfy any of **clauses 3.1.1(b) to 3.1.1(d)** but otherwise satisfies **clause 3.1.1(a)**, the Complaints Manager must proceed to **clause 3.2**.

3.2 Initial Assessment of Complaint

3.2.1 Subject to **clause 3.1**, the Complaints Manager must determine whether a complaint:

- (a) was lodged using a fully completed Complaint Form;
- (b) was lodged in good faith; and
- (c) is a Complaint under this Policy;

(the **Initial Assessments**).

3.2.2 The Complaints Manager has absolute discretion to determine the matters in **clauses 3.1(a)(i), 1.3.1**, and any decision is final and binding. In exercising that discretion the Complaints Manager may (but has no obligation to) seek any further information, or make such further enquiries, as necessary.

3.2.3 If the Complaints Manager determines that none of the Initial Assessments are satisfied, the Complaints Manager must proceed to **clause 3.3.1(b)**. If the Initial Assessments are satisfied, the Complaints Manager must determine whether the Complaint has been submitted to the correct level of the Sport, considering **clause 2.2.2**, and then (if yes) proceed to **clause 4.1** or (if not) **clause 2.2.1**.

3.3 Communicate with Complainant

3.3.1 If the Complaint:

- (a) satisfies the Initial Threshold Questions, the Complaints Manager must notify the Complainant of the applicable procedure to be used by MA to deal with the complaint; or
- (b) does not satisfy any of the Initial Assessments, the Complaint is rejected. The Complaints Manager may notify the Complainant of the defect(s) in the Complaint, and whether or not it can proceed under this Policy after modification by the Complainant.

3.4 Provisional Action

3.4.1 Where a Complainant alleges conduct against a person that in the Complaint Manager's opinion:

- (a) may result in, or cause, criminal charges to be laid against the Respondent; and/or
- (b) suggests there is a further or ongoing risk of harm being suffered by one or more Members; and/or
- (c) suggests there is a further or ongoing risk of harm, disrepute or prejudice being suffered by MA; and/or
- (d) is not in the best interests of the parties involved, MA or the Sport;

- (e) the Complaints Manager may refer the Complaint to the Decision Maker to determine, in the Decision Maker's absolute discretion, whether any provisional action(s) will be undertaken by MA.

3.4.2 Provisional actions include, but are not limited to, imposition of conditions, suspension, restriction of duties or temporary redeployment of the Respondent, or any other action(s) at the discretion of the Decision Maker.

4. PROCESS

4.1 Determination of Process

4.1.1 If, after consideration of the matters in **clauses 3.1** and 3.2, the Complaints Manager determines that the Complaint can properly be dealt with under this Policy, the Complaints Manager must determine the Process that will initially be used to attempt to resolve the Complaint under this **clause 4**: Conciliation, Minor Breach Procedure, Breach Offer, Investigation & Decision or Tribunal, as well as whether referral to an external agency under **clause 4.7** is appropriate.

4.1.2 The Complaints Manager has sole and absolute discretion to determine the chosen Process under this **clause 4.1**.

4.1.3 The Complaints Manager may, at their absolute discretion, seek further information from the Complainant, Respondent or any third party to assist them to decide the chosen Process.

4.1.4 The Complaints Manager must notify the Complainant of the Process as soon as practicable once decided. The Complaint will then be dealt with under the applicable Process outlined in this **clause 4**, in addition to any provisional action taken under **clause 3.4**.

4.1.5 The Complaints Manager may, at any time following receipt of a Complaint Form under **clause 2.1**, refer the Complaint to an external agency in accordance with **clause 4.7**.

4.2 Conciliation

4.2.1 If the Complaints Manager considers the Complaint may appropriately be resolved through Conciliation, they may seek the consent of both the Complainant and Respondent in writing.

4.2.2 If both the Complainant and Respondent consent to Conciliation and the Complaint is:

- (a) an NST Eligible Matter, the Complaints Manager will refer the Complaint to Conciliation in the NST, which will be undertaken in accordance with the NST Legislation; or
- (b) not an NST Eligible Matter, the Complaints Manager will refer the Complaint to a conciliator approved by MA, which will be undertaken in accordance with the rules prescribed by such conciliator.

4.2.3 The Complaints Manager may ask the Complainant and the Respondent to pay some or all of any conciliation fees.

4.2.4 If the Complaint is resolved through Conciliation under this clause, the Complaints Manager must proceed to **clause 5.2**.

4.2.5 For the avoidance of doubt, if:

- (a) either the Complainant or Respondent does not consent to Conciliation;
- (b) the Complaint is not an appropriate matter for Conciliation; or
- (c) Conciliation does not resolve the Complaint;

the Complaints Manager must choose another Process to resolve the Complaint under this Policy.

4.3 Minor Breach Procedure

4.3.1 The Minor Breach Procedure may only be chosen where the:

- (a) Complaint alleges a Minor Breach of an Eligible Policy or Policies; or
- (b) the Complaints Manager considers the breach the subject of the Complaint to be a Minor Breach of an Eligible Policy or Policies.

4.3.2 A **Minor Breach** means a breach of an Eligible Policy, if proven, that would only result in a warning or reprimand (whether informal or formal) being imposed on the Respondent as the applicable Sanction.

4.3.3 The Complaints Manager must notify the Respondent of the alleged breach, in writing, using the letter set out in **Schedule 2**. The letter must contain the following information:

- (a) details of the breach alleged in the Complaint, including the alleged conduct and the section(s) of the Eligible Policy allegedly breached; and
- (b) that, without the breach being proven, the Respondent is warned that the allegations would constitute a breach of the Eligible Policy, if proven.

4.3.4 MA must then comply with **clause 5**.

4.4 Breach Offer

4.4.1 If the Complaints Manager has determined Breach Offer is the most appropriate Process, the Complaints Manager must refer the Complaint to the Decision Maker, who must determine:

- (a) the applicable Sanction that may in the Decision Maker's opinion be likely to apply if the Complaint (or a complaint of a similar nature) was fully proven; and
- (b) a Sanction that equates to an approximate 25% reduction in the above Sanction.

4.4.2 The Complaints Manager must notify the Respondent of the alleged breach, in writing, using the letter set out in **Schedule 3**. The letter must contain:

- (a) details of the breach alleged in the Complaint, including the alleged conduct and the section(s) of the Eligible Policy allegedly breached;

- (b) the Sanction that may in the Decision Maker's opinion be likely to be imposed if the Complaint was fully proven;
- (c) the reduced Sanction available to the Respondent if they accept the alleged breach and Sanction without a hearing;
- (d) that the Respondent may accept the reduced Sanction, or dispute the alleged breach and/or Sanction, in which case the Complaint will be referred to a Tribunal under this Policy; and
- (e) that the Respondent has 14 days, from the date of the letter, to advise MA of their choice under **clause 4.4.2(d)**, by submitting the 'Acknowledgement' section of the letter to the Complaints Manager.

4.4.3 A Respondent is entitled to either accept the alleged breach and reduced Sanction, or dispute the breach and/or Sanction, in their absolute discretion.

4.4.4 If the Respondent accepts the breach, MA must comply with **clause 5**. If the Respondent disputes the breach, the Complaints Manager must, if the Complaint:

- (a) concerns an NST Eligible Matter, refer the Complaint to the NST General Division under **clause 5**, including by lodging the required application form; or
- (b) does not concern an NST Eligible Matter, refer the Complaint to an internal tribunal (**MA Internal Tribunal**) for resolution in accordance with the tribunal procedure outlined in **Schedule 7**.

4.4.5 In circumstances where the breach is disputed, the Complaints Manager may require the Respondent to pay some or all of any fees associated with bringing the dispute before the NST or MA Internal Tribunal, as the case may be.

4.5 Investigation & Decision

4.5.1 If the Complaints Manager has determined Breach Offer is the most appropriate Process, the Complaints Manager may choose to conduct, or instruct MA's legal counsel to conduct or co-ordinate, an:

- (a) **Internal Investigation**, in which case an appointed representative within the Sport⁴ will be chosen by the Complaints Manager to investigate under **clause 4.5.2**; or
- (b) **External Investigation**, in which case the Complaints Manager must appoint a party, external to the Sport, to investigate, using the Terms of Reference outlined in **Annexure A**.

4.5.2 If appointed, an investigator (whether internal or external) will, in accordance with the Investigation Procedure in **Schedule 4**, investigate the Complaint and make findings as to whether the allegations are proven to the Standard of Proof.

4.5.3 Upon receipt of the investigator's findings, the Complaints Manager must refer the Complaint and investigator's findings to the Decision Maker.

⁴ For the avoidance of doubt, the Complaints Manager may themselves undertake an Internal Investigation.

- 4.5.4 The Decision Maker must decide, on the basis of the investigator's findings:
- (a) whether a breach of an Eligible Policy has occurred; and
 - (b) if so, applicable Sanctions to be imposed.
- 4.5.5 When undertaking their functions under this **clause 4.5**, the Decision Maker is, for the purposes of section 35(1)(b) of the NST Act and **clause 4.9.1(a)**, making a decision of a sporting tribunal administered by MA.
- 4.5.6 The Complainant and Respondent will subsequently be notified of the outcome of the Complaint in accordance with **clause 5**.

4.6 Tribunal

- 4.6.1 If the Complaints Manager chooses the Tribunal Process, or a Respondent chooses to reject a Breach Offer under **clause 4.4.3**, and the Complaint:
- (a) Concerns an NST Eligible Matter, the Complaints Manager must lodge the Complaint with the NST for resolution in the NST General Division, including by lodging the required application form. The NST:
 - (b) will apply the Standard of Proof in its arbitration of the Complaint, and otherwise arbitrate the Complaint in accordance with the NST Legislation;
 - (c) may, if applicable, impose a Sanction in accordance with **clause 4.8**; and
 - (d) will notify the parties of the outcome in accordance with the NST Legislation, following which MA must comply with **clause 5.2**.
- 4.6.2 Does not concern an NST Eligible Matter, the Complaints Manager must refer the Complaint to MA's Internal Tribunal for resolution in accordance with the tribunal procedure outlined in **Schedule 7**. The MA Internal Tribunal:
- (a) will, in accordance with **Schedule 7**, arbitrate the Complaint and may, if applicable, impose a Sanction in accordance with **clause 4.8**.
 - (b) will notify the parties of the outcome in accordance with **Schedule 7**, following which MA must comply with **clause 5.2**.
- 4.6.3 The Complaints Manager may require the Complainant and/or the Respondent to pay some or all of any fees associated with bringing the dispute before the NST or MA Internal Tribunal, as the case may be.

4.7 External Referral

- 4.7.1 The Complaints Manager may, at any time before or while dealing with a Complaint under this Policy, refer the Complaint to an external agency (such as the Police, a child welfare department, State/Territory fair trading authority, the Australian Securities & Investments Commission).
- 4.7.2 If an external referral is made, the Complaints Manager may, if they consider it is appropriate in the circumstances, determine that the chosen Process be suspended

pending external resolution. The Complaints Manager must notify the Complainant and Respondent in writing of any such decision.

- 4.7.3 If the Process is suspended due to an external referral, the Complaints Manager must refer the Complaint to the Decision Maker to determine whether, in the meantime, any provisional action should be taken against the Respondent under **clause 3.4**.
- 4.7.4 When the Decision Maker decides whether to impose provisional action under **clause 4.7.3**:
- (a) in the circumstances described in **clause 3.4.1**, there is an automatic presumption that provisional action should be taken unless in exceptional circumstances; and
 - (b) in any other circumstances, there is an automatic presumption that provisional action should not be taken unless in exceptional circumstances.
- 4.7.5 Exceptional circumstances will be determined in the sole and absolute discretion of the Decision Maker.
- 4.7.6 There is no appeal against any decision made under this **clause 4.7**.

4.8 Sanctions

- 4.8.1 The Decision Maker (*Breach Offer, Investigation & Decision*), or Tribunal (Appeals) has absolute discretion to determine the sanction imposed on a Respondent, if they find that the Respondent has committed a breach of an Eligible Policy.
- 4.8.2 Without limiting the discretion in **clause 4.8.1**, the Sanctions that may be imposed on a Respondent include:
- (a) a reprimand or warning;
 - (b) exclusion from a particular event or events, competition or activity;
 - (c) suspension, from such activities or events held by or under the auspices of MA, on such terms and for such period as the person imposing the sanction thinks fit;
 - (d) the imposition of conditions and/or restrictions on the Respondent's membership;
 - (e) suspension for a specified period and/or termination of any rights, privileges and benefits whether under the membership contract or not;
 - (f) expulsion from MA and subsequent termination of the Respondent's membership contract; and/or
 - (g) any other such sanction as the person imposing the sanction considers appropriate.
- 4.8.3 Without limiting the discretion afforded in **clause 4.8.1**, in deciding as to the applicable Sanction (if any) under the Policy, the person imposing the sanction may, but is not required to, consider, or if considered apply any weighting to, the following factors:
- (a) the nature and seriousness of the behaviour or incidents the subject of the Complaint;
 - (b) the wishes of the Complainant;

- (c) if the Respondent knew or should have known that the behaviour was a breach of the Eligible Policy or Policies;
- (d) level of contrition of the Respondent;
- (e) the effect of the proposed Sanction on the Respondent including any personal, professional or financial consequences;
- (f) if there have been relevant prior warnings or disciplinary action against the Respondent; and/or
- (g) if there are any mitigating circumstances such that the Respondent should not have a Sanction imposed, or not such a serious Sanction imposed.

4.8.4 A Sanction handed down under this Policy shall commence from the date of the decision, unless otherwise expressly directed by the person imposing the sanction, or otherwise provided for in this Policy.

4.8.5 Where the person imposing the sanction finds that more than one breach of an Eligible Policy has been proven, it will hand down a single Sanction in respect of the totality of all breaches that have been found proven. The Sanction imposed will be determined by the person imposing the sanction in their sole discretion having regard to the seriousness of the overall conduct in question, rather than by a mathematical addition of Sanctions that would otherwise be applicable to each individual breach.

4.9 Appeal

4.9.1 The following persons have a right to appeal a decision under this Policy, subject to compliance with this **clause 4.9** (each an **Appellant**):

- (a) a party on whom a Sanction is imposed under the Investigation & Decision Process; or
- (b) in relation to a decision of a Tribunal:
 - (i) a party who is found to have breached an Eligible Policy, irrespective of whether a Sanction is imposed; or
 - (ii) MA if no Sanction is imposed on a party or if MA considers the Sanction imposed is inadequate or inappropriate.

4.9.2 There is no appeal right from any decision made by a person imposing a Sanction under this Policy except under the following grounds of appeal:

- (a) one or more of the Complaints Manager, Decision Maker (if applicable) or Tribunal (if applicable) demonstrated actual bias in arriving at the relevant decision; and/or
- (b) the decision was contrary to law; and/or
- (c) no reasonable decision maker in the position of the person imposing a sanction, based on the material before them, could reasonably make such a decision,

(each a **Ground of Appeal**).

- 4.9.3 To submit a valid notice of appeal, an Appellant must, within 7 days of the date of receipt of the decision made under this Policy:
- (a) lodge an 'Application for an Appeal' form with the NST, which must state in full their Grounds of Appeal; and
 - (b) pay the NST's application fee for hearing an appeal in the NST's Appeals Division; and
 - (c) serve on MA a copy of the 'Application for an Appeal',
- (together, a **Notice of Appeal**).
- 4.9.4 If the Appellant fails to lodge a Notice of Appeal in compliance with **clause 4.9.3**, including complying with each of the requirements in **clause 4.9.1(a) - 4.9.3(c)** within the required time period, the Appellant's right of appeal is extinguished, and the NST has no jurisdiction to hear the appeal.
- 4.9.5 The NST's arbitration of the appeal in the Appeals Division:
- (a) must determine, to the Standard of Proof, whether any Ground of Appeal (as applicable) is available and proven, and must not rehear the matter or the merits or facts of the Complaint;
 - (b) may result in the NST removing or changing a Sanction imposed on a Respondent, or alternatively imposing a Sanction on a Respondent in accordance with **clause 4.8**; and
 - (c) will otherwise be undertaken in accordance with the NST Legislation.
- 4.9.6 After a decision is reached by the NST, MA must subsequently comply with **clause 5.2**.

5. OUTCOME AND FINALISATION

5.1 Notification of outcome

- 5.1.1 Unless otherwise provided for under a Process, the Complaints Manager must notify the Complainant and Respondent of the outcome of a Complaint, in writing, once a Process has concluded.
- 5.1.2 MA may, as required, disclose the matters referred to in **clause 1.6.2(d)**.
- 5.1.3 Once the applicable Process (including any appeal) under this Policy has concluded, the decision is final and binding on all parties involved and there is no further right of appeal to any external body or tribunal.

5.2 Recording Complaints

- 5.2.1 MA shall keep records of all Complaints in keeping with the template register provided in **Annexure B**, for a minimum of 3 years from resolution of the Complaint under this Policy.
- 5.2.2 Records must be maintained in a secure and confidential place, which may be electronically.

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| <p>Description of alleged breaches by Respondent(es)</p> <p><i>Please provide as much information as possible (attach further page if necessary)</i></p> | |
| <p>Level of the [insert name of Sport] at which alleged breach occurred</p> | <p><input type="checkbox"/> MA level where they relate to behaviour, an incident or circumstances that occurred at or involve individuals operating at MA level;</p> <p><input type="checkbox"/> SCB level where they relate to behaviour, an incident or circumstances that occurred at or involve individuals operating at the SCB level; or</p> <p><input type="checkbox"/> Affiliate level where they relate to behaviour, an incident or circumstances that occurred at or involve individuals operating at the Affiliate level.</p> |
| <p>Eligible policy of MA that Respondent has allegedly breached</p> <p>Sections allegedly breached</p> | |
| <p>Does Complainant consent to Mediation?</p> | <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p> |
| <p>Signed by Complainant</p> | <p>Signature:</p> <p>Date:</p> |
| <p>Indicate whether Complainant under 18 yo and if so name and relationship of person who signed on Complainant's behalf</p> | <p>U18: <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Name:</p> <p>Relationship (parent/guardian):</p> |

SCHEDULE 2
Letter - Minor Breach Procedure

[INSERT SPORT ORGANISATION NAME]
COMPLAINTS POLICY - MINOR BREACH PROCEDURE

Minor Breach

[insert name]
[address line 1]
[address line 2]

By email: [insert email address]

Referral

1. [insert MA] (**Sport**) has received a formal complaint under its Complaints Policy (**Policy**) alleging that you have breached an eligible policy of the Sport, as outlined below (**Complaint**). A copy of the Policy is available at [insert link].
2. The Complaints Manager under the Policy has referred the Complaint for resolution under the Minor Breach Procedure in the Policy.

Allegations

3. The Complaint was lodged by [insert name] and received by the Sport on [insert date].
4. It is alleged in the Complaint that you:
 - (a) [insert alleged conduct]; and
 - (b) [+++++].
5. As a result of the above allegations, it is alleged that you have consequently breached the following eligible policies of the Sport:
 - (a) [insert specific sections of eligible policies allegedly breached]; and
 - (b) [+++++].

Warning

6. Without determining whether the allegations in the Complaint are correct, or that the Complaint is proven, you are formally warned that the allegations, if proven, would constitute a breach of the eligible policies outlined at paragraph 5.
7. Sport reserves its rights in relation to any separate or future allegations or complaints that you have breached an eligible policy of Sport.
8. If you have any questions in relation to this letter, the Complaints Manager can be contacted by telephone on [+++++] or by email at [+++++].

Yours faithfully

[insert signatory]

SCHEDULE 3
Letter - Breach Offer

[INSERT SPORT ORGANISATION NAME]
COMPLAINTS POLICY - BREACH OFFER

Breach Offer

[insert name]
[address line 1]
[address line 2]

By email: [insert email address]

Referral

1. [insert MA] (**Sport**) has received a formal complaint under its Complaints Policy (**Policy**) alleging that you have breached an eligible policy of the Sport, as outlined below (**Complaint**). A copy of the Policy is available at [insert link].
2. The Complaints Manager under the Policy has referred the Complaint about you for resolution under the Breach Offer Process in the Policy.

Allegations

3. The Complaint was lodged by [insert name] and received by the Sport on [insert date].
4. It is alleged in the Complaint that you:
 - (a) [insert alleged conduct]; and
 - (b) [+++++].
5. As a result of the above allegations, it is alleged that you have consequently breached the following eligible policies of the Sport:
 - (a) [insert specific sections of eligible policies allegedly breached]; and
 - (b) [+++++].

Sanction

6. If a breach of the type outlined in the Complaint was proven, Sport would ordinarily impose the following sanction:
 - (a) [insert applicable sanction]; and
 - (b) [+++++].
7. In accordance with the Policy, to resolve the Complaint using the Breach Offer Process, if you accept the alleged breach occurred without a hearing, Sport will offer you a reduced sanction as follows:
 - (a) [insert applicable sanction]; and
 - (b) [+++++].

Decision

- 8. You are entitled to decide either to accept your alleged breach occurred, and the reduced sanction that will be imposed by Sport set out at paragraph 7, or alternatively dispute the alleged breach and/or reduced sanction. You have no rights of negotiation in regard to these matters.
- 9. If you dispute the alleged breach and/or reduced sanction, the Complaint will be referred to a Tribunal for determination under the Policy.

Notification

- 10. Please advise Sport's complaints manager of your decision to either accept the alleged breach and reduced sanction or dispute the breach and/or sanction and proceed to a Tribunal, by signing and returning the below 'Acknowledgement' to the Complaints Manager at [insert contact address].
- 11. You must advise the Complaints Manager of your decision within 7 days of the date of this letter, failing which you will be deemed to have accepted the breach occurred and the reduced sanction will automatically commence as per paragraph 12. There is no appeal once this has occurred.
- 12. Unless you dispute the alleged breach and/or reduced sanction, the reduced sanction will commence on the earlier of the date you notify the Complaints Manager of your acceptance, or the end of the date 14 days from the date of this letter.
- 13. If you have any questions in relation to this Breach Offer, the complaints manager can be contacted by telephone on [++++++] or by email at [++++++]

Yours faithfully

[insert signatory]

ACKNOWLEDGEMENT

I,....., confirm to [insert MA], that in response to this Breach Offer I (tick one):

Accept my breach of the eligible policies occurred and the reduced sanction offered.

OR

Dispute my breach of the eligible policies occurred and/or the reduced sanction offered, and wish the matter heard by a hearings tribunal.

Signed:

Dated:

SCHEDULE 4
Investigation Procedure - Internal & External

Interpretation

1. In this Schedule:

Investigator means the person (whether internal or external) appointed by the Complaints Manager to conduct the Investigation under **clause 4.5.1** of the Policy.

Investigation means the investigation undertaken by the Investigator in accordance with this Schedule.

2. Defined terms not otherwise defined in this Schedule have the meaning given to them in the Policy.

Terms of Reference

3. The Complaints Manager will provide a written brief to the Investigator to ensure that the terms of engagement and scope of the Investigator's role and responsibilities are clear.
4. The written brief may be in a form similar or identical to that contained in this Schedule but must provide for the matters referred to in paragraphs 6 to 15 below.
5. For the avoidance of doubt, if the Complaints Manager is the Investigator for an Internal Investigation, no written brief is required under this Schedule.

Investigation

6. The Complainant should be interviewed by the Investigator (either by telephone, video conference or in person), and the Complaint and any key information arising from the interview(s) documented in writing by the Investigator. The Complainant is entitled to have a support person present during any interview that takes place, subject to the support person being someone who has never been admitted to practise as a lawyer or barrister. If the Complainant refuses to be interviewed, the Investigator must afford the Complainant the opportunity to provide submissions and supporting evidence to the Investigator.
7. The key details of the Complaint should be conveyed to the Respondent(s). The Respondent(s) must be given sufficient information to enable them to properly respond to the Complaint.
8. The Respondent(s) should be interviewed by the Investigator (either by telephone, video conference or in person) and given the opportunity by the Investigator to:
- (a) respond to the allegations; and
 - (b) provide submissions on Sanction in the event the Decision Maker determines the Complaint is proven.

If the Respondent refuses to be interviewed, the Investigator must afford the Respondent the opportunity to provide submissions and supporting evidence to the Investigator.

9. The Respondent(s) response to the Complaint should be documented in writing by the Investigator. The Respondent is entitled to have a support person present during any interview, subject to the support person being someone who has never been admitted to practise as a lawyer or barrister.

10. If, in the process of the Investigation, there continues to be a dispute regarding the facts, then statements from witnesses and other relevant evidence should be obtained by the Investigator to assist in reaching conclusions and preparation of a report.
11. The Investigator must make a finding, on the Standard of Proof, as to whether the Complaint, or each of the allegations in the Complaint (as appropriate) is:
 - (a) substantiated (there is sufficient evidence to support the Complaint on the Standard of Proof);
 - (b) inconclusive (there is insufficient evidence either way);
 - (c) unsubstantiated (there is sufficient evidence to show that the Complaint is unfounded, or not enough evidence to substantiate the Complaint, on the Standard of Proof); or
 - (d) mischievous, vexatious or knowingly untrue.
12. The Investigator must prepare a draft report documenting the Complaint, the investigation process, evidence and finding(s) (**Draft Report**). The Investigator must:
 - (a) provide the Respondent with a copy of the Draft Report; and
 - (b) afford the Respondent the opportunity to provide further submissions in response to, or arising from, the Draft Report,prior to completing paragraph 15.
13. The Investigator may amend the Draft Report after considering any further submissions lodged by the Respondent under paragraph 13.
14. A final report documenting the Complaint, the investigation process, evidence and finding(s), should then be given to the Complaints Manager, who will refer the Complaint and the information outlined in this paragraph 15 to the Decision Maker under **clause 4.5.3** of the Policy.
15. No decision, act or omission of the Investigator shall be invalid merely because of a failure to comply with the procedure in this schedule or any other irregularity in procedure in this schedule unless a person suffers substantial prejudice as a result of that failure to comply or other irregularity in procedure.

SCHEDULE 5
Eligible Policies

| # | Policy Name | Link |
|-----|-------------|------|
| 1. | [insert] | LINK |
| 2. | [insert] | LINK |
| 3. | [insert] | LINK |
| 4. | [insert] | LINK |
| 5. | [insert] | LINK |
| 6. | [insert] | LINK |
| 7. | [insert] | LINK |
| 8. | [insert] | LINK |
| 9. | [insert] | LINK |
| 10. | [insert] | LINK |
| 11. | [insert] | LINK |
| 12. | [insert] | LINK |
| 13. | [insert] | LINK |
| 14. | [insert] | LINK |
| 15. | [insert] | LINK |

SCHEDULE 6
NST Eligible Matters

The following are NST Eligible Matters, as defined in **clause 1.2** of the Policy.

If the NST Legislation is amended after the Commencement Date, the following definitions are automatically updated to reflect the NST Legislation, without the need for MA to amend this Policy, to incorporate the new definitions.

NST Eligible Matters for Mediation under clause 4.2 of the Policy:

1. disputes about athlete eligibility or selection, however described in the constituent documents of the sporting body;
2. disciplinary disputes, including but not limited to disputes relating to disciplinary action taken, or proposed to be taken, under a member protection policy of the sporting body (however named);
3. disputes about bullying, harassment or discrimination, however described in the constituent documents of the sporting body; and
4. disputes relating to disciplinary action taken, or proposed to be taken, by a sporting body against a constituent part of its sport, where the constituent part is a body corporate.

NST Eligible Matters under the Tribunal Process under clauses 4.4.4(a) or 4.6.1 of the Policy:

5. disputes about athlete eligibility or selection, however described in the constituent documents of the sporting body;
6. disciplinary disputes, including but not limited to disputes relating to disciplinary action taken, or proposed to be taken, under a member protection policy of the sporting body (however named); and
7. disputes relating to disciplinary action taken, or proposed to be taken, by a sporting body against a constituent part of its sport, where the constituent part is a body corporate.

NST Eligible Matters for appeals under clause 4.9 of the Policy:

8. disputes about athlete eligibility or selection, however described in the constituent documents of the sporting body;
9. disciplinary disputes, including but not limited to disputes relating to disciplinary action taken, or proposed to be taken, under a member protection policy of the sporting body (however named);
10. disputes relating to disciplinary action taken, or proposed to be taken, by a sporting body against a constituent part of its sport, where the constituent part is a body corporate.

SCHEDULE 7
Tribunal Procedure

Interpretation

1. In this Schedule:

Chair means the chair of a particular Tribunal in accordance with this Schedule.

Legal Practitioner includes both a person holding a current practising certificate as a lawyer or barrister in any Australian jurisdiction, or a person who has held such a certificate at any time within the three years immediately prior to their date of appointment to the Tribunal.

Sports Administrator means a person who currently, or within the previous five years, is or has been, employed in the field of sports administration.

Tribunal Member means an individual person sitting on a Tribunal.

2. Defined terms not otherwise defined in this Schedule have the meaning given to them in the Policy.
3. All clause references refer to this Schedule unless otherwise provided.

Convening Tribunal

4. As required under **clause 4.6.1** of the Policy, the Complaints Manager will convene a Tribunal in accordance with this Schedule.
5. The Tribunal shall be convened as soon as reasonably practicable after a referral under **clause 4.6.1** of the Policy, and shall endeavour to convene no later than two weeks after notification by the Complaints Manager.

Composition of Tribunal

6. Subject to **clause 8**, each Tribunal shall:
- (a) comprise three Tribunal Members selected by the Complaints Manager;
 - (b) comprise at least one Legal Practitioner and one Sports Administrator;
 - (c) be chaired by the Chair, who shall be appointed by the Complaints Manager and shall be:
 - (i) a Legal Practitioner; and
 - (ii) a person of experience and skills suitable to the function of chairing a tribunal.
7. The Complaints Manager shall use reasonable endeavours to ensure that the Tribunal Members selected for any particular Tribunal:
- (a) do not have an actual or perceived conflict of interest in relation to the Complaint that might reasonably call into question the impartiality of the Tribunal; and
 - (b) do not have any close personal connection to the parties before, or the matters being considered by, the Tribunal.

8. Should a Tribunal Member become unable to sit on a Tribunal following the convening of the Tribunal for whatever reason, the Complaints Manager shall appoint a replacement Tribunal Member having regard to the requirements of **clause 6(b)**.
9. Should a Respondent challenge the impartiality of any one or more Tribunal Member, the challenge will be determined by the Chair sitting alone, unless that challenge relates to the Chair in which case it will be determined by:
 - (a) the Complaints Manager; or
 - (b) if the Complaints Manager is unavailable or unable to act, the other members of the Tribunal.
10. There is no right of appeal from a decision made under **clause 9**.
11. No Tribunal decision shall be invalidated by any irregularity in the appointment of a Tribunal Member.

Responsibilities of Chair

12. Without limiting any other duties of the Chair set out under this Schedule, the person appointed as Chair of the Tribunal shall:
 - (a) chair hearings of the Tribunal;
 - (b) ensure accurate records are kept of all of the Tribunal's proceedings and decisions, including at a minimum:
 - (i) particulars of the hearing, including date, time and location;
 - (ii) the names of each Tribunal Member, Complainant, Respondent, witnesses called, and any other parties permitted to attend by the Tribunal;
 - (iii) the decision of the Tribunal, including any Sanction imposed, whether given to the parties orally, in writing or a combination of both, and the date(s) of communication; and
 - (c) communicate to all parties of a Tribunal the results of such Tribunal and provide a copy of the record of result to the Complaints Manager within seven days of the hearing.

Attendance at Tribunal

13. The following persons must attend the Tribunal hearing conducted under this Schedule:
 - (a) the Respondent; and
 - (b) the Complainant.
14. The following persons must attend a Tribunal hearing if required by the Tribunal or the Complainant, or the Respondent:
 - (a) witnesses called to give evidence by a Respondent;
 - (b) witnesses called to give evidence by the Complainant;

- (c) any person that the Chair in their absolute discretion believes will assist the Tribunal and invites to attend the Tribunal for that purpose; and
 - (d) where the Respondent, the Complainant or a witness is under the age of 18 years, an adult adviser, which will in the absence of unavailability or other extraordinary circumstance be expected to be such person's parent or guardian.
15. Legal Practitioners are not permitted to appear before, or represent a party at, the Tribunal unless they are a Complainant or Respondent. This clause does not prohibit a party seeking legal advice in relation to a Complaint or engaging a Legal Practitioner to prepare materials to be used by that party at the Tribunal.
16. Each party to the Tribunal shall bear their own costs.

Non-attendance

17. If any party (or representative of a party which is an organisation) fails to attend the Tribunal hearing without reasonable cause, the hearing may proceed and a determination may be made by the Tribunal in the absence of the Respondent, provided the Tribunal is satisfied that this Schedule has been complied with.
18. A Respondent or Complainant may apply to the Chair to have a Tribunal hearing:
- (a) adjourned; or
 - (b) convened in another way (eg teleconference),
- if there are compelling circumstances that warrant such steps being taken to avoid costs, hardship or significant inconvenience to one or more parties. The Tribunal has sole discretion on whether or not to grant the application.

Procedure of Tribunal

19. The rules of evidence do not apply to any hearing conducted under this Schedule. The Tribunal shall conduct the hearing in such manner as it sees fit and may in its absolute discretion:
- (a) consider any evidence, and in any form that it deems relevant;
 - (b) question any person giving evidence;
 - (c) limit the number of witnesses presented to those who provide any new evidence; and
 - (d) act in an inquisitorial manner in order to establish the truth of the issue/case before it.
20. Without limiting the Tribunal's power to regulate its own procedure as it sees fit, the Tribunal shall ordinarily proceed in accordance with the following steps:
- (a) If a body corporate, SCB or Affiliate is a party to a Tribunal hearing, one member of that body corporate, SCB or Affiliate shall be appointed by the body corporate, SCB or Affiliate to act as spokesperson for such body at the Tribunal.
 - (b) At the commencement of a hearing, the Chair will identify the Tribunal Members and determine whether the Respondent is present to answer the allegation(s) in the Complaint.

- (c) The Respondent and the Complainant will be notified of their right to remain in the hearing until all evidence is presented but not to be present while the Tribunal considers its findings and determines an appropriate Sanction (if any).
- (d) The Chair shall advise all those persons present of the method of recording the hearing (if any).
- (e) The allegation(s) as contained in the Complaint shall be read out in the presence of all persons eligible to be present.
- (f) The Respondent shall be asked whether or not they intend to contest the allegation(s).
- (g) If the Respondent does not contest the allegation(s), the Chair will provide the Complainant and the Respondent with an opportunity to make submissions as to the appropriate Sanction (if any) to be imposed. In such circumstances, the Complainant and/or the Respondent may, if they wish, call witnesses to give evidence regarding the seriousness or otherwise of the breach, and any other mitigating or aggravating factors.
- (h) If the Respondent contests the allegation(s), then the Chair will ask all witnesses except the Complainant and the Respondent (and their advisers, if appointed in accordance with this Schedule) to leave the room and to wait to be called to give their evidence.
- (i) The Complainant shall give evidence and the witnesses (if any) called by the Complainant(s) shall be called upon to give their evidence in turn, subject to the approval of the number of witnesses to be called by the Tribunal in its discretion. The Respondent (or, if they are a minor his/her adviser) may ask questions of the Complainant or any witness called.
- (j) Each witness shall be entitled to leave the Tribunal hearing after giving evidence unless otherwise directed by the Tribunal. Witnesses shall be entitled to remain in the hearing room after giving evidence with the permission of the Tribunal.
- (k) The Respondent shall then present their defence. Witnesses may be called subject to the approval of the number of witnesses to be called by the Tribunal in its discretion. Complainants or the adviser to a Complainant who is a minor may ask questions of the Respondent or any witness called.
- (l) Where a person under the age of 18 exercises his/her right to have an adult observer or adviser present in accordance with this Schedule, a reasonable opportunity for consultation between the minor and the adviser shall be provided by the Tribunal.
- (m) Where the Respondent makes video evidence available to the Tribunal, it may, at the discretion of the Tribunal, be presented to the Tribunal and may be viewed by the Tribunal. The onus of providing suitable viewing equipment shall lie with the person requesting that the evidence be presented.
- (n) The Tribunal may, so as to limit inconvenience to witnesses, allow evidence to be given by telephone or videoconference.

21. At the conclusion of all of the evidence and submissions the Chair shall ask the Respondent, the Complainant and all other persons present to leave the hearing room while the Tribunal considers its findings.

22. If the Tribunal is satisfied that a breach of an Eligible Policy has been proven applying the Standard of Proof, it shall find the breach proven. Otherwise the alleged breach and therefore Complaint shall be dismissed.
23. If the Tribunal is not satisfied that the particular alleged breach has been proven but is satisfied that a lesser or some other breach of an Eligible Policy has been proven, then the Tribunal may find such lesser breach proved.
24. Where it appears to the Tribunal that the Complainant has made an error in making the wrong alleged breach of an Eligible Policy, or omitted alleged breaches that should have been made, the Tribunal may amend the allegation(s), subject always to the requirement that the Respondent must be informed of the new allegations and given an opportunity to respond to such allegations.
25. The decision of the Tribunal shall be given by the Chair in the presence of both the Respondent and Complainant, unless one or both choose not to remain. If:
 - (a) one of the Respondent or Complainant are not present, the Chair may give the decision orally, and must communicate the decision to the non-attending party in writing as soon as practicable; or
 - (b) neither the Respondent nor Complainant are present, the Chair must communicate the decision to each of the Respondent and Complainant in writing as soon as practicable.
26. The Tribunal may reserve its decision but if it does so, it must provide its decision within 14 days of the hearing.
27. The Tribunal is not obliged to give oral or written reasons for any decision made by it under this Schedule but may do so if it wishes.
28. Where the Tribunal finds that one or more alleged breaches of an Eligible Policy have been proven, it shall inform the parties of its decision and provide the Complainant and the Respondent with an opportunity to make submissions as to any aggravating or mitigating factors, before the Tribunal decides on Sanction. The Tribunal may, in its absolute discretion, decide that it is appropriate to:
 - (a) receive oral submissions as to Sanction immediately after delivering its decision on liability; or
 - (b) adjourn the hearing to allow the parties to make Sanction submissions on some later date, in which case, the Tribunal shall direct whether submissions on penalty should be made orally or in writing.
29. After considering the parties' submissions as to Sanction, the Tribunal shall determine the Sanction to be imposed (if any) in accordance with **clause 4.8** of the Policy, and shall advise the Respondent of the Sanction. The Chair shall also notify the Complaints Manager of the decision of the Tribunal.

ANNEXURE A
External Investigation - Terms of Reference

[insert name]
[address line 1]
[address line 2]

By email: [insert email address]

Background

1. I write on behalf of [insert MA] (**Sport**).
2. Sport is the peak body for the administration of [insert sport] in [insert jurisdiction]. It is a not-for-profit organisation whose members include [state associations / clubs] and individuals such as athletes, coaches and officials.
3. All members of Sport must comply with the provisions of Sport's constitution, together with any by-laws, policies or resolutions made by Sport's board or any duly authorised committee.
4. One such policy is Sport's Resolution Policy (**Policy**). This outlines the process for resolving complaints alleging members of Sport have breached one or more policies of Sport. A copy of the Policy is available at [insert website link].

Allegations

5. A complaint was recently lodged by [insert Complainant name] and received by the Sport on [insert date] under the Policy (**Complaint**).
6. It is alleged in the Complaint that [insert Respondent name] (**Respondent**):
 - (a) [insert alleged conduct]; and
 - (b) [+++++],(together, the **Allegations**).

Instructions

7. In accordance with the 'Investigation & Decision' process under the Policy, Sport's complaints manager has elected to refer the Complaint to external investigation.
8. We accordingly ask that you please investigate the Allegations, including by:
 - (a) conducting an interview with the Complainant (either by telephone, video conference or in person), or affording them an opportunity to provide submissions and supporting evidence if they refuse to be interviewed;
 - (b) conducting an interview (either by telephone, video conference or in person) with the Respondent, or affording them an opportunity to provide submissions and supporting evidence if they refuse to be interviewed, and beforehand providing them with full details of the Complaint so they can respond;
 - (c) providing an opportunity for the Respondent to make submissions as to the applicable sanction that should be imposed if the allegations are true;

- (d) where you consider relevant, obtaining statements from witnesses; and
 - (e) complying with Schedule 4 of the Policy in relation to the investigation, including in relation to provision to the Respondent of a draft report, and allowing additional submissions by the Respondent prior to preparing a final report as outlined below.
9. While the way you structure your investigation is a matter for you (subject to paragraph 8), the investigation should make a finding as to whether each allegation in the Complaint is:
- (a) substantiated (there is enough evidence to support the allegations, on the standard of proof outlined in the Policy);
 - (b) inconclusive (there is insufficient evidence either way);
 - (c) unsubstantiated (there is enough evidence to show that the allegations are unfounded, or not enough evidence to substantiate the allegations, on the standard of proof outlined in the Policy); and/or
 - (d) mischievous, vexatious or knowingly untrue.
10. You should prepare a draft report addressing the questions at paragraph 9, which documents the Complaint, the investigation process, evidence and the findings (**Draft Report**). You should provide the Respondent with a copy of the Draft Report and afford the Respondent the opportunity to provide further submissions in response to, or arising from, your Draft Report. You may subsequently, but are not obliged to, amend the Draft Report as or if required.
11. After you have completed your investigations, we request that you please prepare and provide to us a final written report addressing the questions at paragraph 9 and matters prescribed in paragraph 10, together with any other relevant matters.

Purpose of the Report

12. The Allegations relate to matters that, if substantiated, may warrant sanctions being imposed on the Respondent.
13. Your report is therefore requested for the purpose of enabling Sport to determine, under the Policy, whether the Respondent has breached an eligible policy of Sport, and if so, the appropriate sanction to impose.
14. Many of the matters proposed to be covered by the report are of a sensitive nature. We request that you maintain confidentiality and exercise appropriate discretion when conducting your investigation to protect the interests and reputations of the Complainant and Respondent.
15. We look forward to receiving your report as soon as possible. Please contact Sport's complaints manager, [insert name] at [insert contact] if you have any queries.

Yours faithfully

[insert signatory]

**ANNEXURE B
Record of Complaint**

| | | |
|-------------------------------------|---|--|
| Name of Complaints Manager | | <input type="checkbox"/> Complaint Form attached |
| Process chosen to resolve Complaint | | |
| Was Provisional Action taken? | <input type="checkbox"/> Yes <input type="checkbox"/> No | |
| If so, what? | | |
| Date Complaint Form received | | |
| Date Process undertaken | | |
| If Mediation | Date of referral to Mediation: Date of Mediation: Complaint resolved at Mediation: <input type="checkbox"/> Yes <input type="checkbox"/> No If no, alternative Process chosen: If Yes, please detail: | |
| If Minor Breach Procedure | Date letter sent to Respondent: Any further comments: | |
| If Breach Offer | Sanction offered to Respondent: Date letter sent to Respondent: Date Respondent provided response: Did Respondent accept breach and reduced sanction? <input type="checkbox"/> Yes <input type="checkbox"/> No If No, date Complaint referred to Tribunal: If No, also complete 'Tribunal' section | |

| | |
|--|--|
| If Investigation & Decision | Type of Investigation: <input type="checkbox"/> Internal <input type="checkbox"/> External Name of investigator and date appointed: Date investigator's report received: Date Complaint and investigator's findings referred to Decision Maker: Decision and (if applicable) Sanction imposed: Date of letter outlining decision to Respondent: |
| If Tribunal | Date Complaint referred to Tribunal: Date of Tribunal hearing: Decision of Tribunal: Date parties notified: |
| Completed by | Name: Position: Signed: Date: |