# DISCIPLINE AND COMPLAINTS POLICY

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**PREAMBLE**

1. Pursuant to Hockey Canada's Code of Conduct Policy (the "Code"), every Hockey Canada Athlete, Official, Staff and Team Personnel must meet certain standards of behaviour consistent with Hockey Canada's core values and expectations.

2. Failure to meet those behavioural standards could have a detrimental impact on Hockey Canada, the individual, or one or more third parties, and must be identified and addressed.

3. This Policy outlines the procedure for bringing forward allegations of a breach or breaches of the Code, and the methodology for addressing and resolving those allegations.

**SCOPE**

4. The Code includes prohibitions on a wide range of behaviour. Where such prohibited behaviours fall within the scope of: (i) the Universal Code of Conduct to Prevent and Address Maltreatment in Sport (UCCMS) or Hockey Canada's Maltreatment Complaint Management Policy; (ii) the Canadian Program to Prevent Competition Manipulation (CPPCM) or (iii) the Canadian Anti-Doping Program (CADP) or the World Anti-Doping Code; they are beyond the scope of this Policy.

5. For greater certainty, this Policy applies only to breaches of the Code that would not fall within: (i) the authority of Sport Integrity Canada *(SIC)* or of Hockey Canada's Independent Third-Party under the *Maltreatment Complaint Management Policy* to investigate and/or levy disciplinary sanctions relating to an alleged incident of Prohibited Behaviour; (ii) the authority of SIC to investigate and/or levy disciplinary sanctions relating to an alleged incident of competition manipulation; or (iii) the authority given to the Sport Integrity Canada (SIC) under the Canadian Anti-Doping Program or to the World Anti-Doping Agency under the WADA Code to investigate and/or levy disciplinary sanctions relating to any alleged Anti-Doping Rule Violation.

**Section 1 - Definitions**

6. The below terms will have the following meanings for the purpose of this Policy.

a. "**Adjudicator**" means the individual appointed to manage a Complaint as described starting in paragraph 25 below.

b. **"Anti-Doping Rule Violation"** means the circumstances and conduct described in Rule 2 of the CADP, as amended from time to time.

c. **"CADP"** means the Canadian Anti-Doping Program, as amended from time to time.

d. **"Code"** means the Hockey Canada Code of Conduct Policy, as amended from time to time.

e. "**Complainant"** means the person who submits a Complaint.

f. **"Complaint"** means an allegation submitted to Hockey Canada or the ITP that a Covered Person has engaged in behaviour that breaches the Code, other than behaviour that falls within the scope of the UCCMS, the Maltreatment Complaint Management Policy, the CPPCM, the CADP, or the WADA Anti-Doping Code.

g. **"Covered Person"** means anyone to whom the Code applies, with the exception of individuals elected or appointed to serve on Hockey Canada's Board of Directors. Complaints against those individuals are not subject to this Policy, but instead will be managed pursuant to the Directors' Code of Conduct & Conflict of Interest Policy.

h. "**CPPCM"** means the Canadian Program to Prevent Competition Manipulation.

i. **"Egregious Behaviour"** means behaviour other than Prohibited Behaviour, an alleged Anti-Doping Rule Violation, or violation of any competition manipulation policy which is alleged to have caused serious harm to a third party, or which, if proven, may result in serious harm to the reputation of Hockey Canada or would bring the sport of hockey into disrepute.

j. **"ELT**" means Hockey Canada's Executive Leadership Team.

k. **"Hockey Canada Program"** means any program, tournament (including National Championships), on-ice or off-ice activity, or event, whether business related or of a social nature, under the auspices, sponsorship, direct control or supervision of Hockey Canada or the Hockey Canada Foundation, and any other program, on-ice or off-ice activity or event designated as a Hockey Canada Program by Hockey Canada, in its absolute discretion including, without limitation, any competition in which a Hockey Canada National Team is participating.

l. "**Investigator"** means a person assigned to investigate a Complaint.

m. **"Maltreatment**" means a volitional act and/or omission described in Sections 5.2-5.6 of the UCCMS that results in harm or has the potential for physical or psychological harm.

n. **"Minor"** means an individual who is under 19 years old.

o. **"Party"** means a Complainant or a Respondent.

p. **"Policy**" means this Discipline and Complaints Policy, as amended from time to time.

q. "**Prohibited Behaviour"** means any of the conduct described in Section 5 of the UCCMS, as amended from time to time, including but not limited to Maltreatment.

r. **"Recipient"** means the person or entity to whom a Complaint is submitted.

s. **"Respondent"** means the Covered Person who is the subject of a Complaint.

t. **"SDRCC**" means the Sport Dispute Resolution Centre of Canada.

u. "**Senior Leader**" means a member of Hockey Canada's Senior Leadership Team.

v. "**SIC**" means Sport Integrity Canada.

w. "**Sports Stakeholders**" means third party sports organization to whom Hockey Canada may disclose information obtained pursuant to this Policy, whether that information derives from a Complaint, provisional measures, a final decision by an Adjudicator, or sanctions issued. The list of Sport Stakeholders includes but is not limited to Hockey Canada's Members, SIC, Sport Canada, the International Ice Hockey Federation and its member federations, national sport organizations, provincial/territorial sports organizations, multi-sport organizations, and sports teams or leagues.

x. **"Staff"** means any person paid by, employed by, or volunteering with, Hockey Canada.

y. **"UCCMS"** means the Universal Code of Conduct to Prevent and Address Maltreatment in Sport, as amended from time to time.

z. **"Violation"** means a finding that a breach of the Code has occurred.

aa. **"WADA Code"** means the World-Anti-Doping Code, as amended from time to time.

**SECTION 2 – SUBMITTING A COMPLAINT**

7. All Complaints may be submitted to any member of ELT, who shall share the Complaint with the other members of ELT, by no later than the next ELT meeting. If the Complainant is a Hockey Canada employee, they may submit their Complaint to their Senior Leader, who should forward it immediately to any member of ELT, on the Complainant's behalf.

8. Upon receipt of a Complaint, ELT shall review the Complaint to determine, based on a majority vote whether any allegations made therein, if proven, would constitute Egregious Behaviour. Where ELT decides that a Complaint contains allegations of Egregious Behaviour, then it will retain an independent law firm to investigate the matter as further detailed in paragraphs 23 - 24 below.

9. A Complaint that does not include allegations of Egregious Behaviour falls with the jurisdiction of, and must be managed by, ELT, unless ELT specifically elects to retain an independent law firm to investigate the matter.

10. At its discretion, Hockey Canada, including any member of ELT, may act as the Complainant and initiate the Complaint process under the terms of this Policy. For instances where Hockey

Canada is considering acting as the Complainant with respect to a matter, a decision as to whether to initiate a Complaint will be taken by a majority vote of ELT, in consultation with such Staff members as it deems appropriate.

11. Complaints should be made in writing, wherever possible. ELT may receive a Complaint that is not in writing at its sole discretion. ELT has the discretion to determine whether they will accept an anonymous Complaint (i.e. a Complaint where the Complainant does not wish to be identified to the Respondent(s)).

12. ELT may request additional information from a Complainant prior to making a decision under paragraph 7 or 8.

13. If a Complaint is received by ELT that does not contain allegations relating to a Covered Person, or a submission is received which does not contain any allegations of a breach of the Code, the Complaint may be dismissed immediately by a majority vote of ELT. The Complainant will be advised regarding the reasons for the summary dismissal, and such decision cannot be appealed. Note that even if a Complaint or submission has been summarily dismissed, there may be other avenues for the Complaint or submission to be brought. While Hockey Canada may endeavour to assist, Hockey Canada is not responsible for providing such advice or any direction to the Complainant in that regard.

14. Any Complaint against a Covered Person that includes allegations of Prohibited Behaviour or competition manipulation or an Anti-Doping Ruling Violation must be forwarded to SIC. No Recipient shall have the jurisdiction to manage Complaints pertaining to Prohibited Behaviour, Anti-Doping, or competition manipulation under this Policy. ELT may determine, however, whether to continue with any portion of such Complaint that does not pertain to Maltreatment, competition manipulation, or Anti-Doping, pending the outcome of such portion of the Complaint as falls outside its jurisdiction.

15. Complaints may be brought by a Minor. Minors may, but are not required to, have a parent/guardian or other adult serve as their representative during the process set out in the Policy. For clarity, a Complaint will not be rejected on the sole basis that it was submitted by a Minor and not by a parent/guardian.

16. Notwithstanding any other provision to the contrary in this Section 2, all Complaints regarding any member of ELT should be submitted directly to Hockey Canada's Associate Counsel. If a Complaint regarding an ELT member is received by an ELT member, they must forward it to Associate Counsel immediately. All Complaints against an ELT member, including anonymous complaints and those not made in writing, must be referred by Associate Counsel to an independent law firm for investigation.

**SECTION 3 – COMPLAINT MANAGEMENT**

(i) Allegations Falling Below the Egregious Behaviour Threshold

17. If, after initial screening, the Complaint has not been dismissed under paragraph 13 of this Policy, and it is determined that a Complaint contains allegations that would not constitute Egregious Behaviour if proven, ELT may designate one or more individuals to act as the Investigator. An Investigator appointed under this paragraph may, at ELT's absolute discretion, be someone who is not at arm's length from Hockey Canada, including a member of ELT, provided such person does not have any real or perceived conflict of interest with any Party or any other individual or organization which could be impacted by the outcome of the Complaint. Where the Complaint falls within Hockey Canada's jurisdiction to manage and relates to a breach of a team rule (e.g. missed curfew, tardiness for team meetings, unauthorized cellphone use, etc.) during a Hockey Canada Program, ELT may designate an individual associated with that Program, including the senior Staff member on site, to act as the Investigator. Any such designation may occur before, during or after that Hockey Canada Program. The Investigator, at their sole discretion, may conduct their investigation in any form they deem appropriate, and may at their discretion, choose to follow the approach generally described in Schedule "A".

18. If, at any time during their investigation, the Investigator discovers facts which suggest that Egregious Behaviour may have occurred, they shall suspend their investigation immediately pending further direction from ELT, and shall advise ELT accordingly so that ELT may determine whether the matter should be referred to an independent law firm and processed in accordance with paragraphs 23 - 24 below.

19. Upon completion of their investigation, the Investigator shall report their findings to ELT, including their opinion on whether a Violation has occurred, and make a recommendation regarding what disciplinary measures, if any, should be levied against the Respondent. Any finding that a Violation has occurred shall be made on a balance of probabilities (i.e. more likely than not) unless the Code provides for a higher standard of proof.

20. Upon receipt of the Investigator's findings and recommendation, ELT shall decide what disciplinary measures, if any, to levy against the Respondent.

21. Any decision regarding the outcome of a Complaint under this Section 3(i) of the Policy shall be communicated in writing to the Complainant and the Respondent and shall not be appealable.

(ii) <u>Allegations Meeting the Egregious Behaviour Threshold</u>

22. If, after initial screening, it is determined that the Complaint contains allegations of Egregious Behaviour, ELT will determine whether any interim sanction should be put in place against the Respondent. Prior to issuing such sanctions, ELT will solicit submissions in writing from both the Complainant and the Respondent on the question. Any decision on interim sanctions rendered by ELT will not be subject to appeal.

23. After such determination is made, ELT will retain an independent lawyer or law firm to act as the Investigator. The Investigator will conduct their investigation in any form they deem appropriate,

provided their investigation generally follows their mandate and the approach described in Schedule "A".

24. The Investigator will prepare an investigation report that includes a summary of evidence and an executive summary, but will not provide an opinion on whether a Violation occurred or a recommendation on discipline. Such report will be delivered to ELT.

25. Upon receipt of the Investigator's investigation report, ELT will retain an Adjudicator to conduct a hearing regarding the Complaint. ELT will ensure that the individual selected to serve as the Adjudicator does not have any real or perceived conflict of interest with any Party or any other individual or organization which could be impacted by the outcome of the Complaint.

26. ELT will provide a copy of the investigation report to the Adjudicator. In situations where ELT has placed interim sanctions on a Respondent at the outset of a matter, the Adjudicator has the authority to remove or alter such sanctions where they deem appropriate based on the findings in the investigation report.

27. The Adjudicator, in consultation with ELT, will then decide the format under which the Complaint will be heard. This decision on the format may not be appealed. The format of the hearing may be an oral in-person hearing, an oral hearing by telephone or other communication medium, a hearing based on a review of the investigation report (with or without the benefit of further oral or written submissions from the Parties, at the Adjudicator's discretion), a combination of these methods, or such other method as the Adjudicator deems appropriate.

28. In setting the format for the matter, ELT and the Adjudicator will both keep in mind the impact the selected procedure may have on the Complainant. For instance, the format selected should avoid requiring the Complainant to re-tell their version of events multiple times throughout the course of the proceedings, unless this is absolutely necessary to ensure procedural fairness.

29. If the Complainant is a Minor and their parent, guardian or other adult representative was involved in submitting the Complaint, the Adjudicator will communicate through that Party's parent, guardian, or other adult representative. The Adjudicator will always communicate with Minor Respondents through the Party's parent, guardian, or other adult representative.

30. The hearing will be governed by the procedure that the Adjudicator deems appropriate under the circumstances. If the Adjudicator elects to receive evidence from the Parties in addition to the findings in the investigation report, the Adjudicator shall not be bound by any judicial rules governing the admissibility of evidence.

31. The following guidelines will apply to all oral hearings:

a. The Parties will be given reasonable notice of the day, time, and place of the hearing. Each Party shall be deemed to be immediately contactable at their current (i) postal address; (ii) mobile telephone number; or (iii) personal e-mail address. Any notice

sent by any of those means shall be to have been received by the Party. It is the responsibility of the Party to ensure Hockey Canada has been provided with up-to-date contact information;

b. The Parties may engage a representative, advisor, or legal counsel at their own expense to attend on their behalf;
c. Unless the Adjudicator determines otherwise, the findings of the investigation report (if any) should not be relitigated, and the Adjudicator should avoid duplicating work already accomplished by the Investigator; and
d. A Party who is a Minor, is not required to attend or participate in an oral hearing, if held, but their parent, guardian or other adult representative could attend on their behalf.

32. In fulfilling their duties, the Adjudicator may obtain independent advice.

33. After hearing the matter, the Adjudicator will determine whether a Violation has occurred and, if so, the sanctions to be imposed. Any such finding shall be made on a balance of probabilities, unless the Code provides for a higher standard of proof. Within fourteen (14) days of the hearing's conclusion, the Adjudicator's operative decision will be distributed by ELT to all Parties. The Adjudicator will then prepare detailed reasons to follow, which will also be provided to all Parties.

34. In extraordinary circumstances, the Adjudicator may first issue a verbal or summary decision soon after the hearing's conclusion, with the full written decision with reasons to be issued before the end of the fourteen (14) day period.

(iii) Allegations Against a Member of ELT

35. For matters containing allegations against a member of ELT, the process outlined in paragraphs 22 to 34 above will be followed, with the exception that Associate Counsel will have the responsibilities bestowed upon ELT.

36. Notwithstanding paragraphs 22 and 35 above, the determination regarding whether interim sanctions should be rendered against a member of ELT will be made by the Investigator retained to investigate the Complaint.

**SECTION 4 - SANCTIONS**

37. Prior to determining appropriate sanctions, ELT or the Adjudicator, as the case may be, will consider relevant factors which may include, without limitation:

a. The severity of the Violation(s) - this factor should be given the most weight in the analysis, with more severe Violations attracting more severe sanctions;
b. The Respondent's prior history and any pattern of inappropriate behaviour;

c. Whether the Respondent poses an ongoing and/or potential threat to the safety or well being of others;
d. The Respondent's voluntary admission of the offense(s), acceptance of responsibility, and/or cooperation in the investigative and/or disciplinary process of Hockey Canada;
e. Real or perceived impact of the incident on the Complainant, Hockey Canada and/or its
Members or the sporting community;
f. Circumstances specific to the Respondent being sanctioned (e.g. addiction; disability; illness);
g. Whether, given the facts and circumstances that have been established, continued participation in Hockey Canada-sanctioned programming or ongoing association with Hockey Canada is appropriate; and/or
h. Other mitigating and aggravating circumstances.

For matters decided by an Adjudicator, they will address each factor in their written decision. If the Adjudicator takes any unlisted factor into consideration, they must provide a written explanation for having done so.

38. Any sanction imposed must be proportionate and reasonable. Progressive discipline may be appropriate but is not required. A single incident may justify elevated or combined sanctions.

39. After considering the factors listed in paragraph 37 above, ELT or the Adjudicator, as applicable, may apply the following sanctions, singularly or in combination:

a. **Verbal or Written Warning** – A verbal reprimand or an official, written notice that a Covered Person has committed a Violation and that more severe sanctions will result should the Covered Person be involved in any other Violation;

b. **Education** – The requirement that a Covered Person undertake specified educational or similar remedial measures to address the Violation(s);

c. **Probation** – The requirement that a Covered Person be placed under some form of supervision or monitoring for a certain period while participating in any program, activity, event, or competition sponsored by, organized by, or under the auspices of Hockey Canada. Should any further Violations occur during the probationary period, this will result in additional disciplinary measures, likely including a period of suspension, permanent ineligibility or in the case of Staff, possible termination of employment. This sanction can also include loss of privileges or other conditions, restrictions, or requirements for a specified period;

d. **Suspension** – Suspension, either for a set time or until further notice, from participation, in any capacity, in any program, activity, event, or competition sponsored by, organized by, or under the auspices of Hockey Canada. The

reinstatement of a suspended Covered Person may be subject to certain restrictions or contingent upon the Covered Person satisfying specific conditions imposed by the Adjudicator and noted at the time of suspension. If the Covered Person is a Staff member, suspension could take the form of a specified number of days with or without pay;

e. **Eligibility Restrictions** – Restrictions or prohibitions from some types of participation but allowing participation in other capacities under strict conditions;

f. **Permanent Ineligibility** – Ineligibility to participate in any capacity in any program, activity, event, or competition sponsored by, organized by, or under the auspices of Hockey Canada for the remainder of the Covered Person's life;

g. **Termination –** If the Covered Person is a Staff member, sanctions may take the form of employment consequences consistent with the disciplinary measures described above, up to and including termination of employment.

h. **Other Discretionary Sanctions** – Other sanctions may be imposed, including, but not limited to, other loss of privileges, no contact directives, loss of points, prizes or medals, disqualification of results, or other restrictions or conditions as deemed necessary or appropriate.

40. Unless the sanctioning body (i.e. ELT or the Adjudicator) decides otherwise, any disciplinary sanctions will begin immediately and will remain in place pending the result of any appeal sought by the Respondent, unless the SDRCC orders otherwise.

41. In addition to being subject to disciplinary action pursuant to this Policy, a Staff member who is a Respondent to a Complaint may also be subject to consequences in accordance with their employment agreement or policies for human resources, if applicable. This may take place prior to or after any determination of a Complaint handled pursuant to this Policy.

## SECTION 5 – NON-COMPLIANCE WITH SANCTIONS

42. The sanctioning body has the authority to issue additional discipline in circumstances where a Respondent has violated the terms of interim measures or a final sanction issued against them pursuant to this Policy.

43. Where the sanctioning body receives information that a Respondent may have breached a provisional measure or final sanction, it will determine whether supplementary sanctions are appropriate.

44. The sanctioning body will afford a Respondent a full and fair opportunity to make submissions and respond to any allegations or materials suggesting that they may have violated the terms of their provisional measures or sanctions. The sanctioning body shall consider all relevant submissions and evidence before reaching a determination.

45. If the sanctioning body determines that additional sanctions are merited, they will consider, amongst other factors they deem relevant under the circumstances, the nature of the non-compliance, the impact that the non-compliance had on the sport environment, and the Respondent's behaviour during the process engaged in pursuant to this Section 5.

46. Any decision issued pursuant to this Section 5 constitutes a final decision, and may be appealable if it falls within the list of decisions described in Section 10.

**SECTION 6 – MALICIOUS ALLEGATIONS**

47. If the sanctioning body believes that a Complaint may have been made maliciously, is knowingly false, was not made in good faith, or was made for the purpose of retribution, retaliation or vengeance, the sanctioning body will provide the Complainant the opportunity to make submissions before a final determination is made. If, after reviewing the Complainant's submissions, the sanctioning body determines that the Complaint was malicious, false, not made in good faith, or made for the purpose of retribution, retaliation, or vengeance, the sanctioning body may issue one or more of the sanctions identified in paragraph 39 of the Policy and/or order that the Complainant be required to pay for the costs of any investigation and/or adjudication that arose out of their allegations. A Complainant who is a Staff member and who is sanctioned under this paragraph may also be subject to consequences in accordance with their employment agreement or policies for human resources, if applicable.

48. If a sanction is issued against a Complainant whose Complaint proceeded anonymously, the sanctioning body will be permitted to disclose the identity of the Complainant to the Respondent and any other individuals or entities who are required to know the Complainant's identity in order to give effect to the ordered sanction or to consider additional consequences if the Complainant is a Staff member.

**SECTION 7 – CONFIDENTIALITY OBLIGATIONS**

49. The disciplinary process is confidential and involves the Parties (including, where appropriate, their guardian, parent or other adult representative), ELT or Associate Counsel, the Adjudicator, and any independent advisors to those entities. Once initiated none of the Parties, witnesses, or anyone else with knowledge regarding a Complaint will disclose confidential information relating to the Complaint, including any interim sanction relating thereto, to any person not involved in the proceedings except to obtain legal advice or unless required by law. Notwithstanding the foregoing, an ELT member or Associate Counsel may report to the Board of Directors of Hockey Canada or the Hockey Canada Foundation regarding any ongoing investigation or adjudicative proceeding, if they deem it is appropriate to do so to enable that Board to carry out its governance function. Further, the Adjudicator, in consultation with ELT, can elect to lift the confidentiality restrictions after a final decision has been issued in situations where they deem it appropriate to do so.

50. A breach of these confidentiality requirements by anyone mentioned in paragraph 49 above may result in sanctions under the Policy.

51. Allegations of breaches of the confidentiality requirements for Complaints must be made to the sanctioning body, which may apply provisional measures against anyone alleged to have disclosed confidential information.

a. If the allegation is made during an ongoing Complaint process, the sanctioning body will notify the individual alleged to have committed the breach that a breach of confidentiality complaint has been made against them. The sanctioning body will issue a decision on the alleged breach of confidentiality. At the sanctioning body's discretion, this confidentiality decision can either be made prior to or along with their main decision.
b. If the allegation is made after the Complaint process is concluded, the breach of confidentiality complaint will proceed as a stand-alone Complaint under the Policy, with any necessary modifications to reflect the fact that a Complaint under this paragraph 51.b is alleging a breach of confidentiality rather than a Violation.

## SECTION 8 – REPRISALS AND RETALIATION

52. Anyone who submits a Complaint under this Policy or who gives evidence in a Complaint process shall not be subject to reprisal or retaliation from any individual or group. Any such reprisal or retaliation may be subject to disciplinary proceedings pursuant to the Policy. Matters brought under this Section 8 will proceed as a stand-alone Complaint under the Policy, with any necessary modifications to reflect the fact that a Complaint under this Section is alleging a reprisal or retaliation instead of a Violation.

## SECTION 9 – RECORDING DECISIONS

53. Hockey Canada will keep a record of any decision issued under this Policy.

54. If the decision pertains to a Staff member, a copy of the decision may be placed in their confidential employment record file.

55. Any decision rendered in accordance with this Policy may, at the sole discretion of ELT, as applicable, be shared with Sport Stakeholders where ELT has a good faith belief that such disclosure is necessary to ensure that appropriate steps can be taken to safeguard other sporting environments for the duration that the sanctions issued against a Respondent remain in place.

## SECTION 10 - APPEALS

56. The following is the exhaustive list of decisions issued pursuant to this Policy which can appealed to the SDRCC:

a. Where an Adjudicator issued a final decision featuring a suspension to a Respondent that was a number of days rather than a number of games, the Respondent may only appeal if the suspension exceeds thirty (30) days in length.
b. Where an Adjudicator issued a final decision featuring a suspension to a Respondent that was a number of games rather than a number of days, the Respondent may only appeal if the suspension exceeds fifteen (15) games in length.
c. Where an Adjudicator has issued a cost award against a Party.
d. A Complainant may only appeal a final decision where the Adjudicator found that no Violation occurred.

57. For clarity, decisions where a Respondent was issued a shorter suspension than those listed in paragraph 56 a or b above but which require the Respondent to apply for reinstatement of their privileges (and thus could result in the Respondent being ineligible to participate for longer than the thresholds set above) do not qualify for an appeal.

58. There is no appeal from any decision made by ELT under this Policy.

59. Any decision of the SDRCC on an appeal shall be final, non-reviewable, non-appealable and enforceable. No claim, arbitration, lawsuit or litigation concerning the dispute shall be brought in any other court or tribunal.

**SECTION 11 – GENERAL TERMS**

60. Section headings within the Policy are for the purpose of guidance only and do not form part of the Policy itself, nor do they inform or affect the language of the provisions to which they refer.

61. If any provision of the Policy is determined to be invalid or unenforceable, the remaining provisions shall not be affected. The Policy shall not fail because any part is held to be invalid.

62. Except as otherwise stated herein, failure to exercise or enforce any right conferred by the Policy shall not be deemed to be a waiver of any such right nor operate to bar the exercise or enforcement thereof or of any other right on any other occasion.

63. Unless otherwise specified, time periods in the Policy are total consecutive days irrespective of weekends or holidays. When a deadline falls on a weekend or statutory holiday, the next business day shall be the deadline for the purpose of the Policy.

64. ELT (or Associate Counsel, for Complaints involving an ELT member) shall have discretion to manage all situations that arise with respect to a Complaint that are not expressly contemplated in this Policy. They shall do so in good faith and in a manner which ensures procedural fairness for the Parties.

# SCHEDULE A – INVESTIGATION PROCEDURE

**INVESTIGATION**

1. The Investigator should be mindful as to whether federal and/or provincial/territorial legislation may apply, given the context of the Complaint. Where one of the Parties is an employee or contractor of Hockey Canada, the Investigator should review workplace safety legislation, the organization's policies for human resources, and/or consult independent experts to determine whether legislation applies to the Complaint.

2. Where a Party is a Minor, the Investigator should direct all correspondence for that Party through the Minor's guardian, parent or other adult representative whenever possible.

3. If the subject matter of the Complaint is also being investigated by law enforcement, the Investigator may be required to pause their investigation if instructed to do so by law enforcement.

4. The Investigator may require any Covered Person to participate in an investigation, even if they are not a Party to the Complaint. Failure to cooperate including, without limitation, obstructing or delaying any investigation or tampering with, damaging, disabling, or otherwise destroying evidence or other information, may be the basis for disciplinary action including, but not limited to, a prohibition from participation in any current or future Hockey Canada program and/or a permanent suspension from registering with Hockey Canada in any capacity. If the Covered Person is a Staff member, failure to cooperate may be the basis for disciplinary action relating to their employment, up to and including termination.

5. The investigation may take any form as decided by the Investigator, guided by any applicable federal and/or provincial/territorial legislation where in place. The investigation may include, without limitation:

    a. Interviews with the Complainant;
    b. Witness interviews. A Party may suggest a witness (or witnesses) to be interviewed by the Investigator. If the Investigator decides that interviewing any such witness(es) is unnecessary, they shall provide reasons in their investigation report for why such witnesses were not interviewed;
    c. Statement of facts (Complainant's perspective) prepared by the Investigator, acknowledged by the Complainant in writing and provided to the Respondent;
    d. Interviews with the Respondent; and/or
    e. Statement of facts (Respondent's perspective) prepared by the Investigator, acknowledged by the Respondent in writing and provided to the Complainant.

**INVESTIGATOR'S REPORT**

6. ELT, at its discretion, may direct the Investigator regarding the scope of the Investigator's report. The report may be limited to witness summaries and credibility assessments or it may

include more substantive information, such as the statement of particulars, statement of facts, allegations, and/or findings of fact. Identities of witnesses may be withheld from the final report, where this has been requested by the witness and where the Investigator believes it would not unduly prejudice the Respondent. The Investigator will be provided with terms of reference setting out their mandate for each Complaint.

7. For complaints managed by an Adjudicator, the Investigator's report shall not contain any conclusions on whether a Violation occurred or make any recommendation as to sanctions. Both of those responsibilities lie solely with the Adjudicator.

8. The Investigator's report will be provided to ELT who will provide it to the Adjudicator. The Adjudicator may also provide the Investigator's report – or a redacted version to protect the identity of witnesses – to the Parties, if they feel it is necessary for the hearing. If the Adjudicator determines that it is not necessary, a summary of the report will be provided to the Parties instead.

9. Where ELT or the Adjudicator believes that an investigation was not done in accordance with this Investigation Procedure, the Policy, or the Investigator's mandate, ELT may advise the Investigator of its specific concerns and require the Investigator to conduct any further steps required to rectify those concerns. If the Investigator does not take appropriate steps to rectify the concerns cited by ELT, then ELT may retain a new Investigator to complete the mandate.

10. Should the Investigator find that there are possible instances of offence(s) under the *Criminal Code* or behaviour which might constitute child abuse under the relevant provincial/territorial legislation, the Investigator shall advise the Complainant and ELT that the Investigator must refer the matter to police. The Investigator will not provide the Complainant's name or contact information to the police without the Complainant's written consent, unless the organization receiving the report (e.g. child services, the police, etc.) indicates that this is required as part of their process.

11. The presumption will be that the investigation report is determinative of the facts related to the Complaint. This presumption may be rebutted where a Party can demonstrate that there was a significant flaw in the process followed by the Investigator or can establish that the report contains conclusions which are inconsistent with the facts found by the Investigator. In situations where the presumption is rebutted, the Adjudicator shall determine to what extent the investigation report will be accepted as evidence and to what extent a witness or Party may be required to give fresh evidence at a hearing. The Adjudicator shall take a trauma-informed approach to all such determinations.

**CONFIDENTIALITY**

12. The Investigator will take all reasonable efforts to protect the identities of the Complainant and the Respondent throughout their investigation. However, it is recognized that maintaining full anonymity during an investigation may not be feasible.