Australian Government | NATIONAL SPORTS TRIBUNAL

CONDUCT AND DISCIPLINARY POLICY

Policy Name:	**Conduct and Disciplinary Policy**
Date of Approval:	**September 2022**
Policy Coverage:	Disputes arising from a breach of a policy dealing with prohibited conduct and disciplinary measures, and either: - not covered by the NIF, or - SIA has determined that the matter is best handled under a non-NIF policy.
Date of Review:	

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1. Background

1.1. This Policy:

(a) Sets out the processes for resolving conduct and disciplinary disputes arising from an individual or organisation breaching an Eligible Policy of the Sport;

(b) Can be adopted at the Darts Australia Inc, Member Organisation and Affiliate level without amendment; and

(c) Does not cover conduct and disciplinary matters arising under policies that form part of the National Integrity Framework.

1.2. Definitions

In this Policy the following words have the corresponding meaning:

Affiliate means a member of a Member Organisation that is an incorporated association or company, including (as applicable) clubs, districts, regions and zones.

Alleged Breach has the meaning given in clause 2.1.

Alternative Dispute Resolution is a collective term for processes, such as mediation, to resolve disputes without the need for arbitration that will be applied to resolve the Alleged Breach in accordance with clause.

Appeals Tribunal means the appeals tribunal established under clause 7, being either the NST Appeals Division or an Internal Appeals Tribunal as provided in this Policy.

Breach Offer means the procedure set out in clause 5.4.

Complainant means one or more persons who makes a Complaint about an Alleged Breach by a Respondent in accordance with this Policy.

Complaint has the meaning set out in clause 2.2.

Complaint Form means the complaint form included in Schedule 1.

Complaints Manager means the person appointed by a Sport Organisation to manage Alleged Breaches under this Policy, who must not be the same person as the Decision Maker for the relevant Alleged Breach.

Decision Maker means the person appointed by a Sport Organisation to make certain decisions in relation to the resolution of Alleged Breaches under this Policy, who must not be the same person as the Complaints Manager for the relevant Alleged Breach.

Disciplinary Action has the meaning set out in clause.

Eligible Policy means the constitution and all by-laws, rules, regulations, policies and procedures (howsoever named) and directions of a Sport Organisation except:

(a) The policies that form part of the National Integrity Framework;

(b) The Personal Grievances Policy; and

(c) Any other policy in respect of which a Sport Organisation expressly excludes the application of this Policy.

Hearing Tribunal means the first instance tribunal established under clause 6, being either the NST General Division or an Internal Tribunal as provided in this Policy.

Internal Appeals Tribunal means an internal appeals tribunal established by a Sport Organisation under clause 7.

Internal Tribunal means an internal hearing tribunal established by a Sport Organisation under clause 6.

Legal Practitioner is a person holding a current practising certificate as a lawyer or barrister in any Australian jurisdiction.

Member means a member of Darts Australia Inc or other Sport Organisation admitted in any category of membership in accordance with the provisions of the Darts Australia Inc Constitution or the Sport Organisation Constitution, as the case may be.

Member Organisation means a sporting organisation that is a member of Darts Australia Inc. in accordance with the provisions of the Darts Australia Inc. Constitution.

National Integrity Framework means the set of “National Integrity Framework” integrity policies produced by Sport Integrity Australia from time to time.

Darts Australia Inc. means of Darts Australia Inc.

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.

NST Excluded Matter means an Alleged Breach that is a kind of dispute that is expressly excluded from the NST's jurisdiction.

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

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

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

Process means the chosen process for resolving an Alleged Breach under this Policy, with each option outlined in clause 5, including Alternative Dispute Resolution, Warning Procedure and Breach Offer.

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

Provisional Action means action taken in accordance with clause 4.6.

Respondent means the person(s) who is alleged to have breached an Eligible Policy and is the subject of an Alleged Breach, and who must be within a category of person listed in clause 2.5.

Sanction means a sanction imposed on a Respondent for breaching an Eligible Policy in accordance with clause 5.6.

Sport means the sport of [sport name], and a reference to Sport means collectively [NSO], Member Organisations and Affiliates.

Sport Organisation means Darts Australia Inc. or a particular Member Organisation or Affiliate that has adopted this Policy.

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.

Warning Procedure means the procedure set out in clause 5.3.

Whistleblower Policy means a policy which is compliant with the requirements of section 1317AI(1) of the *Corporations Act 2001* (Cth).

2. Preliminary Matters

2.1. What is an Alleged Breach?

An Alleged Breach is an allegation or information that a person has breached an Eligible Policy and includes both a Complaint and Disciplinary Action.

2.2. What is a Complaint?

A Complaint means a complaint lodged with a Sport Organisation in accordance with clause 3.1.

2.3. What is Disciplinary Action?

(a) Disciplinary Action means action brought against or proposed to be brought against a Respondent by the Sport Organisation, alleging a breach of one or more of its Eligible Policies.

(b) Disciplinary Action may arise from the Sport Organisation becoming aware of allegations against, or information concerning, a Respondent by any manner, including via a Complaint.

2.4. What is not an Alleged Breach?

An Alleged Breach does not include an allegation or information:

(a) Covered by any of the policies that form part of the National Integrity Framework;

(b) That constitutes a Protected Disclosure;

(c) That is solely a Personal Grievance;

(d) That is mischievous, vexatious or knowingly untrue;

(e) Where the proposed respondent is excluded by clause 2.6; or

(f) That does not refer to a breach of an Eligible Policy.

2.5. **Who can be a Complainant?**

A Complainant can be any person or organisation, including Darts Australia Incor a Sport Organisation, who has information that an Alleged Breach of an Eligible Policy has occurred.

2.6. **Who can be a Respondent?**

(a) A Respondent must be:

(i) A Member;

(ii) Darts Australia Inc. or other Sport Organisation; or

(iii) A person or organisation otherwise bound by the Eligible Policy they are alleged to have breached.

(b) A Respondent cannot be:

(i) A person that is neither a Member nor bound by the Eligible Policy they are alleged to have breached; or

(ii) A person that the relevant Sport Organisation has no legal jurisdiction over.

(c) A person or organisation who was bound by the Eligible Policy that they are alleged to have breached at the time that they allegedly committed the breach, who would otherwise cease to have been bound by that Eligible Policy, may still be a Respondent if they were bound by this Policy at the time the Complaint was made or when they became aware that a complaint may be made against them.

(d) Once a Complaint has been made under this Policy, the Respondent will continue to be bound by this Policy and the relevant Eligible Policies in respect of the Complaint until the Process with respect to that Complaint has been finalised in accordance with this Policy.

(e) A Respondent cannot be a person or organisation that Darts Australia Incor a Sport Organisation has no jurisdiction over.

2.7. **Standard of Proof**

(a) The standard of proof that applies to all decisions made under this Policy (including by a Hearing Tribunal) is “balance of probabilities”.

(b) For a Hearing Tribunal to find something has been proven on the balance of probabilities, it must be satisfied that on the evidence put before it the alleged fact or matter is more probable than not. In reaching this conclusion, the Hearing

Tribunal must take into account all relevant factors including the impact of the potential sanctions that may be imposed if the allegations are proven.

2.8. **Confidentiality**

(a) All Alleged Breaches (and all information disclosed in relation to them), will be kept confidential by the Sport Organisation, and will not be disclosed to any third parties, except as provided in this clause.

(b) A Sport Organisation may make the following disclosures:

(i) To the parties to an Alleged Breach (Respondent and the Complainant) to ensure a fair process;

(ii) To any person to facilitate the proper handling of the Alleged Breach, including any Provisional Action, under this Policy;

(iii) To external agencies so they can deal with the alleged conduct (e.g., Sport Integrity Australia, law enforcement or regulatory authorities, a child protection agency, State/Territory fair trading authority, the Australian Securities & Investments Commission);

(iv) To Members or other Sport Organisations to inform them of relevant Sanctions or Provisional Action imposed;

(v) To any third party for the primary purpose of:

(A) Preventing or lessening a risk to the safety, health or wellbeing of a person; or

(B) Protecting children participating in a sport; or

(C) Protecting the safety of participants in a sport; and

(vi) As required by law, any court or the NST.

2.9. **Failure to cooperate**

(a) Persons bound by this Policy must cooperate fully with the Process chosen to resolve an Alleged Breach.

(b) The Decision Maker, an investigator or a Hearing Tribunal or Appeals Tribunal may draw an inference adverse to the Respondent based on a Respondent's failure or refusal, after a request has been made in a reasonable time in advance, to answer any relevant question and/or participate in the relevant chosen Process. The Respondent must be made aware of such an inference being drawn in relation to any particular allegation forming part of an Alleged Breach.

2.10. **Vulnerable Persons**

(a) Where a Complainant or Respondent is a Vulnerable Person, the parent or guardian of the Vulnerable Person may act on behalf of the Vulnerable Person and accompany them throughout any Process, including at any interview, Alternative Dispute Resolution process, or Hearing Tribunal or Appeals Tribunal.

(b) Darts Australia Inc. and Sport Organisations will have regard to the guide entitled "Complaint Handling Guide: Upholding the rights of children and young people" issued by the National Office for Child Safety in managing Complaints made on behalf of or involving Vulnerable Persons, currently available at Complaint Handling Guide: Upholding the rights of children and young people (pmc.gov.au), or such other guide that may replace it.

(c) This clause is at all times subject to clauses 6.1(b) and 6.2(b) of this Policy and clause 14(d) of Schedule 4.

3. How to make a Complaint

3.1. Submitting a Complaint

(a) A person or organisation (including a Sport Organisation) may submit a Complaint by completing the Complaint Form located at Schedule 1 and submitting it to the Sport Organisation at the email address located on the front cover of this Policy, as soon as reasonably possible following the Alleged Breach.

(b) A Complaint Form may only be submitted on behalf of Darts Australia Inc. or other Sport Organisation by the President. of the organisation.

(c) A Complaint Form may be submitted by a parent or guardian on behalf of a Vulnerable Person.

(d) A Complaint Form must be completed in full at the time of submission. Where it is not, the Sport Organisation is not obliged to process the Complaint. The Sport Organisation must return an incomplete Complaint Form to the Complainant.

(e) The Complaints Manager must send the Complainant an acknowledgement of receipt, once a fully completed Complaint Form is submitted.

3.2. Withdrawing a Complaint

(a) A Complainant may withdraw their Complaint at any time before a finding under clause 5.1.

(b) Withdrawing a Complaint must be done by writing to the relevant Complaints Manager from the same contact address used in the Complaints Form, or another contact address that has been previously notified to the Complaints Manager.

3.3. Commencing Disciplinary Action

(a) Where the Sport Organisation is advised or becomes aware of an allegation or considers that a Respondent has breached an Eligible Policy, it may commence Disciplinary Action.

(b) Information or allegations leading to the Sport Organisation commencing Disciplinary Action under clause 3.3(a) may arise in any manner other than through lodgement of a Complaint Form.

(c) The Sport Organisation is not obliged to undertake Disciplinary Action in response to any information or allegations under this clause.

3.4. Who is the Proper Recipient?

(a) A Complaint must be submitted at, and Disciplinary Action commenced at, the level of the Sport at which the allegations the subject of the Alleged Breach occurred.

(b) For the purposes of clause 3.4(a), allegations the subject of an Alleged Breach occur at the:

(i) National level where they relate to behaviour, an incident or circumstances that occurred at or involve individuals operating at the national level;

(ii) State level where they relate to behaviour, an incident or circumstances that occurred at or involve individuals operating at the State level; or

(iii) Affiliate level where they relate to behaviour, an incident or circumstances that occurred at or involve individuals operating at the Affiliate level.

(c) The Complaints Manager may, upon receipt of a Complaint or information that may lead to Disciplinary Action, seek to refer it to a more appropriate level of the Sport in accordance with clause 4.4(d).

(d) Alleged Breaches shall be dealt with by the level of the Sport at which they occurred unless referred by an Affiliate to a Member Organisation, or Member Organisation to of Darts Australia Inc., and accepted by the Member Organisation or Darts Australia Inc. in their absolute discretion.

(e) Where a request is made to refer an Alleged Breach under clause 4.4(d), the Member Organisation or Darts Australia Inc. must consider:

(i) Any conflict of interest that may arise regarding resolution at the Affiliate/ State level;

(ii) The nature and seriousness of the Alleged Breach;

(iii) The length of time the Alleged Breach has been unresolved; and

(iv) Whether the Affiliate or Member Organisation has made reasonable efforts to resolve the Alleged Breach.

(f) A Member Organisation or Darts Australia Inc. is not obliged to deal with an Alleged Breach that occurred at a lower level of the Sport. In such instances, they may:

(i) Refer a Complainant to the correct level; or

(ii) Forward the information concerning potential Disciplinary Action to the relevant Member Organisation or Affiliate.

4. How to handle Alleged Breaches

4.1. Initial Threshold Questions

(a) Upon receipt of a Complaint Form or information that may lead to Disciplinary Action, the Complaints Manager must initially determine whether it:

(i) Is covered by a policy that forms part of the National Integrity Framework, in which case it should be reported to the Darts Australia Inc. National Integrity Manager, or Sport Integrity Australia if Darts Australia Inc. does not have a National Integrity Manager;

(ii) Is a Protected Disclosure, in which case it must be dealt with under the relevant Sport Organisation Whistleblower Policy and the Complainant or discloser notified under clause **Error! Reference source not found.**;

(iii) Is solely a Personal Grievance;

(iv) Is mischievous, vexatious or knowingly untrue;

(v) Involves a proposed respondent who is excluded by clause 2.6; or

(vi) Does not refer to a breach of an Eligible Policy

(the **Initial Threshold Questions**).

(b) In the case of clause 4.1(a)(i), the process under this Policy is suspended unless and until the matter is referred back to the Sport Organisation for resolution under this Policy. In the case of clause 4.1(a)(ii) to (vi), the process under this Policy is permanently discontinued.

4.2. **Investigation**

(a) At any time after determining that the Initial Threshold Questions are not satisfied, a Sport Organisation may undertake an assessment and may collect further information to determine if an Alleged Breach has occurred.

(b) An assessment may be conducted in such manner as determined by the relevant Sport Organisation in its absolute discretion. The Sport Organisation may, on the basis of the assessment, make findings as to whether the Standard of Proof has been met in respect of the Alleged Breach.

(c) This assessment may or may not involve formal interviews and collection of additional evidence at the discretion of the Complaints Manager.

4.3. **Initial Assessment - Disciplinary Action**

At any time after determining that the Initial Threshold Questions are not satisfied, the Complaints Manager must determine whether the Sport Organisation will:

(a) Proceed with Disciplinary Action under a Process in clause 5;

(b) Undertake Provisional Action under clause 4.6; or

(c) Refer the matter to a different level of the Sport under clause 3.4(c).

Clause 4.4 does not apply to Disciplinary Action.

4.4. **Initial Assessment - Complaint**

(a) The Complaints Manager must determine whether a complaint:

(i) Was lodged using a fully completed Complaint Form; and

(ii) Is a Complaint for the purposes of this Policy,

(The **Initial Assessments**).

(b) The Complaints Manager has absolute discretion to determine whether a Complaint is excluded under clause 2.4, and their decision will be final and binding. In making a determination under this clause, the Complaints Manager may seek any further information, or make such further enquiries, as necessary.

(c) If either of the Initial Assessments are not satisfied, the Complaints Manager must proceed to clause **Error! Reference source not found.**(ii).

(d) If both the Initial Assessments are satisfied, the Complaints Manager must determine whether the Complaint has been submitted to the correct level of the Sport, considering the factors outlined in clause 3.3(b), and then (if yes) proceed to clause 5.1 or (if not) clause 3.3(c).

4.5. **Notification to Parties**

(a) If the Complaint:

(i) Satisfies any of the Initial Threshold Questions, the Complaints Manager must notify the Complainant of the applicable procedure to be used by the relevant Sport Organisation to deal with the Complaint; or

(ii) Does not satisfy the Initial Assessment, the Complaints Manager must 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,

as soon as reasonably possible after the Complaints Manager determines the Initial Threshold Questions.

(b) The Complaints Manager will communicate with the Complainant and the Respondent at appropriate times to keep them informed until a Process is chosen under clause 5.1 or no Process is to be taken against the Alleged Breach, and may at any appropriate stage:

(i) notify the Respondent that a Complaint has been received and is being assessed; and/or

(ii) notify the Respondent that a potential breach of an Eligible Policy is being assessed.

4.6. **Provisional Action**

(a) Where an Alleged Breach makes allegations concerning conduct that in the Complaints Manager's opinion:

(i) Has resulted in or may result in, or cause, serious criminal charges (that is, a charge under any Commonwealth or State/Territory criminal law that is punishable by imprisonment for a maximum period of five years or more) to be laid against the Respondent; and/or

(ii) Suggests there is a further or ongoing risk of harm being suffered by one or more persons involved in the Sport,

the Complaints Manager may refer the Alleged Breach to the Decision Maker to determine, in the Decision Maker's absolute discretion, whether any Provisional Action(s) will be undertaken by a Sport Organisation. The Complaints Manager will ensure that the Sport Organisation implements the Provisional Action as soon as reasonably possible.

(b) Provisional Action includes, but is not limited to, suspension, restriction of duties or temporary redeployment, suspension or restriction of rights, privileges or benefits, or any other action(s) at the discretion of the Decision Maker, including seeking advice from Darts Australia Inc.

(c) In the event that Provisional Action is imposed a Respondent may seek to have that decision reviewed only by an expedited hearing convened in accordance with clause 6. An expedited hearing convened under this clause shall only consider the decision to impose the Provisional Action and will not consider the merits of the Alleged Breach.

5. Resolving Alleged Breaches

5.1. Determine chosen Process

(a) After conducting its assessment of the Alleged Breach, the relevant Sport Organisation will:

(i) Make findings as to whether, to the requisite Standard of Proof, the Alleged Breach is:

(A) Substantiated;

(B) Unsubstantiated; or

(C) Unable to be substantiated;

(ii) Make a determination as to the Process to be applied to attempt to resolve the Alleged Breach under this clause 5, which will be:

(A) Alternative Dispute Resolution;

(B) Warning Procedure; or

(C) Breach Offer,

as well as whether External Referral is appropriate.

(b) The Complaints Manager has sole and absolute discretion to determine the chosen Process under this clause 5.1, however may consult with other representatives of Darts Australia Inc. (including the Decision Maker) as required.

(c) The Complaints Manager may, at their absolute discretion, seek further information from any person, including conducting further investigation under clause 4.2.

(d) The Complaints Manager is responsible for communicating with the Complainant, Respondent, Darts Australia Inc. and/or Sport Organisations (where applicable) and for ensuring that the Process is implemented.

(e) The Complaints Manager may at any time externally refer the Alleged Breach in accordance with clause 5.5.

5.2. **Alternative Dispute Resolution**

(a) If the Complaints Manager considers the Alleged Breach may appropriately be resolved through Alternative Dispute Resolution, they may:

(i) For Complaints, seek the consent of both the Complainant and Respondent in writing; or

(ii) For Disciplinary Action, seek the consent of the Respondent in writing.

(b) If the necessary parties under clause 5.2(a) agree to Alternative Dispute Resolution and:

(i) The Alleged Breach is at Affiliate or State level, the relevant Complaints Manager must:

(A) Seek the consent of Darts Australia Inc. to refer the Alleged Breach to mediation, conciliation or case appraisal in the NST and, if given, Darts Australia Inc. will:

1. Refer the matter if it is an NST Eligible Matter; or

2. Apply to the NST CEO for approval if neither an NST Eligible or NST Excluded Matter, failing which it will be dealt with under clause 5.2(b)(i)(B); or

(B) If the consent of Darts Australia Inc. is not given, or if the NST cannot deal with the matter, refer the Alleged Breach to internal or external mediation or conciliation.

(ii) The Alleged Breach is at national level, the Darts Australia Inc, Complaints Manager must:

(A) If an NST Eligible Matter, refer the Alleged Breach to mediation, conciliation or case appraisal in the NST; or

(B) If neither an NST Eligible or NST Excluded Matter, apply to the NST CEO for approval to refer the Alleged Breach to mediation, conciliation or case appraisal in the NST, failing which it will be dealt with under clause 5.2(b)(ii)(C); or

(C) If the NST cannot deal with the matter, refer the Alleged Breach to internal or external mediation or conciliation.

(c) Darts Australia Inc. is responsible for making the application for Alternative Dispute Resolution at the NST. The application fee may be paid by one party, or by the parties together, apportioned as agreed between them. Service Charges may also be payable to the NST, which will be negotiated as between the parties to the dispute and the NST, and determined by the NST CEO.

(d) Where the Alternative Dispute Resolution process is facilitated by a Sport Organisation or external provider, payment for the facilitator's fee will be agreed

before the process commences and will be apportioned evenly between the parties (unless otherwise agreed between the parties). The process will be undertaken in accordance with the rules prescribed by the Sport Organisation or external provider.

(e) If the Alleged Breach is resolved through Alternative Dispute Resolution under this clause, the Complaints Manager must proceed to clause 8.3.

(f) If:

(i) Either the Complainant or Respondent does not consent to Alternative Dispute Resolution;

(ii) The Alleged Breach is not an appropriate matter for Alternative Dispute Resolution; or

(iii) Alternative Dispute Resolution does not resolve the Alleged Breach,

the Complaints Manager must choose another Process under this Policy.

(g) Notwithstanding anything in this Policy, the Complaints Manager may, at any time with the consent of each of the Respondent and the Sport Organisation (if Disciplinary Action) or the Respondent, Complainant and Sport Organisation (if a Complaint), refer the Alleged Breach for Alternative Dispute Resolution in accordance with clause 5.2(b).

5.3. **Warning Procedure**

(a) The Warning Procedure may only be chosen where an Alleged Breach concerns conduct that, in the opinion of the Decision Maker:

(i) Is of a minor nature; and

(ii) If established, would likely only result in a warning being issued to the Respondent.

(b) The Decision Maker may, in their absolute discretion, require the Complaints Manager to seek further information from any person, including by conducting further investigation under clause 4.2.

(c) The Complaints Manager must notify the Respondent of the conduct, using the template letter set out in item 1 of Schedule 2. The letter must contain the following information:

(i) Details of the conduct and how it is alleged to have breached an Eligible Policy, including the section(s) of the Eligible Policy allegedly breached;

(ii) That, without the Sport Organisation finding any breach to be established, the Sport Organisation is minded to warn the Respondent that the allegations would constitute a breach of the Eligible Policy, if proven;

(iii) An invitation to comment in writing as to whether such a warning should be issued or not; and

(iv) The timeframe in which to provide comment.

(d) If the Respondent does not respond to the invitation to comment within the timeframe specified in the notification set out in clause 5.3(c), the Complaints Manager may issue a warning and notify the Respondent of that warning using the template letter set out in item 2 of Schedule 2.

(e) The Decision Maker will take into account any comments provided by the Respondent in response to the notification set out in clause 5.3(c). The Decision Maker will determine whether issuing a warning is appropriate based on the Respondent's comments and, if so, will notify the Respondent of that warning using the template letter set out in item 2 of Schedule 2.

5.4. **Breach Offer**

(a) If the Complaints Manager has determined Breach Offer is the most appropriate Process, the Complaints Manager must refer the Alleged Breach to the Decision Maker, who must:

(i) Determine the applicable Sanction that may in the Decision Maker's opinion be likely to apply if the Alleged Breach (or a complaint of a similar nature) was proven; and

(ii) Determine a discounted (reduced) Sanction to be offered to the Respondent, if any.

(b) The Decision Maker may, at their absolute discretion, require the Complaints Manager to seek further information from any person to assist them to decide the appropriate Sanctions under clause 5.4(a), including by conducting further investigation under clause 4.2.

(c) The Complaints Manager must issue the Respondent with a breach notice, using the template letter set out in Schedule 3. The breach notice will:

(i) Notify the Respondent of details of the Alleged Breach, including the alleged conduct and relevant section(s) of the Eligible Policy allegedly breached;

(ii) State the proposed Sanction for the Alleged Breach and, if applicable, any proposed discounted Sanction;

(iii) State that the Sanction is to be publicly disclosed (if applicable);

(iv) State that the Respondent has a right to a hearing in relation to the Alleged Breach and/or the proposed Sanction;

(v) State that the Respondent may admit the Alleged Breach, waive their right to a hearing and accept the proposed Sanction or proposed discounted Sanction (if applicable);

(vi) State that if the Respondent does not respond within 14 days of receipt of the Breach Notice, they will be deemed to have admitted the Alleged Breach, waived their right to a hearing and accepted the proposed Sanction;

(vii) State that any response to the Breach Notice must be made to the relevant Sport Organisation, and provide the Respondent with the contact details of the relevant Complaints Manager; and

(viii) Be provided to the Respondent, Darts Australia Inc. and Sport Organisation (if applicable).

(d) In response to the breach notice, a Respondent may:

(i) Admit the Alleged Breach, waive their right to a hearing and accept the proposed Sanction or proposed discounted Sanction;

(ii) Dispute the Alleged Breach and/or proposed Sanction, in which case the Alleged Breach will be referred to a Hearing Tribunal under this Policy; or

(iii) Not respond, in which case they will be deemed to have admitted the Alleged Breach, waived their right to a hearing and accepted the proposed Sanction.

(e) A Respondent has 14 days from receipt of the breach notice to notify the relevant Complaints Manager of their decision.

(f) Where a Respondent admits the Alleged Breach, waives their right to a hearing and accepts the Sanction, or is deemed to have done so, the Relevant Complaints Manager must take all necessary steps to impose and implement the Sanction (if applicable) and proceed to finalising the matter in accordance with clause 7.

(g) If the Respondent disputes the Alleged Breach and/or Sanction:

(i) If the Alleged Breach is at Affiliate or State level, the relevant Complaints Manager must:

(A) Seek the consent of Darts Australia Inc. to refer the Alleged Breach to the NST General Division and, if given, Darts Australia Inc. will:

1. Refer the matter if it is an NST Eligible Matter; or

2. Apply to the NST CEO for approval if neither an NST Eligible or NST Excluded Matter, failing which it must be dealt with under clause 5.4(g)(i)(B); or

(B) If the consent of Darts Australia Inc. is not given, or if the NST cannot deal with the matter, refer the Alleged Breach to an Internal Tribunal.

(ii) If the Alleged Breach is at national level, the Darts Australia Inc. Complaints Manager must:

(A) If an NST Eligible Matter, refer the Alleged Breach to the NST General Division; or

(B) If neither an NST Eligible or NST Excluded Matter, apply to the NST CEO for approval to hear the matter in the NST General

Division, failing which it must be dealt with under clause 5.4(g)(ii)(C); or

(C) If the NST cannot deal with the matter, refer the Alleged Breach to an Internal Tribunal.

(h) Where an application to the NST for arbitration is made, Darts Australia Inc.is responsible for making the application. The application fee may be paid by one party, or by the parties together, apportioned as agreed between them. Service Charges may also be payable to the NST, which will be negotiated as between the parties to the dispute and the NST at the Preliminary Conference, and determined by the NST CEO.

5.5. **External Referral**

(a) The Complaints Manager may, at any time before or while dealing with an Alleged Breach under this Policy, refer the Alleged Breach to an external organisation (such as Sport Integrity Australia, a law enforcement or regulatory authority, a child protection agency, State/Territory fair trading authority, or the Australian Securities & Investments Commission).

(b) If an external referral is made, the Complaints Manager may suspend the chosen Process pending external resolution. The Complaints Manager must notify the Complainant (if any) and Respondent in writing of any such decision unless directed not to do so by the external referral organisation.

(c) If the Process is suspended due to an external referral, the Complaints Manager must refer the Alleged Breach to the Decision Maker to determine whether any Provisional Action should be taken against the Respondent under clause 4.6.

(d) If the Alleged Breach is not resolved by the external referral organisation and is referred back to the Complaints Manager, the Complaints Manager may resume the Process.

5.6. **Sanctions**

(a) Where a Respondent is found to have committed a breach of an Eligible Policy, the Decision Maker, NST and the Hearing Tribunal (if applicable) have absolute discretion to determine the appropriate Sanction imposed on a Respondent, including as to whether a combination of measures is to be imposed, and the terms and the period of any measures.

(b) Without limiting the discretion in clause 5.6(a), the Sanctions that may be imposed on a Respondent include, but are not limited to:

(i) A reprimand;

(ii) Verbal or written apology;

(iii) Direction to attend counselling or training to address their behaviour;

(iv) Suspended sentence and/or good behaviour period;

(v) Removal of accreditation;

(vi) Removal of awards (such as life membership);

(vii) Exclusion from a particular event or events, competition or activity;

(viii) Suspension of membership from Darts Australia Inc. or other Sport Organisation and any other Members or Affiliates;

(ix) Suspension from such activities or events held by or under the auspices of Darts Australia Inc. or other Sport Organisation;

(x) Suspension for a specified period and/or termination of any rights, privileges and benefits provided by Darts Australia Inc. or other Sport Organisation;

(xi) Expulsion from a Sport Organisation; and/or

(xii) Any other form of discipline that is considered appropriate.

(c) Without limiting the discretion afforded in clause 5.6(a), the following factors will be considered when determining the appropriate Sanction:

(i) The nature and seriousness of the behaviour or incidents;

(ii) The considerations (if any) of the Complainant;

(iii) The contrition, or lack thereof, of the Respondent;

(iv) Any Provisional Action taken in relation to the Alleged Breach;

(v) The effect of the Sanction on the Respondent including any personal, professional or financial consequences;

(vi) If there have been relevant prior warnings or disciplinary action against the Respondent; and

(vii) If there are any aggravating or mitigating circumstances.

(d) If there is more than one breach of an Eligible Policy, where appropriate, the Sanction may be imposed having regard to all of the breaches considered together, and the seriousness of the overall conduct in question.

(e) Sanctions imposed under this Policy shall commence from the date of the decision, unless otherwise directed.

5.7. **Recognition of decisions**

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

6. Hearing Tribunals

6.1. **Arbitration in the NST**

(a) If arbitration is sought in the NST General Division, the NST:

(i) Will determine whether the Provisional Action imposed is disproportionate; or

(ii) Will arbitrate the Alleged Breach, determine whether a Sanction be imposed and, if so, what Sanction in accordance with clause 5.6.

(b) The procedure for an arbitration in the NST will be in accordance with the NST Legislation.

6.2. **Internal Tribunal**

(a) If an Internal Tribunal is required, the relevant Complaints Manager must convene an Internal Tribunal to:

(i) Determine whether the Provisional Action imposed is disproportionate; or

(ii) Arbitrate the Alleged Breach, determine whether a Sanction be imposed and, if so, what Sanction in accordance with clause 5.6.

(b) An Internal Tribunal convened under this clause will comply with the tribunal procedure outlined in Schedule 4.

6.3. **Notification of Hearing Tribunal decision**

The Hearing Tribunal will notify the parties of the decision in accordance with its relevant procedures (including the procedure in Schedule 4 for the Internal Tribunal) and the relevant Complaints Manager must, subject to any appeal under clause 7, comply with clause 8.3.

7. Appeals

7.1. **Decisions subject to appeal**

(a) A decision of a Hearing Tribunal under clauses 6.1(a)(ii) or 6.2(a)(ii) may be appealed as set out in this clause 7.

(b) A decision of a Hearing Tribunal under clauses 6.1(a)(i) or 6.2(a)(i) is not subject to appeal.

7.2. **Persons entitled to appeal**

The following persons are entitled to appeal the decision of a Hearing Tribunal under clauses 6.1(a)(ii) or 6.2(a)(ii) of this Policy (each an **Appellant**):

(a) A Respondent; or

(b) Darts Australia Inc. and any Sport Organisation which has managed the Process that is the subject of the Hearing Tribunal.

7.3. **Grounds of appeal**

The decision of a Hearing Tribunal can only be appealed on the following Grounds of Appeal:

(a) The Hearing Tribunal failed to abide by this Policy and/or the NST Legislation (as the case may be) and such failure resulted in a denial of natural justice; and/or

(b) No reasonable decision maker in the position of the Hearing Tribunal, based on the material before them, could reasonably make such a decision.

7.4. **Notice of appeal**

(a) To submit a valid notice of appeal, an Appellant must, within 14 days of the date of receipt of the decision made by the Hearing Tribunal:

(i) If the Hearing Tribunal was the NST General Division:

(A) Lodge an 'Application for an Appeal' form with the NST, which must state in full their Grounds of Appeal;

(B) Pay the requisite application fee; and

(C) Serve, by email, by post, or physically, on the other party to the appeal a copy of the 'Application for an Appeal'; or

(ii) If the Hearing Tribunal was an Internal Tribunal:

(A) If the Alleged Breach is an NST Excluded Matter:

1. Lodge with the relevant Complaints Manager the Notice of Appeal stating they wish to appeal, which states in full their Grounds of Appeal, including any relevant documents as annexures;

2. Pay the appeal fee as set from time to time by the Sport Organisation; and

3. Serve, by email, by post, or physically, on the other party to the appeal a copy of the Notice of Appeal on the other parties; or

(B) If the Alleged Breach is at national level and is either an NST Eligible Matter, or not an NST Excluded Matter:

1. Lodge an 'Application for an Appeal' form with the NST, which must state in full their Grounds of Appeal;

2. Pay the requisite application fee; and

3. Serve, by email, by post, or physically, on the other party to the appeal a copy of the 'Application for an Appeal',

(together, a **Notice of Appeal**).

(b) If an appeal is lodged under:

(i) Clause 7.4(a)(i), the matter must be dealt with in the NST Appeals Division;

(ii) Clause 7.4(a)(ii)(A), the matter must be dealt with by an Internal Appeals Tribunal;

(iii) Clause 7.4(a)(ii)(B) and it is neither an NST Eligible or NST Excluded Matter, may apply to the NST CEO for approval, and if the NST CEO does not approve the matter, it must be dealt with by an Internal Appeals Tribunal; or

(iv) Clause 7.4(a)(ii)(B) and it is an NST Eligible Matter, it must be dealt with by the NST Appeals Division.

7.5. **Appeals in the NST Appeals Division**

(a) If an Appellant lodges a valid Notice of Appeal in the NST Appeals Division, the NST will determine the matter.

(b) The procedure for an appeal in the NST Appeals Divisions will be in accordance with clause 7.4 and the NST Legislation.

7.6. **Internal Appeals Tribunal**

(a) If an Appellant lodges a valid Notice of Appeal to be dealt with by an Internal Appeals Tribunal, the Internal Appeals Tribunal will determine the matter.

(b) The procedure for an appeal in an Internal Appeals Tribunal will be in accordance with clause 7.4 and Schedule 5.

7.7. **Determination for Appeal Tribunal**

The Appeals Tribunal's arbitration of the appeal:

(a) Must determine, to the Standard of Proof, whether one or both Grounds of Appeal (as applicable) are proven, and must not rehear the matter or the facts of the Alleged Breach; and

(b) May result in the Appeals Tribunal:

(i) Dismissing the appeal;

(ii) Upholding the appeal;

(iii) Imposing any of the Sanctions set out in clause 5.6;

(iv) Reducing, increasing or otherwise varying any Sanction imposed by the Hearing Tribunal under the Policy,

in accordance with clause 7.7(a) but otherwise in such manner as it thinks fit.

7.8. **Notification of Appeal Tribunal decision**

The Appeal Tribunal will notify the parties to the proceeding of the decision in accordance with its relevant procedures, after which the relevant Complaints Manager will proceed to finalise the matter in accordance with clause 8.3.

8. Finalising Alleged Breaches

8.1. **Finalisation of Process**

(a) A Process will be finalised, and an outcome reached when:

(i) Warning Procedure – when the relevant Sport Organisation notifies the relevant parties of its determination under clause 5.3;

(ii) Breach Offer – where the Respondent admits the Alleged Breach, waives their right to a hearing and accepts the Sanction, or is deemed to have done so under clause 5.4(d);

(iii) Hearing Tribunal - where the parties to the proceeding are notified of the decision and no appeal has been filed; or

(iv) Appeal Tribunal - where the parties to the proceeding are notified of the decision.

(b) 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 tribunal.

8.2. **Notification of outcome**

(a) When a Process is finalised, the relevant Complaints Manager must notify the Complainant (if any) and Respondent of the outcome of an Alleged Breach, in writing, unless otherwise provided for in this Policy.

(b) If the dispute arose at the:

(i) Affiliate level, the Complaints Manager must notify the relevant Member Organisation and of Darts Australia Inc.; or

(ii) Member Organisation level, the Complaints Manager must notify Darts Australia Inc.

(c) A Sport Organisation may, as required, disclose the matters referred to in clause 2.7(b).

8.3. **Recording decisions and outcomes**

(a) Each Sport Organisation shall keep records of all Alleged Breaches in keeping with the template register provided in Annexure A, for a minimum of 7 years from the date the Process is finalised for an Alleged Breach under this Policy. Records will include at a minimum a record, including dates where relevant, of:

(i) The Alleged Breach;

(ii) The Complainant;

(iii) The Respondent;

(iv) The Process;

(v) The Outcome; and

(vi) Any Sanctions and/or Provisional Action imposed.

(b) Records must be maintained in a secure and confidential place, which may be electronically.

9. Interpretation and other information

9.1 Commencement

This Policy commences on the date outlined on the front cover (**Commencement Date**).

9.2 Prior Alleged Breaches

Alleged Breaches relating to conduct which occurred prior to the Commencement Date:

(a) Must be dealt with under the policies and processes of Darts Australia Inc. or relevant Sport Organisations existing at the time the complaint was made, regardless of where that Complaint is at in that process;

(b) Cannot be resubmitted to a Sport Organisation under this Policy; and

(c) Are not subject to any appeal under this Policy.

9.3 Requirements for Sport Organisations

Sport Organisations must adopt and implement this Policy as their complaints management policy for complaints arising under all Eligible Policies.

9.4 Interpretation

(a) Any document required to be provided under this Policy may be given by:

(i) sending it to an email or other electronic address, or to a postal address, nominated by the recipient party; or

(ii) email, post or hand delivering it to that party's registered office.

(b) A document is taken to have been received under this Policy if sent by email or other electronic transmission, on the date of transmission, or if hand delivered, on the date of delivery or if sent by post, 5 business days after it was sent.

(c) Members are responsible for keeping their contact details up to date with Darts Australia Inc. their Sport Organisation. Delivery to the last known address is sufficient in circumstances where the current whereabouts of a Member is not known.

9.5 Amendment

(a) A Sport Organisation may amend this Policy from time to time and must make the new version available on its website as soon as possible, including the date on which any amendments take effect.

(b) Any Alleged Breach under this Policy which is not finalised at the time of an amendment to this Policy will continue to be processed under the substantive provisions of this Policy in force at the time a Sport Organisation receives the Complaint Form or commences the Disciplinary Action, unless a Sport

Organisation and/or a Hearing Tribunal determines the principle of “lex mitior” appropriately applies in the circumstances.

SCHEDULE 1

Complaint Form

Internal Use Only		
Name of person receiving Complaint		Date Complaint Form Received: / /
How was the Complaint received		
Complainant to Complete		
Name of Complainant	…….. ☐ Over 18 ☐ Under 18	
Complainant's contact details	Phone: Email:	
Complainant's role/position within the Sport	☐ Administrator (volunteer) ☐ Parent ☐ Spectator ☐ Support Personnel ☐ Official	☐ Board/Committee member ☐ Athlete/player ☐ Coach/Assistant Coach ☐ Employee (paid) ☐ Other (Please Specify)
Name of person complained about (**Respondent**)	…….. ☐ Over 18 ☐ Under 18	
Respondent's role/position	☐ Administrator (volunteer) ☐ Parent ☐ Spectator ☐ Support Personnel ☐ Official	☐ Board/Committee member ☐ Athlete/player ☐ Coach/Assistant Coach ☐ Employee (paid) ☐ Other (Please Specify)
Date/s of alleged breach/es by Respondent		
Location/s of alleged breach/es by Respondent		

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

SCHEDULE 2

Item 1: Letter - Warning Procedure

[INSERT Darts Australia IncNAME]

CONDUCT AND DISCIPLINARY POLICY - WARNING PROCEDURE

Warning: Invitation to Comment

[insert name]

[address line 1]

[address line 2] **By email:** [insert email address]

Referral

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

Allegations

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

Warning

6. Without determining whether the allegations in the Alleged Breach are correct, or that the Alleged Breach is proven, Sport proposes to issue a warning that the allegations, if they were proven, would constitute a breach of the policies outlined at paragraph 5.

Invitation to Comment

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

Yours faithfully

[insert signatory]

Item 2: Notification - Warning Procedure

[INSERT Darts Australia IncNAME]

CONDUCT AND DISCIPLINARY POLICY - WARNING PROCEDURE

Notification of Outcome

[insert name]

[address line 1]

[address line 2] **By email:** [insert email address]

Allegations

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

Warning

4. Without determining whether the allegations in the Alleged Breach were correct, or that the Alleged Breach is proven, Sport proposed to issue a warning that the allegations, if they were proven, would constitute a breach of the policies outlined at paragraph 3.
5. You were invited to comment on the proposed warning and whether or not that warning should be issued.

Outcome

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

Yours faithfully

[insert signatory]

SCHEDULE 3

Letter - Breach Offer

[INSERT Darts Australia IncNAME]

COMPLAINTS & DISPUTES POLICY - BREACH OFFER

Breach Offer

[insert name]

[address line 1]

[address line 2] **By email:** [insert email address]

Referral

1. [insert Sport Organisation] (**Sport**) has received information (**Alleged Breach**) under its Conduct & Disciplinary Policy (**Policy**) alleging that you have breached an eligible policy of the Sport, as outlined below. A copy of the Policy is available at [insert link].
2. The complaints manager under the Policy has referred the Alleged Breach about you for resolution under the Breach Offer Process.

Allegations

3. The Alleged Breach was lodged by [insert name] and received by the Sport on [insert date]. **OR** The Sport was made aware of the Alleged Breach on [insert date].
4. It is alleged in the Alleged Breach that you:
    a) **[insert alleged conduct]**; and
    b) **[++++++]**.
5. As a result of the above allegations, it is alleged that you have consequently breached the following eligible policies of the Sport:
    a) **[insert specific sections of eligible policies allegedly breached]**; and
    b) **[++++++]**.

Sanction

6. If a breach of the type outlined in the Alleged Breach was fully proven, Sport would ordinarily impose the following sanction:
    a) **[insert applicable sanction]**; and
    b) **[++++++]**.
7. In accordance with the Policy, to resolve the Alleged Breach using the Breach Offer Process, if you accept the alleged breach occurred without a hearing, Sport will offer you a sanction as follows:
    a) **[insert applicable sanction]**; and
    b) **[++++++]**.

Decision

8. You are entitled to decide either to accept your alleged breach occurred, and the proposed sanction that will be imposed by Sport set out at paragraph 7, or alternatively dispute the alleged breach and/or proposed sanction.
9. If you dispute the alleged breach and/or proposed sanction, the Alleged Breach will be referred to a hearing tribunal for determination under the Policy.

Notification

10. Please advise Sport's complaints manager of your decision to either accept the alleged breach and proposed sanction or dispute the breach and/or sanction and proceed to a hearing tribunal, by signing and returning the below 'Acknowledgement' to the complaints manager at [insert contact address].
11. You must advise the complaints manager of your decision within 7 days of the date of this letter, failing which you will be deemed to have accepted the breach occurred and the proposed sanction will automatically commence.
12. Unless you dispute the alleged breach and/or proposed sanction, the proposed sanction will commence on the earlier of the date you notify the complaints manager of your acceptance, or the end of the date 14 days from the date of this letter.
13. If you have any questions in relation to this Breach Offer, the complaints manager can be contacted by telephone on **[++++++]** or by email at **[++++++]**.

Yours faithfully

[insert signatory]

ACKNOWLEDGEMENT

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

☐ Accept my breach of the eligible policies occurred and the proposed sanction offered.

OR

☐ Dispute my breach of the eligible policies occurred and/or the proposed sanction offered and wish the matter to be heard by a hearing tribunal.

Signed: ……..

Dated: ……...

SCHEDULE 4

Internal Tribunal Procedure

Interpretation

1. In this Schedule:

   Chair means the chair of a particular Internal Tribunal in accordance with this Schedule.

   Legal Practitioner is a person holding a current practising certificate as a lawyer or barrister in any Australian jurisdiction.

   Sports Administrator means a person who currently, or within the previous five years, is or has been employed in the field of sports administration.

   Tribunal Member means an individual person sitting on an Internal Tribunal.

2. Defined terms not otherwise defined in this Schedule have the meaning given to them in the Policy.

3. All clause references refer to this Schedule unless otherwise provided.

Convening Internal Tribunal

4. Where required under clause 6.2 of the Policy, the Complaints Manager will convene an Internal Tribunal in accordance with this Schedule.

5. The Internal Tribunal shall be convened as soon as reasonably practicable after a referral under clause 5.4 of the Policy and shall endeavour to convene no later than two weeks after notification by the Complaints Manager.

Composition of Internal Tribunal

6. Subject to clause 8, each Internal Tribunal shall:

   (a) Comprise three Tribunal Members selected by the Complaints Manager;

   (b) Comprise at least one Legal Practitioner and one Sports Administrator;

   (c) Be chaired by the Chair, who shall be appointed by the Complaints Manager and shall be:

      (i) A Legal Practitioner; and

      (ii) A person of experience and skills suitable to the function of chairing a tribunal.

7. The Complaints Manager shall use reasonable endeavours to ensure that the Tribunal Members selected for any particular Internal Tribunal:

   (a) Do not have an actual or perceived conflict of interest in relation to the Alleged Breach that might reasonably call into question the impartiality of the Internal Tribunal; and

(b) Do not have any close personal connection to the Respondent(s) or the matters being considered by the Internal Tribunal.

8. Should a Tribunal Member become unable to sit on an Internal Tribunal following the convening of the Internal Tribunal for whatever reason, the Complaints Manager shall appoint a replacement Tribunal Member having regard to the requirements of clause 7.

9. Should a Respondent challenge the impartiality of any one or more Tribunal Member, the challenge will be determined by the Chair sitting alone, unless that challenge relates to the Chair in which case it will be determined by:

(a) The Complaints Manager; or

(b) If the Complaints Manager is unavailable or unable to act, the other members of the Internal Tribunal.

10. There shall be no right of appeal from a decision made under clause 9.

11. No Internal Tribunal decision shall be invalidated by any irregularity in the appointment of a Tribunal Member.

Responsibilities of Chair

12. Without limiting any other duties of the Chair set out under this Schedule, the person appointed as Chair of the Internal Tribunal shall have the following responsibilities:

(a) To chair hearings of the Internal Tribunal;

(b) To ensure accurate records are kept of all of the Internal Tribunal's proceedings and decisions, including at a minimum:

(i) Particulars of the hearing, including date, time and location;

(ii) The names of each Tribunal Member, Complainant, Respondent, witnesses called, and any other parties permitted to attend by the Internal Tribunal;

(iii) The decision of the Internal Tribunal, including any Sanction imposed, whether given to the parties orally, in writing or a combination of both, and the date(s) of communication; and

(c) To communicate to all parties of an Internal Tribunal the results of such Internal Tribunal and provide a copy of the record of result to the Complaints Manager within seven days of the hearing.

Attendance at Internal Tribunal

13. The following persons shall be required to attend the Internal Tribunal hearing conducted under this Schedule:

(a) The Respondent; and

(b) The Complainant.

14. The following persons shall be entitled to attend an Internal Tribunal hearing as required by the Complainant, or the Respondent:

    (a) Witnesses called to give evidence by a Respondent;

    (b) Witnesses called to give evidence by the Complainant;

    (c) Any person that the Chair in their absolute discretion believes will assist the Internal Tribunal and invites to attend the Internal Tribunal for that purpose; and

    (d) Where the Respondent, the Complainant or a witness is a Vulnerable Person, an adult adviser, which will in the absence of unavailability or other extraordinary circumstance be expected to be such person's parent or guardian.

15. Legal Practitioners are not permitted to appear before, or represent a party at, the Internal Tribunal unless in their personal capacity as a party to the Dispute. This clause does not prohibit a party seeking legal advice in relation to an Alleged Breach or engaging a Legal Practitioner to prepare materials to be used by that party at the Internal Tribunal.

16. Each party to the Internal Tribunal shall bear their own costs.

Non-attendance by Respondent(s)

17. If any Respondent (or representative of a Respondent organisation) fails to attend the Internal Tribunal hearing without reasonable cause, the hearing may proceed and a determination may be made by the Internal Tribunal in the absence of the Respondent, provided that the Internal Tribunal is satisfied that this Schedule have been complied with.

18. A Respondent or Complainant may apply to the Chair to have an Internal Tribunal hearing:

    (a) Adjourned; or

    (b) Convened in another way (eg teleconference),

    if there are compelling circumstances that warrant such steps being taken to avoid costs, hardship or significant inconvenience to one or more parties. The Internal Tribunal has sole discretion on whether or not to grant the application.

19. If the Complainant fails to attend an Internal Tribunal hearing without reasonable cause, the hearing may proceed and a determination may be made by the Internal Tribunal in the absence of that person, provided that the Internal Tribunal is satisfied that all notification procedures under this Schedule have been carried out.

Procedure of Internal Tribunal

20. The Internal Tribunal shall conduct the hearing in such manner as it sees fit and may in its absolute discretion:

    (a) Consider any evidence, and in any form that it deems relevant;

    (b) Question any person giving evidence;

(c) Limit the number of witnesses presented to those who provide any new evidence; and

(d) Act in an inquisitorial manner in order to establish the truth of the issue/case before it.

21. Without limiting the Internal Tribunal's power to regulate its own procedure as it sees fit, the Internal Tribunal shall ordinarily proceed in accordance with the following steps:

(a) If a body corporate, the NSO, a Member Organisation or Affiliate is a party to an Internal Tribunal hearing, one member of that body corporate, NSO, Member Organisation or Affiliate shall be appointed by the body corporate, NSO, Member Organisation or Affiliate to act as spokesperson for such body at the Internal Tribunal.

(b) At the commencement of a hearing, the Chair will identify the Tribunal Members and determine whether the Respondent is present to answer the allegation(s) in the Alleged Breach.

(c) The Respondent and the Complainant will be notified of their right to remain in the hearing until all evidence is presented but not to be present while the Internal Tribunal considers its findings and determines an appropriate Sanction (if any).

(d) The Chair shall advise all those persons present of the method of recording the hearing (if any).

(e) The allegation(s) as contained in the Alleged Breach shall be read out in the presence of all persons eligible to be present.

(f) The Respondent shall be asked whether or not they intend to contest the allegation(s).

(g) If the Respondent does not contest the allegation(s), the Chair will provide the Complainant and the Respondent with an opportunity to make submissions as to the appropriate Sanction (if any) to be imposed. In such circumstances, the Complainant and/or the Respondent may, if they wish, call witnesses to give evidence regarding the seriousness or otherwise of the breach, and any other mitigating or aggravating factors.

(h) If the Respondent contests the allegation(s), then the Chair will ask all witnesses except the Complainant(s) and the Respondent (and their advisers, if appointed in accordance with this Schedule) to leave the room and to wait to be called to give their evidence.

(i) The Complainant shall proceed to give evidence and the witnesses (if any) called by the Complainant(s) shall be called upon to give their evidence in turn, subject to the approval of the number of witnesses to be called by the Internal Tribunal in its discretion. The Respondent (or, if they are a minor his/her adviser) may ask questions of the Complainant or any witness called.

(j) Each witness shall be entitled to leave the Internal Tribunal hearing after giving evidence unless otherwise directed by the Internal Tribunal. Witnesses shall be entitled to remain in the hearing room after giving evidence with the permission of the Internal Tribunal.

(k) The Respondent shall then be entitled to present their defence. Witnesses may be called subject to the approval of the number of witnesses to be called by the Internal Tribunal in its discretion. Complainants or the adviser to a Complainant who is a minor may ask questions of the Respondent or any witness called.

(l) Where a person under the age of 18 exercises his/her right to have an adult observer or adviser present in accordance with this Schedule, a reasonable opportunity for consultation between the minor and the adviser shall be provided by the Internal Tribunal.

(m) Where the Respondent makes video evidence available to the Internal Tribunal, it may, at the discretion of the Internal Tribunal, be presented. The onus of providing suitable viewing equipment shall lie with the person requesting that the evidence be presented.

(n) The Internal Tribunal may, so as to limit inconvenience to witnesses, allow evidence to be given by telephone or videoconference.

22. At the conclusion of all of the evidence and submissions the Chair shall ask the Respondent, the Complainant and all other persons present to leave the hearing room while the Internal Tribunal considers its findings.

23. If the Internal Tribunal is satisfied that a breach of an Eligible Policy has been proven using the Standard of Proof, it shall find the breach proven. Otherwise the Alleged Breach shall be dismissed.

24. If the Internal Tribunal is not satisfied that the particular alleged breach has been proved but is satisfied that a lesser breach of an Eligible Policy has been proven, then the Internal Tribunal may find such lesser breach proved.

25. Where it appears to the Internal Tribunal that the Complainant has made an error in making the wrong alleged breach of an Eligible Policy, or omitted alleged breaches that should have been made, the Internal Tribunal may amend the allegation(s), subject always to the requirement that the Respondent must be informed of the new allegations and given an opportunity to respond to such allegations.

26. The decision of the Internal Tribunal shall be given by the Chair in the presence of both the Respondent and Complainant, unless one or both choose not to remain. If:

(a) One of the Respondent or Complainant are not present, the Chair may give the decision orally, and must communicate the decision to the non-attending party in writing as soon as practicable; or

(b) Neither the Respondent nor Complainant are present, the Chair must communicate the decision to each of the Respondent and Complainant in writing as soon as practicable.

27. The Internal Tribunal may reserve its decision but if it does so, it will provide its decision within 14 days of the hearing.

28. The Internal Tribunal is not obliged to give oral or written reasons for any decision made by it under this Schedule but may do so if it wishes.

29. Where the Internal Tribunal finds that one or more alleged breaches of an Eligible Policy have been proven, it shall inform the parties of its decision and provide the

Complainant and the Respondent with an opportunity to make submissions as to any aggravating or mitigating factors, before the Internal Tribunal makes a decision on Sanction. The Internal Tribunal may, in its absolute discretion, decide that it is appropriate to:

(a) Receive oral submissions as to Sanction immediately after delivering its decision on liability; or

(b) Adjourn the hearing to allow the parties to make Sanction submissions on some later date, in which case, the Internal Tribunal shall direct whether submissions on penalty should be made orally or in writing.

30. After considering the parties' submissions as to Sanction, the Internal Tribunal shall determine the Sanction to be imposed (if any) in accordance with clause 5.6 of the Policy, and shall advise the Respondent of the Sanction. The Chair shall also notify the Complaints Manager of the decision of the Internal Tribunal.

SCHEDULE 5

Internal Appeals Tribunal Procedure

Interpretation

1. In this Schedule:

   Appeal Chair means the chair of a particular Internal Appeals Tribunal in accordance with this Schedule.

   Tribunal Member means an individual person sitting on an Internal Appeals Tribunal.

2. Defined terms not otherwise defined in this Schedule have the meaning given to them in the Policy or Schedule 4, as the case may be.

3. All clause references refer to this Schedule unless otherwise provided.

Convening Internal Appeals Tribunal

4. As required under clause 7.6 of the Policy, the Complaints Manager will convene an Internal Appeals Tribunal in accordance with this Schedule.

5. The Internal Appeals Tribunal shall be convened as soon as reasonably practicable after a referral under clause 7.6 of the Policy and shall endeavour to convene no later than two weeks after notification by the Complaints Manager.

Composition of Internal Appeals Tribunal

6. Subject to clause 7, each Internal Appeals Tribunal shall

   (a) Comprise three Tribunal Members selected by the Complaints Manager;

   (b) Comprise at least one Legal Practitioner and one Sports Administrator; and

   (c) Be chaired by the Appeal Chair who shall be appointed by the Complaints Manager and shall be:

      (i) A Legal Practitioner; and

      (ii) A person of experience and skills suitable to the function of chairing an Internal Appeals Tribunal,

   none of whom sat on or was involved in the original Hearing Tribunal for the Alleged Breach subject of the appeal.

7. Clauses 8 to 10 (inclusive) of Schedule 4 apply to an Internal Appeals Tribunal with any necessary amendments.

Procedure of Internal Appeals Tribunal

8. Subject to this Schedule, the Internal Appeals Tribunal and persons appearing before it are bound by the same procedures under this Policy as if the Internal Appeals Tribunal was the Internal Tribunal hearing a matter at first instance.

9. The Complaints Manager shall forward records of the Internal Tribunal hearing in which the matter the subject of the appeal was heard at first instance to the Appeal Chair.

10. The Internal Appeals Tribunal must limit its hearing to consideration of the Ground(s) of Appeal relied upon by the Appellant under clause 7.3 of the Policy, in accordance with clause 7.7 of the Policy.

11. An Internal Appeals Tribunal has the power to:

    (a) Dismiss the appeal;

    (b) Uphold the appeal;

    (c) Impose any of the Sanctions set out in the Policy; or

    (d) Reduce, increase or otherwise vary any Sanction imposed by the Internal Tribunal under the Policy,

    in accordance with clause 10 but otherwise in such manner as it thinks fit.

12. At the conclusion of the appeal, the Appeal Chair shall ensure that the Appellant, Respondent and [NSO]are informed of the determinations of the Internal Appeals Tribunal. The Appeal Chair shall also notify the Complaints Manager of the decision of the Internal Appeals Tribunal.

13. The Internal Appeals Tribunal is not obliged to give oral or written reasons for its decision.

14. The Internal Appeals Tribunal has discretion to order the refund of the appeal fee and shall do so where the appeal results in the breach being dismissed or the Sanction reduced.

ANNEXURE A

Record of Alleged Breach

Name of Complaints Manager		☐ Complaint Form attached
Process chosen to resolve Alleged Breach (if any)		
Was Provisional Action taken? If so, what?	☐ Yes ☐ No	
Was Alleged Breach referred to external agency?	☐ Yes ☐ No Please detail:	
Date Complaint Form received Date Process undertaken		
Was Alleged Breach valid? If not, why?	☐ Yes ☐ No Please detail	
If Alternative Dispute Resolution (ADR)	Date of referral to ADR: Type of ADR: Date of ADR: Alleged Breach resolved at ADR: ☐ Yes ☐ No If no, alternative Process chosen: If Yes, please detail:	
If Warning Procedure	Date letter sent to Respondent: Any further comments:	

If Breach Offer	Sanction offered to Respondent: Date letter sent to Respondent: Date Respondent provided response: Did Respondent accept breach and reduced sanction? ☐ Yes ☐ No If No, date Alleged Breach referred to Hearing Tribunal: If No, also complete 'Hearing Tribunal' section
If Hearing Tribunal	☐ Internal Tribunal ☐ NST Date Alleged Breach referred to Tribunal: Date of Tribunal hearing: Decision of Tribunal: Date parties notified:
Date of notification	Date Respondent notified of outcome: Date Complainant notified of outcome:
Completed by	Name: Position: Signed: Date: