



## KONDOS ICE HOCKEY LEAGUE

### COMPLAINTS, DISPUTES AND DISCIPLINE POLICY

#### 1. Policy Intent

This policy and its procedures are designed to ensure that allegations of Prohibited Conduct are managed through an effective, consistent, and timely process, which is fair and transparent.

#### 2. Definitions

In this Policy, the following words have the corresponding meaning:

**Activity** means a sporting contest, match, competition, event, or activity, whether on a one-off basis or as part of a series, league, or competition, which is sanctioned or organised by the Kondos Ice Hockey League

**Administrator** means an individual who has a role in the administration or operation of Kondos Ice Hockey League

**Athlete** means a person who is registered, or entitled to participate, in an Activity

**Breach notice** means a written notification sent to the Respondent in accordance with clause 8.58.5

**Complaint** has the meaning given in 5.16. 15.1

**Complaint Manager** means the person appointed under clause 5.116.11 to manage Complaints under this Policy

**Contractor** means any person or organisation engaged to provide services for or on behalf of a Relevant Organisation



**Discrimination** includes both direct and indirect discrimination which have the following meaning:

- (a) 'Direct discrimination' occurs where, because a person has a Protected Characteristic, they are treated less favourably than a person without that characteristic would be treated in the same or similar circumstances
- (b) 'Indirect discrimination' occurs where a practice, rule, requirement or condition that applies to everyone disadvantages people with a Protected Characteristic and the practice, rule, requirement or condition is not reasonable in the circumstances.

**Hearing tribunal** means a first instance tribunal established to conduct a hearing under this Policy

**Participant** means a person who participates, including but not only as registered volunteers, officials, coaches, players or referees, in a Kondos Ice Hockey League competition

**Policy** means this Complaints, Disputes and Discipline Policy

**Prohibited Conduct** means the conduct proscribed in each of the Relevant Policies, including the conduct prescribed under clause 4 of this Policy

**Protected characteristic** means:

- (a) Age;
- (b) Disability;
- (c) Race or ethnicity;
- (d) Sex or gender identity;
- (e) Sexual orientation; or
- (f) Religion



**Provisional action** means the process undertaken to impose a temporary measure on a Respondent while they are subject to a Complaints process, or an investigation by law enforcement

**Relevant Organisation** means any of the following organisations:

- (a) Kondos Ice Hockey League;
- (b) Member Organisations; or
- (c) Any other organisation that has agreed to be bound by the National integrity Framework and / or the Relevant Policies.

**Relevant person** means any of the following persons:

- (a) Individual member;
- (b) Participant;
- (c) Employee;
- (d) Contractor;
- (e) Administrator;
- (f) Volunteer; or
- (g) Any other individual who has agreed to be bound by the Relevant Policies

**Relevant policies** means the following Kondos Ice Hockey League policies and codes:

- (a) Child Safe Policy;
- (b) Code of Conduct for Dealing with Children and Young People;
- (c) Code of Conduct; and
- (d) Member Protection Policy

**Report** has the meaning given in clause 5.56.5

**Reporter** has the meaning given in clause 5.66.6

**Resolution process** means the process from the point at which a Breach Notice has been issued to a Respondent



**Respondent** has the meaning given in clause 5.3

**Sanction** means the disciplinary action(s) taken against a Respondent for breaching a Relevant Policy

**Vulnerable person** means a person who is:

- (a) Under the age of 18;
- (b) Aged 18 or over but is or may be unable to take care of themselves or is unable to protect themselves or is unable to protect themselves against harm or exploitation, by reason of age, illness, trauma or disability, or any other reason; or
- (c) Aged 18 or over but has experienced or is experiencing poor mental health outcomes, either as a result of the incident in question, due to their life experiences, or as a result of societal factors, including but not limited to individuals from diverse backgrounds facing disproportionate mental health impacts, such as people with diverse sexualities or gender

### 3. Jurisdiction

#### 3.1 When this Policy applies

- (a) This Policy applies to Prohibited Conduct under each of the Relevant Policies

#### 3.2 Who the Relevant Policies apply to

- (a) The Relevant Policies apply to and bind:
  - i. All Relevant Persons and Relevant Organisations
  - ii. Any person who, or organisation that:
    - A. Has had a Complaint or Report made against them; and
    - B. Was bound by the Relevant Policies at the time of the Alleged Prohibited Conduct, even if they are no longer a Relevant Person or Relevant Organisation

- iii. Employees and volunteers are expected to abide by the terms of the Relevant Policies as a reasonable and lawful direction of the Relevant Organisation
- iv. A Relevant Organisation must ensure that all Contractors and Volunteers are contractually bound to abide by the terms of the Relevant Policies
- v. By participating in an Activity, a Participant is deemed to have agreed to be bound by the Relevant Policies
- vi. Any person or organisation who has had a Complaint made about them and was bound by the Relevant Policies at the time of the alleged behaviour continues to be bound by the Relevant Policies until the Complaint is finalised and any sanction has been complied with

### **3.3 What happens when there are conflicting provisions?**

- (a) Laws of the Commonwealth, or a state or territory, take precedence and must be complied with in the first instance
- (b) Nothing in the Relevant Policies prevents the Relevant Organisation from referring any alleged Prohibited Conduct or criminal conduct to a relevant law enforcement agency
- (c) The Relevant Policies are subject to the Kondos Ice Hockey League Constitution and if there is any inconsistency, the Constitution will prevail

## **4. Prohibited Conduct**

### **4.1 What is Prohibited Conduct under this Policy?**

- (a) Subject to clause 4.1(b), in addition to the conduct proscribed under Kondos Ice Hockey League Policies, a Relevant Person or a Relevant Organisation will breach this Policy if they:
  - i. Fail to report any conduct which is reasonably likely to be Prohibited Conduct as soon as reasonably practicable after they become aware of it without reasonable cause;

- ii. Deliberately or wilfully withhold information in relation to any conduct which is reasonably likely to be Prohibited Conduct;
  - iii. Fail to provide further information or documentation as requested during the Complaint Process without reasonable cause;
  - iv. Fail to comply with a Breach Notice;
  - v. Knowingly provide any inaccurate and / or misleading information during the course of any Complaint Process under this Policy; or
  - vi. Fail to comply with obligations under this Policy to keep information confidential
- (b) A Relevant Person or Relevant Organisation will not be deemed to have breached this Policy if they fail to answer a question or provide information on the grounds that doing so would be a breach of any applicable law
- (c) Kondos Ice Hockey League may initiate disciplinary action in accordance with this Policy if it becomes aware of a potential breach of clause 4.1(a) of this Policy

## **5. Making a Complaint or Report**

### **5.1 What is a Complaint?**

- (a) A Complaint is a formal written submission of an allegation:
- i. Made by a Complainant (who cannot make the Complaint anonymously); and
  - ii. Relating to Prohibit Conduct under a Relevant Policy; and
  - iii. Against a Respondent

### **5.2 Who is a Complainant?**

- (a) A Complainant is a person or an organisation who or which is directly affected by the alleged Prohibited Conduct and makes a Complaint about a Respondent in accordance with this Policy
- (b) Where the person directly affected by the conduct is a Vulnerable Person, a Complaint may be submitted on their behalf by a parent or carer. The



Vulnerable Person will still be the Complainant when a Complaint is submitted on their behalf.

- (c) A Complainant cannot be anonymous

### **5.3 Who is a Respondent?**

- (a) A Respondent is a Relevant Person or Relevant Organisation about whom a Complaint or Report has been made and who was bound by the Relevant Policy/ies at the time the alleged Prohibited Conduct occurred

### **5.4 Vulnerable Persons and Support Persons**

- (a) Where required, the parent or carer of a Vulnerable Person who is a party to a Complaint may support the Vulnerable Person and/or act on their behalf if necessary through the Complaints Process and any subsequent Resolution Process. For example, at any interview, Alternative Dispute Resolution process, or Hearing Tribunal or Appeals Tribunal
- (b) The Kondos Ice Hockey League may have regard to the guide "[Complaint Handling Guide: Upholding the Rights of Children and Young People](#)" issued by the National Office for Child Safety in managing Complaints made on behalf or involving Vulnerable persons
- (c) A party to a Complaint may request that they be assisted by a support person or authorised representative. This request will generally be granted unless there is a specific reason to deny it (for example, where a nominated support person or authorised representative is also a witness to the allegations or is actively hindering the interview process). Reporters and witnesses may be permitted to be assisted by a support person or authorised representative where this is considered appropriate

### **5.5 What is a Report?**

- (a) A Report is a submission of allegations that a Respondent has engaged in conduct which may be Prohibited Conduct which does not meet the definition of a Complaint

- (b) Reports received by Kondos Ice Hockey League may be recorded for information purposes only with no further action taken. The process for managing a Report will be at the discretion of the Commissioner or Deputy Commissioner. In some circumstances, Reports may be managed through the Complaints Process. Reporters will not be contacted regarding their Report unless further information is required.
- (c) Factors that may be taken into account in determining whether to progress a Report through the Complaints Process include (but are not limited to) the seriousness of the alleged conduct, the availability of evidence that could be relied upon in an investigation, whether a person or organisation has been directly affected by the alleged Prohibited Conduct and if so their circumstances and preferences, the perceived risk to the sport, and whether there have been other Reports relating to similar allegations
- (d) A Report may be made anonymously, however, this may limit the action that can be taken in relation to the allegations
- (e) Where multiple Reports relate to the same or related alleged conduct by the same Respondent, they may be combined for the purposes of the Complaints Process
- (f) If a Report is to be progressed through the Complaints Process, any reference to a Complaint throughout this Policy will apply to the Report

## **5.6 Who is a Reporter?**

- (a) A Reporter is any person or organisation, including a Relevant Person or Relevant Organisation, who or which has reason to believe that Prohibited Conduct may have occurred and makes a Report. A Reporter may be anonymous
- (b) A Reporter is not entitled to the same rights throughout the Complaints Process as a Complainant. For example, a Reporter may not be kept informed of any decisions made in relation to the Report or participate in any Alternative Dispute Resolution





## **5.7 Submitting a Complaint or Report**

- (a) A Complaint must be made in writing (including electronically)
- (b) A Report can be made in writing (including electronically) or verbally
- (c) The online web form on the Kondos Ice Hockey League is the preferred method for submitting a Complaint or Report to the Kondos Ice Hockey League

## **5.8 Withdrawing a Complaint**

- (a) A Complaint can be withdrawn at any time. Withdrawing a Complaint must be done in writing (including electronically) to the Kondos Ice Hockey League
- (b) Where a Complaint has been withdrawn, the Kondos Ice Hockey League may choose to continue to progress the matter through the Complaints Process

## **5.9 Confidentiality**

- (a) All Complaints and Reports will be kept in confidence
- (b) Kondos Ice Hockey League may disclose information as required or authorised by law
- (c) Subject to this clause, decisions around appropriate disclosure of information will be addressed on a case-by-case basis. Disclosure of information to parties not directly affected by the alleged behaviour may be restricted

## **5.10 Failure to Cooperate**

- (a) Subject to clause 6.12(c), Relevant Persons must cooperate fully with any Complaints Process or Resolution Process they are involved in.
- (b) If a Respondent fails or refuses to respond, after a request has been made in a reasonable time in advance, to answer any relevant question, provide relevant documentation, and/or participate in a Complaint Process or Resolution Process, Kondos Ice Hockey League may make findings based on the available information

- (c) No individual or organisation bound by this Policy is required to answer a question or provide information where to do so would be a breach of any applicable law

## **6. The Complaints Process**

### **6.1 Evaluation**

- (a) Upon receipt of a Complaint, Kondos Ice Hockey League will determine whether the matter falls within the scope of the Relevant Policies. In making this determination the Kondos Ice Hockey League will consider whether the conduct alleged in the Complaint would, if proven to the requisite standard, constitute Prohibited Conduct, as well as whether it otherwise meets the requirements of Clause 5
- (b) Where a Complaint is determined to be out of scope under the Relevant Policies, it may be managed under an alternative policy of a Relevant Organisation (if applicable)
- (c) Mischievous or vexatious claims will not be managed under this Policy
- (d) A Complaint that has been previously managed through a complaints process will not be reconsidered or reinvestigated unless there are compelling reasons to do so, such as relevant new information becoming available
- (e) Where a Complaint raises allegations about behaviour that could be a breach of both a Relevant Policy or another policy of a Relevant Organisation, the matter will be managed under the most appropriate policy
- (f) If the Complaint is determined to be out of scope of the Relevant Policies, Kondos Ice Hockey League will notify the Complainant and no further action will be taken under this Policy
- (g) If a person considers that a child is at risk of immediate harm the matter must be reported to the relevant law enforcement as soon as possible

### **6.2 Case Categorisation Model: In-Scope Matters**

- (a) Once a Complaint has been deemed to be in-scope, it will undergo Case Categorisation to determine an appropriate means of dealing with the

Complaint. Complaints are categorised with reference to the nature of the alleged conduct, the possible level of harm and complexity of the issues raised in the Complaint (refer to Appendix 1: Case Categorisation Model)

- (b) Following Case Categorisation, any one or a combination of the following actions may be undertaken:
  - i. External referral;
  - ii. Referral to a Hearing Tribunal;
  - iii. Provisional Action;
  - iv. Investigation;
  - v. Alternative Dispute Resolution;
  - vi. Case closure
- (c) For Complaints that have been categorised as Category 1, the Complaint may be closed in accordance with clause 8.10(a)I with no findings being made or sanction imposed. A Respondent may be reminded of their obligations under the Relevant Policies or recommended to undergo education or training
- (d) Kondos Ice Hockey League may refer a Complaint directly to a Hearing Tribunal to hear the allegations and make findings about the Complaint instead of proceeding to an investigation

### **6.3 External referral**

- (a) At any time during the Complaint Process, allegations may be referred to a relevant external organisation if it will assist the organisation to perform any of the functions, duties, or powers. This may include referral to a law enforcement agency, government or regulatory authority, or child protection agency. If a person considers that a child is at risk of immediate harm the matter must be reported to the relevant law enforcement / child protection agency as soon as possible
- (b) If an external referral is made, the Complaints Process may be suspended pending external resolution to avoid any potential compromise to the external process



## **6.4 Provisional Action**

- (a) Where an allegation suggests a risk of harm to a Participant which justifies imposing Provisional Action, Kondos Ice Hockey League will determine whether any Provisional Action will be taken to mitigate an potential harm to any person and / or interference in an investigation
- (b) Provisional Action may include suspension, supervision, restriction of duties or temporary re-deployment, or suspension or restriction of rights, privileges or benefits
- (c) If a decision is made to impose Provisional Action, a Respondent may seek to have that decision reviewed by a Hearing Tribunal. The Hearing Tribunal will only consider whether the decision to impose the Provisional Action is proportionate to the perceived risk of harm and will not consider the merits of the Complaint except as is necessary to assess proportionality

## **6.5 Investigation**

- (a) Kondos Ice Hockey League may conduct an investigation to obtain additional evidence, including by way of formal interview and collection of additional information, to determine if the alleged Prohibited Conduct is a breach of a Relevant Policy
- (b) In conducting an investigation, the rules of procedural fairness will apply, including by providing both the Complainant and the Respondent with a reasonable opportunity to be heard
- (c) Where a Respondent has been convicted or found guilty in a criminal, disciplinary or professional proceeding of engaging in conduct which would constitute Prohibited Conduct under a Relevant Policy, the Respondent will be deemed under this Policy to have committed Prohibited Conduct without requiring further investigation, or any other process
- (d) Following an investigation, the Complaint will be managed in accordance with clause 8, or directly referred to a Hearing Tribunal



## **6.6 Standard of Proof**

- (a) The standard of proof that applies to all substantive decisions (including by a Hearing Tribunal) made under this Policy in respect of allegations of Prohibited Conduct is “balance of probabilities”. This means the decision-maker must be satisfied that it is more likely than not that there has been a breach of a Relevant Policy

## **6.7 Alternative Dispute Resolution**

- (a) The Complainant and Respondent may agree to an Alternative Dispute Resolution. The Complaints Process may be suspended while Alternative Dispute Resolution is pursued. The Complaints Process may be discontinued if both parties are satisfied that the matter has been resolved
- (b) This process will be coordinated by the Commissioner or Deputy Commissioner, if required

# **7. Findings and Resolution Process**

## **7.1 Findings**

- (a) Unless the matter has been referred directly to a Hearing Tribunal under clause 6.5(d), following an investigation, Kondos Ice Hockey League will determine whether, to the requisite standard of proof, the allegation of Prohibited Conduct is substantiated, unsubstantiated or unable to be substantiated
- (b) Kondos Ice Hockey League will notify the parties of the findings, and if the allegation of Prohibited Conduct is substantiated, will manage the Resolution Process described in clause 7.2

## **7.2 The Resolution Process**

- (a) The Kondos Ice Hockey League must implement an appropriate Resolution Process

- (b) The Kondos Ice Hockey League is responsible for issuing a Breach Notice to the Respondent and applying and administering Sanctions and other related measures as it sees fit (Appendix 1 – Case Categorisation Model)
- (c) Where a Respondent admits the alleged breach and accepts the Sanction, or fails to respond to the Breach Notice, the Kondos Ice Hockey League may impose the Sanction and proceed to finalise the Complaint

### **7.3 Notification to Parties**

- (a) The Kondos Ice Hockey League will communicate as appropriate with the Respondent, Complainant, and any Relevant Organisation involved in the matter throughout the Resolution Process and will notify both the Complainant and Respondent of the outcome and finalisation of the matter at the conclusion of the Resolution Process

### **7.4 Appropriate Sanctions**

- (a) The Kondos Ice Hockey League may impose one or more Sanctions on a Respondent where this is considered appropriate
- (b) In making a determination under clause 7.4(a), the Kondos Ice Hockey League may refer to Appendix 1 – Case Categorisation Mode, taking into account:
  - i. The seriousness of the behaviour;
  - ii. Whether it was a one-off incident or part of an overall pattern of behaviour;
  - iii. Whether it was an honest and reasonable mistake;
  - iv. The potential impact on public confidence in the integrity of the sport;
  - v. The potential impact of the proposed Sanction on the Respondent;
  - vi. The views and opinions of the Complainant; and
  - vii. Any other relevant aggravating or mitigating factors



## 7.5 Breach Notice

- (a) If the allegations are found to be substantiated, Kondos Ice Hockey League will issue a Breach Notice. Any Breach Notice issued by the Kondos Ice Hockey League will:
  - i. Notify the Respondent of the allegations found to be substantiated, including the alleged conduct;
  - ii. State the proposed Sanction, if any, for the substantiated allegations;
  - iii. State that the Respondent has a right to a hearing in relation to the allegations found to be substantiated and/or the proposed Sanction;
  - iv. State that the Respondent may accept the findings, waive their right to a hearing and accept the proposed Sanction;
  - v. State that if the Respondent does not respond in writing within 7 days of the date of the Breach Notice, they will be deemed to have accepted the findings, waived their right to a hearing and accepted the proposed Sanction
- (b) In response to a Breach Notice, a Respondent may:
  - i. Accept the findings, waive their right to a hearing and accept the proposed Sanction; or
  - ii. Dispute the findings and/or the proposed Sanction, in which case the matter will be referred to a Hearing Tribunal under this policy
- (c) Unless otherwise agreed to by the Kondos Ice Hockey League, a Respondent has 7 days from the date of the Breach Notice to notify the Complaint Manager in writing of their decision
- (d) Notice given under paragraph 7.5(b)ii must be:
  - i. Given in writing (whether by email or other means);
  - ii. Sent to the Kondos Ice Hockey League Commissioner or Deputy Commissioner; and
  - iii. Received within 7 days of the Breach Notice
- (e) If the Kondos Ice Hockey League does not receive notice under clause 8.5(b)ii within 7 days from the date of the Breach Notice, the Respondent will be deemed to have waived their right to appeal



## **7.6 Referral to a Hearing Tribunal**

- (a) If the Respondent disputes the substantiated allegations and/or the proposed Sanction in the Breach Notice, the Kondos Ice Hockey League will refer the matter to a Hearing Tribunal

## **7.7 Hearing Tribunals**

- (a) Arrangements must be established to manage internal hearings and appeals
- (b) The Hearing Tribunal will be composed of 3 members of the Kondos Ice Hockey League committee who have not been involved with the investigation of the current Complaint
- (c) The Hearing Tribunal will, as applicable:
  - i. Determine whether any Provisional Action imposed in accordance with clause 6.4 is disproportionate; or
  - ii. Arbitrate the substantiated allegations and proposed Sanction set out in the Breach Notice
- (d) The findings of the Hearing Tribunal are final

## **7.8 Implementation**

- (a) It is the responsibility of the Kondos Ice Hockey League to ensure that appropriate Sanctions (or other alternative measures) are undertaken, and that the Relevant Policies are implemented and applied. The Kondos Ice Hockey League is responsible for ensuring that Relevant Persons and Relevant Organisations are aware of the Relevant Policies and facilitate an understanding for how they apply them
- (b) Relevant Organisations will determine if a Sanction should be publicly disclosed in order to give it full effect. This may be necessary for suspension or cancellation of membership or accreditation
- (c) Notwithstanding clause 7.8(a), ignorance of the Relevant Policies is not a defence, excuse or justification for Prohibited Conduct and will not be considered a mitigating circumstance





## 7.9 Case Closure

- (a) Complaints may be closed under this Policy at any of the following times:
  - i. The Complaint is evaluated as being out of scope of this Policy under clause 6.1
  - ii. The Complaint is categorised as a Category 1 Complaint in accordance with clause 6.2 and the Case Categorisation Model, and no further action is being taken;
  - iii. During investigation of the Complaint, it becomes apparent that the Complaint no longer meets the eligibility requirements set out in clause 5 (for example, the Respondent is discovered not to have been bound by the Relevant Policies at the time the alleged conduct occurred due to information obtained during the investigation);
  - iv. The Complaint is resolved through Alternative Dispute Resolution in accordance with clause 6.7, or the Complaint was sought to be resolved through Alternative Dispute Resolution but it was not resolved and the participants are in agreement that the Complaint may be closed;
  - v. Following investigation, all allegations are found to be either unsubstantiated or unable to be substantiated in accordance with clause 7.1;
  - vi. Following investigation, the Respondent accepts or is deemed to have accepted the findings and any Sanction imposed upon them in accordance with clause 7.5; or
  - vii. The matter is finalised before a Hearing Tribunal
- (b) Once a matter has been closed in accordance with this clause, it has been finalised and no further action will be taken in relation to the matter under this Policy unless there is a compelling reason to do so
- (c) The Kondos Ice Hockey League will retain appropriate records of the Complaint and any outcomes in accordance with any relevant policies or procedures relating to record-keeping

## APPENDIX 1 – CASE CATEGORISATION MODEL

Matters within the Complaints, Disputes and Discipline Policy are categorised through a 3-tier system, based on the nature of the alleged conduct, perceived level of harm, and complexity. Each matter will be considered on its merits in light of these categories. The Case Categorisation Model is drawn from the model produced by Sport Integrity Australia.

### Category 1 – Low

**Category 1** matters involve **minor allegations of Prohibited Conduct** and mostly (although not always) involve a mistake, misunderstanding, or an absence of intent to harm. There are rarely, if any, complicating factors.

The presence of any **complicating factors** may escalate a matter to a more severe Category. Complicating factors include a real risk of harm, criminality, **aggravating** factors (as set out in *Aggravating and Mitigating Circumstances* later in this document, an uncooperative Respondent or risk to the sport.

**Category 1** matters include (but are not limited to):

- Children having a physical altercation
- Low level swearing, derogatory, or disrespectful comments
- Aggressive tone, disrespectful comments, or a heated altercation, in the absence of malice, vilification or bullying
- Lewd jokes (where adults involve minors, a higher category may result)
- Unnecessary physical contact not consistent with general gameplay
- Non-compliance with the following Child Safe Practices, **but only where** no obvious aggravating circumstances or behavioural patterns of concern are present:
  - Favouritism
  - Photographing without appropriate consent
  - Transport of child/children without appropriate consent
  - Gifting
  - Social media contact



- Single penalty for Boarding, Body Checking, Charging, Cross Checking, Elbowing or Roughing

## Category 2 – Medium

**Category 2** matters allege Prohibited Conduct violations, and may involve the risk of moderate or reasonable harm, or repeated, more severe or more complex **Category 1** allegations.

**Category 2** matters may also allege more severe prohibited conduct violations, or complicating factors, having regard to frequency, intensity, number of reported incidents or complaints received, or where the circumstances indicate a reasonable possibility for escalation (any may require referral to law enforcement).

The presence of any **complicating factors** may escalate a matter to a more severe Category. Complicating factors include a real risk of harm, criminality, aggravating factors, an uncooperative Respondent or risk to the sport.

**Category 2** matters include (but are not limited to):

- Repeated or more severe Category 1 matters, including the risk of reasonable harm
- Athlete to athlete bullying
- Mocking an athlete's appearance or body shape
- Abuse of position of trust or power
- Harassing behaviours, including unwanted sexual interest
- Inappropriate jokes, including insensitive jokes
- Single penalty for Check to the Head, Fighting, Misconduct, Game Misconduct, Hitting from Behind, Kicking, Kneeing, Spearing, Throwing the Stick
- Interfering with, or intimidating, complainants or witnesses
- Failing to report criminal charges or convictions
- Non-compliance with Child Safe Practices, including:
  - Profane or sexual language
  - Language to threaten or frighten



- Egregious or severe acts of prohibited conduct, including repeated use of bullying language
- Multiple Category 1 penalties in a single game
- Excessive swearing, derogatory or disrespectful comments

## Category 3 – High

**Category 3** matters may involve criminal behaviour and/or immediate risk of harm, and includes child abuse, sexual abuse and includes sexual misconduct, as well as serious assault and corruption.

**Category 3** matters may include more severe **Category 1 or 2** allegations where there is the presence of significant complications.

Whether a matter is more severe is determined on the specific circumstances, including the frequency, intensity, number or reported incidents or complaints received.

The presence of any **complicating factors** may escalate a matter to a more severe category. Complicating factors include a real risk of harm, criminality, **aggravating factors**, an uncooperative Respondent, or risk to the sport.

**Category 3** matters must be reported to law enforcement / child protection, as mandated. Restrictive measures or provisional safety plans may be imposed as appropriate.

**Category 3** matters include (but are not limited to):

- Sexual misconduct
- Touching of genitals, breasts, buttocks
- Child abuse
- Exposing a child to age inappropriate or harmful materials or behaviours
- Criminal charges or convictions

- Failing to report child abuse or sexual misconduct
- Serious assault
- Supplying alcohol or drugs to a minor

## Aggravating and Mitigating Circumstances

The following guiding principles are intended to outline the aggravating and mitigating circumstances that should be taken into account when evaluating and assessing a matter under the Case Categorisation Model and before determining the appropriate response.

The relative level of aggravating and mitigating circumstances may impact on the ultimate re-categorisation of a matter as well as the appropriate sanction (if any).

In addition to aggravating or mitigating circumstances, there may be other factors to consider that increase the relative complexity of a matter.

### **Aggravating circumstances** include consideration of:

- The presence of criminality, including sexual abuse
- Actual or threatened use of violence
- Breach was committed in the presence of a child
- Victim's vulnerability, for example, because the person had a disability
- Behaviour that is malicious, or targets vulnerable people
- Behaviour that is coordinated or operating as part of a group
- Behaviour that targets multiple parties or results in multiple victims
- Injury, emotional harm, loss or damage was substantial, including the level of embarrassment, distress or humiliation by the victim
- Previously similar conduct or related breaches, previous sanctions
- Failure to comply with a provisional action
- Breach whilst on probation or a sanction
- Ongoing and sustained offending over a period of time
- Abuse of position of power or trust
- Attempting or disposing of evidence
- Lack of cooperation

- Breach motivated by race, religion, ethnicity, nationality, sexual identity, disability, gender
- Gratuitous cruelty
- The breach was premeditated
- The Respondent has previously undertaken education in relation to the particular type of conduct

**Mitigating circumstances** include consideration of:

- First time breach
- Unplanned, spur of the moment behaviour
- Youth and age of the person breaching
- Limited role played in the breach
- The Respondent had taken reasonable steps, prior to commencing an Assessment, to settle the disagreement or dispute
- The Respondent was not fully aware of the consequences of their actions because of the Respondent's age or disability
- Accepting responsibility and level of remorse/contrition
- Level of cooperation
- Harm suffered by the victim or sport was not substantial
- The presence of provocation, persuasion, or coercion by others
- Mental illness
- Whether the prohibited behaviour was uncharacteristic, including:
  - The length of service, balancing a previous unblemished record against the expectation of greater awareness of behavioural requirements
  - Whether there are records of previous counselling or breaches about related issues
  - The extent to which there is evidence that the behaviour is atypical – to assess this, the behaviour over a longer period may need to be examined
  - The individual's attempts to manage any external personal issues impacting on the conduct, such as accessing welfare help

## Sanctions and Related Measures



Rather than seeking to punish, sanctioning misconduct is primarily aimed at protecting an individual from harm with a secondary aim of protecting the integrity of the sport.

Sanctions are also designed to provide a clear message that the behaviour was unacceptable, thereby acting as a deterrent.

The decision about whether to apply a sanction needs to be considered carefully on the facts and context of each case having regard to the following:

- The seriousness of the conduct
- Whether it was a one-off incident or part of an overall pattern of behaviour
- Whether it was an honest and reasonable mistake
- The potential impact on public confidence in the integrity of the sport
- The views, if any, of the Complainant (for example, merely seeks an apology)

Aggravating and Mitigating circumstances (as set out in *Aggravating and Mitigating Circumstances*) should be taken into account before determining the appropriate sanctions, if any. For example, whether a person acted maliciously, or made an honest and reasonable mistake.

**Range of Sanctions and Related Measures** include one or a combination of any of the following:

**Category 1 Breaches**

- Awareness of Policies
- Mandatory awareness and education
- Formal warning and / or reprimand
- Requiring an apology

**Category 2 Breaches**

- Formal conciliation or mediation
- Education and programs

**Category 3 Breaches**

- Formal and mandatory awareness and education requirements
- Formal reprimand
- Requiring an apology
- Formal reconciliation or mediation
- Temporary suspension
- Permanent suspension
- Return of awards



- Temporary suspension