



## **A. Purpose**

1. BC Netball expects that all participants in BC Netball activities will comply willingly with its policies, By-laws, rules, Code of Conduct, and regulations. Non-compliance may result in the imposition of sanctions pursuant to this Policy.

## **B. Principles**

2. The following principles guide the findings and determinations under this Policy:
  - a. Any form of Maltreatment violates the integrity of Participants and undermines the values of Canadian sport.
  - b. Sanctions imposed will reflect the seriousness of the Maltreatment and the harm to those affected and the values of Canadian sport.
  - c. This Policy and its procedures will be:
    - i. Fair (procedural and substantive due process for all Participants)
    - ii. Comprehensive (all forms of Maltreatment addressed, and potential sanctions described)
    - iii. Expert-informed (the determination of Maltreatment and impositions of sanctions will be informed by those with expertise in such areas as sport, child abuse, and the law)
    - iv. Trauma-informed (acknowledgement of the physical, psychological, and emotional effects of trauma, and avoidance of re-traumatization)
    - v. Evidence-driven (evidence of Maltreatment required, where Evidence or "proof" of maltreatment may include the words/report of a complainant if found credible by the relevant authorities. Depending upon the nature of the Maltreatment, physical evidence, corroboration, or third-party verification may not be needed)
    - vi. Independent administration (free from all conflicts of interest)

## **C. Application of this Policy**

3. This Policy applies to all Participants.
4. This Policy applies to matters that may arise during the business, activities, and events of BC Netball including, but not limited to, competitions, practices and training, treatment, or consultations (i.e., massage therapy), camps and clinics, travel associated with the activities of the BC Netball and any meetings.



5. This Policy also applies to Participants' conduct outside of the business, activities, and events BC Netball when such conduct adversely affects BC Netball's relationships (and the work and sport environment) or is detrimental to its image and reputation
6. This Policy applies to alleged breaches of the *Code of Conduct and Ethics* by Participants who have retired from the sport where any claim regarding a potential breach of the *Code of Conduct and Ethics* occurred when the Individual was active in the sport. In addition, this Policy will apply to breaches of the *Code of Conduct and Ethics* that occurred when the Participants involved interacted due to their mutual involvement in the sport or, if the breach occurred outside of the sport environment, if the breach has a serious and detrimental impact on the Individual(s).
7. Applicability of this Policy will be determined by BC Netball at its sole discretion and shall not be subject to appeal.
8. In the event it is considered appropriate or necessary based on the circumstances, immediate discipline or the imposition of a sanction may be applied, after which further discipline or sanctions may be applied according to this Policy. Any infractions or complaints occurring within competition will be dealt with by the procedures specific to the competition, if applicable. In such situations, disciplinary sanctions may be for the duration of the competition, training, activity, or event only.
9. In addition to being subject to disciplinary action pursuant to this *Discipline and Complaints Policy*, an employee of BC Netball who is a Respondent to a complaint may also be subject to consequences in accordance with the employee's Employment Agreement or policies for human resources, if applicable.

#### **D. Minors**

10. Complaints may be brought for or against a Participant who is a Minor. Minors must have a parent/guardian or other adult (with the permission of the parent/guardian) serve as their representative during this process.
11. Communication from the Case Manager, Discipline Chair or Discipline Panel, as applicable, must be directed to the Minor's representative.
12. A Minor is not required to attend an oral hearing, if held.



## **E. Reporting a Complaint**

13. All complaints must be reported by a Participant (or Participants) to one of BC Netball's identified independent Case Managers.
14. At its discretion, BC Netball may act as the Complainant and initiate the complaint process under the terms of this Policy. In such cases, BC Netball will identify an individual to represent the organization.
15. Complaints or incident reports should be made in writing and the person making the complaint may contact BC Netball's Case Manager for direction. The Case Manager may accept any report, in writing or not, at their sole discretion

## **F. Case Manager Responsibilities**

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

### **Process #1 - the Complainant alleges the following incidents:**

- a. Disrespectful, abusive, racist, or sexist comments or behaviour
- b. Disrespectful conduct
- c. Minor incidents of violence (e.g., tripping, pushing, elbowing)
- d. Conduct contrary to the values of BC Netball.
- e. Non-compliance with BC Netball policies, procedures, rules, or regulations
- f. Minor violations of the Code of Conduct and Ethics, Social Media Policy, or Athlete Protection Policy

### **Process #2 - the Complainant alleges the following incidents:**

- a. Repeated minor incidents
- b. Any incident of hazing



- c. Behaviour that constitutes harassment, sexual harassment, or sexual misconduct
- d. Major incidents of violence (e.g., fighting, attacking, sucker punching)
- e. Pranks, jokes, or other activities that endanger the safety of others
- f. Conduct that intentionally interferes with a competition or with any athlete's preparation for a competition
- g. Conduct that intentionally damages BC Netball's image, credibility, or reputation
- h. Consistent disregard for the bylaws, policies, rules, and regulations
- i. Major or repeated violations of the *Code of Conduct and Ethics*
- j. Intentionally damaging BC Netball's property or improperly handling of its monies
- k. Abusive use of alcohol, any use or possession of alcohol by Minors, or use or possession of illicit drugs and narcotics
- l. A conviction for any *Criminal Code* offense
- m. Any possession or use of banned performance enhancing drugs or methods

#### **G. Process #1 Complaint Handled by Discipline Chair**

17. Following the determination that the complaint or incident should be handled under Process #1, the Case Manager will appoint a Discipline Chair who may:
  - a. Recommend mediation.
  - b. Make a decision.
  - c. Ask the Complainant and the Respondent for either written or oral submissions regarding the complaint or incident; or
  - d. Convene the parties to a meeting, either in person or by way of video or teleconference to ask the parties questions.
18. Thereafter, the Discipline Chair shall determine if a breach occurred and, if so, if one or more sanctions should be applied (see: **Sanctions**).
19. The Discipline Chair will inform the Parties of the decision, which will take effect immediately.
20. Records of all sanctions will be maintained by BC Netball.

#### **H. Request for Reconsideration**



21. If the Discipline Chair decides not to impose a sanction on the Respondent, the Complainant may request a reconsideration from the Discipline Chair by informing them, within five (5) days of receiving the decision, that they are not satisfied with the decision and explaining why.
22. If the Discipline Chair imposes a sanction, the Respondent may request a reconsideration from the Discipline Chair by informing them, within five (5) days of receiving the decision, that they are not satisfied with the decision. In their request for reconsideration, the Respondent must indicate:
  - a. Why the sanction is inappropriate.
  - b. Summary of evidence that the Respondent will provide to support the Respondent's position; and
  - c. What penalty or sanction (if any) would be appropriate?
23. Upon receiving a request for reconsideration, the Discipline Chair may decide to accept or reject the Respondent's suggestion for an appropriate sanction.
24. Should the Discipline Chair accept the Respondent's suggestion for an appropriate sanction, that sanction will take effect immediately.
25. Should the Discipline Chair not accept the Respondent's suggestion for an appropriate sanction, the initial complaint or incident will be handled under Process #2 of this Policy.

#### **I. Process #2 Handled by Discipline Panel Case Manager**

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

28. After notifying the Parties that the complaint has been accepted, the Case Manager may propose using the *Dispute Resolution Policy* with the objective of resolving the dispute. If applicable, and if the dispute is not resolved, or if the parties refuse to use the *Dispute Resolution Policy*, the Case Manager will appoint a Discipline Panel, which shall consist of a single Arbitrator, to hear the complaint. In extraordinary circumstances, and at the discretion of the Case Manager, a Discipline Panel of three persons may be appointed to hear the complaint. In this event, the Case Manager will appoint one of the Discipline Panel's members to serve as the Chair.
29. The Case Manager, in cooperation with the Discipline Panel, will then decide the format under which the complaint will be heard. This decision may not be appealed. The format of the hearing may be an oral in-person hearing, an oral hearing by telephone or other communication medium, a hearing based on a review of documentary evidence submitted in advance of the hearing, or a combination of these methods. The hearing will be governed by the procedures that the Case Manager and the Discipline Panel deem appropriate in the circumstances, provided that:
- a. The parties will be given appropriate notice of the day, time, and place of the hearing, in the case of an oral in-person hearing or an oral hearing by telephone or other communication medium
  - b. Copies of any written documents which the parties wish to have the Discipline Panel consider will be provided to all parties, through the Case Manager, in advance of the hearing
  - c. The parties may engage a representative, advisor, translator, or legal counsel at their own expense
  - d. The Discipline Panel may request that any other individual participate and give evidence at the hearing
  - e. The Discipline Panel may allow as evidence at the hearing any oral evidence and document or thing relevant to the subject matter of the complaint, but may exclude such evidence that is unduly repetitious, and shall place such weight on the evidence as it deems appropriate
  - f. The decision will be by a majority vote of the Discipline Panel
30. If the Respondent acknowledges the facts of the incident, the Respondent may waive the hearing, in which case the Discipline Panel will determine the appropriate sanction. The Discipline Panel may still hold a hearing for the purpose of determining an appropriate sanction.



31. The hearing will proceed even if a party chooses not to participate in the hearing.
32. In fulfilling its duties, the Discipline Panel may obtain independent advice.

#### **J. Decision**

33. After hearing the matter, the Discipline Panel will determine whether an infraction has occurred and, if so, the sanctions to be imposed. Within fourteen (14) days of the hearing's conclusion, the Discipline Panel's written decision, with reasons, will be distributed to all parties, the Case Manager, to BC Netball. In extraordinary circumstances, the Discipline Panel may first issue a verbal or summary decision soon after the hearing's conclusion, with the full written decision to be issued before the end of the fourteen (14) day period. The decision will be considered a matter of public record unless decided otherwise by the Discipline Panel.

#### **K. Sanctions**

34. Prior to determining sanctions, the Discipline Chair or Discipline Panel, as applicable, will consider factors relevant to determining appropriate sanctions which include:
  - a. The nature and duration of the Respondent's relationship with the Complainant, including whether there is a Power Imbalance.
  - b. The Respondent's prior history and any pattern of inappropriate behaviour or Maltreatment.
  - c. The ages of the individuals involved.
  - d. Whether the Respondent poses an ongoing and/or potential threat to the safety of others.
  - e. The Respondent's voluntary admission of the offense(s), acceptance of responsibility for the Maltreatment, and/or cooperation in the process of BC Netball.
  - f. Real or perceived impact of the incident on the Complainant, sport organization or the sporting community.
  - g. Circumstances specific to the Respondent being sanctioned (e.g., lack of appropriate knowledge or training regarding the requirements in the *Code of Conduct and Ethics*; addiction; disability; illness).
  - h. Whether, given the facts and circumstances that have been established, continued participation in the sport community is appropriate.
  - i. A Respondent who is in a position of trust, intimate contact or high-impact decision-making may face more serious sanctions; and/or





- j. Other mitigating and aggravating circumstances
35. Any sanction imposed must be proportionate and reasonable. However, progressive discipline is not required, and a single incident of Maltreatment or other prohibited behaviour may justify elevated or combined sanctions.
36. The Discipline Chair or Discipline Panel, as applicable, may apply the following disciplinary sanctions, singularly or in combination:
- a. **Verbal or Written Warning** - A verbal reprimand or an official, written notice and formal admonition that a Participant has violated the *Code of Conduct and Ethics* and that more severe sanctions will result should the Participant be involved in other violations
  - b. **Education** - The requirement that a Participant undertake specified educational or similar remedial measures to address the violation(s) of the *Code of Conduct and Ethics*
  - c. **Probation** - Should any further violations of the *Code of Conduct and Ethics* occur during the probationary period, will result in additional disciplinary measures, likely including a period of suspension or permanent ineligibility. This sanction can also include loss of privileges or other conditions, restrictions, or requirements for a specified period.
  - d. **Suspension** - Suspension, either for a set time or until further notice, from participation, in any capacity, in any program, practice, activity, event, or competition sponsored by, organized by, or under the auspices of BC Netball. A suspended Participant is eligible to return to participation, but reinstatement may be subject to certain restrictions or contingent upon the Participant satisfying specific conditions noted at the time of suspension
  - e. **Eligibility Restrictions** - Restrictions or prohibitions from some types of participation but allowing participation in other capacities under strict conditions
  - f. **Permanent Ineligibility** - Permanent ineligibility to participate, in any sport, in any capacity, in any program, activity, event, or competition sponsored by, organized by, or under the auspices of BC Netball.
  - g. **Other Discretionary Sanctions** - Other sanctions may be imposed, including, but not limited to, other loss of privileges, no contact directives, a fine or a monetary payment to compensate for direct losses, or other restrictions or conditions as deemed necessary or appropriate





37. The Discipline Chair or Discipline Panel, as applicable, may apply the following presumptive sanctions which are presumed to be fair and appropriate for the listed Maltreatment:
- a. Sexual Maltreatment involving a Minor Complainant shall carry a presumptive sanction of permanent ineligibility.
  - b. Sexual Maltreatment, Physical Maltreatment with contact, and Maltreatment related to interference or manipulation of process shall carry a presumptive sanction of either a period of suspension or eligibility restrictions.
  - c. While a Respondent has pending charges or dispositions in violation of the criminal law, the presumptive sanction shall be a period of suspension
38. A Participant's conviction for a *Criminal Code* offense, as determined by BC Netball or the will be deemed an infraction under this Policy and will result in expulsion from the BC Netball *Criminal Code* offences may include, but are not limited to:
- a. Any child pornography offences
  - b. Any sexual offences
  - c. Any offence of physical violence
  - d. Any offence of assault
  - e. Any offence involving trafficking of illegal drugs
39. Unless the Discipline Panel decides otherwise, any disciplinary sanctions will begin immediately, notwithstanding an appeal. Failure to comply with a sanction as determined by the Discipline Panel will result in an automatic suspension until such time as compliance occurs.
40. Records of all decisions will be maintained by BC Netball.

#### **L. Appeals**

41. The decision of the Discipline Panel may be appealed in accordance with the *Appeal Policy*.

#### **M. Suspension Pending a Hearing**

42. BC Netball may determine that an alleged incident is of such seriousness as to warrant suspension of a Participant pending completion of an investigation, criminal process, the hearing, or a decision of the Discipline Panel.

#### **N. Confidentiality**



43. The discipline and complaints process is confidential and involves only the BC Netball, the parties, the Case Manager, the Discipline Chair, the Discipline Panel, and any independent advisors to the Discipline Panel. Once initiated and until a decision is released, none of the parties will disclose confidential information relating to the discipline or complaint to any person not involved in the proceedings.
44. Any failure to respect the confidentiality requirement may result in further sanctions or discipline by the Discipline Chair or Discipline Panel (as applicable).

#### **O. Timelines**

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

#### **P. Records and Distribution of Decisions**

46. Other individuals or organizations, including but not limited to, national sport organizations, Provincial/Territorial sport organizations, sport clubs, etc., may be advised of any decisions rendered in accordance with this Policy.
47. BC Netball recognizes that a publicly available searchable database or registry of Respondents who have been sanctioned, or whose eligibility to participate in sport has in some way been restricted, may be maintained and may be subject to provisions in the UCCMS.

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