

## **PART C: PROCEDURES**

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To ensure consistency and that the principles of natural justice are followed in all aspects of handling or conducting complaints, allegations, investigations, tribunals and disciplinary measures, Gymnastics NSW will follow and implement the following procedures:

- C1 Complaints Procedure
- C2 Mediation Procedure
- C3 Investigation Procedure
- C4 Investigation Procedure for allegations of child abuse
- C5 Hearings and Appeals Tribunal Procedure
- C6 Disciplinary Measures

## Attachment C1: COMPLAINTS PROCEDURE

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A complaint can be about an act, behaviour, omission, situation or decision that someone thinks is unfair, unjustified, unlawful and/or a breach of this policy. Complaints will always vary. They may be about individual or group behaviour; they may be extremely serious or relatively minor; they may be about a single incident or a series of incidents; and the person about who the allegation is made may admit to the allegations or emphatically deny them.

Given all of the variables that can arise, Gymnastics NSW provides a step-by-step complaint procedure that people may use/enter at any stage. Individuals and organisations to which this policy applies may also pursue their complaint externally under anti-discrimination, child-protection or other relevant legislation.

If at any point in the complaint process the MPIO, CEO, or nominee considers that a complainant has **knowingly** made an untrue complaint or the complaint is vexatious or malicious, the matter will be referred to the hearings tribunal for appropriate action. All complaints will be kept confidential and will not be disclosed to another person without the complainant's consent except if law requires disclosure or if disclosure is necessary to effectively deal with the complaint.

### Step 1

As a first step you (the complainant) should try to sort out the problem with the person or people involved if you feel able to do so.

### Step 2

If:

- the first step is not possible/reasonable; or
- you are not sure how to handle the problem by yourself; or
- you just want to talk confidentially about the problem with someone and get some more information about what you can do; or
- the problem continues after you tried to approach the person or people involved; then

talk with one of our Member Protection Information Officers (MPIOs). A list of MPIO's can be found by contacting the Gymnastics NSW website at [www.gymnsw.org.au](http://www.gymnsw.org.au).

The MPIO will:

- take notes about your complaint (which the MPIO will keep in a secure and confidential place);
- try to sort out the facts of the problem;
- ask what outcome/how you want the problem resolved and if you need support;
- provide possible options for you to resolve the problem;
- explain how our complaints procedure works;
- act as a support person if you so wish;
- refer you to an appropriate person to help you resolve the problem, if necessary;
- inform the relevant government authorities and/or police if required by law to do so; and
- maintain strict confidentiality.

### Step 3

After talking with the MPIO, you may decide:

- there is no problem;
- the problem is minor and you do not wish to take the matter forward;
- to try and work out your own resolution (with or without a support person such as the MPIO); or
- to seek an informal mediated resolution with the help of a third person (such as a mediator or a Manager).



If you wish to remain anonymous, Gymnastics NSW can't assist you to resolve your complaint. We have to follow the principles of natural justice and be fair to both sides. This means that Gymnastics

NSW or you may be required to provide the person/people you have complained about with full details of the complaint so they have a fair chance to respond to all the allegations.

#### Step 4

If your complaint is not resolved to your satisfaction, you may:

- make a formal complaint in writing to the CEO, or
- approach a relevant external agency such as an equal opportunity commission, for advice.

#### Step 5

If you decide to make a formal complaint in writing under Step 4, the CEO will, on receiving the formal complaint and based on the material you have provided, decide whether:

- they are most appropriate person to handle the complaint, or whether to transfer the complaint to another person (nominee);
- the nature and seriousness of the complaint warrants a formal resolution procedure. Some complaints may be of a minor and/or purely personal nature with no connection to the activities of Gymnastics NSW. In these cases, the CEO may determine that the complaint does not warrant a formal resolution procedure;
- to appoint a person to investigate the complaint;
- to refer the complaint to an informal or formal mediation session;
- to refer the complaint to a hearings tribunal;
- to refer the matter to the police or other appropriate authority; and/or
- to implement any interim administrative or other arrangements that will apply until the complaint process set out in these Procedures is completed.

In making the decision(s) outlined above, the CEO will take into account:

- whether they have had any personal involvement in the circumstances giving rise to the complaint and, if so, whether their ability to impartially manage the complaint is compromised or may appear to be compromised;
- whether, due to the nature of the complaint, specific expertise or experience may be required to manage the complaint;
- your wishes, and the wishes of the respondent, regarding the manner in which the complaint should be handled;
- whether, due to the nature of the complaint, the relationship between you and the respondent and any other relevant factors, the complaint should be referred (or should not be referred) to informal or formal mediation or to a hearings tribunal. Relevant factors may include an actual or perceived power imbalance between you and the respondent, the nature of any ongoing working relationship between you and the respondent, and the personal attributes of you and the respondent (for example, if one party does not speak English fluently, some of the possible complaints resolution mechanisms may not be appropriate);
- the nature and sensitivity of any information or other material that must be provided by you, the respondent, and any of the other people involved in the complaint;
- whether the facts of the complaint are in dispute; and
- the urgency of the complaint, including the likelihood and the consequences (if the complaint is ultimately proven) that you will be subject to further unacceptable behaviour while the complaint process set out in these Procedures is being conducted.

If the CEO is the appropriate person, or if the complaint is transferred to a nominee, the CEO, or nominee will, to the extent that these steps are necessary:

- get full information from you (the complainant) about your complaint and how you want it resolved (if this information has not already been obtained through earlier steps);
- put the information they've received from you to the person/people you're complaining about and ask them to provide their side of the story;



- decide whether they have enough information to determine whether the matter alleged in your complaint did or didn't happen; and/or
- determine what, if any, further action to take. This action may include disciplinary action in accordance with Attachment C6, appointing a person to investigate the complaint, referring the complaint to an informal or a formal mediation session or a hearings tribunal and/or referring the complaint to the police or other appropriate authority.

## Step 6

If:

- a person is appointed to investigate the complaint under **Step 5**, the investigator will conduct the investigation and provide a written report to the CEO, or nominee who will determine what, if any, further action to take. This action may include a direction to the investigator to make further enquiries and obtain additional information, disciplinary action in accordance with Attachment C6, and referring the complaint to an informal or a formal mediation session, a hearings tribunal and/or the police or other appropriate authority;
- the complaint is referred to an informal or a formal mediation session under **Step 5**, the mediation session will be conducted in accordance with Attachment C2 or as otherwise agreed by you and the respondent;
- the complaint is referred to a hearings tribunal under **Step 5**, the hearing will be conducted in accordance with Attachment C5;
- the complaint is referred to the police or other appropriate authority under **Step 5**, Gymnastics NSW will use its best endeavours to provide all reasonable assistance lawfully required by the police or other appropriate authority; and
- interim administrative or other arrangements are implemented under **Step 5**, Gymnastics NSW will periodically review these arrangements to ensure that they are effective.

[Any costs relating to the complaint process set out in this Policy (e.g. investigation and/or mediation and/or hearings tribunal) are to be met by Gymnastics NSW and the individual in equal half shares unless otherwise stated in the relevant Attachment.

## Step 7

If, under **Step 6**, an informal or formal mediation session is conducted, and you and the respondent(s) can not reach a mutually acceptable mediated solution to the complaint, you may request that the CEO, or nominee reconsider the complaint in accordance with **Step 5**.

You or the respondent(s) may be entitled to appeal where:

- under **Step 5**, a decision was made by CEO or nominee;
  - not to take any action; or
  - to take disciplinary action; or
- under **Step 6**, a decision was made by the hearings tribunal:
  - not to take any action; or
  - to take disciplinary action.

The grounds for appeal and the process for appeals under this Policy are set out in Attachment C5.



If the internal complaints processes set out in this Policy do not achieve a satisfactory resolution/outcome for you, or if you believe it would be impossible to get an impartial resolution

within Gymnastics NSW, you may choose to approach an external agency such as an equal opportunity commission to assist with a resolution.

### **Step 8**

CEO, or nominee will document the complaint, the process followed and the outcome. This document will be stored in a confidential and secure place. If the complaint was dealt with at a state/regional level, the information will be stored in the state association office. If the matter is of a serious nature, or if the matter was escalated to and/or dealt with at the national level, the original document will be stored at the national office with a copy stored at the state office.

### **External procedure**

There may be a range of external options available to you depending on the nature of your complaint. If you feel that you have been harassed or discriminated against, you can seek advice from the equal opportunity commission without being obliged to make a formal complaint. If the commission advises you that the problem appears to be a type of harassment that comes within its jurisdiction, you may then make a decision as to whether or not to lodge a formal complaint with the commission.

Once a complaint is received by an anti-discrimination commission, an investigation will be conducted. If it appears that unlawful harassment or discrimination has occurred, there will usually be an attempt to conciliate the complaint confidentially first. If this fails, or is inappropriate, the complaint may go to a formal hearing where a finding will be made as to whether unlawful harassment or discrimination occurred. The tribunal will decide upon what action, if any, will be taken. This could include financial compensation for such things as distress, lost earnings or medical and counselling expenses incurred.

An anti-discrimination commission can decline to investigate a complaint, or dismiss a complaint at any point in the investigation, conciliation or public hearing stages.

If you do lodge a complaint under anti-discrimination law, you may use an appropriate person (e.g. an MPIO) as a support person throughout the process. It is also common to have a legal representative, particularly at the hearing stage of a complaint.

## Attachment C2: MEDIATION

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Mediation is a process by which people who are in conflict can be helped to communicate with each other about what is important for them and how to make decisions about resolving their dispute. Mediators provide a supportive atmosphere and method of talking to one another, to assist in sorting out the issues, coming up with acceptable solutions and making mutually satisfactory agreements.

This attachment outlines the general procedure of mediation that will be followed by Gymnastics NSW;

1. The people involved in a formal complaint (complainant and respondent(s)) may work out their own resolution of the complaint or seek the assistance of a neutral third person or a mediator. Mediation may occur either before or after an investigation of the complaint.
1. Mediation (getting those involved to come to a joint agreement about how the complaint should be resolved) will only be recommended:
  - . After the complainant and respondent have had their chance to tell their version of events to the CEO, or nominee on their own; *and*
  - . The CEO, or nominee does not believe that any of the allegations warrant any form of disciplinary action - proven serious allegations will not be mediated, no matter what the complainant desires; *and*
  - . Mediation looks like it will work (i.e. the versions given by the complainant and respondent tally or almost tally and/or at the very least, it looks as though it will be possible for each party to understand the other party's point of view).
1. Mediation will **not** be recommended if:
  - a. The respondent has a completely different version of the events and they won't deviate from these;
  - b. The complainant or respondent are unwilling to attempt mediation; or
  - c. Due to the nature of the complaint, the relationship between you and the respondent(s) and any other relevant factors, the complaint is not suitable for mediation.
2. If mediation is chosen to try and resolve the complaint, the CEO, or nominee will, in consultation with the complainant and the respondent(s), arrange for a mediator to mediate the complaint.
3. The CEO or nominee will notify the respondent(s) that a formal complaint has been made, provide them with details of the complaint and notify them that Gymnastics NSW has decided to refer the matter to mediation to resolve the complaint.
4. The mediator's role is to assist the complainant and respondent(s) reach an agreement on how to resolve the problem. The mediator, in consultation with the complainant and respondent(s), will choose the procedures to be followed during the mediation. At a minimum, an agenda of issues for discussion will be prepared by the mediator.
5. The mediation will be conducted confidentially and without prejudice to the rights of the complainant and the respondent(s) to pursue an alternative process if the complaint is not resolved.
6. At the end of a successful mediation the mediator will prepare a document that sets out the agreement reached between the complainant and respondent(s) and it will be signed by them as their agreement.
6. If the formal complaint is not resolved by mediation, the complainant may:
  - a. Write to the CEO to request that the CEO, or nominee reconsider the complaint in accordance with **Step 5**; *or*
  - a. Approach an external agency such as an anti-discrimination commission.

## **Attachment C3: INVESTIGATION PROCESS**

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If an investigation needs to be conducted the following steps are to be followed:

0. A written brief will be provided to the investigator to ensure the terms of engagement and scope of the investigator's role and responsibilities are clear.
0. The complainant will be interviewed and the complaint documented in writing.
1. The details of the complaint will be conveyed to the person/people complained about (respondent(s)) in full. The respondent(s) must be given sufficient information to enable them to properly respond to the complaint.
2. The respondent(s) will be interviewed and given the opportunity to respond. The respondent(s) response to the complaint will be documented in writing.
2. If there is a dispute over the facts, then statements from witnesses and other relevant evidence will be obtained to assist in a determination.
3. The investigator will make a finding as to whether the complaint is:
  - substantiated (there is sufficient evidence to support the complaint);
  - inconclusive (there is insufficient evidence either way);
  - unsubstantiated (there is sufficient evidence to show that the complaint is unfounded); and/or
  - mischievous, vexatious or knowingly untrue.
4. A report documenting the complaint, investigation process, evidence, finding and, if requested, recommendations, will be given to the Hearing Tribunal.
4. A report documenting the complaint and summarising the investigation process and key points that were found to be substantiated, inconclusive, unsubstantiated and/or mischievous will be provided to the complainant and the respondent(s).
5. Both the complainant and the respondent(s) are entitled to support throughout this process from their chosen support person/adviser (e.g. MPIO or other person).
6. The complainant and the respondent(s) may have the right to appeal against any decision based on the investigation. Information on our appeals process is in Attachment C5.

More detailed information on conducting internal investigations can be found at [www.ausport.gov.au/ethics/policy.asp](http://www.ausport.gov.au/ethics/policy.asp)

## **Attachment C4: INVESTIGATION PROCEDURE - CHILD ABUSE**

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An allegation of child abuse is a very serious matter and must be handled with a high degree of sensitivity. The initial response to a complaint that a child has allegedly been abused should be immediate if the incident/s are serious or criminal in nature while less serious/urgent allegations should be actioned as soon as possible, preferably within 24 hours.

The following is a basic outline of the key processes to follow. More information can be obtained from the NSW Commission for Children and Young People.

### **Step 1 - Clarify basic details of the allegation**

- Any complaints, concerns or allegations of child abuse should be made or referred to MPIO.
- The initial response of the person that receives the complaint from the child (or person on behalf of the child) is crucial to the well-being of the child. It is important for the person receiving the information to:
  - Listen to, be supportive and do not dispute what the child says;
  - Reassure the child that what has occurred is not the fault of the child;
  - Ensure the child is safe;
  - Be honest with the child and explain that other people may need to be told in order to stop what is happening; and
  - Ensure that what the child says is quite clear but do not elicit detailed information about the abuse. You should avoid suggestive or leading questions.
- The person receiving the complaint should obtain and clarify basic details (if possible) such as:
  - Child's name, age and address;
  - Person's reason for suspecting abuse (observation, injury or other); and
  - Names and contact details of all people involved, including witnesses.

### **Step 2 – Report allegations of a serious or criminal nature**

- Any individual or organisation to which this policy applies, should immediately report any incident of a serious or a criminal nature to the police and the Department of Community Services (DoCS).
- If the allegation involves a child at risk of harm, the incident should immediately be reported to the police and to DoCS.
- DoCS should be contacted for advice if there is **any** doubt about whether the complaint should be reported.
- If the child's parent/s are suspected of committing the abuse, report the allegation to DoCS.

### **Step 3 – Protect the child**

- The MPIO should assess the risks and take interim action to ensure the child's/children's safety. Some options could include redeployment of the alleged offender to a non-child related position, supervision of the alleged offender or removal/suspension from their duties until the allegations are finally determined.
- The MPIO should also address the support needs of the person against whom the complaint is made. Supervision of the person should ideally occur with the knowledge of the person. If stood down, it should be made clear to all parties that are aware of the incident that this does not mean the person is guilty and a proper investigation still needs to be undertaken.

### **Step 4 – Undertake disciplinary action**

- For incidents of a serious or criminal nature, consideration must be given to the findings of the police and/or the government agency before making a decision on disciplinary proceedings.
- If disciplinary action is to be taken, follow the procedures outlined in Attachment C6 of the policy.
- Implement any disciplinary decision recommended by the Hearings Tribunal. The action should be immediate.

- Forward the required reports to the NSW Commission for Children and Young People.
- Complete the form in Part E3 of this policy. Retain the original in a secure place and forward a copy to the CEO.

## **Attachment C5: HEARINGS & APPEALS TRIBUNAL PROCEDURE**

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- The following Tribunal Hearing Procedure will be followed by hearings tribunals established by Gymnastics NSW.

### **Tribunal Formation and Notification**

0. A Tribunal Panel will be constituted following the rules outlined in the Gymnastics NSW Constitution, to hear a complaint that has been referred to it by the CEO.
1. The CEO will organise for a Tribunal to be convened by notifying the Tribunal Panel members that they are required to hear a complaint. The Tribunal Panel members will be provided with a copy of all the relevant correspondence, reports or information received and sent by the CEO or nominee relating to the complaint/allegations.
2. The Tribunal Hearing will be scheduled as soon as practicable, but must allow adequate time for the person being complained about (respondent(s)) to prepare to respond to the complaint.
2. The number of Tribunal Panel members required to be present throughout the Tribunal Hearing Process will be at least three members.
  - 4.1 The Tribunal Panel will not include any person who has any actual or perceived conflict of interest, preconceived opinions, vested interests or personal involvement relating to the complaint.
  - 4.1 The Tribunal Panel will comprise at least one person who has knowledge, and preferably experience, of any relevant laws relating to the complaint (e.g. anti-harassment).
  - 4.1 If a member of the Tribunal Panel cannot continue once the Tribunal Hearing has commenced, and the minimum number required for the Tribunal Hearing is still maintained, the discontinuing member will not be replaced.
  - 4.1 If the specific or minimum number is not maintained, the discontinuing member may be replaced if it is considered appropriate by the Tribunal Chairperson. Factors to consider should include the circumstances of the complaint and the ability of the new Tribunal Panel member to be reasonably and impartially informed of the hearing evidence up until the time of their appointment. If the Tribunal Chairperson believes it is not appropriate for a new Tribunal Panel member to be appointed then the Tribunal will be rescheduled to a later date. The Tribunal Chairperson will inform the CEO, or nominee of the need to reschedule, and the CEO, or nominee will organise for the Tribunal Hearing, with a new Tribunal Panel to be reconvened.
3. The CEO, or nominee will inform the respondent(s) by written notification that a tribunal hearing will take place. The written notification will outline:
  - That the person has a right to appear at the tribunal hearing to defend the complaint/allegation;
  - Details of the complaint, including any relevant rules or regulations they are accused of breaching (if there is more than one complaint these should be set out separately);
  - The date, time and venue of the tribunal hearing;
  - That they can make either verbal or written submissions to the Tribunal;
  - That they may arrange for witnesses to attend the Tribunal in support of their position;
  - An outline of any possible penalties that may be imposed if the complaint is found to be true; and
  - That legal representation will not be allowed. [If the respondent is considered a minor, they should have a parent or guardian present].

A copy of any information / documents that have been given to the Tribunal (eg investigation report findings) will also be provided to the respondent.

The respondent(s) will be allowed to participate in all Gymnastics activities and events, pending the decision of the Tribunal, including any available appeal process, unless the CEO

believes it is warranted to exclude the respondent(s) from all or some Gymnastics NSW activities and events, after considering the nature of the complaint.

3. The CEO, or nominee will inform the person making the complaint (complainant) by written notification that a tribunal hearing will take place. The written notification will outline:
  - That the person has a right to appear at the tribunal hearing to support their complaint;
  - Details of the complaint, including any relevant rules or regulations they are accused of breaching (if there is more than one complaint these should be set out separately);
  - The date, time and venue of the tribunal hearing;
  - That they can make either verbal or written submissions to the Tribunal;
  - That they may arrange for witnesses to attend the Tribunal in support of their position; and
  - That legal representation will not be allowed. [If complainant is considered a minor, they should have a parent or guardian present].

A copy of any information / documents that have been given to the Tribunal (eg investigation report findings) will also be provided to the complainant.

3. If the complainant believes the details of the complaint are incorrect or insufficient they should inform the CEO, or nominee as soon as possible so that the respondent and the Tribunal Panel members can be properly informed of the complaint.

### **Tribunal Hearing Procedure**

3. The following people will be allowed to attend the Tribunal Hearing:
  - The Tribunal Panel members;
  - The respondent(s);
  - The complainant;
  - Any witnesses called by the respondent;
  - Any witnesses called by the complainant;
  - Any parent / guardian or support person required to support the respondent or the complainant.
4. The Tribunal Chairperson will call the hearing to order at the designated time and determine if the respondent(s) is present.
5. If the respondent(s) is not present and the Tribunal Chairperson considers that no valid reason has been presented for their absence, the Tribunal Hearing will continue subject to the Tribunal Chairperson being satisfied that all Tribunal notification requirements have been carried out correctly.
6. If the Tribunal Chairperson considers that a valid reason for the non-attendance of the respondent(s) is presented, or the Tribunal Chairperson does not believe the Tribunal notification requirements have been carried out correctly, then the Tribunal Hearing will be rescheduled to a later date.
6. The Tribunal Chairperson will inform the CEO, or nominee of the need to reschedule, and the CEO, or nominee will organise for the Tribunal Hearing to be reconvened.
7. The Tribunal Chairperson will read out the complaint that is to be judged, ask the respondent(s) if they understand the complaint being made against them, and if they agree or disagree with the complaint.
7. If the person agrees with the complaint, they will be asked to provide any evidence or witnesses that should be considered by the Tribunal Panel when determining any disciplinary measures.
7. If the person disagrees with the complaint, the complainant will be asked to describe the circumstances that lead to the complaint being made.
  - Brief notes may be referred to.

- The complainant will be allowed to call witnesses.
  - The respondent(s) may be allowed to question the complainant and their witnesses.
8. The respondent(s) will then be asked to respond to the complaint.
    - Brief notes may be referred to.
    - The respondent will be allowed to call witnesses.
    - The complainant may be allowed to ask questions of the respondent and their witnesses.
  20. Both the complainant and respondent will be allowed to be present when evidence is presented to the Tribunal. Witnesses may be asked to wait outside the Tribunal Hearing until required.
  21. The Tribunal will be allowed to:
    - consider any evidence, and in any form, that it deems relevant.
    - question any person giving evidence.
    - limit the number of witnesses presented if it is agreed by all parties that they will support the person who requested them, but will not provide any new evidence.
  9. Video evidence, if available, may be presented. The arrangements must be made entirely by the person/s wishing to offer this type of evidence.
  23. If the Tribunal considers that at any time during the Tribunal Hearing that there is any unreasonable or intimidatory behaviour from anyone allowed to be present, the Tribunal Chairperson shall have the power to stop any further involvement of the person in the Tribunal Hearing.
  24. After all of the evidence has been presented the Tribunal Panel will make its decision in private. If the Tribunal believes the complaint has been substantiated on the balance of probabilities (i.e. more probable than not), the respondent will then be given an opportunity to address the Tribunal Panel and make a submission on any disciplinary measures that may be imposed. Only those disciplinary measures outlined in the Gymnastics NSW Constitution and in the Gymnastics NSW Member Protection Policy will be considered. Any disciplinary measure imposed must be reasonable in the circumstances.
  25. All decisions made by the Tribunal will be based on a majority vote.
  26. The Tribunal Chairperson will announce the decision in the presence of all those involved in the hearing and will declare the hearing closed.
  27. Within 48 hours, the Tribunal Chairperson will:
    - 4.1 Forward to the CEO, or nominee a copy of the tribunal decision including any disciplinary measures imposed.
    - 24.1 Forward a letter to the respondent(s) reconfirming the Tribunal's decision and any disciplinary measures imposed. The letter should also outline, if allowed, the process and grounds for an appeal to be made.

## Appeals Procedure

10. A complainant or a respondent(s) who is not satisfied with a decision described in **Step 7** of the Complaints Procedures can lodge **one** appeal to Gymnastics NSW on one or more of the following bases:
  - 4.1 That a denial of natural justice has occurred; or
  - 25.1 That the disciplinary measure(s) imposed is unjust and/or unreasonable.
11. A person wanting to appeal in accordance with paragraph 25 must lodge a letter stating their intention and the basis for their appeal with the CEO within 7 days of the relevant decision. An appeal fee of \$100.00 shall be included with the letter of intention to appeal.



12. If the letter of appeal is not received by the CEO within the relevant time period the right of appeal will lapse. If the letter of appeal is received but the appeal fee is not received by the relevant time, the appeal shall be deemed to be withdrawn.
12. Upon receipt of the letter of appeal, the CEO must convene a special meeting of the Appeals Tribunal to review the letter of appeal and decide whether there are sufficient grounds for the appeal to proceed. The Appeals Tribunal will be able to invite any witnesses to the meeting it believes are required to make an informed decision.
13. If it is considered that the letter of appeal has not shown sufficient grounds for appeal in accordance with paragraph 25, then the appeal will not proceed and the person will be notified of this decision and the reasons for this decision. The appeal fee will be forfeited.
14. If the appeal is considered to have sufficient grounds to proceed then a Tribunal with a new panel will be convened to rehear the complaint and the appeal fee will be refunded. The Appeals Tribunal Chairperson shall follow the Tribunal Formation and Notification procedures outlined above.
14. The Tribunal Hearing Procedure shall be followed for the appeal.
14. The decision of the appeal Tribunal will be final.

## **Attachment C6: DISCIPLINARY MEASURES**

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Any disciplinary measure imposed by the Hearings Tribunal and/or CEO, or nominee under this policy must:

- Observe any contractual and employment rules and requirements;
- Conform to the principles of natural justice;
- Be fair and reasonable;
- Be based on the evidence and information presented;
- Be within the powers of the hearings tribunal and/or CEO, or nominee to impose the disciplinary measure.

### **Individual**

Subject to contractual and employment requirements, if a finding is made that an individual has breached the Gymnastics NSW Member Protection Policy (including the Codes of Conduct), one or more of the following forms of discipline may be imposed by the Hearings Tribunal, CEO, or nominee;

7. A direction that the individual make a verbal and/or written apology;
8. A written warning;
9. A direction that the individual attend counselling to address their behaviour;
10. A withdrawal of any awards, placings, records, achievements bestowed in any tournaments, activities or events held or sanctioned by Gymnastics NSW;
1. A demotion or transfer of the individual to another location, role or activity;
2. A suspension of the individual's membership or participation or engagement in a role or activity;
3. Termination of the individual's membership, appointment or engagement;
4. Recommend that Gymnastics NSW terminate the individual's membership, appointment or engagement;
11. In the case of a coach or official, a direction that the relevant organisation de-register the accreditation of the coach or official for a period of time or permanently;
12. Any other form of discipline that the Hearings Tribunal, CEO, or nominee considers appropriate.

When imposing any form of discipline, it will be accompanied by a warning that a similar breach of policy by that individual in the future may result in the imposition of a more serious form of discipline.

### **Organisations**

If a finding is made that a member or an affiliate member of Gymnastics NSW has breached the Gymnastics NSW Member Protection Policy (including the Codes of Conduct), one or more of the following forms of discipline may be imposed by the Hearings Tribunal, CEO, or nominee;

7. A written warning;
8. A monetary fine;
9. A direction that any rights, privileges and benefits provided to that organization, or person by Gymnastics NSW, the national body or other peak association be suspended for a specified period;
10. A direction that any funding granted or given to it by Gymnastics NSW, Gymnastics Australia or a peak association cease from a specified date;
11. A direction that Gymnastics NSW, Gymnastics Australia or a peak association cease to sanction events held by or under the auspices of that organisation;

12. A recommendation to Gymnastics NSW, Gymnastics Australia or a peak association that its membership of these organizations be suspended or terminated in accordance with the relevant constitution or rules; and/or
13. Any other form of discipline that Gymnastics NSW, Gymnastics Australia or peak organisation considers to be appropriate.

When imposing any form of discipline, it will be accompanied by a warning that a similar breach of policy by the organisation in the future may result in more serious form of discipline.

### **Factors to consider when imposing discipline**

The form of discipline to be imposed on an individual or organisation will depend on factors such as:

- The ability to enforce the discipline;
- Nature and seriousness of the behaviour or incidents;
- In a case where action is taken concurrently with or in lieu of a resolution of a formal complaint, the wishes of the complainant;
- If the individual concerned knew or should have known that the behaviour was a breach of the policy;
- Level of contrition of the respondent(s);
- The effect of the proposed disciplinary measures on the respondent(s) including any personal, professional or financial consequences;
- If there have been relevant prior warnings or disciplinary action; and/or
- If there are any mitigating circumstances such that the respondent(s) shouldn't be disciplined at all or not disciplined so seriously.