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| <b>Responsible Portfolio:</b> | Integrity   |
| <b>Authority:</b>             | This Policy is made under clause 39 of the SLSA Constitution. It is binding on all Members of SLSA and is to be interpreted in accordance with the SLSA Constitution. It is a Membership directive under SLSA Regulation 4. |

### TABLE OF CONTENTS

|   |           |
|---|-----------|
| <b>1 INTRODUCTION</b>                                   | <b>3</b>  |
| <b>2 INTERPRETATION AND AMENDMENT</b>                   | <b>3</b>  |
| 2.1 Commitment  | 3         |
| 2.2 Principles  | 4         |
| 2.3 Policy Administration                               | 4         |
| 2.4 Interpretation                                      | 4         |
| 2.5 Amendment   | 5         |
| <b>3 DEFINITIONS</b>                                    | <b>5</b>  |
| <b>4 JURISDICTION</b>                                   | <b>9</b>  |
| 4.1 When this Policy applies                            | 9         |
| 4.2 Who the Relevant Policies apply to                  | 9         |
| 4.3 What happens when there are conflicting provisions? | 10        |
| <b>5 ALLEGED BREACH</b>                                 | <b>10</b> |
| 5.1 What is an alleged Breach under this Policy?        | 10        |
| <b>6 WHEN DOES THIS POLICY APPLY?</b>                   | <b>11</b> |
| 6.1 What is a Complaint?                                | 11        |
| 6.2 What is not a complaint?                            | 11        |
| 6.3 Who is a Complainant?                               | 11        |
| 6.4 Who is a Respondent?                                | 11        |
| 6.5 Vulnerable Persons and support persons              | 11        |
| 6.6 What is a Report?                                   | 12        |
| 6.7 Who is a Reporter?                                  | 12        |
| 6.8 Responsibility for Managing Complaints or Report    | 12        |
| 6.9 Submitting a Complaint                              | 14        |
| 6.10 Withdrawing a Complaint                            | 14        |
| 6.11 Confidentiality                                    | 14        |
| 6.12 Appointment of a Complaint Manager                 | 14        |
| 6.13 Conflicts of Interest                              | 14        |
| 6.14 Failure to Cooperate                               | 15        |
| <b>7 THE COMPLAINTS PROCESS</b>                         | <b>15</b> |

|  |           |
|--|-----------|
| 7.1 Evaluation .....   | 15        |
| 7.2 Case Categorisation & Process .....                      | 17        |
| 7.3 External Referral .....                                  | 17        |
| 7.4 Provisional Action.....                                  | 18        |
| 7.5 Investigation .....                                      | 18        |
| 7.6 Alternative Dispute Resolution (Mediation) .....         | 19        |
| 7.7 Standard of Proof.....                                   | 20        |
| <b>8 FINDINGS AND RESOLUTION PROCESS.....</b>                | <b>20</b> |
| 8.1 Findings .....   | 20        |
| 8.2 Notification to Parties .....                            | 20        |
| 8.3 Sanctions .....  | 21        |
| 8.4 Breach Notice .....                                      | 22        |
| 8.5 Resolution without a hearing.....                        | 23        |
| 8.6 Referral to Hearing.....                                 | 23        |
| 8.7 Hearing Tribunal (Judiciary) .....                       | 23        |
| 8.8 Appeals .....  | 24        |
| 8.9 SLSA Referral to the National Sports Tribunal (NST)..... | 25        |
| <b>9 OUTCOME AND CASE CLOSURE.....</b>                       | <b>25</b> |
| 9.1 Case Closure .....                                       | 25        |
| 9.2 Notification of outcome.....                             | 26        |
| 9.3 Recording Complaints.....                                | 27        |

# 1 INTRODUCTION

- a. SLSA and all other Surf Lifesaving (**SLS**) entities (**Relevant Organisation**) strive to provide the best possible delivery of SLS activities, programs, services, and events. Relevant Organisations recognise that from time-to-time, issues may arise that require assistance or support to resolve.
- b. A Relevant Organisation may themselves, or by way of respective Persons in Positions of Authority (**PPA**), become aware of disciplinary matters or complaints against Members which require deliberation and resolution.
- c. Everyone involved in SLS is encouraged to voice concerns that they may have at any point regarding the safety, health, welfare, behaviour or conduct of Members and associated persons or organisations.
- d. Relevant Persons may be required to undertake Education surrounding the Complaints Policy, Complaints Process and/or other general integrity matters.
- e. This Complaint Resolution Policy and its procedures seek to provide processes:
  - i. in addressing a disclosure, incident, observation, or complaint, whether they relate to Members or PPA; and
  - ii. to potential Complainants, Respondents, Members and PPA when dealing with a complaint or disciplinary matter.

# 2 INTERPRETATION AND AMENDMENT

## 2.1 Commitment

All Relevant Organisations are committed to:

- a. addressing any legitimate Complaint brought to their attention regarding the welfare, health, and safety of all Members, PPA and/or Participants in SLS;
- b. dealing with all Complaints in a fair, timely and transparent manner, as appropriate;
- c. escalating a Complaint as appropriate to ensure that appropriate persons are involved;
- d. considering the reasonable wishes of all parties;
- e. providing communication on a regular basis as to the progress of the Complaint;
- f. clearly explaining the next steps and options to all parties involved in a Complaint of the Complaint procedures;
- g. maintaining appropriate confidentiality regarding Complaints, subject always to legal requirements regarding disclosure, or if disclosure is necessary to deal with the Complaint;
- h. ensuring members have access to education and resources regarding the complaints policy;
- i. reporting any serious issues involving CYP or allegations of Serious Criminal Offence to relevant authorities, in accordance with relevant State and Territory legislation; and
- j. maintaining appropriate records of Complaints in a safe and confidential manner.

## 2.2 Principles

At all times:

- a. Relevant Persons and Relevant Organisations must cooperate fully with any police investigation and any government and/or judicial authority;
- b. Relevant Persons and Relevant Organisations must cooperate fully with any investigation, action, or reasonable direction of SLSA, their State Centre or Branch (for those states that have them) made under or in relation to the application of this Policy or any Process under it;
- c. subject to the law, a Relevant Organisation shall deal with criminal allegations, investigations, charges, and convictions promptly, openly, and honestly;
- d. Relevant Persons and Relevant Organisations must treat any matter or information arising from the application of this Policy in confidence; and
- e. Relevant Persons and Relevant Organisations shall at all times act honestly, in good faith and with integrity.

## 2.3 Policy Administration

- a. All rules, policies and regulations previously enacted by SLS concerning the handling of Complaints are withdrawn to the extent they deal with the handling of Complaints and are replaced by this Policy.
- b. This Policy is made and implemented under clause 39 of the Constitution. It expressly adopts and incorporates by reference clause 16 of the [SLSA Constitution](#) and [Regulation 4 of the SLSA Regulations](#).
- c. This Policy:
  - i. commences on the Commencement Date, which is the date the SLSA Board approves the policy;
  - ii. is subject to the Constitution. If there is any inconsistency, the Constitution will prevail;
  - iii. from the commencement date, will be the only policy to hear complaints and any complaint submitted from the commencement date will be addressed through this Policy no matter the date of incident; and
  - iv. when in force, binds all Members.
- d. Where a Complaint:
  - i. is submitted prior to the Commencement Date, it must be dealt with under the policies and processes of SLS existing at the time; or
  - ii. relates to allegations that occurred prior to the Commencement Date, but is submitted after the Commencement Date, it will be dealt with under this Policy.

## 2.4 Interpretation

- a. The following rules of interpretation apply to each Relevant 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 the Relevant Policy in which it appears.
- 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. If any provision of a Relevant Policy 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 a Relevant Policy 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 Relevant Policies.
- x. Any notice or other material required to be provided by one party to one or more other parties under this Policy may be given by:
  - A. sending it to an email or other electronic address nominated by the recipient party; or
  - B. post or hand delivering it to that party's registered address.

Any failure to give any notice or follow any process under any Relevant Policy does not invalidate such notice or process and does not give rise to an appeal in respect to the notice or process.
- xi. A document is understood to have been received under this Policy if sent by email or other electronic transmission, on the date of the document's transmission, or if hand delivered, on the date of delivery or if sent by post, 6 business days after it was sent.
- xii. A reference to SLS or a Complaints Manager in this Policy is taken to include their authorised delegates from time to time.

## 2.5 Amendment

- a. SLSA may amend this Policy from time to time and must make the new version available on its website and Members Area as soon as practicable.
- b. Any Complaint being dealt with at the time of an amendment to this Policy will continue to be processed under the version of this Policy in force at the time a Relevant Organisation receives the Complaint.

## 3 DEFINITIONS

In this Policy, the following words have the corresponding meaning:

**Activity** means any surf lifesaving activity, program, service, competition, event, or activity (including training and patrols), whether on a one-off basis or as part of a season, which is sanctioned or organised by a Relevant Organisation.

**Alleged Breach** means the conduct proscribed in each of the Relevant Policies, including the conduct proscribed under clause 5.

**Alternative Dispute Resolution (ADR or Mediation)** is a collective term for processes, other than arbitration, such as mediation or conciliation that may be used to resolve allegations of Prohibited Conduct, complaints, and reports under this Policy.

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

**Appellant** means a person who is granted leave to appeal.

**Board** means the board of SLSA.

**Breach** means a breach of a Relevant Policy and that, in the opinion of the Complaints Manager, is more significant than a Minor Breach.

**Breach Notice** means a written notification sent to the Respondent in accordance with clause 8.4.

**Case Categorisation Model** means the guidelines in the Complaints Handling Guideline and available on Members Area for evaluating and prioritising allegations of Alleged Breach and assisting with determining an appropriate mechanism to manage a Complaint, as amended from time to time.

**Complaint** has the meaning given in clause 6.1.

**Complaint Form** means the complaint form online through the [Online SLS Reporting System](#). A physical copy is included in the templates section of the Complaints Handling Guideline.

**Complaint Manager** means the person appointed under clause 6.12 to manage Complaints under this Policy.

**Complaint 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.

**Complaints Handling Guideline** means the guideline that is issued by SLSA.

**Complainant** has the meaning given in clause 6.3.

**Constitution** means the SLSA Constitution.

**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.

**Disciplinary Action** means disciplinary action brought against a Member by SLS, where a Member has breached the Constitution, Regulations, or any Relevant Policy.

**Discrimination** includes both direct and indirect discrimination (either in-person or online) which have the following meaning:

- a. **Direct discrimination** occurs where, because a person has a Protected Characteristic, they are treated less favourably than a person without that characteristic would be treated in the same or similar circumstances.
- b. **Indirect discrimination** occurs where a practice, rule, requirement, or condition that applies to everyone disadvantages people with a Protected Characteristic and the practice, rule, requirement, or condition is not reasonable in the circumstances.

**Employee** means a person employed by a Relevant Organisation.

**Grievance** means any form of grievance between two or more people (including individuals and body corporates) that is not a Complaint, and which is not, or does not

concern or allege, a breach of a Relevant Policy as determined by the relevant SLS Entity.

**Hearing Tribunal (Judiciary)** means the judiciary established to conduct a hearing under this Policy.

**Investigator** means a person assigned to carry out an investigation of a Complaint.

**Member** means a member of a Relevant Organisation, including:

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

**Minor Breach** means a breach of a Relevant Policy that, in the opinion of the Complaints Manager, only results in a warning (whether informal or formal) being imposed on the Respondent as the applicable Sanction.

**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 NST<sup>1</sup>.

**NST Legislation** means and includes 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:

- a. athletes or any Member;
- b. coaches appointed to train an Athlete or Team in an Activity;
- c. administrators who have a role in the administration or operation or Activity of a Relevant Organisation, including owners, directors, committee members or other persons;
- d. parents, guardians, spectators, sponsors and licensees and other contracted parties to the fullest extent possible;
- e. 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;
- f. 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.

**Person in Position of Authority (PPA)** means a person allocated to a role within an SLS Entity who has a level of authority at that Entity. PPA may include Board Members, Vice Presidents, and President as well as Managers and Senior Leaders in Relevant Organisations.

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<sup>1</sup> See NST Act sections 5(2) and 6(2) and NST Rule section 7.

**Policy** means this Complaints Resolution Policy.

**Process** means the chosen process for resolving a Complaint under this Policy.

**Protected Characteristic** means:

- a. age;
- b. disability;
- c. race or ethnicity;
- d. sex or gender identity;
- e. sexual orientation; or
- f. religion.

**Provisional Action** means 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. SLSA
- b. State Centres
- c. SLS Entities including all Clubs and Branches
- d. Surf Life Saving Queensland recognised and/or affiliated Surf Life Saving Supporters Clubs
- e. any other organisation who has agreed to be bound by the Relevant Policies.

**Relevant Person** means any of the following persons:

- a. Individual Member, Life Members, and members of Members where they may have their own membership categories;
- b. Participant;
- c. Employee;
- d. Contractor;
- e. Volunteer;
- f. persons appointed or elected to boards, committees, and sub-committees;
- g. support personnel;
- h. any other individual who has agreed to be bound by any Relevant Policy.

**Relevant Policies** means any SLSA by-law, rule, regulation, policy, and procedure of except Policy 5.02 Australian National Anti-Doping.

**Report** has the meaning given in clause 6.6.

**Reporter** has the meaning given in clause 6.7.

**Resolution Process** means the process from the point at which a Breach Notice has been issued to a Respondent.

**Respondent** has the meaning given in clause 6.4.



**Sanction** means the disciplinary action(s) taken against a Respondent for breaching a Relevant Policy.

**Serious Criminal Offence** means an offence that is outlined in Appendix A of Policy 6.16 Criminal Convictions.

**Surf Life Saving (SLS and SLS Entity)** means as applicable SLSA, each State Centre, each SLS Branch and each SLS Club.

**SLS Reporting System** means the online system used to submit a Complaint and accessed at <http://complaints.sls.com.au/>.

**SLSA** means Surf Life Saving Australia Limited.

**Surf Sports Manual** means the document which prescribes rules under which surf sports events are conducted and managed.

**Vulnerable Person** means a person who is:

- a. under the age of 18; or
- 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.

## 4 JURISDICTION

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### 4.1 When this Policy applies

This Policy applies to all Relevant Policies.

### 4.2 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 breach, 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.

- i. If a person submits an allegation against a Member who is no longer a Member of a Relevant Organisations, that matter may proceed as a Complaint under this Policy if (and when):
  - A. the person is a Member at a later date; and
  - B. the Complaint is accepted under this Policy.

#### **4.3 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. The Australian National Anti-Doping Policy (**ANADP**) or any other applicable World Anti-Doping Code compliant anti-doping policy (**ADP**) will prevail to the extent of any inconsistency with the Relevant Policies in all instances. Any allegation relating to a breach or possible breach of the ANADP or ADP will be dealt with under that policy.
- c. Nothing in the Relevant Policies prevents a Relevant Organisation from referring any alleged breach or criminal conduct to a relevant law enforcement agency.
- d. The Relevant Policies are subject to the SLSA Constitution and if there is any inconsistency, the SLSA Constitution will prevail.

## **5 ALLEGED BREACH**

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### **5.1 What is an alleged Breach under this Policy?**

- a. Subject to clause 5.1(b), in addition to the conduct proscribed under each of the Relevant Policies, a Relevant Person or a Relevant Organisation will breach this Policy if they:
  - i. fail to report any conduct which is reasonably likely to be alleged Breach, to the Relevant Organisation in accordance with clause 6.8, as soon as reasonably practicable after they become aware of it without reasonable cause;
  - ii. deliberately or wilfully withhold information in relation to any conduct which is reasonably likely to be alleged Breach;
  - iii. fail to provide further information or documentation as requested during the Complaint Process without reasonable cause;
  - iv. fail to comply with a Breach Notice;
  - v. knowingly provide any inaccurate and/or misleading information during the course of any Complaint Process under this Policy; or
  - vi. fail to comply with obligations under this Policy to keep information confidential.
- b. A Relevant Person or Relevant Organisation will not be deemed to have breached this Policy if they fail to answer a question or provide information on the grounds that doing so would be a breach of any applicable law.
- c. SLSA and/or a relevant State Centre may initiate disciplinary action in accordance with this Policy if it becomes aware of a potential breach of clause 5.1(a).

## 6 WHEN DOES THIS POLICY APPLY?

### 6.1 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); and
  - ii. relating to an alleged breach under a Relevant Policy; and
  - iii. against a Respondent.
- b. A Complaint must be lodged with SLS through the [SLS Online Reporting System](#).

### 6.2 What is not a complaint?

- a. A Complaint does not include allegations or information:
  - i. where the allegations or information, involve, a Grievance;
  - ii. where the allegations or information, involve or relate to an employment arrangement;
  - iii. that are not made in good faith or are mischievous, vexatious, or knowingly untrue, as determined by the Complaints Manager under clause 7.1.1 and clause 7.1.2;
  - iv. against a respondent who is not a Member and/or the Relevant Organisation has no jurisdiction over the respondent;
  - v. that does not refer to a breach of a Relevant Policy, and therefore may be considered a concern which should be referred to the Member Protection Information Officer at the Relevant Organisations;
  - vi. that relate to an incident or matters that are in the SLSA Surf Sports Manual; or
  - vii. that are made anonymously.

### 6.3 Who is a Complainant?

- a. A Complainant is a person or an organisation who or which is directly affected by the alleged Breach 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.

### 6.4 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 was bound by the Relevant Policy/ies at the time the alleged Breach occurred.

### 6.5 Vulnerable Persons and support persons

- a. Where required, the parent or carer of the Vulnerable Person who is a party to the 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 Hearings 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, or such other guide that may replace it.
- c. Any matter relating to the abuse or suspected abuse of children and young people (**CYP**), under the age of 18, must be reported. If you believe there has been a breach of the Child Safe policy, please report and submit details of the alleged breach in the SLS Reporting System.
- d. If criminal activity has occurred or if you believe a child is at immediate risk of harm or danger, contact the Police (call 000) to report the matter prior to submitting a report through the SLS Reporting System.

## **6.6 What is a Report?**

- a. A Report is a submission of allegations that a Respondent has engaged in conduct which may be an Alleged Breach which does not meet the definition of a Complaint.
- b. Reports received by Relevant Organisations 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 Breach and if so their circumstances and preferences, the perceived risk to the sport, and whether there have been other Reports relating to similar allegations.
- d. A Report may be made anonymously; however, this may 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.

## **6.7 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 Alleged Breach may have occurred and makes a Report. A Reporter may be anonymous.
- 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.

## **6.8 Responsibility for Managing Complaints or Report**

- a. All Complaints will be classified according to the case categorisation model outlined in the Complaints Handling Guideline.
  - i. All Category 3 (Red) Complaints will be handled by SLISA and/or the relevant State Centre.

- A. A Complaint or Report may be submitted to SLSA and/or the relevant State Centre where it relates to alleged Breach under the Child Safe Policy or allegations of Discrimination under the Member Protection Policy
- ii. All Category 1 or 2 Complaints will be allocated to the Complaints Manager at the involved Relevant Organisation.
- b. Complaints relating to any other policy breaches, not outlined in clause 6.8(a)(i), matters such as personal grievances, employment, governance, eligibility and selection disputes, and competition-related rules, should be submitted per clause 6.9, and managed by, the appropriate Relevant Organisations, as outlined in Table 6.8(b).

**Table 6.8(b) - Proper Recipient of Complaints**

| <b>Complaint</b>  | <b>Proper Recipient</b> |
|---|-------------------------|
| General complaints including bullying, harassment, dissatisfaction with decisions, member to member matter.                                 | Club or Branch          |
| Branch or State-related complaints or inter-club matters.   | Branch or State         |
| All Child Safe related matters, allegations of Sexual Misconduct or any Serious Criminal Conduct or breach of <a href="#">Policy 6.16</a> . | State and/or SLSA       |
| National-related complaints or inter-State matters.   | SLSA                    |

- c. In the case of cross jurisdiction complaints, the proper recipient for a Complaint shall apply as per Table 6.8(c) below.

**Table 6.8(c) - Proper Recipient of Cross Jurisdiction Complaints**

| <b>Cross Jurisdiction Complaint</b>   | <b>Proper Recipient</b>                       |
|---|---|
| Where the matter is between two or more clubs/members from clubs within a Branch  | The Branch to whom those clubs are affiliated |
| Where the matter is between two or more clubs/members from clubs affiliated to different Branches within a state                                    | State Centre                                  |
| Where the matter is between two or more Branches (or members acting in their role as Branch representatives) within a State                         | State Centre                                  |
| Where the matter is between two or more Branches (or members acting in their role as Branch representatives) or clubs/members from different states | SLSA  |
| Where the matter is between two or more States Centre's   | SLSA  |

- d. Depending on the nature and seriousness of a matter or if a conflict of interest arises, the Complaint may be assigned to the Relevant Organisation one level above by the Complaints Manager.
- e. The Relevant Organisation at the higher level may, at its discretion, refer a Complaint:
- back to the involved Relevant Organisations; or
  - to an independent panel; or
  - to another Relevant Organisations; or

- iv. determine that it should be managed by the higher-level Relevant Organisations.
- f. If a Complaints Manager is not assigned within SurfGuard for the involved Relevant Organisation, it will automatically be allocated to the President of the Relevant Organisation who will assign a Complaints Manager to manage the Complaint.
- g. If the Complaint is regarding the President of the Relevant Organisations, the higher-level Relevant Organisation clause 6.13(d) will determine an appropriate Complaints Manager.
- h. A higher-level entity may take over the management of a Complaint if it is determined that the policy is not being applied appropriately.

## **6.9 Submitting a Complaint**

- a. A Complaint must be fully and properly completed at the time of submission in accordance with clause 6.8, failing which, a Relevant Organisation is not obliged to accept and/or process the Complaint under this Policy.
- b. A Complaint must be made in writing (including electronically).
- c. A Report can be made in writing (including electronically) or verbally.

## **6.10 Withdrawing a Complaint**

- a. A Complaint may be withdrawn at any time before case closure under clause 9.1. Withdrawing a Complaint must be done in writing (including electronically) to the Relevant Organisation managing the complaint.
- b. Where a Complaint has been withdrawn, the organisation managing the Complaint may choose to continue to progress the matter through the Complaints Process.

## **6.11 Confidentiality**

- a. Except as provided in clause 6.11b. all Complaints, including any information disclosed in relation, or response, to a Complaint, will be kept confidential by all parties involved including the Relevant Organisation, and must not be disclosed to any third party.
- b. Any Relevant Organisation may disclose information as required to another Relevant Organisation, or as authorised by law. For example, disclosure to police, to another Relevant Organisation or to progress the Complaint management process.

## **6.12 Appointment of a Complaint Manager**

- a. A Relevant Organisation will appoint a Complaint Manager, who will be responsible for managing the Relevant Organisation's obligations under this Policy.
- b. The Complaint Manager must be assigned to that position within SurfGuard against that Relevant Organisations list of officers to be eligible.

## **6.13 Conflicts of Interest**

- a. Where a Complaint Manager believes they may have a conflict of interest they must advise a PPA from the Relevant Organisation to determine if a conflict exists and if any mitigation of that conflict is possible. Where it is not, the PPA will appoint a new Complaint Manager for the matter. Similarly, if a PPA within an SLS Entity identifies that a Complaint Manager may have a conflict of interest, the same approach must be undertaken.
- b. The person appointed to undertake the assessment must be independent and have no actual or perceived conflict of interest in relation to the complaint that might reasonably call into question the impartiality of the process.

- c. Where a Complaint is received that involves (either directly or indirectly) a PPA (or the Complaint Manager themselves) from the Relevant Organisation, the Complaint Manager or PPA as appropriate will consider:
  - i. can the Complaint be fairly and appropriately managed at the Relevant Organisation;
  - ii. if the PPA or Complaint Manager against whom a Complaint is made, should stand aside from any positions they hold within the Relevant Organisation (where appropriate);
  - iii. the personal relationship the PPA or Complaint Manager may have with other PPAs and those involved in any process and can these be mitigated against appropriately (i.e., there is enough capability in the Relevant Organisation to undertake an investigation, convene a Judiciary etc. If a number of other PPAs are unable to be involved and those who do undertake these roles do not believe they are conflicted in any way.)
- d. Upon consideration of these influences, the Complaint Manager or PPA may determine the matter should be referred to a different or higher-level Relevant Organisation (e.g., for club matters – the Branch, for Branch matters – State Centre etc.). The higher-level Relevant Organisation, in their absolute discretion, will determine if the Complaint should be referred:
  - i. back to the involved Relevant Organisation; or
  - ii. to an independent panel; or
  - iii. to another Relevant Organisation; or whether it should be managed by the higher-level Relevant Organisation.

#### **6.14 Failure to Cooperate**

- a. Subject to clause 6.14(c), Relevant Persons must fully cooperate with any Complaints Process or Resolution Process they are involved in. A failure to do so may be an alleged breach under clause 5.1(a).
- 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.

## **7 THE COMPLAINTS PROCESS**

### **7.1 Evaluation**

#### **7.1.1 Initial Threshold Questions**

- a. Upon receipt of a Complaint, the Complaints Manager must initially determine whether:
  - i. it is or is not a Complaint and whether it has been properly submitted under clause 6.9;
  - ii. the Complaint is solely a Grievance;
  - iii. the Complaint is not an Alleged Breach of a Relevant Policy;



- iv. the Respondent is not an eligible Respondent as outlined in clause 6.8;
  - v. the Complaint is made in good faith and/or is mischievous, vexatious, or knowingly untrue;
  - vi. requires mandatory reporting to occur under child protection or other laws, in which case the Complaints Manager must do so and the complainant under clause 8.2; and/or
  - vii. relates to child abuse, child welfare or the safety of a child or young person under 18 years of age, in which case it must be lodged as a report as per the Child Safe Policy and the Complainant notified under clause 8.2; (**Initial Threshold Questions**).
- b. In the case of a Complaint under clauses 7.1.1(a)(vi) or (vii), the Process under this Policy is suspended unless and until the matter is referred back for resolution under this Policy.
  - c. If the Complaint does not satisfy any of clause 7.1.1(a)(i)-(v), the Complaints Manager may reject the Complaint or may proceed to further assessment under clause 7.1.2.
  - d. There is no appeal or further action available to a Complainant where the Complaints Manager rejects a Complaint under this clause 7.1.1.

#### **7.1.2 Initial Assessment of Complaint**

- a. Subject to clause 7.1.1, the Complaints Manager must determine whether a Complaint:
  - i. was lodged in good faith and for a proper purpose; and
  - ii. is a Complaint under this Policy; (**the Initial Assessments**).
- b. The Complaints Manager has absolute discretion to determine the matters in clauses 7.1.1(a)(i) and 7.1.2(a)(i) and any decision is final and binding. In determining under this clause, the Complaints Manager can make such further reasonable enquiries, as necessary. This may or may not involve formal interviews and collection of additional evidence, as required.
- c. If none of the Initial Assessments are satisfied, the Complaints Manager should proceed to **clause 8.2(c)(ii)**. If all the Initial Assessments are satisfied, the Complaints Manager must determine whether the Complaint has been submitted to the correct Relevant Organisation.
- d. If the Complaint is determined to be out of scope of the Relevant Policies, the organisation which received the Complaint will notify the Complainant and no further action will be taken under this Policy.
- e. 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.
- f. If a person considers that a child is at risk of immediate harm the matter must be reported to the relevant law enforcement/child protection agency as soon as possible.
- g. There is no appeal or further action available to a Complainant in response to the Complaints Manager exercising their discretion and acting under this clause.



## 7.2 Case Categorisation & Process

- a. Once a Complaint has been deemed to be in-scope, it will undergo Case Categorisation to determine an appropriate means of dealing with the Complaint. Complaints are categorised with reference to the nature of the alleged conduct, the possible level of harm and complexity of the issues raised in the Complaint (refer to Case Categorisation Model in the Complaints Handling Guideline).
  - i. If any Relevant Organisation is advised of, or becomes aware of a Serious Criminal Offence by a Member they should advise or otherwise contact the CEO of SLSA and the CEO of their State Centre and advise the police or other authorities as required by Law and act in accordance with SLSA Policy 6.16 Criminal Conviction. This may include the application of Provisional Actions.
  - ii. Where a criminal investigation does not result in the member being charged, or a trial does not result in the conviction of the member, the State Centre Complaints Manager may then proceed as per clause 7.
- b. Following Case Categorisation, any one or a combination of the following actions may be undertaken:
  - i. Alternative Dispute Resolution (mediation);
  - ii. Investigation;
  - iii. Referral to a Hearing Tribunal (Judiciary);
  - iv. External referral;
  - v. Provisional Action;
  - vi. Case closure.
- c. The Complaints Manager has sole and absolute discretion to determine the chosen Process under this clause 7.3(b).
- d. For Complaints that have been categorised as Category 1, the Complaint may be closed in accordance with clause 9.1(a)(ii). 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.
- e. The Complaints Manager 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.
- f. The Complaints Manager may, at their absolute discretion, seek further information from the Complainant, Respondent or third parties to assist them to decide the Chosen Process. If information is sought from a party under this clause, the party must respond and cooperate.
- g. The Complaints Manager should notify the Complainant and Respondent of the Process once decided. The Complaint will then be dealt with under that applicable Process in addition to any Provisional Action taken under clause 7.4.
- h. The Complaints Manager may, at any time following receipt of a Complaint refer the Complaint to an external agency in accordance with clause 7.3.

## 7.3 External Referral

- a. The Complaints Manager may, at any time during the Complaint Process, refer the allegation 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

referral to a law enforcement agency, government or regulatory authority or child protection agency.

- b. The Complaints Manager may also refer a Complaint concluded under this Policy to an external agency at any time if they consider such referral appropriate (e.g., a mandatory reporting matter).
- c. If an external referral is made, the Complaints Process may be suspended pending external resolution to avoid any potential compromise to the external process.
- d. If the Process is suspended due to an external referral, the Complaints Manager should consider whether any Provisional Action should be taken against the Respondent.

#### **7.4 Provisional Action**

- a. Where a Complainant alleges conduct against a person that in the Complaints Manager's opinion:
  - i. may result in, or cause, serious criminal charges to be laid against the Respondent; and/or
  - ii. suggests there is a further or ongoing risk of harm or angst being suffered by one or more Members; and/or
  - iii. suggests there is a further or ongoing risk of harm, disrepute or prejudice being suffered by SLS; and/or
  - iv. is related to child abuse/misconduct; and/or
  - v. is not in the best interests of the parties involved or SLS;

the Complaints Manager may, in their absolute discretion, determine whether any Provisional Action(s) will be imposed.

- b. Provisional Actions may include, imposition of conditions, immediate stand-down, suspension, supervision, restriction of duties, restriction of duties activities and/or locations, restriction of groups with whom they may interact or temporary redeployment, suspension or restriction of rights, privileges or benefits, or any other action(s) at the discretion of the Complaints Manager.
- c. The Complaints Manager may impose a Provisional Action at any point if information comes to hand that gives reasonable cause for them to believe a Provisional Action should be considered. If a Provisional Action is imposed on a person, it and any conditions associated with it (e.g., time limits) must be communicated in writing by the Complaints Manager to relevant persons.
- d. There is no appeal or further action available to any person against whom a Provisional Action has been imposed by the Complaints Manager.

#### **7.5 Investigation**

- a. The Complaints Manager may conduct an investigation to obtain additional evidence, including by way of formal interview and collection of additional information, to determine if the alleged Breach is a breach of a Relevant Policy.
- b. Notwithstanding clause 7.5(a) the Complaints Manager may undertake the investigation themselves.
- c. The Complaints Manager may appoint another person or entity to undertake an investigation.
- d. There is no obligation on the Complaints Manager to conduct an investigation.
- e. There is no appeal or further action available to a Complainant where the Complaints Manager chooses not to undertake an investigation.

- f. The investigator will investigate the Complaint in accordance with the procedure outlined in the Complaints Handling Guideline and may make findings as to whether the allegations satisfy the Standard of Proof per clause 7.7.
- g. Upon receipt of the investigator's findings:
  - i. Where the findings are substantiated the Complaints Manager may proceed to ADR, issuing a breach notice, resolution without a hearing, a hearing tribunal, or refer the matter externally.
  - ii. Where the findings are inconclusive the Complaints Manager may proceed to ADR, a hearing tribunal, or refer the matter externally.
  - iii. Where the findings are unsubstantiated the Complaints Manager will proceed as per clause 8.2(c)(ii).
  - iv. The Complaints Manager may (in their absolute discretion and if they consider warranted) re-open or instruct the investigator to re-open the Investigation or appoint a new investigator to re-investigate the matter in accordance with this policy if new material comes to light.
- h. Where a Respondent has been convicted or found guilty in a criminal, disciplinary or professional proceeding of engaging in conduct which would constitute alleged Breach under a Relevant Policy, the Respondent will be deemed under this Policy to have committed the alleged Breach without requiring further investigation, or any other process.
- i. Following an investigation, the Complaint will be managed in accordance with clause 8, including the option of being referred directly to a Hearing Tribunal.

## **7.6 Alternative Dispute Resolution (Mediation)**

- a. If the Complaints Manager considers the Complaint may be appropriate for ADR, they may offer mediation to both the Complainant and Respondent.
- b. The Complainant and the Respondent may agree to an Alternative Dispute Resolution (ADR). The Complaints Process may be suspended while ADR is pursued. If ADR is agreed to the Complaint Manager can advise in writing per the template outlined in the Complaints Handling Guideline. The Complaints Process may be discontinued if both parties are satisfied that the matter has been resolved.
- c. If both the Complainant and Respondent consent to Mediation the Complaints Manager will refer the Complaint to a mediator approved by the Relevant Organisation. The Complaints Manager may ask the Complainant and the Respondent to pay some or all of any Mediation fee.
- d. If the Complaint is resolved through ADR under this clause, the Complaints Manager can proceed to clause 9.1(a)(iv).
- e. For the avoidance of doubt, if:
  - i. either the Complainant or Respondent does not consent or respond to Mediation;
  - ii. the Complaint is not appropriate for Mediation; or
  - iii. Mediation does not resolve the Complaint;
 the Complaints Manager, at their absolute discretion, may refer to clause 8.2(c)(ii) and take no further action in respect of the Complaint or may choose another Process to resolve the Complaint under clause 8.
- f. There is no appeal or further action available to any party where the Complaints Manager takes no further action under this clause.

## 7.7 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 an alleged Breach of a Relevant Policy 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.
  - i. For a Judiciary to find something has been proven on the balance of probabilities, it must be satisfied that on the evidence before it, it is more probable than not, that the alleged conduct the subject of a Complaint occurred. In reaching such conclusion, the Judiciary may consider all relevant factors including the nature and seriousness of the allegations and the impact of the potential sanctions that may be imposed if the allegations are proven.
  - ii. 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 a Relevant Policy, including Policy 6.16 Criminal Convictions, the Respondent is deemed under this Policy to have committed Prohibited Conduct without requiring further investigation.

## 8 FINDINGS AND RESOLUTION PROCESS

### 8.1 Findings

- a. Unless the matter has been referred directly to a Hearing Tribunal under clause 7.2(e), following an investigation, the Relevant Organisation managing the Complaint will determine whether, to the requisite standard of proof, the allegation of an alleged Breach is substantiated, unsubstantiated or unable to be substantiated.
- b. 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 Complaint Manager may impose the Sanction and proceed to finalise the Complaint under clause 9.1.

### 8.2 Notification to Parties

- a. The Relevant Organisation will communicate with the Complainant and the Respondent at appropriate intervals throughout the Complaints Process to keep them informed about the process until a Resolution Process has been chosen or the Complaints Process is otherwise discontinued, including:
  - i. notifying the Complainant of whether the Complaint satisfies the Initial Threshold Questions;
  - ii. after a Complaint is determined to have satisfied the Initial Threshold Questions and when the Relevant Organisation considers that it is appropriate to do so, notifying the Respondent that a Complaint has been made against them;
  - iii. notifying the Respondent of any Provisional Actions to be put in place;
  - iv. notifying both the Complainant and the Respondent if the Complaint is referred to an external process under clause 7.3;
  - v. notifying both the Complainant and the Respondent of the Resolution Process chosen; and
  - vi. providing a Breach Notice to the Respondent

- b. The Respondent will not be entitled to a copy of the Complaint Form as submitted by the Complainant but will be provided with a summary of the Alleged Breach(es) and sufficient details of the Complaint to allow them to respond. Both the Complainant and the Respondent will be informed of any relevant additional information that becomes known as part of the assessment process and provided with a reasonable opportunity to respond.
- c. If the Complaint:
  - i. satisfies all the Initial Threshold Questions and all the Initial Assessments, the Complaints Manager must notify the Complainant of the applicable procedure to be used to resolve the Complaint. This may include undertaking any investigation and the subsequent decision of the Complaints Manager with respect to that Investigation.
  - ii. does not satisfy any of the Initial Threshold Questions, the Initial Assessments, or any Investigation is unsubstantiated the Complaints Manager may reject the Complaint or may notify the Complainant of the defect(s) in the Complaint, and whether or not it can proceed under this Policy after modification of the Complaint.

### 8.3 Sanctions

- a. A Relevant Organisation may impose one or more Sanctions on a Respondent where this is considered appropriate, following a finding that matters have been substantiated.
- b. In making a determination under clause 8.3(a) the Relevant Organisation may refer to the Case Categorisation Model, taking into account:
  - 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 SLS;
  - v. the effect of the proposed Sanction on SLS;
  - vi. if there have been relevant prior warnings and/or disciplinary actions and/or sanctions against the Respondent; and/or
  - vii. whether the behaviour or incidents that are subject to the Complaint caused prejudice or detriment to any Relevant Organisation or to SLS;
  - viii. if the Respondent knew or should have known that the behaviour was a breach of the Relevant Policy;
  - ix. the potential impact of the proposed Sanction on the Respondent;
  - x. the views and opinion of the Complainant; and
  - xi. any other relevant aggravating or mitigating factors.
- c. Without limiting the discretion in clause 8.3(a), the Sanctions that may be imposed on a Respondent include, but are not limited to:
  - i. a reprimand or warning;
  - ii. exclusion from a particular event or events, competition, or activity;
  - iii. suspension, from such activities or events held by or under the auspices of SLS, on such terms and for such period as the person imposing the sanction thinks fit;

- iv. the imposition of conditions and/or restrictions on the Respondent's membership;
  - v. suspension for a specified period and/or termination of any rights, privileges and benefits provided by SLS whether under the Respondent's membership contract or not;
  - vi. expulsion from SLS and subsequent termination of the Respondent's membership contract; and/or
  - vii. any other such sanction as the person imposing the sanction considers appropriate.
- d. A Sanction handed down under this Policy shall commence from the date of the decision, unless otherwise expressly directed by the Relevant Organisation imposing the sanction, or otherwise provided for in this Policy.
  - e. Where the Relevant Organisation imposing the sanction finds that more than one breach of a Relevant Policy has been proven, it will hand down a single Sanction in respect of the totality of all breaches that have been found proven. The Sanction imposed will be determined by the Relevant Organisation imposing the sanction in their sole discretion having regard to the seriousness of the overall conduct in question, rather than by a mathematical addition of Sanctions that would otherwise be applicable to each individual breach.
  - f. Where a sanction has been imposed under clause 8.3(c)(v) then the relevant State Entity must be notified in writing. Where a relevant person has been imposed with a sanction under clause 8.3(c)(vi) then the relevant State Entity and SLSA must be notified in writing.
  - g. SLSA Regulation 4.7 (Restriction on Membership: [https://members.sls.com.au/members/document\\_library/1/media/1003](https://members.sls.com.au/members/document_library/1/media/1003)) applies to all sanctions imposed under this Policy.

#### **8.4 Breach Notice**

- a. If allegations are found to be substantiated, a Relevant Organisation may issue a Breach Notice, (outlined in template section of the Complaints Handling Guideline). Any Breach Notice (minor or otherwise) issued by a Relevant Organisation to a Respondent will:
  - i. include details of the breach alleged in the Complaint, including the alleged conduct and the section(s) of the Relevant Policy allegedly breached;
  - ii. notify the Respondent of the allegations found to be substantiated, including the alleged conduct;
    - A. If using the Minor Breach letter, the Relevant Organisation may issue it on the proviso that without SLS finding the breach to be proven, the Respondent is warned that the allegations would constitute a breach of the Eligible Policy, if proven.
  - iii. state the proposed Sanction, if any, for the substantiated allegations; iv. state that the Respondent has a right to respond in relation to the allegations found to be substantiated and/or the proposed Sanction;
  - v. state that the Respondent may accept the findings, per clause 8.4(b)(i);
  - vi. state that if the Respondent does not respond in writing within 14 days of the date of the Breach Notice, they will be deemed to have accepted the findings, waived their right under clause 8.4(d), and accepted the proposed Sanction, unless otherwise agreed by a Relevant Organisation;



- vii. state that any response to the Breach Notice must be made to a Relevant Organisation, and provide contact details of the Complaint Manager; and
  - viii. be provided to the Respondent.
- b. In response to a Breach Notice, a Respondent may:
  - i. accept the findings, thus waiving their right to request a hearing, appeal and accept the proposed Sanction; or
  - ii. dispute the findings and/or the proposed Sanction, under 8.4(d).
- c. Unless otherwise agreed by a Relevant Organisation, a Respondent has 14 days from the date of the Breach Notice to notify the Complaint Manager in writing of their decision.
- d. If the Complainant or Respondent considers the application of a Breach to be incorrect, they may request that the Complaints Manager reconsider their decision. The Complaints Manager may, at their absolute discretion:
  - i. determine no breach has occurred and advise the Complainant and Respondent as per clause 9; or ii. affirm the determination that a Breach has occurred and advise the Complainant and Respondent as per clause 9; or iii. refer the matter to a Hearing Tribunal/Judiciary as per clause 8.6.
- e. Notice given under paragraph 8.4(b)ii. must be:
  - i. given in writing (whether by email or other means);
  - ii. sent to the Relevant Organisation's Complaint Manager at the address given on the Breach Notice (this can be done so electronically); and
  - iii. received within 14 days from the date of the Breach Notice.
- f. If the Relevant Organisation does not receive notice under clause 8.4(b)ii. within 14 days from the date of the Breach Notice, the Respondent will be deemed to have waived any right under clause 8.4(d).

## 8.5 Resolution without a hearing

Where a respondent admits to the Alleged Breach (thereafter, a Breach), waives their right to a hearing and accept the Sanction, or is deemed to have done so, the Relevant Organisation's Complaint Manager must take all necessary steps to impose and implement the Sanction (if applicable), and proceed to finalising the Complaint in accordance with clause 9.

## 8.6 Referral to Hearing

- a. If the Respondent disputes the substantiated allegations and/or the proposed Sanction in the Breach Notice, the Complaint Manager must refer the matter to a Hearing Tribunal.
- b. If the matter is an NST Eligible Matter, the substantiated allegations and proposed Sanction may be referred by SLSA, only, to the NST General Division for arbitration. SLSA is responsible for making the application to the NST. Payment of the NST fees will be as agreed by the parties or managed in accordance with the NST Legislation.
- c. If the matter is not referred to the NST, it will otherwise be referred to a Hearing Tribunal convened by the Relevant Organisation.

## 8.7 Hearing Tribunal (Judiciary)

- a. If the Complaints Manager, is of the opinion, that there may have been a breach of a Relevant Policy and that a Judiciary is the appropriate Process, they must refer

the Complaint to a Judiciary for resolution in accordance with the Hearing Tribunal (Judiciary) Procedure outlined in the Complaints Handling Guideline.

- b. Where an Investigation was inconclusive, upon recommendation of the Investigator, or if in the opinion of the Complaints Manager they believe the Investigation was lacking in any way, they may appoint a Judiciary with investigatory powers in accordance with the Hearing Tribunal (Judiciary) Procedure outlined in the Complaints Handling Guideline.
- c. The Complaints Manager must notify the Respondent of the alleged breach, in writing, using the letter set out in the templates section of the Complaints Handling Guideline (Breach Notification). The letter must contain details of the:
  - i. breaches alleged in the Complaint, including the alleged conduct and the section(s) of the Eligible Policy allegedly breached; and
  - ii. Judiciary.
- d. The Judiciary will, in accordance with the Procedure outlined in the Complaints Handling Guideline, arbitrate the Complaint and may, if applicable, impose a Sanction in accordance with clause 8.3.
- e. The Judiciary will notify the parties of the outcome in accordance with Procedure outlined in the Complaints Handling Guideline, following which, clause 9 applies.

## 8.8 Appeals

- a. A decision of a Hearing Tribunal in respect of:
  - i. Provisional Action, is not subject to appeal; ii. allegations referred directly to a Hearing Tribunal for a finding, is subject to appeal; and
  - iii. a substantiated allegations finding and/or Sanction, is subject to appeal.
- b. Subject to this, clause 8.8, the following persons and Relevant Organisation have a right to appeal a decision under this Policy (each an **Appellant**) in relation to a decision of a Judiciary:
  - i. a Respondent who is found to have breached a Relevant Policy, irrespective of whether a Sanction is imposed; or
  - ii. the involved Relevant Organisation under whose jurisdiction the matter was being determined, if no Sanction is imposed on a Respondent or if a Sanction is imposed on a Respondent, that the Relevant Organisation considers the Sanction inadequate or inappropriate.
- c. Grounds of appeal:
  - i. The decision of a Hearing Tribunal can only be appealed by the Respondent and/or the Relevant Organisation on the basis that:
    - A. the Hearing Tribunal demonstrated actual bias in arriving at the decision; and/or
    - B. 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
    - C. no reasonable decision maker in the position of the Hearing Tribunal, based on the material before them, could reasonably make such a decision.
- d. To submit a valid notice of appeal, an Appellant must, within 7 days of the date of receipt of the decision made under this Policy:
  - i. lodge an 'Application for an Appeal', which must state in full the Grounds of Appeal with, in the case of a matter being:



- A. determined at Club level, the respective Branch (where a SLS Branch structure exists, or where it does not State Centre);
    - B. determined at Branch level, the respective State Centre;
    - C. considered at State level, the State Centre Legal Counsel; or
    - D. considered at National level, the SLSA Legal Counsel; and
  - ii. pay a \$500 appeal fee (refundable if the appeal is upheld).
- (together, a **Notice of Appeal**).
- e. If the Appellant fails to lodge a Notice of Appeal in compliance with clause 8.8, including but not only complying with each of the requirements in clause 8.8(b), clause 8.8(c) or clause 8.8(d) within the required time period, an Appellant's right of appeal is extinguished.
  - f. If it is determined by the Complaints Manager who receives the appeal under clause 8.8(d)(i) that (in the Complaints Manager's absolute discretion) there are valid grounds for appeal, then the Complaints Manager will (at the Complaints Manager's absolute discretion):
    - i. direct the original Relevant Organisation that heard the matter to convene an Appeals Tribunal to hear the Appeal; or
    - ii. convene an Appeals Tribunal to hear the Appeal.
  - g. The Appeals Tribunal's arbitration of the Appeal will proceed in accordance with Procedure outlined in the Complaints Handling Guideline and must determine, to the Standard of Proof, whether any Ground of Appeal (as applicable) is proven, it must not rehear the matter or the merits or facts of the Complaint.
  - h. If the Appeals Tribunal:
    - i. determines that any Ground of Appeal is upheld, it will refer the matter to the original Relevant Organisation to be reheard.
    - ii. determines that no Ground of Appeal has been upheld, it will dismiss the appeal.
  - i. After a decision is reached by the Appeals Tribunal, clause 9 applies and there is no further right of appeal from the decision of an Appeals Tribunal.

## 8.9 SLSA Referral to the National Sports Tribunal (NST)

- a. Only SLSA can refer matters to the NST. If other Relevant Organisations (i.e., State Centres, Branches, Clubs, or other affiliates) wish to refer matters to the NST, they must first apply to the SLSA Complaints Manager who will consider the nature of the matter and its suitability/eligibility to be considered by the NST.
- b. The NST will apply the Standard of Proof in its arbitration of the Complaint, and otherwise arbitrate the Complaint in accordance with the NST Legislation and may, if applicable, impose a Sanction in accordance with clause 8.3.
- c. The NST will notify the parties of the outcome in accordance with the NST Legislation, following which, clause 9 applies.

# 9 OUTCOME AND CASE CLOSURE

## 9.1 Case Closure

- a. Complaints may be closed under this Policy at any of the following times:
  - i. the Complaint is evaluated as being out of scope of this Policy;

- ii. the Complaint is categorised as a Category 1 Complaint in accordance with clause 7.2 and the Case Categorisation Model, 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 6 (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 7.6, 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 8.1;
  - vi. following investigation, the Respondent accepts or is deemed to have accepted the findings and any Sanction imposed upon them in accordance with clause 8.4; 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 is finalised, and no further action will be taken in relation to the matter under this Policy.

## **9.2 Notification of outcome(s) arising from a Complaints Process**

- a. Unless otherwise provided for under the Complaints Process, the Complaints Manager will notify the Complainant and Respondent of the outcome of a Complaint, following the Process being concluded (and however it has concluded).
- b. Relevant Organisations may, as reasonably required, disclose the matters to relevant Members and/or other Relevant Organisations. There is no appeal against a Relevant Organisation arising from the disclosure of any matter under this clause.
- c. Once the applicable Process (including any appeal) under this Policy has concluded, the decision is final and binding on all parties involved and there is no further right of appeal to any external body or Judiciary.

## **9.3 Implementation**

- a. It is the responsibility of Relevant Organisations to ensure that appropriate Sanctions (or other alternative actions) are undertaken, and that the Relevant Policies are implemented and applied.
- b. Sanctions of expulsion or suspension against persons or other sanctions which place or impose restrictions on a Member's membership must be recorded by the Relevant Organisation in Surfguard. The record should be such that other Relevant Organisations can see a "flag" on that person's membership or otherwise see the sanction that has been imposed.
- c. SLSA and/or a relevant State Centre 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. There is no appeal against SLSA and/or State Centre Relevant Organisation arising from the disclosure of any sanction under this clause.

#### **9.4 Recording Complaints**

- a. The respective Relevant Organisation shall keep records of all Complaints in accordance with the template provided in the Complaints Handling Guideline, for a minimum of 3 years from resolution of the Complaint under this Policy.
- b. Records must be maintained in a secure and confidential place, which may be electronically in the SLS Reporting System.