



SPORT INTEGRITY
AUSTRALIA

NATIONAL INTEGRITY FRAMEWORK

GUIDANCE FOR COMPLAINT MANAGEMENT AND SANCTIONING

JANUARY 2024



ACKNOWLEDGEMENT OF COUNTRY

In the spirit of reconciliation we acknowledge the Traditional Custodians of Country throughout Australia and their connections to land, sea and community.

We pay our respect to their Elders past, present and future and extend that respect to all Aboriginal and Torres Strait Islander peoples.

We recognise the outstanding contribution Aboriginal and Torres Strait Islander peoples make to sport in Australia and celebrate the power of sport to promote reconciliation and reduce inequality.



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CONTACT US

Enquiries about the licence and any use of this document can be sent to:

Sport Integrity Australia
PO Box 1744
FYSHWICK ACT 2609 AUSTRALIA

Phone 1300 027 232
Email contactus@sportintegrity.gov.au

The Complaints Process has been established to keep sport safe and fair by managing allegations of Prohibited Conduct. While the Complaints Process may result in disciplinary outcomes for poor behaviour, it is not designed to be punitive and often strategies such as education can be a constructive, effective and more efficient way to address poor behaviour in sport, while also ensuring our effort is focused toward the most high risk matters.

The Case Categorisation System establishes a transparent, objective, and consistent basis for evaluating allegations of Prohibited Conduct. It will be used to support decisions about the appropriate way to manage a Complaint and the issuance of sanctions for allegations found to be substantiated. The key aim of this guidance is to ensure considered, consistent and proportionate decisions are being made throughout the Complaints Process.

The presence of **complicating factors** may escalate a matter to a more severe Category. Complicating factors include a perceived or real risk of harm, criminality, and other **aggravating factors** (as set out in *Aggravating and Mitigating Circumstances* later in this document). The presence of **mitigating factors** may also be considered as part of making a proportionate decision.

CASE CATEGORISATION

CATEGORY 1: BLUE – LOW

Category 1 (Blue) Complaints and Reports involve allegations of Prohibited Conduct that are assessed as low risk. Category 1 matters can be appropriately addressed through education and a reminder of obligations. Mostly (although not always) these behaviours involve a mistake, misunderstanding, or an absence of intent to harm. Category 1 matters generally appear to be isolated incidents and there are rarely, if any, complicating factors. The category 1 process is an effective way to ensure all parties are educated and helps to draw a clear line about expected behaviours going forward.

Category 1 matters do not usually require an investigation and utilise strategies such as education as a deterrent and/or disruptive measure.

Category 1 Complaints or Reports can include (*but are not limited to*):

Member Protection and Safeguarding Children and Young People

-  Low level swearing, derogatory or disrespectful comments.
-  Verbal abuse.
-  Aggressive tone, disrespectful comments, or a heated altercation, in the absence of malice, vilification or bullying or other prohibited behaviour.
-  Lewd jokes (where adults involve a child or young person, a higher category may result).
-  Unnecessary and/or overly physical contact (not involving sexual misconduct) between athletes including pushing, roughhousing, or bumping into another.
-  Non-compliance with the following Child Safe Practices, **but only where** no obvious aggravating circumstances or behavioural patterns of concern are present:
 - Exhibiting favouritism towards a child or young person.
 - Photographing a child or young person without parent/guardian consent.
 - Transport of a child or young person without parent/guardian consent.
 - Providing gifts to a child or young person unless it is an official award.
 - Inappropriate use of tone or language.
 - Engaging in open discussions of a mature nature in the presence of children or young people.
 - Social media contact with a child or young person (without any aggravating factors e.g. repeated crossing of professional boundaries, use of profane or sexual language)
 - Accepting invitation to attend a private social function without an existing social, personal or family relationship.
 - Unapproved one on one supervision of a child or young person.
 - Failure to provide a positive training environment for a child or young person.

■ CATEGORY 2: AMBER – MEDIUM

Category 2 (Amber) matters may involve the risk of moderate or reasonable harm, or repeated, more severe, or more complex **Category 1** Complaints or Reports.

Category 2 matters may allege Prohibited Conduct that poses a moderate to high risk to an individual or individuals in the sport. Category 2 matters may have complicating factors, such as reoccurring behaviour, increased severity or intensity of conduct or multiple affected parties. Category 2 matters may also have the potential to meet a criminal threshold (and may require referral to law enforcement, child protection agencies and/or the Sport Organisation).

Provisional Action may be required to be imposed on the Respondent while the Sport Organisation manages a Category 2 matter (see *Provisional Action* for further guidance).

Category 2 Complaints or Reports can include (*but are not limited to*):

Frequency & Intensity

- Repeated or more severe Category 1 matters, including the risk of ongoing harm.

Member Protection

- Bullying.
- Discrimination.
- Repeatedly 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 (race, religion and culture, disability, gender, sex).
- Repeated or multiple incidents of harmful coaching techniques or training as punishment.
- Physical threats or contact intended to cause hurt, such as shoving.

Safeguarding Children and Young People

- Non-compliance with any Child Safe Practices (aggravated), but including:
 - profane or sexual language, or language intended to threaten or frighten.
 - excessive swearing, derogatory or disrespectful comments, chastising a child or young person.

- Exposing the child or young person to age-inappropriate material.
- Repeated crossing of Professional Boundaries.
- Repeated use of training as punishment or ignoring a child or young person expressing pain during training.
- Physical contact that is unnecessary to support the delivery of sport services.
- Photographing a child or young person without appropriate consent including aggravating circumstances.

Other

- Betting by members on their own sport.
- Inappropriate use of, or supply of supplements.
- Interfering with, or intimidating parties to a Complaint, evidence, or Sport Integrity Australia processes.
- Failing to report criminal charges, convictions, or any other Prohibited Conduct under the sport organisation's policies.
- Multiple breaches or offences and previous sanctions.
- Further breaches whilst on probation or while Provisional Action is applied.

■ CATEGORY 3: RED – HIGH

Category 3 (Red) matters often clearly involve allegations of criminal behaviour and/or present immediate risk of harm.

Category 3 matters may include more severe **Category 2** allegations where there is the presence of significant complicating factors. Whether a matter is 'more severe' is determined on the specific circumstances, including the frequency, intensity or number of reported incidents.

Category 3 matters must be reported to law enforcement and/or Child protection as mandated.

Provisional Action may be required to be imposed on the Respondent while the Sport Organisation manages a Category 3 matter, however in doing so, the Sport Organisation should connect with the relevant law enforcement organisation so as not to impede any potential criminal investigation (see section *Provisional Action* for further guidance).

Category 3 Complaints or Reports can include (*but are not limited to*):

Egregious and Criminal Conduct

- Sexual misconduct and abuse.
- Touching of genitals, breasts, buttocks by an adult or person in a position of power (one off tapping of the buttocks as a sign of encouragement, or unintentional contact when spotting an athlete may be more proportionately categorised as a Category 2, depending on the circumstances).
- Child abuse.
- Exposing the child or young person to age-inappropriate and harmful material, or behaviours.
- Criminal charges or convictions that may pose a risk to sport.
- Failing to report child abuse.
- Serious assaults including striking or punching.
- Supplying alcohol or drugs to a child or young person.
- Use, possession or trafficking of illegal drugs.

Improper Use of Drugs and Medicine

- Supplying medicines or over the counter medicines except where permitted by law and with the consent of a parent.

Match Fixing and Corruption

- Match, race or competition fixing.
- Supplying inside information for the purposes of gambling.

AGGRAVATING AND MITIGATING CIRCUMSTANCES

The following guiding principles are intended to outline the aggravating and mitigating circumstances that should be considered when evaluating a matter under the Case Categorisation System 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 make a matter more complex such as the wellbeing of the complaint parties, the involvement of media or any high-profile individuals. These factors mean that additional planning may be required throughout the management of that matter to address factors such as confidentiality, persons with conflicts of interest, and fear of retribution. It does not necessarily mean that the matter needs to be re-categorised due to these other factors.

Aggravating circumstances refers to the factors particular to a breach, the Affected Party or the Respondent that increase the severity or culpability of a matter.

Aggravating circumstances include consideration of:

- The presence of possible criminal conduct, including sexual abuse.
- There was actual or threatened use of violence towards an individual.
- The Breach was committed in the presence of, or towards a person under 18 years of age.
- The Affected Party's vulnerability, for example, because the Affected Party was very young or elderly or had a disability, or because of the geographical isolation of the Affected Party.
- 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 Affected Parties.
- Breach motivated by race, religion, ethnicity, nationality, sexual identity, disability, gender.
- Injury, emotional harm, loss, or damage was substantial, including the level of embarrassment, distress or humiliation by the Affected Party.
- The Respondent has previously been warned or undertaken education about expected behaviours that covers the same, or similar conduct or has previous related breaches.
- There has been a failure to comply with Provisional Action.
- The Breach occurred whilst on probation or a sanction.
- The behaviour was ongoing and sustained over a period of time.
- There was an abuse of position of power or trust.
- The seniority or role of the Respondent.
- There was attempted, or actual, disposal of evidence.
- There was a lack of cooperation during the Complaint Process.
- The Breach was premeditated (rather than spur of the moment).

Mitigating circumstances refers to the factors particular to a breach, the Affected Party or the Respondent that decrease the severity or culpability.

Mitigating circumstances include consideration of:

- The behaviour was unplanned or spur of the moment (i.e. appears to be lapse of judgement)
- Youth and age of the Respondent.
- Limited role played in the Breach, including the presence of provocation, persuasion, or coercion by others (including cultural/systemic issues).
- The Respondent was not fully aware of the consequences of their actions because of their age or any disability.
- Respondent is accepting of responsibility and shows level of remorse/contrition.
- Level of cooperation.
- Harm suffered by the Affected Party or the sport was not substantial.
- The extent to which a disability, health or other factor may have influenced the conduct.
- Any potential loss of income or financial impact on the Respondent.
- Whether the behaviour was uncharacteristic. Factors to consider could include length of service, whether there are records of previous Breaches, counselling or education about related issues, and any other evidence that the behaviour is atypical.

PROVISIONAL ACTION

Provisional Action is the process undertaken by a Sport Organisation to impose a temporary measure on a Respondent while they are subject to the Complaints Process, or an investigation by law enforcement. Provisional Action may be required to be imposed on the Respondent while the Sport Organisation or Sport Integrity Australia manage a Category 2 or Category 3 matter. For Category 3 matters, the Sport Organisation should wait to connect with the relevant law enforcement organisation so as not to impede any potential criminal investigation. Where matters are passed from Sport Integrity Australia to law enforcement, Sport Integrity Australia will include the appropriate Sport Organisation contact for law enforcement to speak to.

There are multiple options available to a sport in determining appropriate Provisional Action. This includes, but is not limited to:

- Reduction in or assignment to alternative duties.
- Supervision by an appropriate person.
- Temporary suspension of sport issued accreditations.
- Temporary suspension from all or certain sporting activities (e.g. state level suspension but can continue to participate/coach at club level).

When determining Provisional Action, the Sport Organisation should take into consideration the potential consequences of such action (e.g. loss of income, selection eligibility) and ensure that any Provisional Action imposed is proportionate to the nature and seriousness of the alleged conduct. Where appropriate, the Sport Organisation should prioritise the level of Provisional Action that imposes the least disruption to a Respondent's involvement in sport while also effectively mitigating the risk of harm to the wellbeing of other individuals and the integrity of the sport.

The Respondent may seek to have the Provisional Action reviewed and this could occur through an Internal Hearing Tribunal or at the National Sports Tribunal (fees apply). Appeals of Provisional Action will only consider whether the decision to impose Provisional Action is proportionate (see *Proportionality* below) to the alleged conduct, not whether the alleged conduct occurred or not.

Investigation processes can take time and so it may be appropriate for the Sport Organisation to review the Provisional Action at regular intervals (e.g. monthly) to ensure it remains proportionate to the matter being investigated.

SANCTIONS AND RELATED MEASURES

The following principles are intended to serve as guidance to Sporting Organisations and sporting clubs when sanctions and other resolution measures may be appropriate following a potential or substantiated integrity breach.

The purpose is to provide Sporting Organisations with an appropriate range of sanctions and related measures that may be applicable in a particular type of integrity matter as part of assisting Sporting Organisations to develop and manage a robust integrity framework.

Sanctions

Rather than seeking to punish, imposing a sanction/s for Prohibited Conduct is primarily aimed at protecting an individual from harm with a secondary aim of protecting the integrity of 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 and risk posed by the conduct
- Whether it was a one-off incident or a part of an overall pattern of behaviour
- Whether it was likely to be an honest and reasonable mistake
- The potential impact on public confidence in the integrity of the sport
- The views, if any, of the Complainant (e.g., seeking behaviour to be recognised through an apology).

Aggravating and mitigating circumstances should be considered before determining any appropriate sanctions. As a general rule, the more serious the alleged behaviour, the more appropriate it is to use sanctions.

Range of Sanctions and Related Measures could include (but is not limited to) one or a combination of any of the following:

Category 1 Breaches

The following range of actions/sanctions may be appropriate:

- Provided with a reminder of, or direction, to review relevant policies.
- Required to complete mandatory education requirements.
- Formal warning and/or reprimand.

Category 2 Breaches

The following range of sanctions should be considered (in conjunction with Category 1 sanctions):

- Formal conciliation or mediation between the relevant parties.
- Mandatory counselling.
- A change to the position, duties or access.
- Supervision for some or all sport activities.
- Temporary suspension for some or all sport activities (of which could be partly or wholly suspended pending a good behaviour period).
- Subject to a good behaviour period.

Category 3 Breaches

The following range of sanctions should be considered (in conjunction with Category 1 and 2 sanctions):

- Withdrawal of coaching or other accreditations.
- Temporary or permanent suspension/exclusion from some or all sport activities.
- Return of awards or other relevant accolades.

Alternatives to sanctions (other measures)

Options available to address allegations of Prohibited Conduct through means other than a investigation may include:

- Reminder of obligations or encouraging completion of training.
- Informal counselling/mentoring or closer supervision.
- Informal and formal alternative dispute resolution (e.g. mediation) to assist in resolving interpersonal disputes.
- Other actions available to the sporting organisation through other applicable policies (for example performance management).

Proportionality

Sanctions and other measures (such as Provisional Action) must be applied in accordance with the principle of proportionality – that is, in proportion to the nature and seriousness of the Prohibited Conduct. This will include taking into account any aggravating and mitigating circumstances (see earlier).

Implementation and monitoring

It is the responsibility of Sport Organisations to implement and apply the National Integrity Framework, including imposing Provisional Action and sanctions where applicable. Sport Organisations will be responsible for ensuring rules and processes are in place to effectively record, enforce and monitor any sanctions applied to their sport participants.

Sport Organisations should adopt appropriate mechanisms, such as awareness and educational programs, to facilitate an understanding of the National Integrity Framework within their organisation. This should include providing information on the role of Sport Integrity Australia, information on the National Integrity Framework Policies, and the process for making Complaints and Reports.

Appeals

Respondents will have the opportunity to appeal Breach Findings and/or sanction/s before an Internal Hearing Tribunal or the National Sports Tribunal. Sport Organisations should document the reasoning associated with decisions and be able to submit this evidence before a tribunal to support their decision making. If Sport Integrity Australia has determined a Breach Finding, it will provide the relevant information to the Sport Organisation to assist with any appeal.

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