NATIONAL INTEGRITY FRAMEWORK

Australian Underwater Federation Complaints, Disputes and Discipline Policy

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1. Introduction

The Australian Underwater Federation is committed to making Underwater Sports a safe and fair place for all participants. To achieve this, the Australian Underwater Federation has adopted the National Integrity Framework.

The National Integrity Framework is designed to assist with creating a safe and fair sporting environment for all by setting out the rules about the types of behaviour that are unacceptable in Underwater Sports. These unacceptable behaviours are defined as Prohibited Conduct. The National Integrity Framework seeks to guide Relevant Persons and Relevant Organisations on what to do if they experience or witness breaches of these rules.

The National Integrity Framework has been developed by Sport Integrity Australia and is made up of the following five policies:

- Safeguarding Children and Young People Policy;
- Competition Manipulation and Sport Gambling Policy;
- Improper Use of Drugs and Medicine Policy;
- Member Protection Policy; and
- Complaints, Disputes and Discipline Policy (this **Policy**)

Within the National Integrity Framework, this Policy sets out the process and parameters for how allegations of Prohibited Conduct are managed and resolved.

Prohibited Conduct as identified in the Australian Underwater Federation Code of Conduct 2024is also managed under this Policy.

The National Integrity Framework policies and the above referenced AUF Code of Conduct are collectively known as the **Relevant Policies**.

This Policy should be read and used in conjunction with the Relevant Policies.

Nothing in the National Integrity Framework overrides a law of the Commonwealth, or a state or territory, which take precedence and must be complied with in the first instance.

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

2. Policy Intent

This Policy and its procedures are designed to ensure that allegations of Prohibited Conduct are managed through an effective, consistent, and timely process, which is fair and transparent.

3. Definitions

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

Activity means a sporting contest, match, competition, event, or activity (including training), whether on a one-off basis or as part of a series, league, or competition, which is sanctioned or organised by a Relevant Organisation.

Athlete means a person who is registered, or entitled to participate, in an Activity.

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

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

Board means the board of the Australian Underwater Federation.

Breach Notice means a written notification sent to the Respondent in accordance with clause 8.58.5.

Case Categorisation Model means the guidelines published by Sport Integrity Australia and available on its website for evaluating and prioritising allegations of Prohibited Conduct and assisting with determining an appropriate mechanism to manage a Complaint, as amended from time to time.

Club means any club that enters an Athlete or a Team to participate in an Activity.

Commission or Committee which means any of the following:

i. Federal Commission/Committee, being a company, incorporated association or unincorporated association that is established as a committee of the Australian Underwater Federation that manage the day-to-day business of a particular sport or activity of the Australian Underwater Federation; and

ii. State/Territory Sporting Commissions, being sub-committees of a Federal Commission/Committees formed to manage a specific underwater sport or other underwater activity within their area of jurisdiction.

Complaint has the meaning given in clause 6.16.16.1.

Complaint Manager means the person appointed under clause 6.116.11 to manage Complaints under this Policy.

Complaints Process means the process for managing a Complaint under the guidance of this Policy from the time the Complaint is received to the Resolution Process.

Complainant has the meaning given in clause 6.2 6.2.

Contractor means any person or organisation engaged to provide services for or on behalf of a Relevant Organisation, and includes:

(a) agents, advisers, and subcontractors of a Relevant Organisation and

(b) employees, officers, volunteers, and agents of a Contractor or subcontractor.

Discrimination includes both direct and indirect discrimination which have the following meaning:

(a) 'Direct discrimination' occurs where, because a person has a Protected Characteristic, they are treated less favourably than a person without that characteristic would be treated in the same or similar circumstances.

(b) 'Indirect discrimination' occurs where a practice, rule, requirement or condition that applies to everyone disadvantages people with a Protected Characteristic and the practice, rule, requirement or condition is not reasonable in the circumstances.

Employee means a person employed by a Relevant Organisation.

Hearing Tribunal means the NST General Division or other first instance tribunal (including a Hearing Tribunal established internally by a Relevant Organisation) established to conduct a hearing under this Policy.

Member means a member of a Relevant Organisation, including:

(a) **Individual Member**, which means individuals who are individuals registered with the Australian Underwater Federation.

(b) **Life Member,** which means individuals who have been formally approved as Life Members of the Australian Underwater Federation.

National Integrity Framework means the Australian Underwater Federation National Integrity Framework consisting of the five policies.

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[1].

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) (NST Rule), National Sports Tribunal (Practice and Procedure) Determination 2021 (Cth) and National Sports Tribunal Act 2019 - Principles for Allocating a Member to a Dispute 2020.

Participant means:

(a) Athletes;

(b) Coaches appointed to train an Athlete or Team in an Activity;

(c) Administrators who have a role in the administration, operation or Activity of a Relevant Organisation including owners, directors, committee members or other persons;

(d) Officials including referees, umpires, technical officials, or other officials appointed by a Relevant Organisation, or any league, competition, series, Club or Team sanctioned by a Relevant Organisation; and

(e) support personnel who are appointed in a professional or voluntary capacity by a Relevant Organisation, or any league, competition, series, Club or Team sanctioned by a Relevant Organisation including sports science, sports medicine personnel, team managers, agents, selectors, and team staff members.

Policy means this Complaints, Disputes and Discipline Policy.

Prohibited Conduct means the conduct proscribed in each of the Relevant Policies, including the conduct proscribed under clause 5 of this Policy.

Protected Characteristic means:

(a) age;

(b) disability;

[1] See NST Act sections 5(2) and 6(2) and NST Rule section 7.

(c) race or ethnicity;

(d) sex or gender identity;

(e) sexual orientation; or

(f) religion.

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

Provisional Action means the process undertaken to impose a temporary measure on a Respondent while they are subject to a Complaints Process, or an investigation by law enforcement.

Relevant Organisation means any of the following organisations:

(a) The Australian Underwater Federation;

(b) Federal and State Commissions/Committees;

(c) State/Territory Branches

(d) Affiliate Clubs or

(e) any other organisation that has agreed to be bound by the Relevant Policies.

Relevant Person means any of the following persons:

(a) Individual Member;

(b) Participant;

(c) Employee;

(d) Contractor;

(e) Volunteer; or

(f) any other individual who has agreed to be bound by the Relevant Policies.

Relevant Policies means the following Australian Underwater Federation policies:

(a) Safeguarding Children and Young People Policy.

(b) Competition Manipulation and Sport Gambling Policy.

(c) Improper Use of Drugs and Medicine Policy.

(d) Member Protection Policy.

(e) Complaints, Disputes and Discipline Policy.

(f) AUF Code of conduct 2024.

Report has the meaning given in clause 6.56.5.

Reporter has the meaning given in clause 6.66.6.

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

Respondent has the meaning given in clause 6.3.

Underwater Sports means the sports of Apnoea/Freediving, Spearfishing, Underwater Hockey, Underwater Rugby, SCUBA Diving and Snorkelling, as governed by the Australian Underwater Federation and the World Underwater Federation from time to time.

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

State/Territory Branch means a company or incorporated association established as a Branch under the Constitution of the of the Australian Underwater Federation.

Team means a collection or squad of Participants registered with a Relevant Organisation or entitled to participate in an Activity.

Volunteer means any person engaged by a Relevant Organisation in any capacity who is not otherwise an Employee or Contractor, including directors and office holders, coaches, officials, administrators and team and support personnel.

Vulnerable Person means a person who is:

(a) under the age of 18;

(b) aged 18 or over but is or may be unable to take care of themselves or is unable to protect themselves against harm or exploitation, by reason of age, illness, trauma or disability, or any other reason; or

(c) aged 18 or over but has experienced or is experiencing poor mental health outcomes, either as a result of the incident in question, due to their life experiences, or as a result of societal factors, including but not limited to individuals from diverse backgrounds facing disproportionate mental health impacts, such as people with diverse sexualities or gender.

4. Jurisdiction

4.1 When this Policy applies

(a) This Policy applies to Prohibited Conduct under each of the Relevant Policies.

4.2 Who the Relevant Policies apply to

(a) The Relevant Policies apply to and bind:

i. all Relevant Persons and Relevant Organisations.

ii. any person who, or organisation that:

A. has had a Complaint or Report made against them; and

B. was bound by the Relevant Policies at the time of the alleged Prohibited Conduct, even if they are no longer a Relevant Person or Relevant Organisation.

(b) Employees are expected to abide by the terms of the Relevant Policies as a reasonable and lawful direction of the Relevant Organisation they are employed by (as relevant) as their employer.

(c) A Relevant Organisation must ensure that all Contractors and Volunteers are contractually bound to abide by the terms of the Relevant Policies.

(d) By participating in an Activity, a Participant is deemed to have agreed to be bound by the Relevant Policies.

(e) Any person or organisation who has had a Complaint made about them and was bound by the Relevant Policies at the time of the alleged behaviour continues to be bound by the Relevant Policies until the Complaint is finalised and any sanction has been complied with.

4.3 What happens when there are conflicting provisions?

(a) Laws of the Commonwealth, or a state or territory, take precedence and must be complied with in the first instance.

(b) Where conduct may constitute Prohibited Conduct but is a Protected Disclosure with respect to the Australian Underwater Federation it must be dealt with under the Australian Underwater Federation's Whistleblower Policy (when it comes into effect).

(c) The Australian National Anti-Doping Policy or any other applicable World Anti-Doping Code compliant anti-doping policy (ADP) will prevail to the extent of any inconsistency with the Relevant Policies in all instances. Any allegation relating to a breach or possible breach of the Australian National Anti-Doping Policy or ADP will be dealt with under that policy.

(d) Nothing in the Relevant Policies prevents the Relevant Organisation from referring any alleged Prohibited Conduct or criminal conduct to a relevant law enforcement agency.

(e) The Relevant Policies are subject to the Australian Underwater Federation Constitution and if there is any inconsistency, the Constitution will prevail.

5. Prohibited Conduct

5.1 What is Prohibited Conduct under this Policy?

(a) Subject to clause 5.1(b), in addition to the conduct proscribed under each of the Relevant Policies, a Relevant Person or a Relevant Organisation will breach this Policy if they:

i. fail to report any conduct which is reasonably likely to be Prohibited Conduct, to Sport Integrity Australia or the Australian Underwater Federation in accordance with clause 6.7, as soon as reasonably practicable after they become aware of it without reasonable cause;

ii. deliberately or wilfully withhold information in relation to any conduct which is reasonably likely to be Prohibited Conduct;

iii. fail to provide further information or documentation as requested during the Complaint Process without reasonable cause;

iv. fail to comply with a Breach Notice;

v. knowingly provide any inaccurate and/or misleading information during the course of any Complaint Process under this Policy; or

vi. fail to comply with obligations under this Policy to keep information confidential.

(b) A Relevant Person or Relevant Organisation will not be deemed to have breached this Policy if they fail to answer a question or provide information on the grounds that doing so would be a breach of any applicable law.

(c) The Australian Underwater Federation may initiate disciplinary action in accordance with this Policy if it becomes aware of a potential breach of clause 5.1(a) of this Policy.

6. Making a Complaint or Report

6.1 What is a Complaint?

(a) A Complaint is a formal written submission of an allegation:

i. made by a Complainant (who cannot make the Complaint anonymously); and

ii. relating to Prohibited Conduct under a Relevant Policy; and

iii. against a Respondent.

6.2 Who is a Complainant?

(a) A Complainant is a person or an organisation who or which is directly affected by the alleged Prohibited Conduct and makes a Complaint about a Respondent in accordance with this Policy.

(b) Where the person directly affected by the conduct is a Vulnerable Person, a Complaint may be submitted on their behalf by a parent or carer. The Vulnerable Person will still be considered to be the Complainant when a Complaint is submitted on their behalf.

(c) A Complainant cannot be anonymous.

6.3 Who is a Respondent?

(a) A Respondent is a Relevant Person or Relevant Organisation about whom a Complaint or Report has been made and who was bound by the Relevant Policy/ies at the time the alleged Prohibited Conduct occurred.

6.4 Vulnerable Persons and support persons

(a) Where required, the parent or carer of a Vulnerable Person who is a party to a Complaint may support the Vulnerable Person and/or act on their behalf if necessary through the Complaints Process and any subsequent Resolution Process. For example, at any interview, Alternative Dispute Resolution process, or Hearing Tribunal or Appeals Tribunal.

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

(c) A party to a Complaint may request that they be assisted by a support person or authorised representative. This request will generally be granted unless there is a specific reason to deny it (for example, where a nominated support person or authorised representative is also a witness to the allegations or is actively hindering the interview process). Reporters and witnesses may be permitted to be assisted by a support person or authorised representative where this is considered appropriate.

6.5 What is a Report?

(a) A Report is a submission of allegations that a Respondent has engaged in conduct which may be Prohibited Conduct which does not meet the definition of a Complaint.

(b) Reports received by the Australian Underwater Federation or Sport Integrity Australia may be recorded for information purposes only with no further action taken. The process for managing a Report will be at the discretion of the Complaints Manager or Sport Integrity Australia. In some circumstances, Reports may be managed through the Complaints Process. Reporters will not be contacted regarding their Report unless further information is required.

(c) Factors that may be taken into account in determining whether to progress a Report through the Complaints Process include (but are not limited to) the seriousness of the alleged conduct, the availability of evidence that could be relied upon in an investigation, whether a person or organisation has been directly affected by the alleged Prohibited Conduct and if so their circumstances and preferences, the perceived risk to the sport, and whether there have been other Reports relating to similar allegations.

(d) A Report may be made anonymously, however this may limit the action that can be taken in relation to the allegations.

(e) Where multiple Reports relate to the same or related alleged conduct by the same Respondent, they may be combined for the purposes of the Complaints Process.

(f) If a Report is to be progressed through the Complaints Process, any reference to a Complaint throughout this Policy will apply to the Report.

6.6 Who is a Reporter?

(a) A Reporter is any person or organisation, including a Relevant Person or Relevant Organisation, who or which has reason to believe that Prohibited Conduct may have occurred and makes a Report. A Reporter may be anonymous.

(b) A Reporter is not entitled to the same rights throughout the Complaints Process as a Complainant. For example, a Reporter may not be kept informed of any decisions made in relation to the Report or participate in any Alternative Dispute Resolution.

6.7 Responsibility for Managing Complaints or Reports

(a) A Complaint or Report may be submitted to Sport Integrity Australia where it relates to alleged Prohibited Conduct under the Safeguarding Children and Young People Policy or allegations of Discrimination under the Member Protection Policy.

(b) Complaints relating to matters such as personal grievances, issues related to employment, governance, eligibility and selection disputes, and competition-related rules will not be managed by Sport Integrity Australia.

(c) A Complaint or Report may be submitted to the Australian Underwater Federation where it relates to any alleged Prohibited Conduct.

(d) Where a Complaint relates to alleged Prohibited Conduct below the national level, the Australian Underwater Federation may delegate its functions and responsibilities relating to managing Complaints under this Policy to a Relevant Organisation, other than those functions and responsibilities set out in this clause6.7. The Australian Underwater Federation must take into account any significant conflict of interest, and whether it can be appropriately managed, in considering whether to delegate such functions and responsibilities to a Relevant Organisation. If delegated:

i. any reference to the Australian Underwater Federation in provisions relevant to the delegated functions will be read as a reference to that Relevant Organisation;

ii. the matter may only be referred to the NST through the Australian Underwater Federation;

iii. the matter remains subject to overview and review by the Australian Underwater Federation, which may require the Relevant Organisation managing the Complaint to remedy any failure to discharge a delegated responsibility and/or improper exercise of a delegated function.

(e) The organisation managing the Complaint may appoint an independent investigator where appropriate but will remain responsible for overall management of the Complaint.

(f) Sport Integrity Australia will keep records of information in accordance with the *Archives Act 1983.* The Australian Underwater Federation will keep records of information in accordance with its own policies and procedures.

6.8 Submitting a Complaint or Report

(a) A Complaint or Report should be submitted to Sport Integrity Australia or the Australian Underwater Federation in accordance with clause 6.7.

(b) A Complaint must be made in writing (including electronically).

(c) A Report can be made in writing (including electronically) or verbally.

(d) The online web form on the Sport Integrity Australia website is the preferred method for submitting a Complaint or Report to Sport Integrity Australia.

6.9 Withdrawing a Complaint

(a) A Complaint can be withdrawn at any time. Withdrawing a Complaint must be done in writing (including electronically) to the organisation that it was submitted to.

(b) Where a Complaint has been withdrawn, the organisation managing the Complaint may choose to continue to progress the matter through the Complaints Process.

6.10 Confidentiality

(a) All Complaints and Reports will be kept in confidence.

(b) Any Relevant Organisation or Sport Integrity Australia may disclose information as required or authorised by law.

(c) Subject to this clause, decisions around appropriate disclosure of information will be addressed on a case-by-case basis. Disclosure of information to parties not directly affected by the alleged behaviour may be restricted.

(d) The Australian Underwater Federation will, on request from Sport Integrity Australia, provide information to Sport Integrity Australia which it requires to undertake the Complaints Process.

6.11 Appointment of Complaint Manager

(a) The Australian Underwater Federation will appoint a Complaint Manager, who will be responsible for managing the Australian Underwater Federation's obligations under this Policy.

6.12 Failure to cooperate

(a) Subject to clause 6.12(c)6.12(c), Relevant Persons should cooperate fully with any Complaints Process or Resolution Process they are involved in. A failure to do so may be Prohibited Conduct under clause 5.15.1(a) of this Policy.

(b) If a Respondent fails or refuses to respond, after a request has been made in a reasonable time in advance, to answer any relevant question, provide relevant documentation, and/or participate in a Complaints Process or Resolution Process, Sport Integrity Australia, the Australian Underwater Federation, a Hearing Tribunal or an Appeals Tribunal (as applicable) may make findings based on the available information.

(c) No individual or organisation bound by this Policy is required to answer a question or provide information where to do so would be a breach of any applicable law.

7. The Complaints Process

7.1 Evaluation

(a) Upon receipt of a Complaint, the organisation which receives the Complaint will determine whether the matter falls within the scope of the Relevant Policies. In making this determination the organisation will consider whether the conduct alleged in the Complaint would, if proven to the requisite standard, constitute Prohibited Conduct, as well as whether it otherwise meets the requirements of clause 6. The organisation will also make a determination in accordance with clause 6.7. as to which organisation should manage the Complaint.

(b) Where a Complaint has the potential to be managed by either Sport Integrity Australia or the Australian Underwater Federation, these organisations may consult on who is best placed to manage the Complaint.

(c) Where a Complaint is determined to be out of scope under the Relevant Policies, it may be managed under an alternative policy of a Relevant Organisation (if applicable).

(d) Mischievous or vexatious claims will not be managed under this Policy.

(e) A Complaint that has been previously managed through a complaints process will not be reconsidered or reinvestigated unless there are compelling reasons to do so, such as relevant new information becoming available.

(f) Where a Complaint raises allegations about behaviour that could be a breach of both a Relevant Policy or another policy of a Relevant Organisation, the matter will be managed under the most appropriate policy. Where conduct may constitute Prohibited Conduct but is a Protected Disclosure with respect to the Australian Underwater Federation, it must be dealt with under the Australian Underwater Federation's whistleblower policy (if applicable).

(g) If the Complaint is determined to be out of scope of the Relevant Policies, the organisation which received the Complaint will notify the Complainant and no further action will be taken under this Policy.

(h) If a person considers that a child is at risk of immediate harm the matter must be reported to the relevant law enforcement/child protection agency as soon as possible.

7.2 Case Categorisation Model: In-scope matters

(a) Once a Complaint has been deemed to be in-scope, it will undergo Case Categorisation to determine an appropriate means of dealing with the Complaint. Complaints are categorised with reference to the nature of the alleged conduct, the possible level of harm and complexity of the issues raised in the Complaint (refer to Case Categorisation Model).

(b) Following Case Categorisation, any one or a combination of the following actions may be undertaken:

i. External referral;

ii. Referral to a Hearing Tribunal;

iii. Provisional Action;

iv. Investigation;

v. Alternative Dispute Resolution;

vi. Case closure.

(c) For Complaints that have been categorised as Category 1, the Complaint may be closed in accordance with clause 8.10(a)i. with no findings being made or sanction imposed. A Respondent may be reminded of their obligations under the Relevant Policies or recommended to undergo education or training.

(d) The Australian Underwater Federation may refer a Complaint directly to a Hearing Tribunal to hear the allegations and make findings about the Complaint instead of proceeding to an investigation.

7.3 External referral

(a) At any time during the Complaints Process, allegations may be referred to a relevant external organisation if it will assist the organisation to perform or exercise any of the functions, duties or powers. This may include referral to a law enforcement agency, government or regulatory authority or child protection agency. If a person considers that a child is at risk of immediate harm the matter must be reported to the relevant law enforcement/child protection agency as soon as possible.

(b) If an external referral is made, the Complaints Process may be suspended pending external resolution to avoid any potential compromise to the external process.

7.4 Provisional Action

(a) Where an allegation suggests a risk of harm to a Participant which justifies imposing Provisional Action, the Australian Underwater Federation will determine whether any Provisional Action will be taken to mitigate any potential harm to any person and/or interference in an investigation.

(b) Provisional Action may only be taken by Relevant Organisations and not by Sport Integrity Australia. For matters managed by Sport Integrity Australia, Sport Integrity Australia will advise the Australian Underwater Federation as soon as practicable of any possible risk of harm to Participants identified, including sufficient details of the matter to enable the Australian Underwater Federation to determine whether to impose any Provisional Action.

(c) Provisional Action may include suspension, supervision, restriction of duties or temporary re-deployment, or suspension or restriction of rights, privileges or benefits.

(d) If a decision is made to impose Provisional Action, a Respondent may seek to have that decision reviewed by a Hearing Tribunal. The Hearing Tribunal will only consider whether the decision to impose the Provisional Action is proportionate to the perceived risk of harm and will not consider the merits of the Complaint except as is necessary to assess proportionality.

7.5 Investigation

(a) The organisation responsible for managing the Complaint may conduct an investigation to obtain additional evidence, including by way of formal interview and collection of additional information, to determine if the alleged Prohibited Conduct is a breach of a Relevant Policy.

(b) In conducting an investigation, the rules of procedural fairness will apply, including by providing both the Complainant and the Respondent with a reasonable opportunity to be heard.

(c) Where a Respondent has been convicted or found guilty in a criminal, disciplinary or professional proceeding of engaging in conduct which would constitute Prohibited Conduct under a Relevant Policy, the Respondent will be deemed under this Policy to have committed Prohibited Conduct without requiring further investigation, or any other process.

(d) Following an investigation, the Complaint will be managed in accordance with clause 8, or if being managed by the Australian Underwater Federation may be referred directly to a Hearing Tribunal.

7.6 Standard of proof

(a) The standard of proof that applies to all substantive decisions (including by a Hearing Tribunal) made under this Policy in respect of allegations of Prohibited Conduct is "balance of probabilities". This means the decision-maker must be satisfied that it is more likely than not that there has been a breach of a Relevant Policy.

7.7 Alternative Dispute Resolution

(a) The Complainant and the Respondent may agree to an Alternative Dispute Resolution. The Complaints Process may be suspended while Alternative Dispute Resolution is pursued. The Complaints Process may be discontinued if both parties are satisfied that the matter has been resolved.

(b) This process will be coordinated by the Complaint Manager, if required.

(c) If a Complaint relates to an NST Eligible Matter, the Australian Underwater Federation may refer the Complaint to mediation, conciliation or case appraisal in the NST General Division.

8. Findings and Resolution Process

8.1 Findings

(a) Unless the matter has been referred directly to a Hearing Tribunal under clause 7.5(d), following an investigation, the organisation managing the Complaint will determine whether, to the requisite standard of proof, the allegation of Prohibited Conduct is substantiated, unsubstantiated or unable to be substantiated.

(b) In cases where Sport Integrity Australia investigates the Complaint, Sport Integrity Australia will notify the parties and the Australian Underwater Federation of the findings, and if the allegation of Prohibited Conduct is substantiated, refer to the Australian Underwater Federation to manage the Resolution Process described in clause 8.28.2.

(c) In cases where the Australian Underwater Federation manages the Complaint, the Australian Underwater Federation will notify the parties of the findings, and if the allegation of Prohibited Conduct is substantiated, will manage the Resolution Process described in clause 8.28.2.

8.2 The Resolution Process

(a) The Australian Underwater Federation must implement an appropriate Resolution Process.

(b) Consistent with clause 6.71.1(c)(d)6.7(d), the Australian Underwater Federation may delegate the management of the Resolution Process to another Relevant Organisation.

(c) The Australian Underwater Federation is ultimately responsible for issuing a Breach Notice to the Respondent and applying and administering Sanctions and other related measures as it sees fit. The Australian Underwater Federation may refer to Sport Integrity Australia's Case Categorisation Model for this purpose.

(d) Where a Respondent admits the alleged breach and accepts the Sanction, or fails to respond to the Breach Notice within the time prescribed within the Breach Notice, the Australian Underwater Federation's Complaint Manager may impose the Sanction and proceed to finalise the Complaint.

8.3 Notification to parties

The Australian Underwater Federation will communicate as appropriate with the Respondent, Complainant and any Relevant Organisation involved in the matter throughout the Resolution Process and will notify both the Complainant and the Respondent of the outcome and finalisation of the matter at the conclusion of the Resolution Process.

8.4 Appropriate Sanctions

(a) The Australian Underwater Federation may impose one or more Sanctions on a Respondent where this is considered appropriate.

(b) In making a determination under clause 8.4(a) the Australian Underwater Federation may refer to the Case Categorisation Model, taking into account:

i. the seriousness of the behaviour;

ii. whether it was a one-off incident or part of an overall pattern of behaviour;

iii. whether it was an honest and reasonable mistake;

iv. the potential impact on public confidence in the integrity of the sport;

v. the potential impact of the proposed Sanction on the Respondent;

vi. the views and opinion of the Complainant; and

vii. any other relevant aggravating or mitigating factors.

8.5 Breach Notice

(a) If the allegations are found to be substantiated, the Australian Underwater Federation will issue a Breach Notice. Any Breach Notice issued by the Australian Underwater Federation to a Respondent will:

i. notify the Respondent of the allegations found to be substantiated, including the alleged conduct;

ii. state the proposed Sanction, if any, for the substantiated allegations;

iii. state that the Respondent has a right to a hearing in relation to the allegations found to be substantiated and/or the proposed Sanction;

iv. state that the Respondent may accept the findings, waive their right to a hearing and accept the proposed Sanction;

v. state that if the Respondent does not respond in writing within 14 days of the date of the Breach Notice, they will be deemed to have accepted the findings, waived their right to a hearing and accepted the proposed Sanction, unless otherwise agreed by the Australian Underwater Federation;

vi. state that any response to the Breach Notice must be made to the Australian Underwater Federation, and provide contact details of the Complaint Manager; and

vii. be provided to the Respondent, and (if applicable) Relevant Organisation.

(b) In response to a Breach Notice, a Respondent may:

i. accept the findings, waive their right to a hearing and accept the proposed Sanction; or

ii. dispute the findings and/or the proposed Sanction, in which case the matter will be referred to a Hearing Tribunal under this Policy.

(c) Unless otherwise agreed by the Australian Underwater Federation, a Respondent has 14 days from the date of the Breach Notice to notify the Complaint Manager in writing of their decision.

(d) Notice given under paragraph 8.5(b)ii. must be:

i. given in writing (whether by email or other means);

ii. sent to the Australian Underwater Federation's Complaint Manager at the address given on the Breach Notice; and

iii. received within 14 days from the date of the Breach Notice.

(e) If the Australian Underwater Federation does not receive notice under clause 8.5(b)ii. Within 14 days from the date of the Breach Notice, the Respondent will be deemed to have waived their right to appeal.

8.6 Referral to a Hearing Tribunal

(a) If the Respondent disputes the substantiated allegations and/or the proposed Sanction in the Breach Notice, the Complaint Manager must refer the matter to a Hearing Tribunal.

(b) If the matter is an NST Eligible Matter, the substantiated allegations and proposed Sanction may be referred by the Australian Underwater Federation to the NST General Division for arbitration. The Australian Underwater Federation is responsible for making the application to the NST. Payment of the NST fees will be as agreed by the parties or managed in accordance with the NST Legislation.

(c) If the matter is not referred to the NST, it will otherwise be referred to a Hearing Tribunal convened internally either at the Australian Underwater Federation level or other Relevant Organisation level.

8.7 Hearing Tribunals

(a) Arrangements must be established to manage internal hearings and appeals.

(b) If arbitration is sought in either the NST General Division or an internal Hearing Tribunal, the Hearing Tribunal will, as applicable:

i. determine whether any Provisional Action imposed in accordance with clause 7.4 is disproportionate; or

ii. if referred directly to the Hearing Tribunal under clause7.2, make the findings required by clause 8.1, and determine whether a Sanction should be imposed and if so, the nature of that Sanction; or

iii. if referred to a Hearing under clause 8.6 following an investigation, arbitrate the substantiated allegations and proposed Sanction set out in the Breach Notice.

8.8 Appeals

(a) A decision of a Hearing Tribunal in respect of:

i. Provisional Action, is not subject to appeal;

ii. allegations referred directly to a Hearing Tribunal for a finding, is subject to appeal; and

iii. a substantiated allegations finding and/or Sanction, is subject to appeal.

(b) Appeals from the NST General Division must be referred to the NST Appeals Division. Appeals from Internal Hearing Tribunals may be referred to the NST or to another Appeals Tribunal. Appeals from an Australian Underwater Federation Hearing Tribunal may be referred to the NST Appeals Division. Payment of the NST fees will be as agreed by the parties or managed in accordance with the NST Legislation.

(c) Grounds of appeal:

i. The decision of a Hearing Tribunal can only be appealed by the Respondent and/or the Australian Underwater Federation on the basis that:

A. the Hearing Tribunal failed to abide by this Policy or to properly apply the relevant Policy and such failure resulted in a denial of natural justice; and/or

B. no reasonable decision maker in the position of the Hearing Tribunal, based on the material before them, could reasonably make such a decision.

8.9 Implementation

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

(b) Relevant Organisations will determine if a Sanction should be publicly disclosed in order to give it full effect. This may be necessary for suspension or cancellation of membership or accreditation.

(c) Notwithstanding clause 8.9(a), ignorance of the Relevant Policies is not a defence, excuse or justification for Prohibited Conduct and will not be considered a mitigating circumstance.

8.10 Case closure

(a) Complaints may be closed under this Policy at any of the following times:

i. the Complaint is evaluated as being out of scope of this Policy under clause 7.1;

ii. the Complaint is categorised as a Category 1 Complaint in accordance with clause 7.2 and the Case Categorisation Model, and no further action is being taken;

iii. during investigation of the Complaint, it becomes apparent that the Complaint no longer meets the eligibility requirements set out in clause 6 (for example, the Respondent is discovered not to have been bound by the Relevant Policies at the time the alleged conduct occurred due to information obtained during the investigation);

iv. the Complaint is resolved through Alternative Dispute Resolution in accordance with clause 7.7, or the Complaint was sought to be resolved through Alternative Dispute Resolution but it was not resolved and the participants are in agreement that the Complaint may be closed;

v. following investigation, all allegations are found to be either unsubstantiated or unable to be substantiated in accordance with clause 8.1;

vi. following investigation, the Respondent accepts or is deemed to have accepted the findings and any Sanction imposed upon them in accordance with clause 8.5; or

vii. the matter is finalised before a Hearing Tribunal or Appeals Tribunal.

(b) Once a matter has been closed in accordance with this clause, it has been finalised and no further action will be taken in relation to the matter under this Policy unless there is a compelling reason to do so.

(c) The Australian Underwater Federation will retain appropriate records of the Complaint and any outcomes in accordance with any relevant policies or procedures relating to record-keeping.

(d) For Complaints managed by Sport Integrity Australia, the Australian Underwater Federation will notify Sport Integrity Australia when the matter is closed and of any Sanctions imposed on the Respondent.

9. Interpretation and Other Matters

9.1 Application and commencement

(a) The Relevant Policies are approved by the Australian Underwater Federation Board.

(b) The Relevant Policies:

i. commence on the date outlined on the front cover (Commencement Date);

ii. are subject to the Australian Underwater Federation's constitution (or other governing rules as applicable), and if there is any inconsistency, the constitution will prevail; and

iii. when in force, are binding on all Relevant Persons and Relevant Organisations.

(c) Nothing in the National Integrity Framework limits the rights or obligations of any person under any other Relevant Organisation policy, or other relevant agreement.

(d) The National Integrity Framework does not override or limit the application of any laws of Australia or a state/territory.

(e) The 'Policy Intent' section (if applicable) at the start of each Relevant Policy is not intended to be and should not be construed in any way as a complete and comprehensive overview of that Relevant Policy. To the extent of any inconsistency, the operative provisions of that Relevant Policy prevail.

9.2 Amendment

In accordance with the Australian Underwater Federation's Constitution (or other governing rules as applicable), the Board may amend the Relevant Policies as required, including to incorporate amendments notified to the Australian Underwater Federation by Sport Integrity Australia from time to time. Such amendments will be effective on the date specified by the Board.

9.3 Interpretation

(a) The following rules of interpretation apply to each Relevant Policy:

i. Headings are for convenience only and shall not be deemed part of the substance of the document or to affect in any way the language of the provisions to which they refer.

ii. Words in the singular include the plural and vice versa.

iii. Reference to 'including' and similar words are not words of limitation.

iv. Words importing a gender include any other gender.

v. A reference to a clause is a reference to a clause or subclause of the Relevant Policy in which it appears.

vi. Where a word or phrase is given a particular meaning, other parts of speech and grammatical forms of that word or phrase have corresponding meanings.

vii. If any provision of a Relevant Policy is determined invalid or unenforceable, the remaining provisions shall not be affected, and the document shall not fail because any part of it is held invalid.

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

ix. Defined terms are Capitalised and consistent across the Relevant Policies.

9.4 Education

(a) To assist Participants to understand this Policy and their rights and responsibilities, the Australian Underwater Federation is responsible for developing and implementing an education plan addressing the content and subject matter of this Policy.

(b) The Australian Underwater Federation should engage Sport Integrity Australia to assist in the design, implementation and maintenance of the education plan and to determine priority education groups and appropriate interventions.

(c) The Relevant Organisation may, from time to time, direct certain Participants to undertake education, which will be relevant and proportionate to their level of participation in Underwater sports and the associated integrity risks.

(d) Sport Integrity Australia has developed a range of education resources and training material to support the National Integrity Framework which can be found here.