

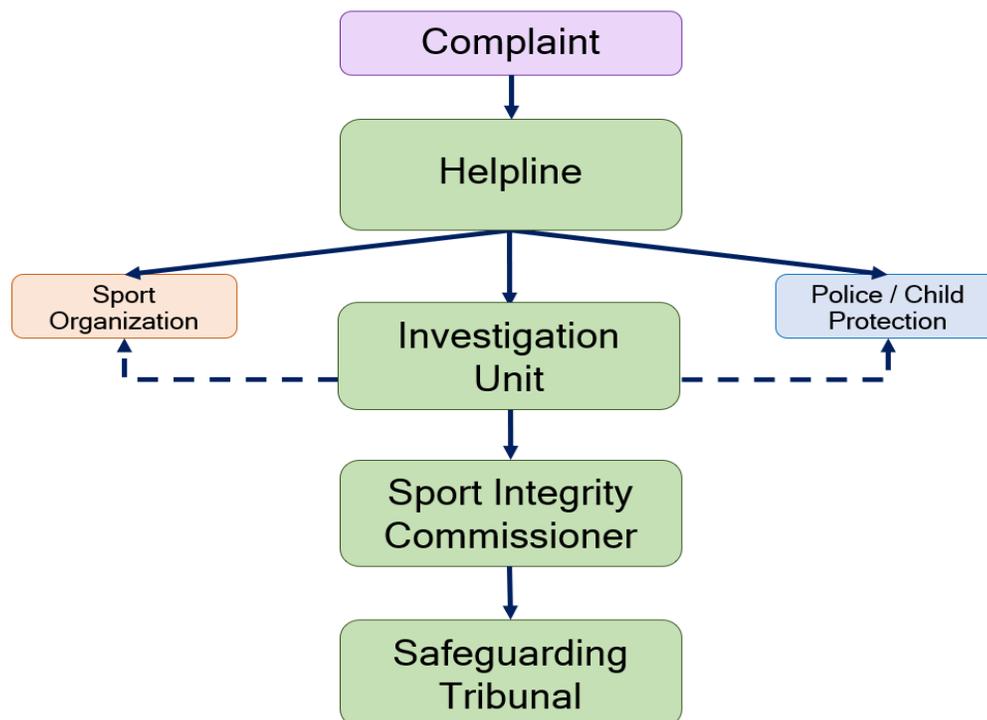


Proposal for a Safe Sport Compliance System

(July 2019)

INTRODUCTION AND OVERVIEW

The Sport Dispute Resolution Centre of Canada (the Centre) is proposing a framework to allow allegations of harassment, abuse and discrimination to be managed professionally and independently. While some Canadian sport organizations have been able to establish sound processes to address inappropriate behavior of their members, it is evident that it has not always been the case. Many of them still today, despite all good intentions, simply lack the capacity and resources to address incidents that put at risk the well-being of athletes and other vulnerable participants. The Centre recognizes the expertise of others in their prevention role, such as education, adoption of safe sport policies that include rules of conduct, screening processes as well as mechanisms to enforce and mutually recognize sanctions. Instead, it is based on its expertise in sport dispute resolution and complaint management that the Centre considers itself well positioned to support the sport organizations at the national level in the implementation of a system to address alleged breaches of these rules. The Centre therefore proposes a system with four components: (i) a helpline; (ii) a two-step investigation process; (iii) a review and possible assertions of conduct violations by a Sport Integrity Commissioner; and (iv) a hearing before a Safeguarding Tribunal. Each component of the model is briefly described on the following page.



PREMISE

The current proposal is based on the assumption that sports signing onto this compliance mechanism will have adopted a set of uniform conduct rules that addresses serious harassment and abuse, such as the universal code of conduct currently under development. It assumes that concerned sport organizations will also have in place mechanisms that contractually bind their members and participants to such conduct rules.

HELPLINE

The national toll-free helpline, much as it is doing under the current pilot format, will serve as a safe place for victims and witnesses to disclose or report alleged breaches of the universal code of conduct. In addition to be a listening and referral service, the helpline would serve as an **initial intake mechanism for admissible cases** to be referred to an independent investigation service, with other matters being referred to appropriate resources.

INVESTIGATION UNIT

Admissible cases will be referred by the helpline to an independent investigation service. The Investigation Unit would operate as a two-step process whereby co-chief investigators would act as the first formal triage mechanism, similar to the role currently attributed to safe sport officers or independent third-party complaint officers. Significant economies of scale would be achieved by centralizing this step. The **co-chief investigators' role is to conduct a preliminary assessment** (slightly more in-depth than contemplated in the guidelines of the existing Investigation Unit pilot project) and make recommendations as to whether the complaint warrants a full investigation, or is better suited for alternative solutions or, if not properly within the scope of the universal code of conduct, whether it needs to be redirected to other resources (e.g. child protection, police, or back to sport organization). If the co-chief investigators determine that an investigation must be conducted, the second step will be the appointment of an **investigator to conduct a full investigation**. The co-chief investigators could, in consultation with the Sport Integrity Commissioner, impose temporary measures to mitigate risks during the investigation. Upon completion of the investigation, a report will be handed to the Sport Integrity Commissioner.

SPORT INTEGRITY COMMISSIONER

The Sport Integrity Commissioner, upon receipt of an investigation report, determines whether a code of conduct violation is to be **asserted against the person accused**, and proposes a corresponding sanction. The Sport Integrity Commissioner will require specific expertise to be able to lead the assertion in front of a tribunal. For example, the Centre considers the *Canadian Centre for Child Protection* fit to play the role of the Sport Integrity Commissioner with regards to all allegations of grooming or sexual offenses. An organization with relevant expertise could take on assertions of other forms of harassment or abuse (such as psychological or physical).

SAFEGUARDING TRIBUNAL

If the accused wishes to contest the assertion and/or the proposed sanction, a hearing would be conducted before a Safeguarding Tribunal managed by the Centre, under a pre-determined set of rules guaranteeing not only independence of the decision-maker, but also the **protection of vulnerable victims and witnesses**. The Safeguarding Tribunal could also be seized of any challenge raised by the accused against the imposition of temporary measures. The Safeguarding Tribunal's decision, rendered by a single arbitrator, would then be appealable to an Appeal Tribunal of the Centre, as is the case currently for Doping Tribunal decisions.

CONCLUSION AND FEEDBACK WELCOME

The proposed framework emphasizes independence, providing confidence and credibility for complainants: from the bringing of a complaint, through the investigation, to the hearing before an impartial tribunal, thereby ensuring consistency in the application of the universal rules. It also supports the use of **existing resources** to achieve safe sport. In view of implementing an integrated system throughout Canada and in all jurisdictions, the Safeguarding Tribunal could be used as a first instance tribunal by provinces/territories opting not to create their own resolution system, or could constitute an appeal tribunal for decisions rendered by provincial/territorial panels, similar to the Court of Arbitration for Sport in Lausanne hearing appeals of decisions rendered by the Centre's Doping Tribunal.

*The Centre welcomes feedback on this proposal from all relevant stakeholders, at all levels of sport in Canada:
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