



WPA CONDUCT AND DISCIPLINARY POLICY

Policy Name:	Conduct and Disciplinary Policy
Policy Coverage:	Disputes arising from a breach of a policy dealing with prohibited conduct and disciplinary measures, and either: <ul style="list-style-type: none">- not covered by the NIF, or- not managed under the NIF CDDP, or- SIA and/or the NSO has determined that the matter is best handled under a non-NIF policy.
Date of Effect:	1 December 2023
Date of Review:	1 July 2025

Contents

1. Introduction	3
2. Definitions	3
3. Jurisdiction	7
4. Making a Complaint or Report	8
5. Complaints Process	11
6. Findings and Resolution Process	14
7. Hearing Tribunals and Appeals	18
8. Interpretation and other information	21
SCHEDULE 1	23
SCHEDULE 2	25
SCHEDULE 3	28

1. Introduction

- 1.1. WPA has adopted the National Integrity Framework to establish rules about the types of behaviour that are unacceptable in Water Polo and provide a process that ensures allegations of proscribed conduct under the policies forming the National Integrity Framework are managed through an effective, consistent and timely process which is fair and transparent.
- 1.2. Other policies of the WPA that do not form part of the National Integrity Framework (known as Relevant Policies in this Policy) establish additional rules about the types of behaviour that are unacceptable in Water Polo. These unacceptable behaviours are defined as Prohibited Conduct.

NB: Such other policies may instead be referred to and managed under the WPA National Integrity Framework's Complaints, Disputes and Discipline Policy.

- 1.3. This Policy:
 - (a) seeks to guide Relevant Persons and Relevant Organisations on what to do if they experience or witness breaches of the Relevant Policies;
 - (b) sets out the processes for how allegations of Prohibited Conduct are managed and resolved; and
 - (c) does not cover conduct and disciplinary matters arising under policies that form part of the National Integrity Framework, unless Sport Integrity Australia and/or WPA has determined that the matter is best handled under a Relevant Policy.

2. Definitions

In this Policy the following words have the corresponding meaning:

Activity means a sporting contest, match, competition, event, or activity (including training), whether on a one-off basis or as part of a series, league, or competition, which is sanctioned or organised by a Relevant Organisation.

Alternative Dispute Resolution is a collective term for processes, other than arbitration, such as mediation, conciliation or case appraisal that may be used to resolve allegations of Prohibited Conduct under this Policy.

Appeals Tribunal means the NST Appeals Division or other Appeals Tribunal (including an Appeals Tribunal established internally by a Relevant Organisation) established to hear an appeal of a decision of a Hearing Tribunal.

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

Breach Notice means a written notification sent to the Respondent in accordance with clause 6.6.

Breach Offer means the procedure set out in clause 6.6.

Club means any club that enters an Athlete or a Team to participate in an Activity.

Complainant has the meaning given in clause 4.2.

Complaint has the meaning given in clause 4.1.

Complaint Form means the complaint form included in Schedule 1.

Complaint Manager means the person appointed under clause 4.11 to manage Complaints under this Policy.

Complaints Process means the process for managing a Complaint under the guidance of this Policy from the time the Complaint is received to the Resolution Process.

Contractor means any person or organisation engaged to provide services for or on behalf of a Relevant Organisation, and includes:

- (a) agents, advisers, and subcontractors of a Relevant Organisation; and
- (b) employees, officers, volunteers and agents of a contractor or subcontractor.

Employee means a person employed by a Relevant Organisation.

Hearing Tribunal means the NST General Division or other first instance tribunal (including a Hearing Tribunal established internally by a Relevant Organisation) established to conduct a hearing under this Policy.

Member means a member of a Relevant Organisation, including:

- (a) **Member Organisations**, which means each company or incorporated association that is a member of WPA, including each:
 - i. state, territory, and Club Member; and
 - ii. affiliate that is a member of a state and territory Member.
- (b) **Individual Members**, which means individuals who are individuals registered with a Relevant Organisation.

National Integrity Framework means the WPA “National Integrity Framework” adopted by a Relevant Organisation from time to time, as developed by Sport Integrity Australia and consisting of the following five policies:

- (a) Safeguarding Children and Young People Policy;
- (b) Competition Manipulation and Sport Gambling Policy;
- (c) Improper Use of Drugs and Medicine Policy;
- (d) Member Protection Policy;
- (e) Complaints, Disputes and Discipline Policy (the CDDP).

NST means the National Sports Tribunal established under the NST Legislation.

NST Eligible Matter means an alleged breach that is a kind of dispute that falls within the jurisdiction of the NST¹.

¹ See NST Act sections 5(2) and 6(2) and NST Rule section 7.

NST Legislation means the *National Sports Tribunal Act 2019* (Cth) (**NST Act**), and any legislative instruments made under the NST Act as may be in force from time to time, including the National Sports Tribunal Rule 2020 (Cth) (**NST Rule**), National Sports Tribunal (Practice and Procedure) Determination 2021 (Cth) and National Sports Tribunal Act 2019 - Principles for Allocating a Member to a Dispute 2020.

Participant means:

- (f) Athletes;
- (g) coaches appointed to train an Athlete or Team in an Activity;
- (h) administrators who have a role in the administration, operation or Activity of a Relevant Organisation including owners, directors, committee members or other persons;
- (i) officials including referees, umpires, technical officials, or other officials appointed by a Relevant Organisation, or any league, competition, series, Club or Team sanctioned by a Relevant Organisation; and
- (j) support personnel who are appointed in a professional or voluntary capacity by a Relevant Organisation, or any league, competition, series, Club or Team sanctioned by a Relevant Organisation including sports science sports medicine personnel, team managers, agents, selectors, and team staff members.

Personal Grievance means any type of interpersonal conflict or dispute between two or more people (including individuals and body corporates) that does not concern or allege a breach of a Relevant Policy.

Policy means this Conduct and Disciplinary Policy, including any schedules.

Prohibited Conduct means the conduct proscribed in each of the Relevant Policies.

Protected Disclosure means, where a Relevant Organisation is a "regulated entity" under the whistleblower laws in the *Corporations Act 2001* (Cth), a disclosure of information to the Relevant Organisation that qualifies for protection under those laws.

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

Relevant Organisation means any of the following organisations:

- (a) WPA;
- (b) Member Organisations; or
- (c) any other organisation that has agreed to be bound by the Relevant Policies.

Relevant Person means any of the following persons:

- (a) Individual Member;
- (b) Participant;

- (c) Employee;
- (d) Contractor;
- (e) Volunteer; or
- (f) any other individual who has agreed to be bound by the Relevant Policies.

Relevant Policy means the following policies:

- (a) this Policy;
- (b) Code of Conduct, Social Media Policy, Travel Safety Policy, Privacy Policy, Selection Policies, Membership and Registration Policies; and
- (c) any other by-laws, rules, regulations or policies stated to be subject to this Policy as adopted by WPA or a Relevant Organisation from time to time.

Report has the meaning given in clause 4.3.

Reporter has the meaning given in clause 4.4.

Resolution Process means the process from the point at which:

- (a) a matter is referred directly to a Hearing Tribunal;
- (b) the Warning Procedure is undertaken; or
- (c) a Breach Notice has been issued to a Respondent.

Respondent has the meaning given in Clause 4.5.

Sanction means the disciplinary action(s) taken against a Respondent for breaching a Relevant Policy in accordance with clause 6.4.

Water Polo means the sport of Water Polo as governed by WPA and World Aquatics from time to time, and a reference to Sport means collectively WPA and its Member Organisations and any other person or organisation that has agreed to be bound by the Relevant Policies.

Sport Integrity Australia means the entity established under the *Sport Integrity Australia Act 2020* (Cth).

Team means a collection or squad of Athletes, registered with a Relevant Organisation or entitled to participate in an Activity.

Volunteer means any person engaged by a Relevant Organisation in any capacity who is not otherwise an Employee or Contractor, including directors and office holders, coaches, officials, administrators and team and support personnel.

Vulnerable Person means a person who is:

- (a) under the age of 18;

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

Warning Procedure means the procedure set out in clause 6.5.

WPA means Water Polo Australia.

3. Jurisdiction

3.1. When this Policy applies

- (a) This Policy applies to Prohibited Conduct under each of the Relevant Policies.
- (b) This Policy does not apply to an allegation or information:
 - (i) covered by any of the policies that form part of the National Integrity Framework, unless Sport Integrity Australia and/or WPA has determined that the matter is best handled under another Relevant Policy;
 - (ii) that constitutes a Protected Disclosure;
 - (iii) that is solely a Personal Grievance;
 - (iv) that is mischievous, vexatious or knowingly untrue;
 - (v) where the proposed Respondent is excluded by clause 4.5; or
 - (vi) that does not refer to a breach of a Relevant Policy.

3.2. Who the Relevant Policies apply to

- (a) The Relevant Policies apply to and bind:
 - (i) all Relevant Persons and Relevant Organisations.
 - (ii) any person who, or organisation that:
 - A. has had a Complaint or Report made against them; and
 - B. was bound by the Relevant Policies at the time of the alleged Prohibited Conduct, even if they are no longer a Relevant Person or Relevant Organisation.
- (b) Employees are expected to abide by the terms of the Relevant Policies as a reasonable and lawful direction of the Relevant Organisation they are employed by (as relevant) as their employer.

- (c) A Relevant Organisation must ensure that all Contractors and Volunteers are contractually bound to abide by the terms of the Relevant Policies.
- (d) By participating in an Activity, a Participant is deemed to have agreed to be bound by the Relevant Policies.
- (e) Any person or organisation who has had a Complaint made about them and was bound by the Relevant Policies at the time of the alleged behaviour continues to be bound by the Relevant Policies until the Complaint is finalised and any sanction has been complied with.

What happens when there are conflicting provisions?

- (a) Laws of the Commonwealth, or a state or territory, take precedence and must be complied with in the first instance.
- (b) Where conduct may constitute Prohibited Conduct but is a Protected Disclosure with respect to WPA it must be dealt with under WPA's whistleblower policy (if applicable).
- (c) Nothing in the Relevant Policies prevent the Relevant Organisation from referring any alleged Prohibited Conduct or criminal conduct to a relevant law enforcement agency.
- (d) The Relevant Policies are subject to the WPA Constitution and if there is any inconsistency, the Constitution will prevail.

4. Making a Complaint or Report

4.1. What is a Complaint?

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

4.2. Who is a Complainant?

- (a) A Complainant is a person or an organisation who or which is directly affected by the alleged Prohibited Conduct and makes a Complaint about a Respondent in accordance with this Policy.
- (b) Where the person directly affected by the conduct is a Vulnerable Person, a Complaint may be submitted on their behalf by a parent or carer. The Vulnerable Person will still be considered to be the Complainant when a Complaint is submitted on their behalf.
- (c) A Complainant cannot be anonymous.

4.3. **What is a Report?**

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

4.4. **Who is a Reporter?**

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

4.5. **Who is a Respondent?**

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

4.6. **Vulnerable Persons and support persons**

- (a) Where required, and subject to clause 4.6(c), the parent or guardian of a Vulnerable Person who is a party to a Complaint may support the Vulnerable Person and/or act on their behalf if necessary through the Complaints Process and any subsequent Resolution Process. For example, at any interview, Alternative Dispute Resolution process, or Hearing Tribunal or Appeals Tribunal.

- (b) Relevant Organisations may have regard to the guide entitled “Complaint Handling Guide: Upholding the rights of children and young people” issued by the National Office for Child Safety in managing Complaints made on behalf of or involving Vulnerable Persons, currently available [here](#), or such other guide that may replace it.
- (c) A party to a Complaint may request that they be assisted by a support person or authorised representative. This request will generally be granted unless there is a specific reason to deny it (for example, where a nominated support person or authorised representative is also a witness to the allegations or is actively hindering the interview process). Reporters and witnesses may be permitted to be assisted by a support person or authorised representative where this is considered appropriate.

4.7. Responsibility for Managing Complaints or Reports

- (a) A Complaint or Report should be submitted to the Relevant Organisation at the level of the sport where the relevant conduct occurs where it relates to any alleged Prohibited Conduct. That would require submission to WPA for conduct at the national level, the State member organisation for a conduct at the state level, or the Club level for conduct at the club level.
- (b) Where a Complaint or Report relates to alleged Prohibited Conduct below the national level and it has been submitted at a national level, WPA may delegate its functions and responsibilities relating to managing Complaints or Reports under this Policy to a Relevant Organisation, other than those functions and responsibilities set out in this clause 4.7(b)**Error! Reference source not found..** Those functions and responsibilities are automatically delegated to the Relevant Organisation when the complaint is submitted at the relevant level at which the conduct occurred. WPA must take into account any significant conflict of interest, and whether it can be appropriately managed, in considering whether to delegate such functions and responsibilities to a Relevant Organisation. If delegated:
 - (i) any reference to WPA in provisions relevant to the delegated functions will be read as a reference to that Relevant Organisation;
 - (ii) the matter may only be referred to the NST through WPA; and
 - (iii) the matter may be subject to overview and review by WPA, which may require the Relevant Organisation managing the Complaint to remedy any failure to discharge a delegated responsibility and/or improper exercise of a delegated function.
- (c) The Relevant Organisation managing the Complaint or Report may appoint an independent investigator where appropriate but will remain responsible for overall management of the Complaint or Report.**Submitting a Complaint or Report**
 - (a) A Complaint must be made in writing (including electronically).
 - (b) A fully completed version of the Complaint Form set out in Schedule 1 and sent to the email address on the front cover of this Policy as soon as reasonably possible following the alleged Prohibited Conduct is the preferred method for submitting a Complaint to a Relevant Organisation. However, WPA or the other Relevant Organisation may waive that requirement and/or require that it be replaced by the Complainant with a suitable alternative.

- (c) A Complaint Form may only be submitted on behalf of WPA or other Relevant Organisation by the CEO or their equivalent in the submitting organisation.
- (d) A Complaint may be submitted by a parent or guardian on behalf of a Vulnerable Person.
- (e) The Complaints Manager must send the Complainant an acknowledgement of receipt upon receipt of a Complaint.
- (f) A Report can be made in writing (including electronically) or verbally. The Reporter may not receive acknowledgment of receipt of a Report.

4.8. Withdrawing a Complaint or Report

- (a) A Complaint or Report can be withdrawn at any time. Withdrawing a Complaint must be done in writing (including electronically) to the organisation that it was submitted to.
- (b) Where a Complaint or Report has been withdrawn, the organisation managing the Complaint or Report may choose to continue to progress the matter through the Complaints Process.

4.9. Confidentiality

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

4.10. Appointment of a Complaint Manager

- (a) Relevant Organisations will appoint a Complaint Manager, who will be responsible for managing its obligations under this Policy.

4.11. Failure to cooperate

- (a) Subject to clause 4.12(c), Relevant Persons must cooperate fully with any Complaints Process or Resolution Process they are involved in.
- (b) If a Respondent fails or refuses to respond, after a request has been made in a reasonable time in advance, to answer any relevant question, provide relevant documentation, and/or participate in a Complaints Process or Resolution Process, a Relevant Organisation, a Hearing Tribunal or an Appeals Tribunal (as applicable) may make findings based on the available information.
- (c) No individual or organisation bound by this Policy is required to answer a question or provide information where to do so would be a breach of any applicable law.

5. Complaints Process

5.1. Evaluation

- (a) Pursuant to clause 4.3(f), a Complaint may also include a Report.
- (b) Upon receipt of a Complaint, the Relevant Organisation which receives the Complaint will determine whether the matter falls within the scope of the Relevant Policies. In making this determination the Relevant Organisation will consider whether the conduct alleged in the Complaint would, if proven to the requisite standard, constitute Prohibited Conduct, as well as whether it otherwise meets the requirements of clause 4. The Relevant Organisation will also decide in accordance with clause 4.7 as to which organisation should manage the Complaint.
- (c) Where a Complaint is determined to be out of scope under the Relevant Policies, it may be managed under an alternative policy of a Relevant Organisation (for example, its Review and Appeals Policy).
- (d) A Complaint that has been previously managed through a complaints process will not be reconsidered or reinvestigated unless there are compelling reasons to do so, such as relevant new information becoming available.
- (e) If the Complaint is determined to be out of scope, the Relevant Organisation which received the Complaint will notify the Complainant and no further action will be taken under this Policy.

5.2. Commencing Complaint Management

- (a) Once a Complaint has been deemed to be in-scope, the Relevant Organisation will determine an appropriate means of dealing with the Complaint and will undertake the relevant actions in accordance with the processes outlined in clauses 5 and 6.
- (b) Any one or a combination of the following actions may be undertaken:
 - (i) external referral;
 - (ii) Provisional Action;
 - (iii) direct referral to a Hearing Tribunal;
 - (iv) Warning Procedure;
 - (v) investigation;
 - (vi) Breach Offer;
 - (vii) Alternative Dispute Resolution; and
 - (viii) case closure.
- (c) For Complaints that are considered by the Complaint Manager to be minor, the Complaint may be closed in accordance with clause 7.5 with no findings being made or sanction imposed. A Respondent may be reminded of their obligations under the Relevant Policies or recommended to undergo education or training.

- (d) WPA may refer a Complaint directly to a Hearing Tribunal pursuant to clause 7.1 to hear the allegations and make findings about the Complaint instead of proceeding to an investigation.

5.3. External Referral

- (a) At any time during the Complaints Process, allegations may be referred to a relevant external organisation if it will assist the Relevant Organisation to perform or exercise any of the functions, duties or powers. This may include referral to a law enforcement agency or government or regulatory authority.
- (b) If an external referral is made, the Complaints Process may be suspended pending external resolution to avoid any potential compromise to the external process.

5.4. Provisional Action

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

5.5. Investigation

- (a) The Relevant Organisation responsible for managing the Complaint may conduct an investigation to obtain additional evidence, including by way of formal interview and collection of additional information, to determine if the alleged Prohibited Conduct is a breach of a Relevant Policy.
- (b) In conducting an investigation, the rules of procedural fairness will apply, including by providing both the Complainant and the Respondent with a reasonable opportunity to be heard.
- (c) Where a Respondent has been convicted or found guilty in a criminal, disciplinary or professional proceeding of engaging in conduct which would constitute Prohibited Conduct under a Relevant Policy, the Respondent will be deemed under this Policy to have committed Prohibited Conduct without requiring further investigation, or any other process.
- (d) Following an investigation, the Complaint may be referred to a Hearing Tribunal or managed in accordance with clause 5.

5.6. Standard of Proof

- (a) The standard of proof that applies to all substantive decisions (including by a Hearing Tribunal) made under this Policy in respect of allegations of Prohibited

Conduct is "balance of probabilities". This means the decision-maker must be satisfied that it is more likely than not that there has been a breach of a Relevant Policy.

5.7. Alternative Dispute Resolution

- (a) The Complainant and the Respondent may agree to an Alternative Dispute Resolution. The Complaints Process may be suspended while Alternative Dispute Resolution is pursued. The Complaints Process may be discontinued if both parties are satisfied that the matter has been resolved.
- (b) This process will be coordinated by the Complaint Manager, if required.
- (c) If a Complaint relates to an NST Eligible Matter, WPA may refer the Complaint to mediation, conciliation or case appraisal in the NST General Division.
- (d) WPA or the Relevant Organisation is responsible for making the application for Alternative Dispute Resolution at the NST. The application fee will be paid by the person or entity seeking to refer the matter to the NST. In the absence of agreement, they will be apportioned anyway. Service charges may also be payable to the NST, which will be paid by the Complainant seeking to refer the matter to the NST.

6. Findings and Resolution Process

6.1. Findings

- (a) Unless the matter has been referred directly to a Hearing Tribunal under clause 7.1, following an investigation, the Relevant Organisation managing the Complaint will determine whether, to the requisite standard of proof, the allegation of Prohibited Conduct is substantiated, unsubstantiated or unable to be substantiated.
- (b) The Relevant Organisation will notify the parties of the findings, and if the allegation of Prohibited Conduct is substantiated, will manage the Resolution Process described in clause 6.2.

6.2. The Resolution Process

- (a) If the allegation of Prohibited Conduct is found to be substantiated, the Relevant Organisation must implement an appropriate Resolution Process.
- (b) The Complaint Manager of the Relevant Organisation will recommend an appropriate Resolution Process, which might include:
 - (i) Warning Procedure; or
 - (ii) Breach Offer.
- (c) Where a Respondent admits the alleged breach and accepts the Sanction or fails to respond to the Breach Offer within the time prescribed within the Breach Offer, the Complaint Manager may impose the Sanction and proceed to finalise the Complaint.

6.3. Notification to Parties

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

6.4. Sanctions

- (a) Where a Respondent is found to have committed a breach of a Relevant Policy, the Relevant Organisation, NST and the Hearing Tribunal (if applicable) have absolute discretion to determine the appropriate Sanction to be imposed on a Respondent, including as to whether a combination of measures is to be imposed, and the terms and the period of any measures.
- (b) Without limiting the discretion in clause 6.4(a), the Sanctions that may be imposed on a Respondent include, but are not limited to:
 - (i) a reprimand;
 - (ii) verbal or written apology;
 - (iii) direction to attend counselling or training to address their behaviour;
 - (iv) suspended sentence and/or good behaviour period;
 - (v) removal of accreditation;
 - (vi) removal of awards (such as life membership);
 - (vii) exclusion from a particular event or events, competition or activity;
 - (viii) suspension of membership from WPA or other Relevant Organisation;
 - (ix) suspension from such activities or events held by or under the auspices of WPA or other Relevant Organisation;
 - (x) suspension for a specified period and/or termination of any rights, privileges and benefits provided by WPA or other Relevant Organisation;
 - (xi) expulsion from membership of a Relevant Organisation; and/or
 - (xii) any other form of discipline that is considered appropriate.
- (c) Without limiting the discretion afforded in clause 6.4(a), the following factors must be considered when determining the appropriate Sanction:
 - (i) the nature and seriousness of the behaviour or incident;
 - (ii) whether it was a one-off incident or part of an overall pattern of behaviour;
 - (iii) whether it was an honest and reasonable mistake;
 - (iv) the potential impact on public confidence in the integrity of the sport;

- (v) the views and opinions of the Complainant;
 - (vi) the contrition, or lack thereof, of the Respondent;
 - (vii) any Provisional Action taken in relation to the Respondent;
 - (viii) the potential impact of the proposed Sanction on the Respondent including any personal, professional or financial consequences;
 - (ix) any relevant prior warnings or disciplinary action against the Respondent; and
 - (x) any other aggravating or mitigating factors.
- (d) If there is more than one breach of a Relevant Policy, where appropriate, the Sanction may be imposed having regard to all of the breaches considered together, and the seriousness of the overall conduct in question.
- (e) Sanctions imposed under this Policy shall commence from the date of the decision, unless otherwise directed.

6.5. **Warning Procedure**

- (a) The Warning Procedure may only be chosen where a Complaint concerns conduct that, in the opinion of the Relevant Organisation:
- (i) is of a relatively minor nature;
 - (ii) causes a relatively minimal or no degree of harm;
 - (iii) there is remorse shown and cooperation present; or
 - (iv) if established, would likely only result in a warning being issued to the Respondent.
- (b) The Complaint Manager must notify the Respondent of the conduct and give them an opportunity to comment, using as guidance, but adopting as appropriate, the template letter set out in item 1 of Schedule 2. The letter must contain the following information:
- (i) details of the conduct and how it is alleged to have breached a Relevant Policy, including the section(s) of the Relevant Policy allegedly breached;
 - (ii) that, without the Relevant Organisation finding any breach to be established, the Relevant Organisation is minded to warn the Respondent that the allegations would constitute a breach of the Relevant Policy, if proven;
 - (iii) an invitation to comment in writing as to whether such a warning should be issued or not; and
 - (iv) the timeframe in which to provide comment.
- (c) If the Respondent does not respond to the invitation to comment within the timeframe specified in the notification set out in clause 6.5(b), the Relevant Organisation may issue a warning and notify the Respondent of that warning using

as guidance, but adopting as appropriate, the template letter set out in item 2 of Schedule 2.

- (d) The Relevant Organisation will take into account any comments provided by the Respondent in response to the notification set out in clause 6.5(b) and will determine whether issuing a warning is appropriate based on the Respondent's comments. If so, the Relevant Organisation will notify the Respondent of that warning using as guidance, but adopting as appropriate, the template letter set out in item 2 of Schedule 2.

6.6. **Breach Offer**

- (a) If the allegation of Prohibited Conduct is found to be substantiated and the Complaint Manager has determined Breach Offer is the most appropriate Resolution Process, the Relevant Organisation must issue the Respondent with a Breach Notice, using as guidance, but adopting as appropriate, the template letter set out in Schedule 3. The Breach Notice will:
 - (i) notify the Respondent of the allegations found to be substantiated, including the alleged conduct and relevant section(s) of the Relevant Policy allegedly breached;
 - (ii) state the proposed Sanction and, if applicable, any proposed discounted Sanction;
 - (iii) state that the Respondent has a right to a hearing in relation to the allegations found to be substantiated and/or the proposed Sanction;
 - (iv) state that the Respondent may accept the findings, waive their right to a hearing and accept the proposed Sanction or proposed discounted Sanction (if applicable);
 - (v) state that if the Respondent does not respond within 14 days of the date of the Breach Notice, they will be deemed to have accepted the findings, waived their right to a hearing and accepted the proposed Sanction unless otherwise agreed by the Relevant Organisation;
 - (vi) state that any response to the Breach Notice must be made to the Relevant Organisation, and provide the Respondent with the contact details of the relevant Complaint Manager; and
 - (vii) be provided to the Respondent and Relevant Organisation (if applicable).
- (b) In response to the Breach Notice, a Respondent may in writing:
 - (i) accept the findings, waive their right to a hearing and accept the proposed Sanction or proposed discounted Sanction; or
 - (ii) dispute the findings and/or proposed Sanction, in which case the allegations will be referred to a Hearing Tribunal under this Policy.
- (c) Unless otherwise agreed by the Relevant Organisation managing the Complaint, a Respondent has 7 days (or other agreed timeframe) from the date of the Breach Notice to notify the Complaint Manager in writing of their decision.

- (d) The response given under paragraph 6.6(b) must be:
 - (i) given in writing (whether by email or other means);
 - (ii) sent to the Complaint Manager at the address given on the Breach Notice; and
 - (iii) received within 14 days (or other agreed timeframe) from the date of the Breach Notice.
- (e) If the Relevant Organisation does not receive a response under clause 6.6(b) within 14 days (or other agreed timeframe) from the date of the Breach Notice, the Respondent will be deemed to have waived their right to appeal.

6.7. Recognition of decisions

- (a) Any Provisional Action or final adjudications on an applicable Sanction under this Policy shall be recognised and respected by all other Relevant Organisations automatically upon receipt of notice of the Provisional Action or Sanction without need for any further formality. Each Relevant Organisation shall take all steps legally available to it to enforce and give effect to the Sanction.

7. Hearing Tribunals and Appeals

7.1. Referral to a Hearing Tribunal

- (a) A Relevant Organisation may refer a Complaint directly to a Hearing Tribunal to hear the allegations and make findings about the Complaint instead of proceeding to an investigation.
- (b) If the Respondent disputes in writing the substantiated allegations and/or the proposed Sanction in the Breach Notice, the Complaint Manager must refer the matter to a Hearing Tribunal.
- (c) If the matter is a NST Eligible Matter, the substantiated allegations and proposed Sanction may be referred by WPA to the NST General Division for arbitration.
- (d) If the matter is not referred to the NST, it will otherwise be referred to a Hearing Tribunal convened internally either at the WPA level or other Relevant Organisation level.

7.2. Hearing Tribunals

- (a) If arbitration is sought in either the NST General Division or an internal Hearing Tribunal, the Hearing Tribunal will, as applicable:
 - (i) determine whether any Provisional Action imposed in accordance with clause 5.4 is disproportionate; or
 - (ii) if referred directly to the Hearing Tribunal under clause 7.1(a), make the findings required by clause 6.1, and determine whether a Sanction should be imposed and, if so, the nature of that Sanction; or

- (iii) if referred to a Hearing under clause 7.1(b) following an investigation, arbitrate the substantiated allegations and/or proposed Sanction set out in the Breach Notice.
- (b) Where an application to the NST for arbitration is made, WPA is responsible for making the application. The application fee will be paid by the party seeking to refer the matter. Service charges may also be payable to the NST, which will also be paid by the party seeking to refer the matter.
- (c) The Hearing Tribunal will notify the parties of the decision in accordance with its relevant procedures and the relevant Complaints Manager must, subject to any appeal under clause 7.3, comply with clause 7.5.

7.3. Appeals

- (a) A decision of a Hearing Tribunal in respect of:
 - (i) Provisional Action imposed in accordance with clause 5.4, is not subject to appeal;
 - (ii) allegations referred directly to a Hearing Tribunal under clause 7.1(a) for a finding, is subject to appeal; and
 - (iii) a substantiated allegations finding and/or Sanction referred to a Hearing under clause 7.1(b), is subject to appeal.
- (b) The decision of a Hearing Tribunal can only be appealed by the parties to the dispute on the following grounds:
 - (i) the Hearing Tribunal failed to abide by this Policy and/or the NST Legislation (as the case may be) or to properly apply the Relevant Policy and such failure resulted in a denial of natural justice; and/or
 - (ii) no reasonable decision maker in the position of the Hearing Tribunal, based on the material before them, could reasonably make such a decision.
- (c) Appeals from the NST General Division must be referred to the NST Appeals Division. Appeals from internal Hearing Tribunals may be referred to the NST (an appeal from a WPA Hearing Tribunal will be referred to the NST Appeals Division; an appeal from a state or territory Hearing Tribunal will be referred to the NST General Division). Payment of the NST fees will be paid by the party seeking to refer the matter.
- (d) The Appeals Tribunal's arbitration of the appeal:
 - (i) must determine, to the standard of proof set out in clause 5.6, whether one or both grounds of appeal (as applicable) are proven, and must not, except when provided for by a relevant policy or the NST Legislation, rehear the matter or the facts of the Complaint; and
 - (ii) may result in the Appeals Tribunal:
 - A. dismissing the appeal;
 - B. upholding (or partially upholding) the appeal;

- C. imposing any of the Sanctions set out in clause 6.4; or
 - D. reducing, increasing or otherwise varying any Sanction imposed by the Hearing Tribunal under the Policy.
- (e) The Appeals Tribunal will notify the parties to the proceeding of the decision in accordance with its relevant procedures, after which the Complaint Manager will proceed to finalise the matter in accordance with clause 7.5.

7.4. Implementation

- (a) It is the responsibility of the Relevant Organisation to ensure that appropriate Sanctions (or other alternative actions) are undertaken, and that the Relevant Policies are implemented and applied.
- (b) The Relevant Organisation will determine if a Sanction should be publicly disclosed to give it full effect. This may be necessary for suspension or cancellation of membership or accreditation.
- (c) Ignorance of the Relevant Policies is not a defence, excuse or justification for Prohibited Conduct and will not be considered a mitigating circumstance.

7.5. Finalisation of Complaint

- (a) A Complaint will be finalised and may be closed under this Policy when:
 - (i) the Complaint is evaluated as being out of scope of this Policy under clause 5.1;
 - (ii) the Complaint is considered to be minor in accordance with clause 5.2(c) and no further action is being taken;
 - (iii) during investigation of the Complaint, it becomes apparent that the Complaint no longer meets the eligibility requirements set out in clause 4 (for example, the Respondent is discovered not to have been bound by the Relevant Policies at the time the alleged conduct occurred due to information obtained during the investigation);
 - (iv) the Complaint is resolved through Alternative Dispute Resolution in accordance with clause 5.7, or the Complaint was sought to be resolved through Alternative Dispute Resolution but it was not resolved and the participants are in agreement that the Complaint may be closed;
 - (v) following investigation, all allegations are found to be either unsubstantiated or unable to be substantiated in accordance with clause 6.1;
 - (vi) following investigation, the Respondent accepts or is deemed to have accepted the findings and any Sanction imposed upon them in accordance with clause 6.6; or
 - (vii) the matter is finalised before a Hearing Tribunal or Appeals Tribunal.
- (b) Once a matter has been closed in accordance with this clause, it has been finalised and no further action will be taken in relation to the matter under this Policy unless there is a compelling reason to do so.

- (c) The Relevant Organisation will retain appropriate records of the Complaint and any outcomes in accordance with any relevant policies or procedures relating to record-keeping.

8. Interpretation and other information

8.1 Commencement and Application

- (a) This Policy commences on the date outlined on the front cover (**Commencement Date**).
- (b) Relevant Organisations must adopt and implement this Policy as their complaints management policy for complaints arising under all Relevant Policies.

8.2 Prior Alleged Breaches

- (a) Allegations relating to conduct which occurred prior to the Commencement Date:
 - (i) Must be dealt with under the policies and processes of Relevant Organisations existing at the time the Complaint was made, regardless of where that Complaint is at in that process;
 - (ii) Cannot be resubmitted to a Relevant Organisation under this Policy; and
 - (iii) Are not subject to any appeal under this Policy.

8.3 Amendment

- (a) A Relevant Organisation may amend this Policy from time to time and must make the new version available on its website as soon as possible, including the date on which any amendments take effect.
- (b) Any Complaint under this Policy which is not finalised at the time of an amendment to this Policy will continue to be processed under the substantive provisions of this Policy in force at the time a Relevant Organisation commences management of the Complaint unless a Relevant Organisation and/or a Hearing Tribunal determines the principle of “lex mitior” appropriately applies in the circumstances.

8.4 Interpretation

The following rules of interpretation apply to this Policy:

- (a) Headings are for convenience only and shall not be deemed part of the substance of the document or to affect in any way the language of the provisions to which they refer.
- (b) Words in the singular include the plural and vice versa.
- (c) Reference to 'including' and similar words are not words of limitation.
- (d) Words importing a gender include any other gender.
- (e) Where a word or phrase is given a particular meaning, other parts of speech and grammatical forms of that word or phrase have corresponding meanings.

- (f) If any provision of this Policy is determined invalid or unenforceable, the remaining provisions shall not be affected, and the Policy shall not fail because any part of it is held invalid.
- (g) Except as otherwise stated herein, failure to exercise or enforce any right conferred by this Framework shall not be deemed to be a waiver of any such right nor operate to bar the exercise or enforcement thereof or of any other right on any other occasion.

<p>Description of alleged breach by Respondent</p> <p><i>Please provide as much information as possible, including details of who is involved, describe what happened and when, and how you found out about the breach - attach further pages if necessary</i></p>	
<p>Witnesses (if any)</p>	<p>Did anyone else witness this alleged breach by the Respondent?</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not Sure</p> <p>If 'Yes', please list the witnesses and their contact details (if known):</p> <p>1. Name: Phone: Email:</p> <hr/> <p>2. Name: Phone: Email:</p> <hr/> <p>3. Name: Phone: Email:</p>
<p>Level of the Sport at which alleged breach occurred</p>	<p><input type="checkbox"/> NSO level where they relate to behaviour, an incident or circumstances that occurred at or involve individuals operating at the NSO level;</p> <p><input type="checkbox"/> SSA level where they relate to behaviour, an incident or circumstances that occurred at or involve individuals operating at the State (Territory) Sporting Association level; or</p> <p><input type="checkbox"/> Affiliate level - where it relates to behaviour, an incident or circumstances that occurred at or involve individuals operating at the Affiliate level (Association/League/Club level).</p>
<p>Eligible policy that Respondent has allegedly breached</p> <p>Sections allegedly breached</p>	
<p>Does Complainant consent to alternative dispute resolution?</p>	<p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>
<p>Signed by Complainant</p>	<p>Signature:</p> <p>Date:</p>

SCHEDULE 2

Item 1: Letter - Warning Procedure

[INSERT RELEVANT ORGANISATION NAME]

CONDUCT AND DISCIPLINARY POLICY - WARNING PROCEDURE

Warning: Invitation to Comment

[insert date]

[insert name]

[address line 1]

[address line 2]

By email: [insert email address]

Referral

1. [insert Relevant Organisation] (**Sport**) has received information under its Conduct & Disciplinary Policy (**Policy**) alleging that you have engaged in Prohibited Conduct under a policy of the Sport, as outlined below. A copy of the Policy is available at [insert link].
2. The Complaints Manager under the Policy has referred the alleged Prohibited Conduct about you for resolution under the Warning Procedure.

Allegations

3. The allegation was received by the Sport on [insert date]. **OR** The Sport was made aware of the allegation on [insert date].
4. It is alleged that you:
 - a) [insert alleged conduct]; and
 - b) [+++++].
5. If the above allegations were to be established, your conduct would likely constitute "Prohibited Conduct" under the following policies of the Sport:
 - a) [insert specific sections of policies allegedly breached]; and
 - b) [+++++].

Warning

6. Without determining whether the allegations that you engaged in Prohibited Conduct is proven, Sport proposes to issue a warning that the allegations, if they were proven, would constitute Prohibited Conduct under the policies outlined at paragraph 5.

Invitation to Comment

7. You are invited to comment in writing on whether or not the warning should be issued.
8. Please provide your comments within 14 calendar days, ending **5:00pm [AEST] on [DAY] [MONTH] [YEAR]**.
9. The Complaints Manager will consider any comments provided by you and determine whether issuing a warning is appropriate based on your comments.
10. If you have any questions or comments in relation to this letter, the Complaints Manager can be contacted by telephone on [+++++] or by email at [+++++].

Yours faithfully

[insert signatory]

Item 2: Notification - Warning Procedure

[INSERT RELEVANT ORGANISATION NAME]

CONDUCT AND DISCIPLINARY POLICY - WARNING PROCEDURE

Notification of Outcome

[insert date]

[insert name]

[address line 1]

[address line 2]

By email: [insert email address]

Allegations

1. You were previously notified by notice dated [insert date] of an allegation that you had engaged in Prohibited Conduct under a policy of the Sport, as outlined below.
2. It was alleged that you:
 - a) [insert alleged conduct]; and
 - b) [+++++].
3. If the above allegations were to be established, your conduct would likely constitute Prohibited Conduct under the following policies of the Sport:
 - a) [insert specific sections of policies allegedly breached]; and
 - b) [+++++].

Warning

4. Without determining whether the allegations that you engaged in Prohibited Conduct were proven, Sport proposed to issue a warning that the allegations, if they were proven, would constitute Prohibited Conduct under the policies outlined at paragraph 3.
5. You were invited to comment on the proposed warning and whether or not that warning should be issued.

Outcome

6. Sport has taken your response into consideration in making its decision on whether or not to warn you in relation to your conduct.
7. Sport has decided that a warning is not appropriate in relation to your conduct. **OR** Sport formally warns you that the allegations made against you, if they were proven, would constitute Prohibited Conduct under the policies outlined at paragraph 3.
8. Sport reserves its rights in relation to any separate or future allegations or complaints that you have engaged in Prohibited Conduct under a policy of Sport.
9. If you have any questions or comments in relation to this letter, the Complaints Manager can be contacted by telephone on [+++++] or by email at [+++++].

Yours faithfully

[insert signatory]

SCHEDULE 3

Letter - Breach Offer

[INSERT RELEVANT ORGANISATION NAME]

COMPLAINTS & DISPUTES POLICY - BREACH OFFER

Breach Offer

[insert date]

[insert name]

[address line 1]

[address line 2]

By email: [insert email address]

Referral

1. [insert Relevant Organisation] (**Sport**) has received information under its Conduct & Disciplinary Policy (**Policy**) alleging that you have engaged in Prohibited Conduct under a policy of the Sport, as outlined below. A copy of the Policy is available at [insert link].
2. The Complaints Manager under the Policy has referred the alleged Prohibited Conduct by you for resolution under the Breach Offer Process.

Allegations

3. The allegation was lodged by [insert name] and received by the Sport on [insert date]. **OR** The Sport was made aware of the allegation on [insert date].
4. It is alleged that you:
 - a) [insert alleged conduct]; and
 - b) [+++++].
5. As a result of the above allegations, it is alleged that you have engaged in Prohibited Conduct under the following Relevant Policies of the Sport:
 - a) [insert specific sections of eligible policies allegedly breached]; and
 - b) [+++++].
6. Sport has investigated the allegation(s) and has determined to the requisite standard of proof that the allegation of Prohibited Conduct has been substantiated. Accordingly, Sport now issues this Breach Notice in connection with your conduct.

Sanction

7. In connection with our findings that have substantiated that you engaged in Prohibited Conduct in accordance with the policy, Sport will offer you the following sanction:
 - a) [insert applicable sanction]; and
 - b) [+++++].

Decision

- 8. You are entitled to decide either to accept Sport’s finding that you engaged in Prohibited Conduct and the proposed sanction that will be imposed by Sport set out at paragraph 7, or alternatively dispute the Sport finding and/or proposed sanction.
- 9. If you dispute the Sport’s finding, the allegations and/or proposed sanction will be referred to a Hearing Tribunal for determination under the Policy.

Notification

- 10. Please advise Sport's Complaints Manager of your decision to either accept the finding and proposed sanction or dispute the finding and/or sanction and proceed to a Hearing Tribunal, by signing and returning the below 'Acknowledgement' to the Complaints Manager at [insert contact address].
- 11. You must advise the Complaints Manager of your decision within 14 calendar days of the date of this letter, failing which you will be deemed to have accepted the breach occurred and the proposed sanction will automatically commence.
- 12. Unless you dispute the alleged breach and/or proposed sanction, the proposed sanction will commence on the earlier of the date you notify the Complaints Manager of your acceptance, or the end of the date 14 calendar days from the date of this letter.
- 13. If you have any questions in relation to this Breach Offer, the Complaints Manager can be contacted by telephone on [++++++] or by email at [++++++]

Yours faithfully

[insert signatory]

ACKNOWLEDGEMENT

I,....., confirm to [insert NSO], that in response to this Breach Offer, I (tick one):

Accept the findings of [Relevant Organisation] and the proposed sanction offered.

OR

Dispute the findings of [Relevant Organisation] and/or the proposed sanction offered and wish the matter to be heard by a Hearing Tribunal.

Signed:

Dated: