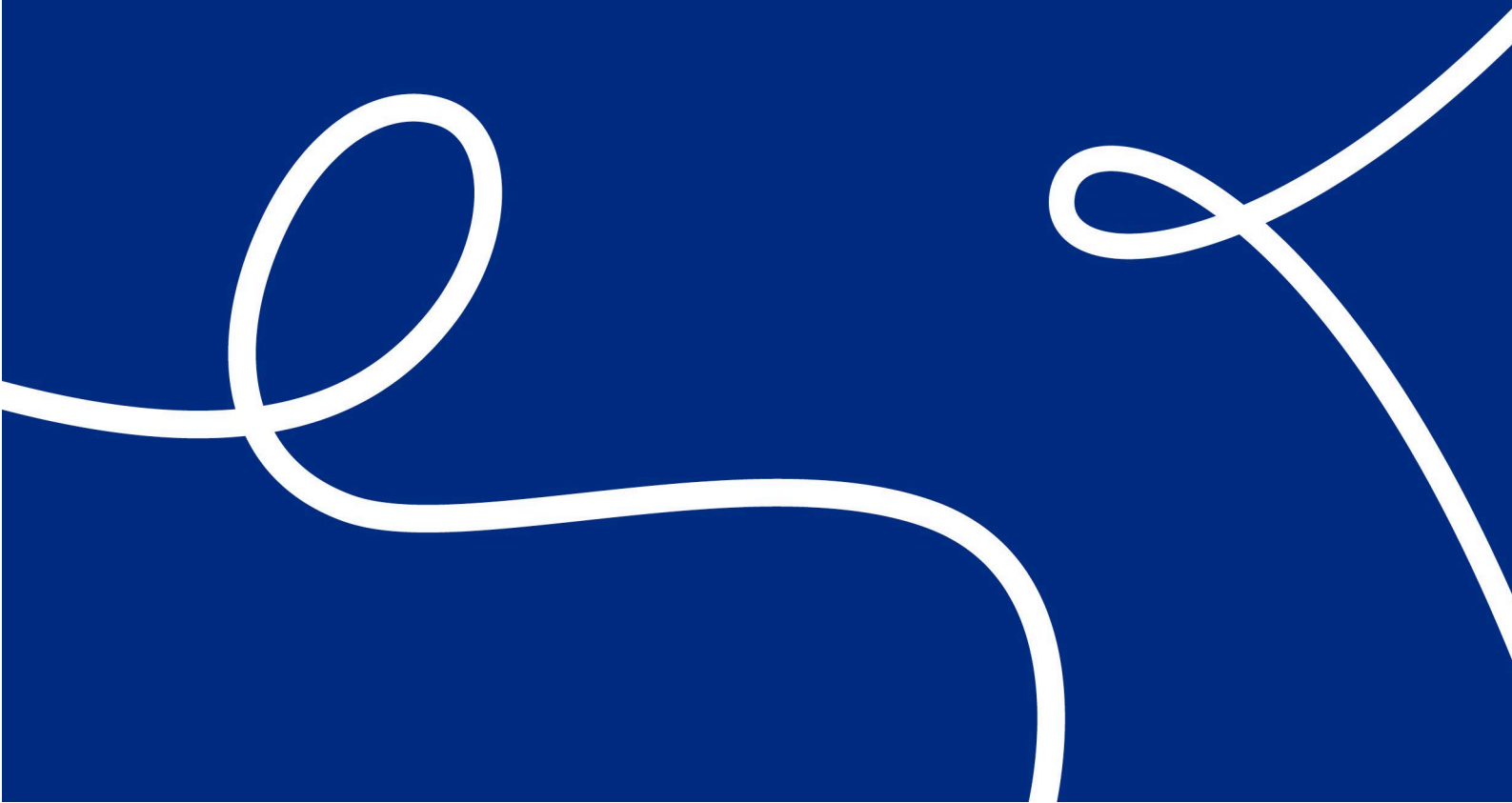


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Gymnastics
Australia

Complaints, Disputes and Discipline Policy



Review History Table

Revised On	Version	Date Endorsed	Approved By	Content Reviewed / Purpose
N/A	1	4 April 2022	GA Board	Document developed based on Sport Integrity Australia's template and direction.
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Table of Contents

1. Introduction	5
2. Purpose	5
3. Definitions	5
4. Scope	8
5. Jurisdiction	8
5.1 Who the Framework applies to.....	8
6. Prohibited Conduct	9
6.1 What is Prohibited Conduct under this Policy?	9
6.2 Additional matters.....	9
7. How to Make a Complaint or Report	9
7.1 What is a Complaint?	9
7.2 Who is a Complainant?.....	10
7.3 Who can be a Respondent?.....	10
7.4 Vulnerable Persons.....	10
7.5 Withdrawing a Complaint	10
7.6 What is a Report?	10
7.7 Who can make a Report?	11
7.8 Submitting a Complaint or Report	11
7.9 Responsibility for Managing Complaints or Reports	11
7.10 Confidentiality	11
7.11 Appointment of Gymnastics Australia Complaint Manager	11
8. The Complaints Process	11
8.1 Initial Evaluation	11
8.2 Assessment	12
8.3 Case Categorisation System	12
8.4 Provisional Action	12
8.5 Investigation	12
8.6 Standard of Proof	13
8.7 External Referral	13
8.8 Alternative Dispute Resolution	13
9. Findings and Resolution Process	13
9.1 Findings	13
9.2 The Resolution Process.....	14
9.3 Notification to Parties	14
9.4 Appropriate sanctions	14
9.5 Breach Notice.....	14
9.6 Referral to a hearing.....	15
9.7 Hearing Tribunals.....	15
9.8 Appeals	15
9.9 Implementation.....	16



10. Interpretation and other information 16

10.1 Application and Commencement 16

10.2 Amendment 16

10.3 Interpretation 16

Appendix A – Case Categorisation & Guidance for Sanctions Booklet..... 18

1. Introduction

Gymnastics Australia is committed to making Gymnastics a safe and fair place for all participants. To achieve this, Gymnastics Australia has adopted the National Integrity Framework (the Framework) designed by Sport Integrity Australia. The Framework is made up of five integrity policies for individuals and sports organisations to follow, collectively known as the Integrity Policies. Nothing in the Framework overrides a law of the Commonwealth, or a State or Territory, which take precedence and must be complied with in the first instance.

The Framework sets rules about the types of behaviour that are unacceptable in Australian sport—these behaviours are defined as Prohibited Conduct—and guides individuals and organisations on what to do if they experience or witness breaches of these rules.

Within the Framework, the Complaints, Disputes and Discipline Policy sets out the process and parameters for how allegations of Prohibited Conduct are managed and resolved.

This Policy should be read and used in conjunction with the other Integrity Policies:

- Child Safeguarding Policy;
- Competition Manipulation and Sport Wagering Policy;
- Improper Use of Drugs and Medicine Policy; and
- Member Protection Policy.

These four additional policies define actions and behaviours that may also constitute Prohibited Conduct for the purposes of this Policy.

This Policy subsumes the previous National Integrity Framework Policy and the relevant Prohibited Conduct that was contained within that Policy.

2. Purpose

The Complaints, Disputes and Disciplines Policy and its procedures are designed to ensure that complaints, disputes, and misconduct related to Gymnastics Australia and its relevant persons are managed through an effective, consistent, and timely process.

3. Definitions

- 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, sanctioned or organised by a National Sporting Organisation or Relevant Organisation.
- Breach Notice** means a written notification given to the Respondent notifying them that they have not complied with the rules and conditions of the policies in the Framework.

- c) **Case Categorisation & Guidance for Sanctions** means a guideline for evaluating allegations of Prohibited Conduct and determining the appropriate Assessment process under the Framework.
- d) **Complaint means** a formal notification by a Complainant that alleges or provides information to indicate a Respondent has engaged in Prohibited Conduct.
- e) **Complaints Process** means the method of handling and resolving a Complaint under the guidance of this Policy from the time that the Complaint is received to the Resolution.
- f) **Complainant** means a person who or an organisation which makes a Complaint about a Respondent in accordance with this Policy. A Complaint cannot be made anonymously.
- g) **Contractor** means any person or organisation engaged to provide services for or on behalf of Gymnastics Australia or a Member Organisation, and includes agents, advisers, and subcontractors of Gymnastics Australia or a Member Organisation and employees, officers, volunteers, and agents of a contractor or subcontractor.
- h) **Employee** means a person employed by Gymnastics Australia or a Relevant Organisation.
- i) **Hearings Tribunal** means a hearing where both parties involved in the matter attempt to resolve the dispute.
- j) **Integrity Policies** means the following Gymnastics Australia sports integrity-related policies adopted under the Framework:
 - i. Child Safeguarding Policy;
 - ii. Competition Manipulation and Sport Wagering Policy
 - iii. Improper Use of Drugs and Medicine Policy;
 - iv. Member Protection Policy
 - v. Complaints, Disputes and Discipline Policy
- k) **Member** means a member of Gymnastics Australia under its constitution, including:
 - i. Member Organisations, which means –a member of Gymnastics Australia including each:
 - a) Association Member (each State and Territory Association);
 - b) Club Member; and
 - c) Affiliates that are members of an Association Member or Gymnastics Australia.
- l) **Individual Members**, which means individuals who are individuals registered with a Member Organisation or Gymnastics Australia and include:
 - a. Participant Members;
 - b. Technical Members;
 - c. Honorary Members; and
 - d. Life Members.
- m) **NST** means the National Sports Tribunal
- n) **Participant means:**
 - i. Athletes who are registered with or entitled to participate in a Member Organisation or a Gymnastics Australia Activity;
 - ii. Coaches appointed to train an Athlete or Team in a Member Organisation or a Gymnastics Australia Activity;

- iii. Administrators who have a role in the administration or operation of a Member Organisation or Gymnastics Australia including owners, directors, committee members or other persons;
 - iv. Judges appointed to judge at a Member Organisation or Gymnastics Australia Activity ;
 - v. Support Personnel who are appointed in a professional or voluntary capacity by a Member Organisation, Gymnastics Australia, including sports science and sports medicine personnel, team managers, and team staff members
- o) Prohibited Conduct** means the conduct proscribed in each of the Integrity Policies, including the conduct proscribed under Clause 6 of this policy.
- p) 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.
- q) 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.
- r) Relevant Organisation** means any of the following organisations:
- i. Gymnastics Australia;
 - ii. Member Organisations which means and includes:
 - i. Member Organisations – see 'Member', including any club, school or group that enters a team to participate in an Activity; and
 - ii. Authorised Providers, which means any non-member organisations authorised to conduct Activities sanction by Gymnastics Australia or a Member Organisation; or
 - iii. Team, which means a collection or squad of athletes who participate in a Member Organisation or Gymnastics Australia Activity; or
 - iv. Any other organisation that has agreed to be bound by the National Integrity Framework and the Integrity Policies.
- s) Relevant Person** means any of the following persons:
- i. Individual Member;
 - ii. Participant;
 - iii. Employee;
 - iv. Contractor;
 - v. Volunteer; or
 - vi. Any other individual who has agreed to be bound by the Framework and the Integrity Policies.
- t) Report** means a formal notification that alleges or provides information to indicate a Respondent has engaged in Prohibited Conduct. A Report can be made anonymously.
- u) Reporter** means any person or organisation, including Gymnastics Australia or a Member Organisation, who has reason to believe that Prohibited Conduct under an Integrity Policy may have occurred.
- v) Respondent** means the person/s or organisation/s against whom a Complaint has been made.

- w) **Sanction** means the disciplinary actions taken against a Respondent for breaching a policy under the National Integrity Framework.
- x) **Vulnerable Person** means a person who is:
 - i. under the age of 18; or
 - ii. 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.

4. Scope

- a) The National Integrity Framework comprises this Framework document and the Integrity Policies.
- b) Nothing in this Framework limits the rights or obligations of any person under any other Gymnastics Australia policy, code of conduct or other relevant agreement.
- c) This Framework does not override or limit the application of any laws of Australia or a state/territory.
- d) The 'Summary' at the start of each Integrity Policy is not intended to be and should not be construed in any way as a complete and comprehensive overview of the relevant Integrity Policy. To the extent of any inconsistency, the operative provisions of the relevant Integrity Policy prevail.

5. Jurisdiction

5.1 Who the Framework applies to

- a) This Framework applies to and binds all Relevant Persons and Relevant Organisations.
- b) Employees are expected to abide by the terms of this Framework as a reasonable and lawful direction of the Gymnastics Australia or a Relevant Organisation they are employed by (as relevant) as their employer.
- c) Gymnastics Australia or a Relevant Organisation must ensure that all Contractors and Volunteers are contractually bound to abide by the terms of this Framework.
- d) By participating in an Activity, a Participant is deemed to have agreed to be bound by the Framework.
- e) Any person or organisation who:
 - i. has had a complaint made against them; and
 - ii. was bound by the Framework at the time of the alleged behaviour.

6. Prohibited Conduct

6.1 What is Prohibited Conduct under this Policy?

- a) In addition to the conduct prescribed under each of the other Integrity Policies, a Relevant Person or a Relevant Organisation engages in Prohibited Conduct under this policy if they:
 - i. Fail to report any conduct which is reasonably likely to be Prohibited Conduct as soon as reasonably practicable after they become aware of it;
 - ii. Deliberately or willfully withhold information in relation to any conduct which is reasonably likely to be Prohibited Conduct;
 - iii. Fail to provide further information or documentation as requested during the complaint process;
 - iv. Fail to comply with a Breach Notice;
 - v. Knowingly provide any inaccurate and/or misleading information during the course of any Complaint assessment under this Policy; or
 - vi. Fail to comply with obligations under this Policy to keep information confidential.

6.2 Additional matters

- 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' under this Framework or any Integrity Policy but is a Protected Disclosure with respect to Gymnastics Australia it must be dealt with under Gymnastics Australia's Whistleblower policy.
- c) The Australian National Anti-Doping Policy will prevail to the extent of any inconsistency with this Framework in all instances. Any allegation relating to a breach or possible breach of the Australian National Anti-Doping Policy will be dealt with under that policy.
- d) Nothing in this Framework or the Integrity Policies prevents the Gymnastics Australia Board from referring any alleged Prohibited Conduct or criminal conduct to a relevant law enforcement agency.

7. How to Make a Complaint or Report

7.1 What is a Complaint?

- a) A Complaint means a formal notification of an alleged breach of one of the Integrity Policies:
 - i. made by a Complainant;
 - ii. relating to Prohibited Conduct under one of the Integrity Policies; and
 - iii. against a Respondent.

7.2 Who is a Complainant?

- a) A Complainant must be a person or Organisation that is directly affected by the alleged Prohibited Conduct. Where the person directly affected by the conduct is a Vulnerable Person, a Complaint may be submitted on their behalf by a parent or guardian. The Vulnerable Person will still be considered to be the Complainant when a Complaint is submitted on their behalf. A Complainant's legal representative may make a complaint on the Complainant's behalf.

7.3 Who can be a Respondent?

- a) A Respondent must be a Relevant Person or Relevant Organisation who was bound by the Gymnastics Australia Integrity Policies they are alleged to have breached at the time the alleged Prohibited Conduct occurred.

7.4 Vulnerable Persons

- a) Where a Complainant or Respondent is a Vulnerable Person, the parent or guardian of the Vulnerable Person may act on behalf of the Vulnerable Person and accompany them throughout the Assessment Process and any subsequent Resolution Process, including at any interview, Alternative Dispute Resolution process, or Hearings Tribunal or Appeals Tribunal.
- b) Sport Integrity Australia, Gymnastics Australia and Relevant Organisations will 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 at Complaint Handling Guide: Upholding the rights of children and young people (ag.gov.au), or such other guide that may replace it.
- c) Any Complainant or Respondent may request that they be accompanied by a support person. This request will generally be granted unless there is a specific reason to deny it (for example, where the nominated support person is also a witness to the allegations or is continuously interrupting the interview process). Reporters and witnesses may be permitted to be accompanied by a support person where there is an identified need.

7.5 Withdrawing a Complaint

- a) A Complaint can be withdrawn at any time. Withdrawing a complaint must be done in writing or via electronic means.

7.6 What is a Report?

- a) A Report is a formal notification of an allegation/s that a Respondent has engaged in conduct which may be Prohibited Conduct under an Integrity Policy. A Report may be made anonymously, however this may limit the actions able to be taken. The process for managing a Report will be at the discretion of the Gymnastics Australia Complaints Manager or Sport Integrity Australia, which may include managing the report through the Complaints Process.

7.7 Who can make a Report?

- a) A Report can be made by any person or organisation, including Gymnastics Australia or a Relevant Organisation, who has reason to believe that Prohibited Conduct under an Integrity Policy may have occurred.

7.8 Submitting a Complaint or Report

- a) A Complaint or Report may be submitted to the organisation responsible for managing the matter in writing (incl. electronic means) or verbally.
- b) The online web form is the preferred method for submitting a Complaint or Report to Sport Integrity Australia.

7.9 Responsibility for Managing Complaints or Reports

- a) A Complaint or Report can be submitted to Sport Integrity Australia where it relates to alleged Prohibited Conduct under the Child Safeguarding Policy, or allegations relating to discrimination based on a Protected Characteristics, including race, sex, age, disability or religion.
- b) A Complaint or Report can be submitted to Gymnastics Australia or Relevant Organisation where it relates to alleged Prohibited Conduct under any of the Integrity Policies.

7.10 Confidentiality

- a) All Complaints and Reports will be kept in confidence. Decisions around appropriate disclosure of information will be addressed on a case-by-case basis. Disclosure of information to Reporters not directly affected by the alleged behaviour may be restricted.

7.11 Appointment of Gymnastics Australia Complaint Manager

- a) Gymnastics Australia will appoint a person to be the Gymnastics Australia Complaint Manager, who will be the person within Gymnastics Australia with primary responsibility for managing Gymnastics Australia's obligations under this Policy.
- b) The Gymnastics Australia Complaint Manager will be responsible for providing information to Sport Integrity Australia as requested for any matters referred to Sport Integrity Australia to undertake the Complaints Processes.

8. The Complaints Process

8.1 Initial Evaluation

- a) Upon receipt of a Complaint the matter will be evaluated to determine if it is in-scope under the Integrity Policies.

- b) A Complaint must be of a level of seriousness and meet the definition of alleged Prohibited Conduct under one of the Integrity Policies to be considered in-scope under the Framework.
- c) A Complaint relating to matters such as personal grievances, issues related to employment, governance, eligibility and selection disputes, competition-related rules, mischievous or vexatious claims will be deemed out-of-scope. Sport Integrity Australia will not reinvestigate a matter that has been previously managed through a complaints process unless new information becomes available or there are compelling reasons to do so.
- d) Should a matter related to Prohibited Conduct under an Integrity Policy also fall under another Gymnastics Australia policy, a determination will be made as to which policy is more appropriate for the matter to be handled.

8.2 Assessment

- a) Once a Complaint has been deemed to be in-scope, an Assessment of the matter will be undertaken. The Assessment stage will involve Case Categorisation to determine an appropriate mechanism to deal with the Complaint and may involve an Investigation.

8.3 Case Categorisation System

- a) During the Assessment stage, the matter will be assessed using the Case Categorisation System. Complaints are categorised on the basis of their level of *harm* and *complexity*. (refer Appendix A).

8.4 Provisional Action

- a) During the Assessment stage, Gymnastics Australia will determine whether any Provisional Action(s) will be taken where the allegations involve behaviour that suggests there is a possible risk of harm to participants of the Sport. Provisional Action may include suspension, supervision, restriction of duties or temporary re-deployment, or suspension or restriction of rights, privileges or benefits.
- b) For matters being managed by Sport Integrity Australia, Sport Integrity Australia will advise Gymnastics Australia of matters in which possible risk of harm to participants of the Sport is identified to enable the Gymnastics Australia to determine any Provisional Action it deems appropriate in the circumstances.
- c) If Provisional Action is imposed, a Respondent may seek to have that decision reviewed by an independent hearing, which shall only consider whether the decision to impose the Provisional Action is proportionate and will not consider the merits of the Complaint.

8.5 Investigation

- a) An Investigation may be undertaken to determine if the alleged Prohibited Conduct is a breach of an Integrity Policy and may involve formal interviews and collection of additional

evidence. In conducting investigations, the rules of procedural fairness will apply, and both the Complainant and the Respondent will be provided a reasonable opportunity to be heard.

8.6 Standard of Proof

- a) The standard of proof that applies to all substantive decisions made under this Policy in respect of allegations is "balance of probabilities". Balance of probabilities requires that something must be more likely to have happened than not to have happened.
- b) Where a Respondent has been convicted or found guilty in a criminal, disciplinary or professional proceeding of engaging in conduct which would be a breach of an Integrity Policy, the Respondent is deemed under this Policy to have committed Prohibited Conduct without requiring further Investigation.

8.7 External Referral

- a) At any time during the Complaints Process, allegations may be referred to a relevant external organisation if it will assist the organisation to perform or exercise any of the functions, duties or powers (this may include a law enforcement agency, government or regulatory authority or child protection agency).
- 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.

8.8 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 Gymnastics Australia Complaint Manager, if required.

9. Findings and Resolution Process

9.1 Findings

- a) Where a Complaint is subject to an Investigation, Gymnastics Australia or Sport Integrity Australia (as applicable) will
 - i. Make findings as to whether, to the requisite Standard of Proof, the Alleged Breach is substantiated, unsubstantiated or unable to be substantiated.
 - ii. In cases where Sport Integrity Australia investigates the Complaint, Sport Integrity Australia will notify the parties of the findings, and refer to the Gymnastics Australia to manage the resolution process (see below).

9.2 The Resolution Process

- a) Gymnastics Australia must implement an appropriate resolution process.
- b) Gymnastics Australia may delegate the management of the resolution process to another Relevant Organisation. When considering delegation, the Gymnastics Australia will consider if there are any conflict of interest matters that may arise if the resolution process were to be managed at the Relevant Organisation level or if the Relevant Organisation does not have the capacity to manage the resolution process.
- c) Gymnastics Australia is ultimately responsible for applying and administering sanctions (including the issuance of a Breach Notice to the Respondent) and other related measures as they see fit, having regard to the Case Categorisation System and Guidance for Sanctioning.
- d) Where a Respondent admits the Alleged Breach and accepts the Sanction, or fails to respond to the Breach Notice within the time prescribed within the Breach Notice, the Gymnastics Australia Complaint Manager may take steps to impose and implement the Sanction and proceed to finalising the Complaint.

9.3 Notification to Parties

- a) Gymnastics Australia will be responsible for communicating with the Respondent throughout the Resolution Process and will notify both the Complainant and the Respondent at the conclusion of the Complaints Process.

9.4 Appropriate sanctions

- a) Gymnastics Australia may impose sanctions where the behaviour warrants such action.
- b) When deciding on an appropriate sanction Gymnastics Australia may refer to the Sport Integrity Australia Guidance for Sanctioning and may consider:
 - i. the seriousness of the behaviour;
 - 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 opinion of the Complainant; and
 - vi. any relevant aggravating or mitigating factors.

9.5 Breach Notice

- a) Any Breach Notice issued by Gymnastics Australia to a Respondent will:
 - i. notify the Respondent of the alleged breach, including the alleged conduct;
 - ii. state the proposed Sanction for the alleged breach;
 - iii. state that the Respondent has a right to a hearing in relation to the alleged breach and/or the proposed Sanction;
 - iv. state that the Respondent may admit the alleged breach, waive their right to a hearing and accept the proposed Sanction;

- v. state that if the Respondent does not respond within 14 days of receipt of the Breach Notice, they will be deemed to have admitted the Alleged Breach, waived their right to a hearing and accepted the proposed Sanction;
 - vi. state that any response to the Breach Notice must be made to Gymnastics Australia and provide contact details of the Gymnastics Australia Complaint Manager; and
 - vii. be provided to the Respondent, and (if applicable) Relevant Organisation.
- b) In response to a Breach Notice, a Respondent may:
- i. admit the alleged breach, waive their right to a hearing and accept the proposed Sanction;
 - ii. dispute the alleged breach and/or the proposed Sanction, in which the case the matter will be referred to a Hearing Tribunal under this Policy; or
 - iii. not respond, in which case they will be deemed to have admitted the alleged breach, waived their right to a hearing and accepted the proposed Sanction.
 - iv. A Respondent has 14 days from receipt of the Breach Notice to notify the Gymnastics Australia Complaints Manager of their decision.

9.6 Referral to a hearing

- a) If the Respondent disputes the alleged breach and/or Sanction, the Gymnastics Australia Complaint Manager must:
 - i. if an NST eligible matter, refer the alleged breach to the NST General Division for arbitration;
 - ii. for all other matters, refer the alleged breach to an Internal Hearing Tribunal, either at the Gymnastics Australia level or Relevant Organisation level.
- b) Gymnastics Australia is responsible for making the application and paying any application and service fees to the NST.

9.7 Hearing Tribunals

- a) Arrangements must be established to manage internal hearings and appeals.
- b) If arbitration is sought in either the NST General Division or an Internal Hearing Tribunal, the Tribunal will:
 - i. determine whether any Provisional Action imposed is disproportionate; or
 - ii. arbitrate the Alleged Breach and determine whether a Sanction be imposed.

9.8 Appeals

- a) A decision of a Hearing Tribunal
 - i. In respect of Provisional Action, is not subject to appeal
 - ii. In respect of an Alleged Breach and Sanction, is subject to appeal.
- b) Grounds of appeal

- i. The decision of a Hearing Tribunal can only be appealed by the Respondent and/or Gymnastics Australia on the following Grounds:
 - a) the Hearing Tribunal failed to abide by this Policy or to properly apply the relevant Policy and such failure resulted in a denial of natural justice; and/or
 - b) no reasonable decision maker in the position of the Hearing Tribunal, based on the material before them, could reasonably make such a decision.

9.9 Implementation

- a) It is the ultimate responsibility of Gymnastics Australia to ensure that appropriate Sanctions (or other alternative actions) are undertaken, and that the Framework and Integrity Policies are implemented and applied. Gymnastics Australia is responsible for ensuring that Relevant Persons and Relevant Organisations are aware of the Framework and the Integrity Policies and facilitate an understanding for how they apply to individuals and organisations within Gymnastics. This may include relevant educational material that Sport Integrity Australia provides from time to time.

10. Interpretation and other information

10.1 Application and Commencement

- a) This Framework is approved by the Gymnastics Australia Board.
- b) This Framework:
 - i. commences on the date outlined on the front cover (Commencement Date);
 - ii. is subject to Gymnastics Australia constitution and if there is any inconsistency, the constitution will prevail; and
 - iii. when in force, is binding on all Relevant Persons and Relevant Organisations.

10.2 Amendment

- a) In accordance with the Gymnastics Australia Constitution, the Board may amend this Framework and the Integrity Policies to incorporate amendments notified to the Gymnastics Australia Board by Sport Integrity Australia from time to time. Such amendments will be effective on the date specified by the Board.
- b) Member Organisations will adopt this Framework, including any amendments, in full and without amendment, as a policy under their constitution, within three (3) months of the date it is adopted by Gymnastics Australia

10.3 Interpretation

- a) The following rules of interpretation apply to the Framework and each Integrity Policy:
 - i. 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.
 - ii. Words in the singular include the plural and vice versa.
 - iii. Reference to 'including' and similar words are not words of limitation.

- iv. Words importing a gender include any other gender.
- v. A reference to a clause is a reference to a clause or subclause of this Framework.
- vi. 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.
- vii. In the event any provision of this Framework is determined invalid or unenforceable, the remaining provisions shall not be affected, and the document shall not fail because any part of it is held invalid.
- viii. 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;
- ix. Defined terms are Capitalised and consistent across the Framework/Integrity Policies.



Appendix A – Case Categorisation & Guidance for Sanctions Booklet

[Link to Booklet](#)