



# DISCIPLINE, COMPLAINTS, AND APPEALS POLICY

## Preamble and Purpose

1. Equestrian Canada (EC) is committed to the fair and expeditious resolution of complaints, and to utilizing the techniques of discussion, facilitation, and mediation as effective ways to resolve disputes with and among Participants, and to avoid the uncertainty, costs, and other negative effects associated with litigation. For this reason, a mediation process is incorporated within this Policy as set out below.
2. EC acknowledges the development of the Office of the Sport Integrity Commissioner (OSIC) with a comprehensive mandate covering all aspects of Safe Sport. The establishment of the OSIC will continue to improve the Canadian equestrian sport system by adding a new layer of independence and transparency to the disciplinary process for complaints of maltreatment under the UCCMS, increasing protection for all Participants.
3. All Participants shall be bound by EC's Code of Conduct and Ethics and the UCCMS.

## Definitions

4. The following terms have these meanings in this Policy:

<b>“Affected Party”</b>	Any person, as determined by the Hearing Panel or the Complaint Manager, who may be affected by a decision rendered by the Appeal Panel.
<b>“Appeal”</b>	a formal submission in writing to contest a final decision made by EC or a Hearing Panel.
<b>“Appellant”</b>	an individual that is directly affected by a decision and who initiates the appeal of such decision.
<b>“Appeal Panel”</b>	a panel of one as chosen by the Complaint Manager, at their sole discretion, to review and adjudicate upon an Appeal.
<b>“Complaint”</b>	a formal submission in writing on the required form stipulated within this Policy setting out the details of an alleged complaint, violation, breach, or grievance.
<b>“Complainant”</b>	Any person, including EC, making a Complaint.
<b>“Complaint Manager”</b>	an independent third party – such as, but not limited to, practising lawyers – qualified to analyze complaints and appeals and determine whether they are admissible and who is designated by the Chef Executive Officer of EC or their designate. The Complaint Manager will receive all Complaints and Appeals,



determine if the Complaint or appeal falls within the jurisdiction of EC, and oversee the process set out in this Policy. The identity of the Complaint Manager and all contact information is available on the EC website.

<b>“Criminal Code”</b>	The Criminal Code of Canada (Criminal Code, R.S.C. 1985, c. C-46, as amended).
<b>“Days”:</b>	total days, including weekends and holidays.
<b>“Dispute”</b>	a Complaint falling within the jurisdiction of EC and within this Policy.
<b>“Hearing Panel”</b>	a panel of one person as chosen by the Complaint Manager, at their sole discretion, to review and decide a Complaint.
<b>“Investigation”</b>	an inquiry conducted by an investigator appointed by the Complaint Manager, at their sole discretion, to review, interview, gather evidence, and report on the circumstances of any Complaint.
<b>“Participants”</b>	Anyone who holds or has held an EC Licence (licensed/registered coaches), and any individual attending EC-sanctioned events in the capacity of a sport license holder, official, organizer, volunteer, during EC-sanctioned events.
<b>“Office of the Sport Integrity Commissioner (OSIC)”</b>	An independent division of the SDRCC which comprises the functions of the Sport Integrity Commissioner, in line with the policies and procedures of the OSIC.
<b>“Prohibited Behaviour”</b>	Any of the conduct described in EC’s Code of Conduct and Ethics, including but not limited to <i>Maltreatment</i> .
<b>“Respondent”</b>	the Participant or organization against which the Complaint is being made or, in the context of an Appeal, the organization whose final decision is being appealed only in the context of selection disputes.
<b>“SDRCC”</b>	Sport Dispute Resolution Centre of Canada.
<b>“UCCMS”</b>	Universal Code of Conduct to Prevent and Address Maltreatment in Sport (UCCMS), as amended from time to time by the SDRCC.

## Scope, Application, and Administration

5. This Policy applies to disputes with and among *Participants* as defined herein.
6. Words in this Policy denoting one gender shall include all others and references to the singular include the plural and vice versa.
7. This Policy applies to Complaints that may arise in respect to:
  - a) Participants' conduct during EC's activities, and events including, but not limited to, competitions, training camps, travel associated with EC's activities, and any meetings;



- b) Conduct of Licensed Coaches and Registered Coaches outside of EC's business, activities and events where such conduct, in the sole discretion of EC:
  - i) adversely affects relationships within EC and its work and sport environment, and / or is detrimental to the image and reputation of EC; and / or
  - ii) is an alleged breach of the UCCMS.
- 8. Any infractions or complaints occurring within a competition or event will be dealt with by procedures specific to the competition and EC's *Corrective Actions During Events Procedure*. In such situations, disciplinary sanctions will be for the duration of the competition or event only.
- 9. An employee of EC who is a Respondent will first be subject to appropriate disciplinary action per EC's policies for human resources, as well as the employee's Employment Agreement, if applicable. Violations may result in a warning, reprimand, restrictions, suspension, or other disciplinary actions up to and including termination of employment. After appropriate disciplinary action is applied as described in this Section 9, EC reserves the right to implement further discipline in accordance with this Policy.
- 10. EC recognizes that Participants may also be registered with Provincial/Territorial Sport Organizations (PTSOs). EC requires that PTSOs submit discipline decisions involving Participants to EC and EC may refer the matter to the Complaint Manager at its discretion for further discipline, per the *Reciprocation Policy*.
- 11. At their discretion, EC may act as the Complainant if the original Complainant(s) is unwilling or unavailable to participate in the process. Anonymous complaints may be accepted at the discretion of the Complaint Manager, however, anonymity is not guaranteed.

## Adult Representative

- 12. Minors must have a parent/guardian or other adult serve as their representative during the Complaint process, and all communications from the Complaint Manager must be directed to the minor's representative.
- 13. A minor is not required to attend a mediation or oral hearing if one is held. If a minor elects not to participate, no adverse inference may be drawn.

## Facilitation and Mediation

- 14. EC encourages all Participants to communicate openly and to collaborate using problem solving and negotiation techniques to resolve their differences. Opportunities for facilitation and mediation may be pursued at any point in a dispute where appropriate and where the disputing parties agree to engage in that process. This process may be pursued through the SDRCC Early Resolution Facilitation services, or other mechanisms using trained mediators who are acceptable to the parties.
- 15. In addition to a consensual mediation process as set out in Section 14 above, the Complaint Manager shall have the authority to require that the parties engage in mediation if the Complaint Manager considers this appropriate at their sole discretion. Any refusal or difficulties in engaging in such a process required by the Complaint Manager by any party will be a factor considered in any deliberations by a Hearing Panel.
- 16. EC will be considered a party in the mediation process and must agree to the settlement agreement found between the complainant(s) and respondent(s).



## Provisional Measures

17. Equestrian Canada may determine that an alleged incident is of such seriousness as to warrant the imposition of a provisional measure against the Respondent by the Chief Executive Officer of Equestrian Canada (or their designate) pending completion of an investigation, assessment and/investigation by the OSIC, criminal process, hearing, or a decision of the Hearing Panel.
18. Provisional measures should be evaluated with consideration to and weighing of the following factors:
  - a. the seriousness of the allegations and the facts and circumstances of the case;
  - b. the safety and well-being of the sport community;
  - c. potential risks and prejudice from action and inaction, with safety being paramount; and
  - d. the best interest of the sport and those who participate in it, including the views of the person(s) directly impacted.
19. Any Respondent against whom a provisional measure is imposed may make a request to the Equestrian Canada Complaint Manager or Hearing Panel (if one has already been appointed) to have the provisional measure modified or lifted. In such circumstances, Equestrian Canada shall be provided with an opportunity to make submissions, orally or in writing, regarding the Respondent's request to have their provisional measure lifted. Provisional measures shall only be lifted in circumstances where the Respondent establishes that it would be manifestly unfair to maintain the provisional measure against them.
20. Any decision made pursuant to section 19 is not subject to Appeal.

## A. COMPLAINT PATH

21. All Active Equine Welfare complaints will be administered through the EC Complaint Manager's path regardless of the potential OSIC jurisdiction over the Respondent.
22. If the Complaint does not lie within the OSIC or EC's jurisdiction, the Complaint will be dismissed. This decision by the EC Complaint Manager shall be a final decision and shall not be subject to Appeal.
23. In the case of an inconsistency or conflict between the UCCMS and EC's policies, the policies of EC shall be deemed to take priority, except for Complaints that the OSIC has accepted.

## OSIC Path

24. If a Respondent in a Complaint is an OSIC Participant, defined by EC, the Complaint must be directed to OSIC to be addressed by the policies and procedures established by OSIC.
25. As a Program Signatory to the OSIC, EC will ensure that any sanctions or measures imposed by the OSIC's Director of Sanctions and Outcomes ("DSO") will be implemented and respected within its jurisdiction once EC receives appropriate notice of any sanction or measure from the OSIC.



## EC Complaint Manager Path

26. Complaints will be addressed according to the process outlined by the EC's Complaint Procedure in this Policy if:
  - a. Respondent in a Complaint is not an OSIC Participant; and/or
  - b. OSIC determines that a Complaint does not fall under their jurisdiction and refers the Complaint to EC;
  - c. It is an Active Equine Welfare matter;
  - d. The Complaint properly falls within the jurisdiction of EC pursuant to section 7 of this Policy.

## B. EC'S COMPLAINT PROCEDURE

### Initiations of Complaints

27. Any Complaint must be in writing and must be on the *Complaint Reporting Form*, which is set out on the EC website, as amended from time to time. A fulsome account of the circumstances leading to the Complaint, including dates, locations, witnesses, any steps taken to resolve the issues prior to filing the Complaint, any applicable evidence, and a complete description of the activity or conduct at issue is required, as this will greatly assist in the timely resolution of the issues.
28. The completed *Complaint Reporting Form* must be forwarded to the Complaint Manager by the Complainant. All contact information for the Complaint Manager is set out on the EC website, as amended from time to time.
29. Following receipt of a Complaint, the Complaint Manager shall determine if the Complaint lies within the jurisdiction of EC and within the scope of this Policy. If the Complaint Manager has any questions or requires further information to make this determination, such information will be requested from the Complainant in writing. Any such requested further information must be provided by the Complainant within five (5) days of the request.
30. If the Complaint is not within EC jurisdiction or within the scope of this Policy, the Complaint Manager shall advise the Complainant in writing within 10 days of receipt of the Complaint or, if further information has been requested, within 10 days of receipt of the further information from the Complainant. This decision by the Complaint Manager shall be a final decision and shall not be subject to Appeal.
31. Once it is determined by the Complaint Manager that the Complaint is within the jurisdiction of EC and is governed by this Policy, the Complaint Manager will advise the Respondent of the nature and particulars of the Complaint and request written responses to the Complaint from the Respondent. Such responses must be provided within 14 days of the request.
32. The Complaint Manager may, at any time or stage of the Complaint process:
  - a) determine that the Complaint should be stayed or dismissed if it is primarily a private civil or commercial dispute between the parties. This decision may not be appealed;
  - b) make written requests for any further information from the Complainant or the Respondent that the Complaint Manager considers appropriate to properly consider the Complaint. Such further information must be provided to the Complaint Manager within 10 days of the request;
  - c) require telephone interview(s) with the Complainant or the Respondent to canvass any questions or concerns of the Complaint Manager arising from the Complaint;
  - d) request information and documentation in respect to the Complaint from EC's Safe Sport Representative, which must be provided within 5 days of the request;



- e) determine that the Complaint does not warrant a Hearing or an Investigation and advise the Complainant in writing of that decision. This decision may not be appealed;
- f) determine that the Complaint does warrant an Investigation. This decision may not be appealed;
- g) determine that the Complaint should proceed to a Hearing without an Investigation. This decision may not be appealed;
- h) engage in discussions and/or meetings with the parties to attempt to arrive at a resolution of the Complaint and, if applicable, an agreed upon sanction;
- i) require that the parties engage in a mediation process to try to resolve the dispute in an amicable and cost-effective manner. However, the Complaint Manager may only require this mediation process on one occasion in the process of any Complaint.
- j) determine that the matter of the complaint can be resolved without a mediation or hearing and shall issue a decision. The decision of the Complaint Manager is final and may not be appealed.
- k) direct that the timelines outlined by this Policy be revised if the circumstances of the complaint are such that adhering to the outlined timelines is not feasible.
- l) Consolidate Complaints, or direct that Complaints be heard together, if the Complaints involve allegations arising from the same or similar incidents, and / or involve the same parties.

## Counsel or Advisor

- 33. The Complainant and the Respondent may choose to be assisted and/or represented by counsel or an advisor at any time during the Complaint process, but each party is responsible for the costs of their own counsel.
- 34. If EC requests to make submissions as permitted by any section of this Policy, or is requested to do so by the Complaint Manager or Panel, if one has been appointed, EC's legal costs may be ordered payable by the Complainant and / or Respondent, as decided by the Complaint Manager or Panel, if one has been appointed.

## Investigation

- 35. If the Complaint Manager determines that an Investigation of a Complaint is required, the Complaint Manager shall select an investigator who is independent of EC and has no involvement directly or indirectly with the dispute or any of the parties of the dispute to conduct the Investigation as directed by the Complaint Manager. The investigator shall carry out the required investigation in a timely manner and shall provide a written report of that Investigation (the Report) to the Complaint Manager, the parties and EC.
- 36. The Complainant and the Respondent are required to fully cooperate with any Investigation. Any failure by any party to cooperate with an Investigator will be a factor considered in any deliberations by a Hearing Panel. If a Complaint by a Complainant (including anonymous complainants) has been investigated, and the Complaint is found to be frivolous and / or vexatious, the Complainant will be the subject of a Complaint and be responsible for the entire cost of the Investigation and Complaint Manager fees.
- 37. Within 14 days of receipt of the Report, the Complaint Manager shall determine if a Hearing is or is not warranted and shall advise all parties in writing of that decision, which may not be appealed.



## Selection of Hearing Panel

38. The Complaint Manager shall, within 14 days of determining that a Hearing is warranted:
  - a) determine that the Hearing shall proceed with a Panel of one adjudicator;
  - b) select adjudicator(s) for the Panel who have no relationship or involvement with the dispute outlined in the Complaint, or with any of the parties, either directly or indirectly. The decision regarding the composition of the Panel shall be at the sole discretion of the Complaint Manager; and,
  - c) will advise the Complainant and the Respondent as to the identity of the Hearing Panel member.

## Preliminary Conference

39. The Hearing Panel may determine that the circumstances of the Complaint warrant a Preliminary Conference to consider issues pertaining to the conduct of the Hearing, including but not limited to:
  - a) the format of the Hearing;
  - b) timelines for the exchange of documents and other information;
  - c) clarification of the issues in dispute;
  - d) order and procedure of the Hearing;
  - e) identification of witnesses; and,
  - f) any other procedural matter which may assist in the Hearing, including the identification of any other person who may require notice of the Hearing, or the requirement for specific expert evidence from any party or from EC.
40. Any Preliminary Conference should be held within 15 days of the appointment of the Hearing Panel, unless the Hearing Panel orders otherwise.

## Conduct of the Hearing

41. The Complainant has the responsibility to prosecute the Complaint filed and prove their complaint on a balance of probabilities, including filing all relevant documents, presenting all relevant witnesses, and taking any and all additional steps as may be required by the Hearing Panel or the Complaint Manager.
42. EC may request the opportunity to make submissions to the Hearing Panel, which will be considered and determined by the Hearing Panel at its sole discretion. The Hearing Panel may also request submissions from EC or any other organization or person on any issue. The decision of the Hearing Panel shall be final and not subject to appeal.
43. The Hearing Panel is responsible for the structure, conduct, and timing of the Hearing, and will communicate all directions in respect to the Hearing to the parties via the Complaint Manager. All timelines in respect to the Hearing may be extended or amended by the Hearing Panel and communicated to the parties.
44. The Hearing Panel may rely upon the findings of the investigation report.

## The Hearing

45. The Hearing should proceed within 30 days of the appointment of the Hearing Panel. The Complainant and Respondent shall each be advised in writing of date, place, and time of the Hearing at least 20 days prior to the Hearing.
46. In particular and without limiting the generality of the forgoing, the Hearing Panel will determine how the Hearing will be conducted (such as through presentation of witnesses, documentary evidence



- (including the Investigation Report), or a combination of the two), and will outline the process and timelines to be followed to the parties in writing at least 20 days prior to the Hearing.
47. Copies of any written documents which any of the parties wish to have considered by the Hearing Panel shall be provided to all the parties, through the Complaint Manager, in advance of the Hearing.
  48. The Hearing Panel may request that any other Participants or witnesses participate and give evidence at the Hearing.
  49. The Hearing Panel may allow as evidence at the Hearing any oral evidence and document or thing relevant to the subject matter of the Complaint, but may also exclude irrelevant, frivolous, or unduly repetitive evidence, and shall place such weight upon the evidence as it deems appropriate.
  50. In fulfilling its duties, the Hearing Panel may obtain independent advice.
  51. A written decision shall be provided by the Hearing Panel to all parties and EC within 30 days of the completion of the Hearing. At the time the decision is distributed, the Hearing Panel will provide an opportunity for:
    - a) the Complaint Manager to advise the Hearing Panel and the parties in writing of any circumstances during the Complaint Process but prior to the selection of the Hearing Panel that the Complaint Manager believes could potentially be considered in any determination of sanctions provided within 10 days of the decision; and,
    - b) EC to provide submissions to the Hearing Panel and all parties on the appropriate sanctions provided within 10 days of the decision.
  52. The decisions of the Hearing Panel are final, subject to the appeal provisions of this Policy.

## Other proceedings and recognition of sanctions

53. Facts Accepted by Courts or Professional Disciplinary Tribunals
  - a) Facts accepted by a criminal court, by a civil court or by a professional disciplinary tribunal of competent jurisdiction shall be admissible as evidence within the applicable *complaint* enforcement process, as allowable by applicable law.
54. Criminal Code Convictions
  - a) Automatic Sanctions : A Participant convicted of a *Criminal Code* offence for conduct considered to be *Prohibited Behaviour* shall be automatically sanctioned, subject to a right to challenge only the sanction.
  - b) Convictions Under Appeal: If the criminal conviction is under appeal, the *Participant* shall continue to serve the disciplinary sanction until such time as the conviction is overturned and is not subject to a further appeal, or the sanction is completed, whichever is earlier.
  - c) Convictions Successfully Overturned: If the criminal conviction is successfully overturned, EC's Code of Conduct and Ethic's violations arising from the same situation may still be asserted and sanctions imposed against the *Participant*. In such cases, evidence of facts accepted by the criminal court shall be admissible within the applicable *complaint* enforcement process, as allowable by applicable law.
55. Findings from Other Proceedings
  - a) A Participant shall be deemed to have violated EC's Code of Conduct and Ethics if found guilty of an offence or of misconduct considered to be *Prohibited Behaviour* by:
    - i. a foreign criminal court;
    - ii. a professional disciplinary tribunal of competent jurisdiction;
    - iii. a sport organization's disciplinary process or a specialized sports tribunal; or
    - iv. the Universal Code of Conduct to Prevent and Address Maltreatment in Sport.





- b) If a Participant has been deemed under section 55 a) to have violated EC's Code of Conduct and Ethics, they shall be automatically sanctioned, with consideration given to any sanctions imposed in such other proceeding, subject to a right to challenge:
  - i. the sanction; or
  - ii. the deemed violation, based on a violation of procedural fairness and/or natural justice in the relied-upon proceeding.

## Sanctions

56. The Hearing Panel will order a mandatory fine for violations of EC Policies, which are attached in the Schedule of Fines. The Hearing Panel may also apply the following sanctions, singularly or in combination:
  - a) verbal or written reprimand;
  - b) verbal or written apology;
  - c) removal of some or all privileges;
  - d) suspension from certain teams, events, or activities;
  - e) suspension from all EC's activities for a designated period;
  - f) suspension of funding from EC or other sources;
  - g) expulsion from EC; and,
  - h) any other sanction considered appropriate for the offense.
57. Unless the Hearing Panel determines otherwise, any disciplinary sanctions will begin immediately. Failure to comply with a sanction as determined by the Hearing Panel will result in an automatic suspension until such time as compliance occurs.
58. Records of all decisions of the Hearing Panel will be provided to and be maintained by EC. The decision will be considered a matter of public record and published according to the terms of this Policy.
59. The following sanctions are presumed to be fair and appropriate for the *Maltreatment* listed in the UCCMS, but the *Respondent* may rebut these presumptions:
  - a) *Sexual Maltreatment* involving a *Minor* shall carry a presumptive sanction of permanent ineligibility;
  - b) *Sexual Maltreatment*, *Physical Maltreatment* with contact, *Grooming*, and *Prohibited Behaviour* described in Sections 5.9 to 5.14 of the UCCMS shall carry a presumptive sanction of either a period of suspension or eligibility restrictions;
  - c) While a *Respondent* has pending charges under the *Criminal Code* regarding allegations of a crime against a person, if justified by the seriousness of the offence, the presumptive sanction shall be a period of suspension until a final determination is made by the applicable UCCMS enforcement process and / or the Criminal Courts of Canada. Criminal Code offenses may include, but are not limited to:
    - iii. any child pornography offenses;
    - iv. any sexual offenses;
    - v. any offense of physical violence;
    - vi. assault; or,
    - vii. any offense involving the trafficking of illegal drugs.
60. Failure to comply with a previously imposed sanction will result in automatic suspension until such time as compliance occurs.



## Confidentiality

61. The Complaints process is confidential and involves only the parties, the Complaint Manager, EC, the Hearing Panel, witnesses, and any persons involved in advising or providing information to the Complaint Manager or Hearing Panel. Once initiated and until a decision is released, none of the parties will disclose confidential information relating to the Complaint to any person not involved in the Complaints process.

## Records and Distributions of Decisions

62. Other persons and organizations, including but not limited to sport organizations and clubs, may be advised of any decisions rendered in accordance with this Policy.
63. For transparency and educational purposes, EC will make any discipline decision publicly available. This may include publishing the decision on their website or other applicable and appropriate venues.
64. Prior to publishing the decision, EC will remove any confidential or sensitive material from the decision, including any identifying information about individual persons named, unless these persons are subject to a sanction and/or discipline in the decision.
65. Identifying information regarding minors will never be published.
66. Other individuals or organizations, including but not limited to, Provincial/Territorial sport organizations, competition organizers, may be advised of any decisions rendered in accordance with this Policy.
67. EC recognizes that a publicly available searchable database or registry of Respondents who have been sanctioned, or whose eligibility to participate in sport has in some way been restricted, may be maintained and may be subject to provisions in the Universal Code of Conduct to Prevent and Address Maltreatment in Sport (UCCMS).
68. Records of all decisions will be maintained by EC.

# C. APPEAL PROCEDURE

## Grounds for Appeal

69. Not every decision by EC may be appealed. For example, an appeal cannot be brought on substantive grounds relating to the facts found by a Hearing Panel or the merits of a decision. Appeals may be heard on the following procedural grounds only:
  - a) a decision was made by EC incorrectly applying or misinterpreting the policies and rules of EC or the UCCMS;
  - b) a decision was made that was influenced by bias; or,
  - c) a decision was made that the decision-maker did not have the authority or jurisdiction to make.

## Applicability

70. This Appeal Procedure will apply to decisions relating to:
  - a) eligibility;
  - b) selection;
  - c) conflict of interest;
  - d) breach of EC policy; or,



- e) membership;
71. The policy will not apply to decisions relating to:
- a) employment;
  - b) infractions for doping offenses relating to the application of the Canadian or World Anti-Doping program;
  - c) the sport rules which govern EC competition;
  - d) selection criteria, quotas, polices, and procedures established by entities other than EC;
  - e) substance, content, and establishment of team selection criteria;
  - f) coach or volunteer appointments and the withdrawal or termination of those appointments;
  - g) budgeting and budget implementation;
  - h) EC's operational structure and committee appointments;
  - i) decisions or discipline arising within the business, activities, or events organized by entities other than EC (appeals of these decisions shall be dealt with pursuant to the policies of those other entities);
  - j) commercial matters for which another appeals process exists under a contract or applicable law;
  - k) decisions or discipline made by the OSIC; or
  - l) non-appealable decisions made pursuant to the Discipline and Complaints portion of the policy.

## Time Requirements

72. All Appeals shall be administered by the Complaint Manager. All timelines set out in this Policy prior to the conduct of the Appeal Hearing may be extended at the sole discretion of the Complaint Manager or waived/amended by written agreement of all parties.

## Initiation of an Appeal

73. Any Appeal must be brought within 21 days of the decision being appealed or the receipt of a decision from the Hearing Panel. All Appeals must be in writing and must be on the Notice of Intention to Appeal Form, which is set out on the EC website, as amended from time to time.
74. The fee for filing an appeal of decisions made pursuant to the Discipline provisions of this Policy is \$1000.00, which may be waived by EC in its sole discretion. This fee is non-refundable. If a Respondent in a Complaint appeals a sanction and / or finding of a breach of the Code of Conduct and Ethics or UCCMS and is unsuccessful in their appeal, they will be responsible for the costs of the Complaint Manager and Appeal Panel up to a maximum of \$15,000.00, including the appeal filing fee.
75. The 21-day period for bringing an Appeal is a strict deadline that must be respected. The deadline may only be extended by the Complaint Manager in rare circumstances where the Appellant is able to provide a written request outlining compelling reasons why it was not possible for the Appellant to meet the 21-day deadline. The decision to allow or not allow an Appeal to proceed after the 21-day deadline is at the sole discretion of the Complaint Manager and may not be appealed.
76. The completed Notice of Intention to Appeal Form must be forwarded to the Complaint Manager by the Appellant.
77. Following receipt of an Appeal, the Complaint Manager shall determine if the Appeal can be accepted based on the grounds of Appeal set out in Section 65 of this Policy. If the Complaint Manager has any questions or requires further information to make this determination, such information will be requested from the Appellant in writing. Any such requested further information must be provided by the Appellant within five (5) days of the request.
78. If the Appeal contains insufficient grounds for Appeal as set out in Section 65 of this Policy, the Complaint Manager shall advise the Appellant in writing within 10 days of receipt of the Appeal or, if



further information is requested, within 10 days of receipt of the further information from the Complainant. No further steps shall be taken with respect to the Appeal.

79. Complaint manager has the ability to automatically send an appeal to the SDRCC, subject to section 91 and in accordance with section 80 a).

## Submissions

80. Once an Appeal is accepted, the Complaint Manager
- a) May in their sole discretion, direct the appeal to the SDRCC to be heard pursuant to the Canadian Sport Dispute Resolution Code. The Complaint Manager may make this decision, which is not appealable, when the matter is of such urgency or nature that the SDRCC is the preferred mechanism for the resolution of the appeal;
  - b) Will determine, in collaboration with EC, whether there are any Affected Parties;
  - c) Will advise all Respondents and Affected Parties of the nature and particulars of the Appeal and provide a copy of the *Notice of Intention to Appeal Form* to all Respondents and Affected Parties;
  - d) Will request written submission(s) from the Appellant with respect to the position taken by the Appellant on the Appeal, provided within 14 days of request. The Appellants' submissions will be provided to all Respondents; and,
  - e) Will request written submissions from the Respondents and Affected Parties in reply to the submissions of the Appellant, provided within 14 days of provision of the Appellant's submissions. All submissions from the Respondents and Affected Parties will be provided to the Appellant.
81. Appeals are not a rehearing of the matter, and in particular are not a forum in which to relitigate the findings of fact or to recall witnesses. The written submissions should be fulsome and outline all the positions taken and the basis for those positions by each of the parties to the Appeal as these submissions, and the oral argument of the parties or their counsel arising from those submissions, are the evidentiary basis on which the Appeal Panel will proceed.

## Counsel or Advisor

82. Any Appellant, Respondent and Affected Party may choose to be assisted and/or represented by counsel or an advisor at any time during the Appeal process, but each party is responsible for the costs of any person that they retain.

## Selection of Appeal Panel

83. The Complaint Manager shall, within 14 days of receipt of the submissions from the parties:
- a) appoint an Appeal Panel of one adjudicator;
  - b) select an Appeal Panel who has no relationship or involvement with the dispute outlined in the Appeal, or with any of the parties, either directly or indirectly. The decision regarding the composition of the Appeal Panel shall be at the sole discretion of the Complaint Manager, whose decision shall be final;
  - c) advise all parties as to the identity of the Appeal Panel member(s); and,
  - d) provide the Appeal Panel with copies of the written submissions from each party.
84. The Appeal Panel members, if more than one, shall select a Chairperson amongst themselves and advise the Complaint Manager of that selection.



85. The Appeal Panel is responsible for the structure, conduct, and timing of the Appeal, and will communicate all directions in respect to the Appeal to the parties via the Complaint Manager. All timelines in respect to the Appeal may be extended or amended by the Appeal Panel and communicated to the parties.

## Appeal

86. The Appeal shall proceed within 21 days of the appointment of the Appeal Panel. Each of the parties shall be advised in writing of date, place, and time of the Hearing at least 10 days prior to the Appeal.
87. In particular and without limiting the generality of the forgoing, the Appeal Panel will determine how the Appeal will be conducted and will outline the process to be followed to the parties in writing at least 10 days prior to the Appeal. The Appeal is not decided by document review.
88. A written decision shall be provided by the Appeal Panel to each party within 30 days of the completion of the Appeal.
89. Subject to Section [90], the decisions of the Appeal Panel are final.

## Appeals to the SDRCC

90. For the purposes of this Policy, the SDRCC will have jurisdiction to deal with a matter in the following circumstances:
- 1) Pursuant to Section [79-80], the Complaint Manager determines that an Appeal of a decision covered by Section 70 should be directed to the SDRCC.
  - 2) A Party files an appeal to the SDRCC of the Appeal Panel's final determination of the matter;
  - 3) All Parties jointly agree to submit their dispute to the SDRCC for final resolution,
  - 4) EC is required through its federal funding agreement or other agreements entered into by EC to allow appeals to the SDRCC.
91. Where SDRCC dispute resolution services are available to the Parties on a fee-for-service basis only (i.e. not covered under SDRCC federal funding):
- 1) EC shall be responsible for the costs of the SDRCC services when the matter arises out of the application of Sections [79-80] of this policy.
  - 2) For all other matters, EC shall determine, at its entire discretion, whether it will be responsible for any of the costs of the SDRCC services and, if so, in what proportion. If EC declines to cover the cost of SDRCC services, paying parties must enter into an agreement with the SDRCC and pay a retainer prior to the case being open by the SDRCC.
92. The following decisions are **not** appealable to the SDRCC:
- 1) A decision of the Appeal Panel on a preliminary issue.
  - 2) Any decision within this Policy that is not appealable. For further clarity, if a decision is not appealable within this Policy, it cannot be appealed to SDRCC.
  - 3) Decisions covered by Section 71.