

COC CODE TO ADDRESS MALTREATMENT IN SPORT

June 2021



Review date	Comes into effect	Scope of application	Location
June 30, 2021	July 1, 2021	All Participants involved in COC Activities	COC WEBSITE https://olympic.ca/canadian-olympic-committee/governance/policies/



1. CODE AND PURPOSE

The Canadian Olympic Committee and the Canadian Olympic Foundation (collectively hereinafter referred to as the “COC”) are dedicated to creating a safe and welcoming sport environment that is free from Maltreatment (as defined in **Section 3**) of any kind. As such, the COC recognizes that all Participants (as defined in **Section 3**) have a right to play, practice, compete, work and interact in an environment that is free from Maltreatment.

As a key stakeholder in the Canadian sport system, the COC recognizes that addressing the causes and consequences of Maltreatment is a collective responsibility and requires the deliberate effort of all stakeholders in sport. Through an extensive consultation process, key stakeholders in the Canadian sport system have developed the *Universal Code of Conduct to Prevent and Address Maltreatment in Sport* (“UCCMS”) which provides a foundation for the development of a coordinated implementation strategy to prevent and address Maltreatment across all levels of the Canadian sport system, and for all Participants. Since the UCCMS may continue to evolve in the foreseeable future, this *COC Code to Address Maltreatment in Sport* (the “Code”) incorporates the key elements of version 5.1 of the UCCMS, dated December 16, 2019. Going forward, this Code may be amended further to ensure that the subsequent versions of the UCCMS are incorporated and can be implemented appropriately.

The Purpose of this Code is the following:

- a) To promote, establish, and maintain an environment that is free from all forms of Maltreatment and that treats every individual with dignity and respect;
- b) To define Maltreatment and certain prohibited behaviours or conduct that will not be tolerated; and
- c) To the extent that Maltreatment does occur, to outline a duty to report, provide a clear reporting process and a mechanism for reviewing, resolving and adjudicating Complaints and to sanction those individuals having been found to have engaged in Maltreatment.

2. SCOPE OF APPLICATION

This Code applies to the conduct of all Participants involved in COC Activities including but not limited to all events over which the COC has jurisdiction such as the Olympic Games, Pan American Games, and Youth Olympic Games (the “Games”), as well as all other events and activities organized or hosted by the COC (collectively, including the Games, the “COC Activities”). The physical location(s) where the conduct occurred is not determinative.

If a Complainant makes a Report concerning an incident that occurred at a time during which a different policy was in force (i.e.: *COC Policy Statement on Conduct*, *COC Policy Statement and Guidelines on Discrimination and Harassment*, etc.), the matter will be governed by the substantive rules of the policy in force at the time that the incident occurred in order to determine whether a violation of the policy has occurred, unless the Complaint Resolution Officer determines otherwise¹. This Code will apply retroactively, prior to its approval

¹The Complaint Resolution Officer may determine, in their absolute discretion, and considering fairness principles, that this Code shall apply.



date, as it relates to all procedural matters including but not limited to the processes for reporting, investigating, and resolving a Complaint.

Notwithstanding anything to the contrary, this Code does not apply to a Workplace-Related Complaint. Any such Complaint should be reported under the *COC Workplace Conduct Policy* (the “**Workplace Policy**”), and any such Complaint that is otherwise reported (including under this Code) will, as the COC may decide in its absolute discretion, be addressed in accordance with the Workplace Policy. Where an allegation of misconduct involving a COC Employee is substantiated under the Workplace Policy and where such misconduct would also result in a violation of this Code, the COC may impose additional sanctions on the Respondent in accordance with this Code. In seeking to determine whether a breach of this Code has occurred and/or when seeking the appropriate sanction to impose, the COC may consult with or refer the matter to the Case Resolution Officer in accordance with the process set out in **Section 8**.

Without limiting the foregoing, the COC acknowledges that Participants may be subject to other policies through their National Sports Organizations (“**NSO(s)**”) or otherwise. This Code is not intended to replace or repeal such policies.

3. DEFINITIONS

The following terms have these meanings:

“**Adult**” An individual who is not a Minor Child (as defined below).

“**Athlete**” An individual who competes in sport and is a member, registrant or license holder of a sport organization subject to the UCCMS.

“**COC**” means the Canadian Olympic Committee and Canadian Olympic Foundation. All references to decisions made by, or notifications made to, the COC shall be executed through the Chief Executive Officer and Secretary General, unless the CEO is involved in some way with the Complaint, in which case any decision made by, or notifications made to, the COC shall be through the President.

“**COC Activities**” has the meaning set forth in **Section 2**.

“**COC Employee**” All employees (full-time, part-time, permanent, fixed-term, casual or student) of the COC, together with any managers, consultants, contractors or others who may provide services in the COC Workplace or to the COC.

“**COC Workplace**” includes any land, premises, location or thing at, upon, in or near which an employee works. For the purposes of this Code, “Workplace” includes any place where the business of the COC is being carried out, and other locations and situations such as during business travel, work-related social gatherings or other locations where the misconduct might have a subsequent impact on the work relationship, environment or performance.

“**Code**” has the meaning set forth in **Section 1**.



“Complainant” An individual who makes a report of actual or suspected incident(s) of Maltreatment under this Code.

“Complaint” A Report of actual or suspected incident(s) of Maltreatment.

“Complaint Resolution Officer” has the meaning set forth in **Section 6.4**.

“Consent” Consent is defined in Canada’s Criminal Code as the voluntary agreement to engage in the sexual activity in question. The law focuses on what the person was actually thinking and feeling at the time of the sexual activity. Sexual touching is only lawful if the person affirmatively communicated their consent, whether through words or conduct. Silence or passivity does not equal consent. Sexual activity is only legal when both parties consent. The Criminal Code also says there is no consent when: someone says or does something that shows they are not consenting to an activity; someone says or does something to show they are not agreeing to continue an activity that has already started; someone is incapable of consenting to the activity, because, for example, they are unconscious; the consent is a result of a someone abusing a position of trust, power or authority or someone consents on someone else’s behalf. A person cannot say they mistakenly believed a person was consenting if: that belief is based on their own intoxication; they were reckless about whether the person was consenting; they chose to ignore things that would tell them there was a lack of consent; or they didn’t take proper steps to check if there was consent. Sexual activity with a person under the age of 18 years is a criminal offence when the other person is an Adult in a position of trust or authority².

“Duty to Report Maltreatment” The duty that Participants have to report actual or suspected cases of Maltreatment under the processes set out in this Code.

“Duty to Report Maltreatment of a Minor Child under Child Protection Legislation” The legal duty that Participants may have to report known or suspected cases of Maltreatment of a Minor Child under provincial child protection legislation. This duty to report varies by province and depends on the applicable provincial legislation. Subject to the applicable legislation, professionals who work with minor children may have an added duty to report. If such a duty to report exists, Adult Participants have a duty to report known or suspected cases of Maltreatment in accordance with the processes set out in provincial legislation.

“Games” has the meaning set forth in **Section 2**.

“Grooming” has the meaning set forth in **Section 4.5.5**

“Independent Case Manager” is the person identified by the COC in **Section 5.1**.

“Maltreatment” Volitional acts that result in harm or the potential for physical or psychological harm and includes any of the prohibited behaviors and conduct described in **Section 4.2**.

“Minor” An individual who is under the age of 18 years old.

²Comment to Consent: The responsibility for ensuring there is consent is on the person who is initiating or pursuing the sexual activity. When someone has said no to sexual contact, the other person cannot rely on the fact that time has passed or the fact that the individual has not said no again to assume that consent now exists. No one can legally consent in advance to sexual activity in the future when they will be unconscious.



“Minor Child” means a minor child as defined by provincial child protection legislation³. It is the responsibility of the Adult to know the age of a minor child.

“Neglect” has the meaning set forth in **Section 4.5.4**.

“NSO” has the meaning set forth in **Section 2**.

“Participant” Any individual involved in COC Activities. Subject to the provisions of **Section 2**, all Participants are subject to this Code.

“Person in Leadership” Any COC Board of Director, any member of the COC Senior Leadership Team or any individual in the COC’s human resources department.

“Physical Maltreatment” has the meaning set forth in **Section 4.5.2**.

“Power Imbalance” A Power Imbalance may exist where, based on the totality of the circumstances, a Participant has supervisory, evaluative, a duty of care, or other authority over another Participant. A Power Imbalance may also exist between an Athlete and other Adults involved in sport in positions such as high-performance directors, sport specific health-care providers, sport science support staff, care or support persons, guides or pilots. Maltreatment occurs when this power is misused. Once a coach-Athlete relationship is established, a Power Imbalance is presumed to exist throughout the coach-Athlete relationship, regardless of age, and is presumed to continue for Minor Athletes after the coach-Athlete relationship terminates and until the Athlete reaches 25 years of age. A Power Imbalance may exist, but is not presumed, where an intimate relationship existed before the sport relationship commenced (e.g., a relationship between two spouses or life partners, or a sexual relationship between consenting adults that preceded the sport relationship)⁴.

“Protected Person” A Participant who at the time that the actual or suspected Maltreatment occurred was (i) a Minor Child, (ii) a Minor or (iii) for any reasons other than age has been determined to lack legal capacity under the applicable legislation.

“Psychological Maltreatment” has the meaning set forth in **Section 4.5.1**.

“Reporting (or Report)” A Complaint made in writing by any person or a Participant to the Independent Case Manager or Person in Leadership regarding actual or suspected incidents of Maltreatment. A Report may be

³ At the date of approval of this Code, a minor child under child protection legislation in BC is a person under the age of 19; for AB, MB, QC and PEI, a person under the age of 18; for NF, ON, NB, NS, NWT, YU, NUN, a person under the age of 16 and for SK, an unmarried person under the age of 16.

⁴Comment to Power Imbalance: A Power Imbalance may arise whether the Participants are in 1) an authority-based relationship in which one person has power over another by virtue of an ascribed position of authority, such as between high performance director and coach; employer and employee; technical official and Athlete; 2) a dependency relationship in which the person in a position of lesser power is dependent upon the other person for a sense of security, safety, trust, and fulfillment of needs, conducive to intimate physical or psychological connections, such as between parent and child; teacher and student; coach and Athlete; high performance director and Athlete, sport science and medical support staff and Athlete; billet or host family and Athlete; and 3) a peer-to-peer relationship, including but not limited to teammate-teammate, athlete-athlete, coach-coach or official-official relationships. Power may be represented by seniority, ability, physical size, public profile, gender identity or expression, sexual orientation, ethno-racial identity, level of physical and intellectual disability, and their intersections, as some examples. Maltreatment occurs when this power is misused. Moreover, it is recognized that those from traditionally marginalized groups have experienced positions of lesser power.



made through either: (i) the one who experienced the Maltreatment (or is legally responsible for such person, or (ii) someone who witnessed the Maltreatment or otherwise knows or suspects Maltreatment. In either case, the intention of Reporting is to initiate the process under this Code, which could result in disciplinary action being taken against the Respondent.

“Respondent” A Participant who is alleged to have engaged in Maltreatment and thereby alleged to have violated this Code.

“SDRCC” means the Sport Dispute Resolution Centre of Canada.

“Sexual Maltreatment” has the meaning set forth in **Section 4.5.3**.

“UCCMS” has the meaning set forth in **Section 1**.

“Workplace Policy” has the meaning set forth in **Section 2**.

“Workplace-Related Complaint” any Complaint involving a COC Employee (i.e: where the Complainant or Respondent is a COC Employee).

4. PROHIBITED BEHAVIOURS & CONDUCT

4.1 It is a violation of this Code for a Participant to engage in Maltreatment. The right to participate in COC Activities may be limited, made conditional, suspended, terminated or denied in accordance with **Section 9** if a Participant is found to have engaged in Maltreatment.

4.2 The following behaviours and conduct constitute Maltreatment and may result in a sanction under this Code:

- a) Psychological Maltreatment (defined in **Section 4.5.1**);
- b) Physical Maltreatment (defined in **Section 4.5.2**);
- c) Sexual Maltreatment (defined in **Section 4.5.3**);
- d) Neglect (defined in **Section 4.5.4**);
- e) Maltreatment related to Grooming (defined in **Section 4.5.5**);
- f) Maltreatment Related to Process (defined in **Section 4.5.6**);
- g) Maltreatment Related to Reporting (defined in **Section 4.5.7**); and
- h) Subjecting a Participant to the Risk of Maltreatment (defined in **Section 4.5.8**).

4.3 The categories of Maltreatment are not mutually exclusive, nor are the examples provided in each category an exhaustive list. Rather, what matters for the assessment of the Maltreatment is whether the conduct falls into one or more of the categories, not into which category it falls. For example, abuse, assault, harassment, bullying, and hazing can be experienced in more than one category of Maltreatment.

4.4 This Code acknowledges that sport-specific differences exist with respect to such aspects as acceptable levels of touch, physical contact, and aggression during training or competition. However, this Code does



not address rules of the game; therefore, any relevant sport-specific differences may be considered during the investigative/sanctioning processes.

4.5 Categories of Maltreatment

4.5.1 “Psychological Maltreatment”

- a) Any pattern or a single serious incident of deliberate conduct that has the potential to be harmful to the psychological well-being of a Participant. Psychological Maltreatment includes, without limitation, verbal acts, non-assaultive physical acts and acts that deny attention or support. Psychological Maltreatment is determined by the objective behaviour, not whether harm is intended or results from the behaviour.
 - (i) **Verbal Acts:** Verbally assaulting or attacking someone, including but not limited to: unwarranted personal criticisms; body shaming; derogatory comments related to one’s identity (e.g. race, gender identity or expression, ethnicity, Indigenous status, ability/disability); comments that are demeaning, humiliating, belittling, intimidating, insulting or threatening; the use of rumours or false statements about someone to diminish that person’s reputation; using confidential sport and non-sport information inappropriately. Verbal Maltreatment may also occur in online forms.
 - (ii) **Non-assaultive Physical Acts (no physical contact):** Physically aggressive behaviors, including but not limited to throwing objects at or in the presence of others without striking another; hitting, striking or punching objects in the presence of others.
 - (iii) **Acts that Deny Attention or Support:** Acts of commission causing denial of attention, lack of support or isolation including but not limited to: ignoring psychological needs or socially isolating a person repeatedly or for an extended period of time; abandonment of an Athlete as punishment for poor performance; arbitrarily or unreasonably denying feedback, training opportunities, support or attention for extended periods of time and/or asking others to do the same.

4.5.2 “Physical Maltreatment”

- a) Any pattern or a single serious incident of deliberate conduct that has the potential to be harmful to the physical well-being of the Participant. Physical Maltreatment includes, without limitation, contact or non-contact behaviours. Physical Maltreatment is determined by the objective behaviour, not whether harm is intended or results from the behaviour.
 - (i) **Contact behaviours:** Including but not limited to: deliberately punching, kicking, beating, biting, striking, strangling or slapping another; deliberately hitting another with one or more objects.
 - (ii) **Non-contact behaviours:** Including but not limited to: isolating a person in a confined space; forcing a person to assume a painful stance or position for no athletic purpose (e.g., requiring an Athlete to kneel on a hard surface); abusive use of exercise for the purposes of punishment; withholding, recommending against, or denying adequate hydration, nutrition, medical attention or sleep; denying access to a toilet; providing alcohol to a Participant under the legal drinking age; providing illegal drugs or non-prescribed medications to a Participant; encouraging or knowingly permitting an Athlete to return to play prematurely following any injury or after a concussion and without the clearance of a medical professional; encouraging an Athlete to perform a skill for which they are known not to be developmentally ready.



4.5.3 “Sexual Maltreatment”

- a) Any sexual act, whether physical or psychological in nature, that is committed, threatened, or attempted against a Participant without the Participant’s Consent. Sexual Maltreatment includes, without limitation, any act targeting a person’s sexuality, gender identity or expression, that is committed, threatened or attempted against a person, and includes but is not limited to the Criminal Code offences of sexual assault, sexual exploitation, sexual interference, invitation to sexual touching, indecent exposure, voyeurism and nonconsensual distribution of sexual/intimate images. Sexual Maltreatment also includes sexual harassment and stalking, cyber harassment, and cyber stalking of a sexual nature. Sexual Maltreatment can take place through any form or means of communication (e.g. online, social media, verbal, written, visual, hazing, or through a third party).
- b) Examples of Sexual Maltreatment include, without limitation: Any penetration of any part of a person’s body, however slight, with any object or body part by a person upon another person, including but not limited to:
 - (i) vaginal penetration by a penis, object, tongue, or finger;
 - (ii) anal penetration by a penis, object, tongue, or finger;
 - (iii) Any intentional touching of a sexual nature of any part of a person’s body, however slight, with any object or body part by a person upon another person, including but not limited to:
 - (a) kissing;
 - (b) intentional touching of the breasts, buttocks, groin or genitals, whether clothed or unclothed, or intentionally touching of another with any of these body parts;
 - (c) any contact, no matter how slight, between the mouth of one person and the genitalia of another person;
 - (d) making another touch themselves, the Participant, or someone else with or on any of the body parts listed in b);
 - (e) any intentional touching in a sexualized manner of the relationship, context or situation.
- c) In addition to the criminal acts identified above, this Code prohibits sexual relations between Participants where there is a Power Imbalance. A Power Imbalance that is presumed to exist may be challenged.

4.5.4 “Neglect”

- a) Any pattern or a single serious incident of lack of reasonable care, inattention to a Participant’s needs, nurturing or well-being, or omissions in care that has the potential to be harmful to the well-being of the Participant. Neglect is determined by the objective behaviour but the behaviour must be evaluated with consideration given to the Participant’s needs and requirements, not whether harm is intended or results from the behaviour.
- b) Neglect, or acts of omission, includes without limitation: not providing an Athlete adequate recovery time and/or adequate treatment for a sport injury; not being aware of and not considering an



individual's physical or intellectual disability; not considering supervision of an Athlete during travel, training or competition; not considering the welfare of the Athlete when prescribing dieting or other weight control methods (e.g., weigh-ins, caliper tests); disregarding the use of performance-enhancing drugs by an Athlete; failure to ensure safety of equipment or environment; allowing an Athlete to disregard sport's rules, regulations, and standards.

4.5.5 Maltreatment related to “Grooming”

- a) Grooming is deliberate conduct by a Participant to sexualize a relationship with a Protected Person that involves the gradual blurring of boundaries and normalization of inappropriate and sexually abusive behaviour. During the grooming process, the Participant will gain the trust of the Protected Person and Adults and peers around the Protected Person often under the guise of an existing relationship. Manipulation tactics are then used to blur perceptions and gain further access to and private time with the Protected Person in order to abuse or exploit the Protected Person. Grooming can occur whether or not harm is intended or results from the behaviour.
- b) Grooming is often a slow, gradual and escalating process of building trust and comfort with a Protected Person. Grooming includes, without limitation, the process of making inappropriate behaviour seem normal and gradually engaging in ‘boundary violations’ which have been professionally-identified to Canadian standards (e.g., a degrading remark, a sexual joke, sexualized physical contact; Adult Participants sharing rooms with a Protected Person who is not an immediate family member; providing a massage or other purported therapeutic interventions with no specific training or expertise; private inappropriate social media and text communications; sharing inappropriate personal photographs; shared use of locker rooms; inappropriate private meetings; private travel, and providing gifts).
- c) Grooming usually begins with subtle behaviours that do not appear to be inappropriate. Many victims/survivors of sexual abuse do not recognize the grooming process as it is happening, nor do they recognize that this process of manipulation is part of the overall abuse process.
- d) In the grooming process, the Respondent begins by gaining trust of Adults around the Protected Person. The Respondent establishes a friendship and gains the Protected Person's trust. Grooming then involves testing boundaries (e.g. telling sexual jokes, showing sexually explicit images, making sexual remarks). Typically, behaviour moves from non-sexual touching to “accidental” sexual touching.
- e) The Protected Person is often manipulated into feeling responsible for the contact, is discouraged from telling anyone else about the relationship, and is made to feel obligated to protect the Respondent. The Respondent also builds trust with those close to the Protected Person so that the relationship with the Protected Person is not questioned.

4.5.6 Maltreatment related to Process

The behaviours identified below constitute Maltreatment related to Process under this Code.

- a) **Interference with or Manipulation of Process:**
 - (i) destroying, falsifying, distorting, concealing or misrepresenting information during the Reporting of a Complaint, the initial review and determination process or the Complaint resolution process;



- (ii) attempting to interfere, intimidate, harass (verbally or physically) or discourage an individual's participation in the processes set out in this Code;
- (iii) disclosing information relating to a Reported Complaint or complaint resolution process to individuals that do not have a legitimate 'need to know', without the consent of the Participant(s) involved (as applicable) and the Independent Case Manager or the Complaint Resolution Officer (as applicable), except as required by law or expressly permitted;
- (iv) failing to comply with any temporary or provisional measure or other final sanction; or
- (v) influencing or attempting to influence another person to interfere with or manipulate the process.

b) Retaliation:

Retaliation is prohibited. A Participant shall not take an adverse action against any person for making a good faith Report of possible Maltreatment or for participating in any process under this Code. Retaliation includes threatening, intimidating, harassing, coercing or any other conduct that would discourage a reasonable person from engaging or participating in the processes set out in this Code. Retaliation after the conclusion of initial review and determination process, complaint resolution process and sanction processes is also prohibited. Retaliation may be present even where there is a finding that no Maltreatment occurred. Retaliation does not include good-faith actions lawfully pursued in response to a Report of possible Maltreatment.

c) Aiding and Abetting:

Aiding and Abetting is any act taken with the purpose of facilitating, promoting, or encouraging the commission of Maltreatment by a Participant. Aiding and Abetting also includes, without limitation, knowingly:

- (i) allowing any person who is under suspension or who is otherwise ineligible to be in any way associated with sport to take part in sporting activities;
- (ii) providing any coaching-related advice or service to an Athlete who has been suspended or is otherwise ineligible; and
- (iii) allowing any person to violate the terms of their suspension or any other sanctions imposed.

4.5.7 Maltreatment related to Reporting

The behaviours identified below constitute Maltreatment related to Reporting under this Code.

a) Failure to Report Maltreatment

- (i) Failing to Report actual or suspected cases of Maltreatment under the processes set out in this Code by an Adult Participant constitutes Maltreatment related to Reporting. However, a Participant who is the victim of Maltreatment shall not be in breach of this Code for failing to Report Maltreatment under the process set out in this Code.



- (ii) Failing to Report actual or suspected cases of Maltreatment of a Minor Child in accordance with applicable provincial legislation also constitutes Maltreatment related to Reporting.
- (iii) The obligation to Report actual or suspected cases of Maltreatment is an ongoing one and is not satisfied simply by making an initial Report. It also includes the duty to reasonably supplement the Report with information learned at a later time.
- (iv) The obligation to Report includes making a direct Complaint to the Independent Case Manager or Person in Leadership on a timely basis.
- (v) The obligation to Report does not include the obligation to personally identify the victim of the Maltreatment or the details of the Complaint if the victim does not consent to such disclosure.
- (vi) Participants should not investigate or attempt to evaluate the credibility or validity of allegations involving Maltreatment. Participants making a good faith Report are not required to prove the allegations are true before Reporting.

b) Intentionally Filing a False Report

- (i) In addition to constituting Maltreatment, filing a knowingly false Report or influencing others to file a knowingly false Report, that a Participant engaged in Maltreatment or is suspected to have engaged in Maltreatment, shall be subject to disciplinary action pursuant this Code.
- (ii) A Report is false if the events Reported did not occur, and the person making the Report knows the events did not occur at the time of filing the Report.
- (iii) A false Report is different from an unsubstantiated Report; an unsubstantiated Report means there is insufficient supporting evidence to determine whether a Report is true or false. Absent demonstrable bad faith, an unsubstantiated report alone is not grounds for a violation of this Code.

4.5.8 Subjecting a Participant to the Risk of Maltreatment

It is a violation of this Code for sport administrators or other sport decision-makers in positions of authority to place Participants in situations that make them vulnerable to Maltreatment. This may include, but is not limited to, instructing an Athlete and coach to share a hotel room when traveling, knowingly hiring a Participant who has a past history of Maltreatment while the Participant is under the sanction of temporary or permanent ineligibility under the process set out in a UCCMS compliant policy.

5. REPORTING PROCEDURES

- 5.1 Participants must promptly Report actual or suspected cases of Maltreatment. A Complaint can be reported directly to any Person in Leadership or through the COC's Independent Case Manager at the following email address: COC@RubinThomlinson.com.



Rubin Thomlinson is a nationally recognized firm, with extensive experience in conducting workplace reviews and assessments, as well as investigations into complaints of harassment, discrimination and other employee misconduct.

- 5.2 In the event of a violent, emergency or life-threatening situation, 9-1-1 should also be called immediately.
- 5.3 A Person in Leadership who receives a Complaint of an actual or suspected case of Maltreatment shall Report the Complaint directly to the Independent Case Manager.
- 5.4 Adult Participants must also report actual or suspected cases of Maltreatment of a Minor Child to law enforcement and/or to Child Protection agencies, as may be required by the relevant provincial child protection legislation.
- 5.5 Reports of actual or suspected cases of Maltreatment made under the *COC's Policy Statement on Whistleblowing* shall be redirected to the COC's Independent Case Manager.
- 5.6 The Independent Case Manager shall take reasonable measures to protect the confidentiality of any non-public information associated with a Complaint. However, a Complaint made under this Code is not confidential and the Independent Case Manager may need to provide information contained in the Complaint to people with a legitimate 'need to know' to achieve the objectives of this Code. This may include providing information contained in the Complaint to the Respondent(s) to allow them to fully respond to allegations, or to witnesses or other people in order to verify facts. Where appropriate (for example, to mitigate risks to the COC), information may also be shared with individuals at the COC to allow for necessary action to be taken prior to the Independent Case Manager making an initial determination on the Complaint pursuant to **Section 6**.
- 5.7 A Complainant who fears retribution or reprisal or who otherwise considers that their identity must remain confidential may request that their identity be kept confidential. If the Independent Case Manager considers that the Complainant's identity must remain confidential, the Independent Case Manager may ask that the COC take carriage of the complaint and act as the Complainant pursuant to **Section 8.1 (c)**. However, the identity of the Complainant may become known for reasons outside the control of the Independent Case Manager. If the Independent Case Manager considers that it is impractical or unfair to keep the Complainant's identity confidential, they shall inform the Complainant, who may decide whether or not to pursue the Complaint. However, the Independent Case Manager may not reveal the identity of the Complainant unless the Complainant expressly informs the Independent Case Manager of the Complainant's desire to pursue the Complaint and has indicated, in writing, their consent to have their identity divulged.
- 5.8 A Complaint may be reported for and against a Participant that is a Minor. Minors may have a parent/legal guardian or other adult serve as their representative during the Reporting, initial review and determination and complaint resolution process. Communication from the Independent Case Manager and Complaint Resolution Officer must be directed to the Minor's representative (if applicable).



6. INITIAL REVIEW AND DETERMINATION

6.1 Upon receiving the Report, the Independent Case Manager shall:

- a) Review the Complaint and make a determination as to whether, if proven to be true, the allegations in the Report could amount to a breach of this Code, whether the Report falls within the Scope of Application of this Code, and whether the Report appears frivolous, vexatious or made in bad faith⁵ using the guidelines that follow:
 - (i) If deemed necessary for the purpose of the initial review and making this determination, the Independent Case Manager may, in consultation with the COC, conduct a preliminary inquiry of the Complaint by conducting interviews with all relevant parties, reviewing documentary evidence and written submissions related to the Complaint or take any other necessary and reasonable steps to make this determination. The purpose of the Independent Case Manager's inquiry is limited to making the above determination and the Independent Case Manager shall refrain from making any findings of facts or law related to the Complaint.
 - (ii) The Independent Case Manager's inquiry shall be guided by any applicable and relevant Federal or Provincial legislation and recognized industry standards for investigation.
 - (iii) All Participants are required to cooperate fully with the Independent Case Manager's review and all Participants are prohibited from engaging in retaliation against anyone involved in this process. Any retaliation should be promptly reported to the Independent Case Manager. An individual who submits allegations that the Independent Case Manager determines could be malicious, false or for the purpose of retribution, retaliation or vengeance (or that otherwise fall within the definition of Maltreatment related to Reporting (as defined in **Section 4.5.7**)) may be subject to a Complaint under this Code.
 - (iv) During the Independent Case Manager's review and determination, the Complainant, Respondent and any witnesses shall not discuss the Complaint, the incident or their testimony with other individuals except as strictly required for the purposes of the assessment or resolution, to obtain legal or other advice about their rights, or as otherwise compelled by law. Any failure to respect this provision may be subject to a Complaint and disciplinary measures being taken pursuant to this Code or the COC Code of Ethics. Where necessary to protect the identity of any person who participated in the initial review and inquiry, the Independent Case Manager may redact names and anonymize any witness testimony that may result in the identification of the individual.
 - (v) During the initial review and determination, the Complainant, the Respondent and any witnesses shall not interfere with the process and shall abstain from engaging in conduct that would constitute Maltreatment related to Process.

⁵The Independent Case Manager shall assume that a Complaint reported under this Code is made in good faith and not frivolous or vexatious, unless there is an allegation or evidence to the contrary. A Report is frivolous where it is readily apparent that the report has little merit or is of a trivial nature, or where to investigate it would be out of all proportion to the seriousness of the issues reported. A Report shall not be characterized as vexatious if the evidence demonstrates that there was a reasonable basis for filing and pursuing it. For a Report to be considered to have been made in bad faith, the Independent Case Manager must consider that it was filed consciously for a dishonest purpose or due to the moral underhandedness of the Complainant and that there was an intention to mislead.



- (vi) Upon completion of the initial review and determination, the Independent Case Manager shall prepare a report that includes a summary of the Complaint and a summary of the evidence gathered by the Independent Case Manager (if applicable).
 - (vii) Should the Independent Case Manager find that there are possible instances of offences under the Criminal Code, the Independent Case Manager shall advise the Complainant and the COC, who may refer the matter to law enforcement.
 - (viii) If the Complaint is not accepted by the Independent Case Manager for any of the aforementioned reasons, the Independent Case Manager shall inform the Complainant and the COC and provide the reasons for which the Complaint was not accepted.
 - (ix) In the event that a Complaint properly falls under the scope of the Workplace Policy, the Independent Case Manager will refer it to the COC Chief Executive Officer (“CEO”) and Chief People Officer (“CPO”) for investigation pursuant to that Workplace Policy.
- 6.2 In cases where the Independent Case Manager receives a Report involving actual or suspected Maltreatment of a Minor Child, the Independent Case Manager shall report this to local child welfare services, the applicable provincial or territorial social service ministries or departments, or local police. The Independent Case Manager shall not be responsible for fulfilling the aforementioned obligation if the individual filing the Report confirms in writing that they have already reported to any such authorities.
- 6.3 If the Independent Case Manager determines that the conduct alleged in the Complaint does not appear frivolous, vexatious or made in bad faith and also falls under the Scope of Application of this Code, they must as a first step determine whether the conduct also potentially falls under the scope of application of a policy of another organization that is also required to be compliant with the UCCMS (such as an NSO or other Multi-Sport Organization). In such cases, the Independent Case Manager shall determine whether that organization would be better placed to investigate, resolve or adjudicate the Complaint under its own UCCMS-compliant policy (i.e: if the Complaint raises a series of incidents, of which the majority occurred under the other organization’s jurisdiction, or if the Respondent is directly affiliated with such other organization). If the Independent Case Manager determines that the Complaint should be dealt with in accordance with another organization’s UCCMS-compliant policy, they shall refer the Complaint directly to that applicable organization and shall inform the Respondent, the Complainant and the COC. In order to avoid any duplication of proceedings, the COC expects the applicable organization to share its findings and conclusions with the COC once the investigation/discipline process is completed (subject to the organization’s applicable policies). In this regard, the COC shall have the discretion to accept or reject the findings of any such investigation/discipline process and reserves the right to proceed with further investigation and/or complaint resolution process under this Code.
- 6.4 Subject to **Section 6.3**, the Independent Case Manager may recommend that the Complaint be managed by the COC’s Complaint Resolution Officer, to be appointed by the COC in consultation with the Independent Case Manager (“**Complaint Resolution Officer**”), under the process set out in **Section 8** if (i) the conduct alleged in the Complaint falls within the Scope of Application of this Code and no other organization’s UCCMS-compliant policy is better placed to deal with the Complaint, (ii) the applicable



organization determined to be better placed to deal with the Complaint does not address it and/or does not share the findings with the COC or (iii) for any other reason, in its discretion.

- 6.5 Any determination made by the Independent Case Manager pursuant to this Code may not be challenged or appealed.

7. TEMPORARY AND PROVISIONAL MEASURES

- 7.1 If the Independent Case Manager is of the view that, on the basis of the seriousness of the allegations or as otherwise justified based on the circumstances, the imposition of provisional measures is necessary, the Independent Case Manager may recommend that the COC impose such measures pending the disposition of a Complaint.
- 7.2 The COC is responsible for determining what, if any, interim or provisional measures may be imposed. Interim measures are not sanctions and they may take many forms, including but not limited to the imposition of measures regarding participation in COC Activities or work of the COC, and arrangements to ensure the security and safety of Participants or to ensure the integrity of any preliminary inquiry or disciplinary process.
- 7.3 The COC shall consult with the Chef de Mission before the imposition of interim measures which may have an impact on the participation of an Athlete at Games.

8. COMPLAINT RESOLUTION PROCESS

8.1 Referral and Appointment of the COC Complaint Resolution Officer

- a) If the Independent Case Manager determines that the Complaint should be referred to the Complaint Resolution Officer in accordance with the criteria in **Section 6.4**, the COC, in consultation with the Independent Case Manager, will appoint a single arbitrator with experience in handling cases of Maltreatment, to serve as Complaint Resolution Officer and hear the Complaint. In extraordinary circumstances, and at the discretion of the Independent Case Manager and the COC, a Complaint resolution panel of three persons may be appointed to hear the complaint. The Complaint Resolution Officer or the members of the Complaint resolution panel (if applicable) shall be independent from the COC, have no interest in the outcome of the Complaint, and shall abide by the industry standards applicable to arbitrators handling cases of Maltreatment.
- b) If appropriate in the circumstances, the Complaint Resolution Officer may propose that the Parties use the dispute resolution services of the SDRCC with the objective of resolving the Complaint. If applicable, and if the Complaint is not resolved, or if the Parties refuse to use the dispute resolution services of the SDRCC, the Complaint Resolution Officer shall hear the Complaint.
- c) Notwithstanding any provision in this Code, the COC may, in its discretion, or upon request by the Independent Case Manager act as the Complainant, in accordance with **Section 5.7**. In such cases, the COC will identify an individual to represent the organization.



8.2 Hearing by the Complaint Resolution Officer

- a) The Complaint Resolution Officer will decide the format of the hearing under which the Complaint will be heard, which may include (i) an oral in-person hearing, (ii) an oral hearing by telephone, video or other communication medium, (iii) a hearing based on a review of documentary evidence submitted in advance of the hearing, or (iv) a combination of these methods. This decision may not be appealed. The hearing shall be conducted in one of Canada's official language (to be decided by the Complaint Resolution Officer).
- b) The hearing will be governed by the procedures that the Complaint Resolution Officer deems appropriate in the circumstances, provided that:
 - (i) The Complaint Resolution Officer determines procedures and timelines, as well as a hearing duration, that is as expedient and cost-efficient as possible in order to ensure that costs to the Parties and COC are reasonable;
 - (ii) The Respondent will be advised as soon as reasonably possible of the allegation being made against them;
 - (iii) 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;
 - (iv) Copies of any written documents which the Parties wish to have the Complaint Resolution Officer consider will be provided to all Parties, in advance of the hearing;
 - (v) The Parties may engage a representative, advisor, translator, transcription services, or legal counsel at their own expense;
 - (vi) The Complaint Resolution Officer may request that any other individual participate and give evidence at the hearing;
 - (vii) The hearing shall be restricted to parties directly involved in the Complaint. The Complaint Resolution Officer may, in their absolute discretion, allow any other relevant individual to attend the hearing as an observer, make submissions and/or provide the Complaint Resolution Officer with clarifying information that may be required to render a decision;
 - (viii) The Complaint Resolution Officer may allow as evidence at the hearing any oral evidence and document or item 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 (in its absolute discretion); and
 - (ix) Where a Complaint Resolution Panel composed of three members is appointed, the decision will be by a majority vote.
- c) If the Respondent acknowledges the facts of the incident, the Respondent may waive the right to a hearing, in which case the Complaint Resolution Officer will determine the appropriate sanction. The Complaint Resolution Officer may still hold a hearing for the purpose of determining an appropriate sanction.



- d) The hearing may proceed even if a Party chooses not to participate in the hearing.
- e) If a decision of the Complaint Resolution Officer has the potential to affect another Party in a manner that the other Party would have recourse to a Complaint or an appeal in their own right, that Party may become a Party to the Complaint, may be provided with the right to participate in the hearing process, file evidence and submissions, and shall be bound by the decision.
- f) In fulfilling its duties, the Complaint Resolution Officer may obtain independent advice.

8.3 Decision by the Complaint Resolution Officer

- a) After hearing or reviewing the matter, the Complaint Resolution Officer will determine whether Maltreatment has occurred and, if so, the sanctions to be imposed in accordance with **Section 9**. If the Complaint Resolution Officer considers that Maltreatment has not occurred, the Complaint will be dismissed.
- b) Within fourteen (14) days of the hearing's conclusion, the Complaint Resolution Officer's written decision, with reasons, will be distributed to all Parties involved in the Complaint, the Independent Case Manager and the COC. In extraordinary circumstances, the Complaint Resolution Officer 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.
- c) The Complaint Resolution Officer's written decision shall remain confidential unless the COC determines otherwise. Any failure to respect this provision may be subject to a Complaint and disciplinary measures being taken pursuant to this Code or the COC Code of Ethics.

9. SANCTIONS

- 9.1 In addition to any temporary or provisional measure that may be imposed, where there is sufficient evidence to support a finding that a Participant engaged in Maltreatment and thus violated this Code, sanctions will be imposed by the Complaint Resolution Officer. Different incidents constituting a violation of the same part of this Code may arise out of markedly different circumstances, including various case-specific aggravating and/or mitigating factors.
- 9.2 If Maltreatment is proven one or more of the following sanctions may be imposed by the Complaint Resolution Officer:
 - a) **Verbal or Written Warning:** A verbal reprimand or an official, written notice and formal admonition that a Participant has violated this Code 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 Maltreatment.
 - c) **Probation:** Further violations of this Code occurring 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 of time.

- 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 any sport organization subject to the UCCMS. A suspended Participant may be eligible to return to sport, 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 any sport organization subject to the UCCMS.
- g) **Other discretionary sanctions:** Other sanctions for Maltreatment 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.

9.3 Subject to **Section 9.4**, the following sanctions are presumed to be fair and appropriate, but the Respondent affected may rebut these presumptions:

- a) Sexual Maltreatment involving a Protected Person shall carry a presumptive sanction of permanent ineligibility;
- b) Sexual Maltreatment, Physical Maltreatment with contact and Maltreatment related to Process shall carry a presumptive sanction of either a period of suspension or eligibility restrictions;
- c) While a Respondent has pending charges or convictions in violation of the Criminal Code, the presumptive sanction shall be a period of suspension, if justified by the seriousness of the criminal offense.

9.4 Any sanction imposed against a Participant must be proportionate and reasonable, relative to the Maltreatment that has occurred, taking into account previous disciplinary actions. However, progressive discipline is not required as a single occurrence of Maltreatment can lead to a very significant sanction. Factors relevant to determining appropriate sanctions for a Respondent include, without limitation:

- 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 with the Independent Case Manager or Complaint Resolution Officer;
 - f) Real or perceived impact of the incident on the Complainant, COC, NSO or the sporting community;
 - g) Circumstances specific to the Respondent being sanctioned (e.g. lack of appropriate knowledge or training regarding the requirements of this Code; addiction; disability; illness);
 - h) Whether, given the facts and circumstances that have been established, continued participation in the sport community is appropriate;
 - i) Other mitigating and aggravating circumstances.
- 9.5 Any single factor, if severe enough, may be sufficient to justify the sanction(s) imposed. A combination of several factors may justify elevated or combined sanctions.
- 9.6 The Complainant and the Respondent may be given an opportunity (in the Complaint Resolution Officer's discretion) to make submissions prior to the imposition of sanctions.
- 9.7 Failure to comply with a sanction will result in an automatic suspension until such time as compliance occurs.

10. APPEAL

- 10.1 Any dispute arising from or in connection with the execution or interpretation of this Code shall be finally settled, to the exclusion of the ordinary courts, in accordance with the Rules and Code of Procedures of the SDRCC.
- 10.2 Any sanctions imposed by the COC will take effect immediately, notwithstanding an appeal to the SDRCC.

11. RECORD KEEPING

- 11.1 Records of all decisions will be maintained by the COC and the Independent Case Manager. All records will be kept confidential to the extent possible and except as required by law. The records will not be disclosed unless necessary to examine a Complaint, take corrective action or otherwise as required by law.
- 11.2 Other individuals or organizations, including but not limited to, NSOs, Provincial Sport Organizations, Multi-Sport Organizations, sports clubs, etc. may be advised of any decision rendered in accordance with this Code.