Discipline and Complaints Policy

(the "Policy")

PURPOSE

1. Softball Canada Participants are expected to fulfill certain responsibilities and obligations including, but not limited to, complying with all policies, by-laws, rules, and regulations of Softball Canada, as updated, and amended from time to time.

2. Non-compliance with any of Softball Canada's policies, by-laws, rules, or regulations, or those of its Members, as applicable, may result in the imposition of sanctions pursuant to this Policy.

APPLICATION

Application – General

3. This Policy applies to all Softball Canada Participants and to any alleged breaches of Softball Canada's policies, by-laws, rules or regulations, or any of those of its Members, that designate this Policy as applicable to address such alleged breaches.

4. In addition to being subject to disciplinary action pursuant to this Policy, an employee of Softball Canada who is a Respondent to a complaint may also be subject to consequences in accordance with the employee's employment agreement or Softball Canada's human resources policies, if applicable

5. A Softball Canada Participant, who is a Worker, who believes that a staff member or Director has committed Wrongdoing (as described in the *Whistleblower Policy*) may report the alleged incident(s) to the Independent Third Party (as further described in the *Whistleblower Policy.*

REPORTING

UCCMS Participants

5. Incidents that involve alleged Maltreatment or Prohibited Behaviour (as those terms are defined in the UCCMS) that occurred or continued as of April 1, 2023, involving a UCCMS Participant must be reported to the OSIC and will be addressed pursuant to the OSIC's policies and procedures.

6. Incidents that involve alleged Maltreatment or Prohibited Behaviour that occurred before April 1, 2023 may be reported to the OSIC; however, the OSIC shall determine the admissibility of such complaints in accordance with the relevant and applicable OSIC Guidelines regarding the initial review and preliminary assessment, and the matter may only proceed pursuant to the

OSIC's procedures with the express consent of the Parties involved where the Parties have not been designated by Softball Canada as a UCCMS Participant.

7. If the Independent Third Party receives a complaint that they consider would otherwise fall within the above sections, they shall refer the matter to the OSIC and notify the individual(s) that made the complaint of such action.

Softball Canada Participant

8. Any complaints involving alleged breaches of Softball Canada's policies that do not fall within Sections 5 or 6 above may be reported by a Softball Canada Participant to the Independent Third Party in writing. For the avoidance of doubt, this includes complaints referred back to the Independent Third Party by the OSIC following a determination made by the OSIC that a complaint initially reported to it does not fall within its jurisdiction.

Cristy Cooper

cristy@sportlex.ca

Sportlex

9. Notwithstanding any provision in this Policy, Softball Canada may, at its discretion, or upon request by the Independent Third Party, act as the Complainant and initiate the complaint process under the terms of this Policy. In such cases, Softball Canada will identify an individual to represent the organization.

10. A Complainant who fears retribution or reprisal or who otherwise considers that their identity must remain confidential may file a complaint with the Independent Third Party and request that their identity be kept confidential. If the Independent Third Party considers that the Complainant's identity must remain confidential, the Independent Third Party may ask that Softball Canada take carriage of the complaint and act as the Complainant.

11. In exceptional circumstances, the Independent Third Party may direct a complaint to be managed by Softball Canada if a Member is otherwise unable to manage the complaint for valid and justifiable reasons, such as a conflict of interest, due to a lack of capacity or where the Member does not have policies in place to address the complaint. In such circumstances, Softball Canada shall have the right to request that a cost-sharing agreement is entered into with the Member as a pre-condition to Softball Canada managing the complaint. [1]

12. Where the Independent Third Party refers a matter to be managed by a Member or affiliated organization, or where a Member or affiliated organization is otherwise responsible for managing a matter (i.e., because they received the matter directly), and the Member and/or affiliated organization fails to conduct disciplinary proceedings within a reasonable timeline, Softball Canada may, at its discretion, take jurisdiction over the matter and conduct the necessary

[1] In such circumstances, the Complainant(s) may be required to provide evidence during the disciplinary process.

proceedings. In such circumstances, if the Internal Discipline Chair or External Discipline Panel decides that Softball Canada acted reasonably in taking jurisdiction over the matter, Softball Canada's costs to conduct the proceedings, including legal fees, shall be reimbursed by the Member and/or affiliated organization to Softball Canada.

MINORS

13. Complaints may be brought by or against a Softball Canada Participant who is a Minor. Minors must have a parent/guardian or other adult serve as their representative during this process.

14. Communication from the Independent Third Party, Internal Discipline Chair or External Discipline Panel (as applicable) must be directed to the Minor's representative.

15. If the Minor's representative is not their parent/guardian, the representative must have written permission to act in such a capacity from the Minor's parent/guardian.

16. A Minor is not required to attend or participate in an oral hearing, if held, or participate in an investigation if conducted. In such circumstances, no adverse inference can be drawn against the Minor.

INDEPENDENT THIRD PARTY RESPONSIBILITIES

17. Upon receipt of a complaint, the Independent Third Party has a responsibility to:

a) Determine whether the complaint falls within the jurisdiction of this Policy;

b) Determine the appropriate jurisdiction to manage the complaint by considering the following:

1. whether the incident occurred within the business, activities, or Events of Softball Canada, or one of its Members or affiliated organizations; and

2. if the Member or affiliated organization can manage the complaint process.[2]

[2] In making this assessment, the Independent Third Party may determine that the Member or affiliated organization lacks the capacity to manage the complaint (which may include financial and human resource capacity), that the Member or affiliated organization is not the appropriate jurisdiction to manage the complaint due to its seriousness (for example, clubs should not be expected to manage serious complaints due to the complexity of conducting such a process), or that a real or perceived conflict of interest exists within the Member or affiliated organization.

If the Independent Third Party determines that the Complaint or Report should be handled by a Member or affiliated organization, that organization may use its own policies to address the complaint or may adopt this Policy and appoint its own Independent Third Party to fulfil the responsibilities listed herein. Where this Policy is adopted by a Member or affiliated organization, any reference to Independent Third Party shall be understood as a reference to the Independent Third Party of the PTSO or affiliated organization.

c) Determine whether the complaint is frivolous, vexatious or if it has been made in bad faith;

d) Determine if the alleged incident should be investigated pursuant to **Appendix A – Investigation Procedure**; and

e) Choose which process (Process #1 or Process #2, as outlined below) should be followed to hear and adjudicate the matter.

Available Process

There are two different processes that may be used to hear and adjudicate complaints. The Independent Third Party decides which process will be followed at their discretion, and such decision is not appealable.

Process #1 - the complaint contains allegations involving the following behaviours:

a. Disrespectful conduct or comments

b. Minor acts of physical violence, unless the physical violence is between a Person in Authority and a Vulnerable Participant, in which case the matter will be addressed under Process #2

c. Conduct contrary to the values of Softball Canada or those of one of its Members or affiliated organizations

d. Non-compliance with the policies, procedures, rules, or regulations of Softball Canada or those of one of its Members or affiliated organizations

e. Minor violations of the policies or bylaws of Softball Canada or those of one of its Members or affiliated organizations.

*** The behaviours identified above are examples only and are not a definitive list of behaviours that may be addressed through Process #1.

Process #2 - the complaint contains allegations involving the following behaviours:

a. Repeated incidents described in Process #1

b. Hazing

c. Abusive, racist, or sexist comments, conduct or behaviour

d. Incidents that constitute Prohibited Behaviour under the *Code of Conduct and Ethics* (the "Code") or the UCCMS

e. Major incidents of violence (e.g., fighting, attacking)

f. Pranks, jokes, or other activities that endanger the safety of others

g. Conduct that intentionally interferes with a competition or with any athlete's preparation for a competition

h. Conduct that intentionally damages the image, credibility, or reputation of Softball Canada or that of one of its Members or affiliated organizations

i. Consistent disregard for the by-laws, policies, rules, or regulations of Softball Canada or those of one of its Members or affiliated organizations

j. Major or repeated violations of the *Code* or any other policies, by-laws, rules or regulations that designate this *Discipline and Complaints Policy* as applicable to address such alleged breaches

k. Intentionally damaging the property of Softball Canada, one of its Members or affiliated organizations, or improperly handling any of the aforementioned organizations' monies

l. Abusive use of alcohol, any use or possession of alcohol by Minors, or use or possession of illicit drugs and narcotics

m. A conviction for any *Criminal Code* offense

The behaviours identified above are examples only and are not a definitive list of behaviours that may be addressed through Process #2.

PROVISIONAL SUSPENSIONS

18. If it is considered appropriate or necessary on the basis of the circumstances, immediate discipline or the imposition of a Provisional Suspension or interim measures may be imposed against any Softball Canada Participant by Softball Canada's Safe Sport Officer or designate after which further discipline or sanctions may be applied according to this Policy.

19. If an infraction occurs at a competition, it will be dealt with by the procedures specific to the competition, if applicable. Provisional Suspensions or interim measures may be imposed for the duration of a competition, training, activity, or Event only, or as otherwise determined appropriate by the Independent Third Party.

20. Notwithstanding the paragraph above, Softball Canada's Safe Sport Officer or designate may determine that an alleged incident is of such seriousness as to warrant the imposition of a

Provisional Suspension of a Respondent pending completion of an investigation, assessment and/investigation by the OSIC, criminal process, the hearing, or a decision of the External Discipline Panel.

21. Any Respondent against whom a Provisional Suspension or interim measure is imposed may make a request to the Independent Third Party or External Discipline Panel (if appointed) to have the Provisional Suspension or interim measure lifted. In such circumstances, Softball Canada shall be provided with an opportunity to make submissions, orally or in writing, regarding the Respondent's request to have their Provisional Suspension lifted. Provisional Suspensions or interim measures shall only be lifted in circumstances where the Respondent establishes that it would be manifestly unfair to maintain the Provisional Suspension or interim measures against them.

22. Any decision not to lift a Provisional Suspension or interim measure shall not be subject to appeal.

Procedural Steps

PROCESS #1: Handled by Internal Discipline Chair

Internal Discipline Chair

23. Following the determination that the complaint or incident should be handled under Process #1, the Independent Third Party will appoint an Internal Discipline Chair[3] who may:

a. Propose alternative dispute resolution techniques, if appropriate; and/or

b. Ask the Complainant and the Respondent for either written or oral submissions regarding the complaint or incident. Both Parties shall also have the right to submit to the Internal Discipline Chair any relevant evidence, including, but not limited to witness statements, documentary evidence or evidence from other media (i.e., photos, screenshots, videos or other recordings). Each Party shall have the right to receive the other Party's submissions and evidence, including the Complainant's complaint. In the case of oral submissions, each Party shall be present when such submissions are made (unless waived by a Party); and/or

c. Following receipt of the Parties' submissions, the Internal Discipline Chair may convene the Parties to a meeting, either in person or by way of video or teleconference to ask the Parties questions and to allow the Parties to ask questions of one another.

24. Following their review of the submissions and evidence related to the complaint, the Internal Discipline Chair shall determine if any of the incidents listed in Process #1 above have occurred and, if so, determine whether to impose a sanction and, if so, determine the

[3] The appointed Internal Discipline Chair must be unbiased and not in a conflict of interest.

appropriate sanction (see: **Sanctions**). If, after hearing the Parties and reviewing their submissions, the Internal Discipline Chair considers that none of the incidents listed in Process #1 above have occurred, they shall dismiss the complaint.

25. The Internal Discipline Chair will inform the Parties of the Internal Discipline Chair's decision, which shall be in writing and include reasons. The Internal Discipline Chair's decision will take effect immediately, unless specified otherwise by the Internal Discipline Chair. Should the circumstances require a decision to be rendered immediately or within a short timeline, the Internal Discipline Chair may render a short decision, either orally or in writing, followed by a written reasoned decision.

26. Any decision rendered by the Internal Discipline Chair shall be provided to and maintained in the records of the relevant club, Member and Softball Canada. Decisions will published in accordance with the provisions of this policy as set out below, and will be retained and discarded in accordance with the relevant and applicable privacy legislation.

PROCESS #2: Handled by Independent Third Party and External Discipline Panel

Independent Third Party

27. Following the determination that the complaint should be handled under Process #2, the Independent Third Party will propose the use of alternative dispute resolution methods, if appropriate. Alternatively, the Independent Third Party may appoint a designate to handle the responsibilities described in this section. References to 'Independent Third Party' in Process #2 then apply to the Independent Third Party's designate, if appointed, instead. If the dispute is not resolved using alternative dispute resolution methods, the Independent Third Party will appoint an External Discipline Panel of one (1) person to hear the complaint. Thereafter, the Independent Third Party shall have the following responsibilities:

1. Coordinate all administrative aspects of the process and set reasonable timelines

2. Provide administrative assistance and logistical support to the External Discipline Panel as required, including providing the External Discipline Panel with any information related to previously imposed disciplinary sanctions against the Respondent(s) of the policies of Softball Canada, any Member or any other sport organization that had authority over the Respondent

3. Provide any other service or support that may be necessary to ensure a fair and timely proceeding

28. The Independent Third Party will establish and adhere to timelines that ensure procedural fairness and that the matter is heard in a timely fashion.

29. If warranted based on the nature of the case, the Independent Third Party may, in their sole discretion, appoint an External Discipline Panel of three (3) people. When a three-person

External Discipline Panel is appointed, the Independent Third Party will appoint one of the External Discipline Panel's members to serve as the Chair.

30. The Independent Third Party, in cooperation with the External Discipline Panel, will then decide the format under which the complaint will be heard. This decision 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 documentary evidence submitted in advance of the hearing, or a combination of these methods.

31. The hearing will be governed by the procedures that the Independent Third Party and the External Discipline Panel deem appropriate for the circumstances. The following procedural directions will apply:

a. The determination of procedures and timelines, as well as the hearing duration, shall be as expedient and cost-efficient as possible in order to ensure that costs to the Parties and Softball Canada and/or the Member are reasonable

b. The Parties will be given appropriate notice of the day, time, and place of the hearing

c. Copies of any written documents which any of the Parties wishes to have the External Discipline Panel consider will be provided to all Parties, through the Independent Third Party, in advance of the hearing and in accordance with the timelines set by the Independent Third Party

d. The Parties may engage a representative, advisor, translator, transcription services or legal counsel at their own expense

e. The External Discipline Panel may request that any other individual participate and give evidence at the hearing

f. If not a Party, Softball Canada and/or the relevant Member shall be allowed to attend the hearing as an observer and will be provided with access to any documents submitted. With the permission of the External Discipline Panel, Softball Canada and/or the relevant Member may make submissions at the hearing or may provide the discipline panel with clarifying information that may be required for the External Discipline Panel to render its decision

g. The External Discipline Panel shall allow any evidence at the hearing filed by the Parties and may exclude any evidence is unduly repetitious or otherwise an abuse of process. The External Discipline Panel shall otherwise apply relevant and applicable evidentiary rules in relation to the admissibility and weight given to evidence filed by the parties

h. Nothing is admissible in evidence at a hearing that:

1. would be inadmissible in a court by reason of any privilege under the law of evidence; or

2. is inadmissible by any statute.

i. The decision will be by a majority vote of the External Discipline Panel when the Panel consists of three people.

32. If the Respondent acknowledges the facts of the incident(s), the Respondent may waive the hearing, in which case the External Discipline Panel will determine the appropriate sanction. The External Discipline Panel may still hold a hearing for the purpose of determining an appropriate sanction.

33. The process will proceed if a Party chooses not to participate in the hearing.

34. In fulfilling its duties, the External Discipline Panel may obtain independent advice.

DECISION

35. After hearing the matter, the External Discipline Panel will determine whether an infraction has occurred and, if so, the sanctions to be imposed. If the External Discipline Panel considers that an infraction has not occurred, the complaint will be dismissed.

36. Within fourteen (14) days of the conclusion of the hearing, the External Discipline Panel's written decision, with reasons, will be distributed to all Parties by the Independent Third Party, including to Softball Canada and the relevant Member(s).

37. In extraordinary circumstances, the External Discipline Panel may first issue a verbal or summary decision soon after the conclusion of the hearing, with the full written decision to be issued before the end of the fourteen (14) day period.

38. The External Discipline Panel's decision will come into effect as of the date that it is rendered, unless decided otherwise by the External Discipline Panel. The External Discipline Panel's decision will apply automatically to Softball Canada and all of its Members and associated organizations.

39. Once the appeal deadline in the *Appeal Policy* has expired, Softball Canada or the Member (as applicable) shall publish on their website the outcome of the case, the provision(s) of the relevant policies that have been violated, the name(s) of the Softball Canada Participant(s) involved and the sanction(s) imposed, if any. If the matter is appealed, the publication provisions in the *Appeal Policy* shall apply. Identifying information regarding Minors or Vulnerable Participants will never be published by Softball Canada or one of its Members.

40. If the External Discipline Panel dismisses the complaint, the information referred to in the above section may only be published with the Respondent's consent. If the Respondent

does not provide such consent, the information referred to in the above section above will be kept confidential by the Parties, the Independent Third Party, Softball Canada and the Member and shall be retained and discarded in accordance with the relevant and applicable privacy legislation. Failure to respect this provision may result in disciplinary action being taken pursuant to this *Policy*.

41. Other individuals or organizations, including but not limited to, Members, Provincial/Territorial sport organizations, sport clubs, etc., may be advised of the outcome of any decisions rendered in accordance with this Policy.

42. Records of all decisions will be maintained by Softball Canada in accordance with their Privacy Policy.

43. When the External Discipline Panel imposes a sanction, the decision shall include, at a minimum, the following details:

    1. Jurisdiction;

    2. Summary of the facts and relevant evidence;

    3. Where applicable, the specific provision(s) of Softball Canada's policies, bylaws, rules or regulations that have been breached;

    4. Which Party or organization is responsible for the costs of implementing any sanction;

    5. Which organization is responsible for monitoring that the sanctioned individual respects the terms of the sanction;

    6. Any reinstatement conditions that the Respondent must satisfy (if any);

    7. Which organization is responsible for ensuring that the conditions have been satisfied; and,

    8. Any other guidance that will assist the Parties to implement the External Discipline Panel's decision.

44. If necessary, a Party – or the organization that is responsible for implementing or monitoring a sanction – may seek clarifications from the External Discipline Panel regarding the order so that it can be implemented or monitored appropriately.

SANCTIONS

45. When determining the appropriate sanction, the Internal Discipline Chair or External Discipline Panel, as applicable, will consider the following factors (where applicable):

a. The nature and duration of the Respondent's relationship with the Complainant, including whether there is a power imbalance;

b. The Respondent's prior history and any pattern of misconduct, Prohibited Behaviour or Maltreatment;

c. The respective ages of the individuals involved;

d. Whether the Respondent poses an ongoing and/or potential threat to the safety of others;

e. The Respondent's voluntary admission of the offense(s), acceptance of responsibility for the misconduct, Prohibited Behaviour or Maltreatment, and/or cooperation in the investigative and/or disciplinary process of Softball Canada;

f. Real or perceived impact of the incident on the Complainant, sport organization or the sporting community;

g. Circumstances specific to the Respondent being sanctioned (e.g. lack of appropriate knowledge or training regarding the requirements in the *Code*; addiction; disability; illness);

h. Whether, given the facts and circumstances that have been established, continued participation in the sport community is appropriate;

i. A Respondent who is in a position of trust, intimate contact or high-impact decision-making may face more serious sanctions; and/or

j. Other mitigating or aggravating circumstances.

46. Any sanction imposed must be proportionate and reasonable. However, progressive discipline is not required, and a single incident of Prohibited Behaviour, Maltreatment or other misconduct may justify elevated or combined sanctions.

47. The Internal Discipline Chair or External Discipline Panel, as applicable, may apply the following disciplinary sanctions, singularly or in combination:

a. **Verbal or Written Warning** - A verbal reprimand or an official, written notice that a Softball Canada Participant(s) has violated the *Code* and that more severe sanctions will result should the Softball Canada Participant(s) be involved in other violations

b. **Education** - The requirement that a Softball Canada Participant(s) undertake specified educational or similar remedial measures to address the violation(s) of the *Code* or the UCCMS

c. **Probation** - Should any further violations of the *Code* or the UCCMS occur during the probationary period, this may result in additional disciplinary measures, including, without limitation, a period of suspension or permanent ineligibility. 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 Softball Canada. A suspended Softball Canada Participant(s) may be eligible to return to participation, but reinstatement may be subject to certain restrictions or contingent upon the Softball Canada Participant(s) satisfying specific conditions noted at the time of suspension

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 Softball Canada

g. **Other Discretionary Sanctions** - Other sanctions may be imposed, including, but not limited to, other loss of privileges, no contact directives, a fine or a monetary payment to compensate for direct losses, or other restrictions or conditions as deemed necessary or appropriate

48. The Internal Discipline Chair or External Discipline Panel, as applicable, may apply the following presumptive sanctions which are presumed to be fair and appropriate for the listed Maltreatment:

a. Sexual Maltreatment involving a Minor Complainant, or a Complainant who was a Minor at the time of the incidents complained of, shall carry a presumptive sanction of permanent ineligibility.

b. Sexual Maltreatment, Physical Maltreatment with contact, and Maltreatment related to interference or manipulation of process shall carry a presumptive sanction of either a period of suspension or eligibility restrictions.

c. While a Respondent has pending charges allegations of a crime against a person, if justified by the seriousness of the offence, the presumptive sanction shall be a period of suspension until a final determination is made by the applicable process.

49. A Softball Canada Participant(s) 's conviction for certain *Criminal Code* offenses involving harmful conduct shall carry a presumptive sanction of permanent ineligibility from participating with Softball Canada. Such *Criminal Code* offences may include, but are not limited to:

a. Any child pornography offences

b. Any sexual offences

c. Any offence of physical violence

50. Unless the External Discipline Panel decides otherwise, any disciplinary sanctions will begin immediately, notwithstanding an appeal.

51. Failure to comply with a sanction as determined by the External Discipline Panel will result in an automatic suspension until such time as compliance occurs.

OSIC SANCTION

52. As a Program Signatory to the OSIC, Softball Canada will ensure that any sanctions or measures imposed by the OSIC's Director of Sanctions and Outcomes ("DSO") will be implemented and respected within Softball Canada's jurisdiction (including at the provincial, territorial and club level), once Softball Canada receives appropriate notice of any sanction or measure from the OSIC.

APPEALS

53. The decision of an Internal Discipline Chair or External Discipline Panel, as applicable, may be appealed in accordance with the *Appeal Policy*.

CONFIDENTIALITY

54. The disciplinary process is confidential and involves only Softball Canada, the Member (where applicable) the Parties, the Independent Third Party, the Internal Discipline Chair, the External Discipline Panel (as appropriate), and any independent advisors to the External Discipline Panel.

55. Notwithstanding the above, Softball Canada recognizes that it is required to notify Sport Canada of all reported complaints and reports of potential complaints.

56. Once initiated and until a decision is released, none of the Parties will disclose confidential information relating to the discipline or complaint to any person not involved in the proceedings, unless the Organization is required to notify an organization such as an international federation, Sport Canada or other sport organization (i.e., where a Provisional Suspension or interim measures have been imposed and communication is required to ensure that they may be enforced), or notification is otherwise required by law.

57. Any failure to respect the confidentiality requirement may result in further sanctions or discipline by the Internal Discipline Chair or External Discipline Panel (as applicable).

TIMELINES

58. If the circumstances of the complaint are such that adhering to the timelines outlined by this Policy will not allow a timely resolution to the complaint, the Independent Third Party may direct that these timelines be revised.

STATISTICAL REPORTING

59. Softball Canada and Members may maintain a general statistical report of the activity that has been conducted pursuant to this *Discipline and Complaints Policy*. This report shall not include any information that is confidential under this Policy, or that has been ordered to be kept confidential by a discipline or appeal panel, but may include the number of complaints Reported to the Independent Third Party (for Softball Canada and Members), and statistics regarding the number of cases that were resolved through alternate dispute resolution, the Internal Discipline Chair process, the discipline panel process, and the number of appeals filed pursuant to the *Appeal Policy* and whether the appeals were upheld, partially upheld or dismissed.

PRIVACY

60. The collection, use and disclosure of any personal information pursuant to this Policy is subject to Softball Canada's Privacy Policy.

61. Softball Canada, its Members, or any of their delegates pursuant to this Policy (i.e., Independent Third Party, Internal Discipline Chair, External Discipline Panel), shall comply with Softball Canada's *Privacy Policy* (or, in the case if a Member, the Member's Privacy Policy) in the performance of their services under this Policy.

Definitions

Terms in this Policy are defined as follows:

a. ***Athlete*** – An individual who is an Athlete participant in Softball Canada who is subject to the policies of Softball Canada.

b. ***Complainant*** – A Softball Canada Participant who makes a report of an incident, or a suspected incident, of alleged Maltreatment, Prohibited Behaviour or other misconduct that may be a violation of the standards described in Softball Canada's policies, by-laws, rules or regulations, or the UCCMS.

c. ***Days*** – calendar days

d. ***Director of Sanctions and Outcomes –*** Responsible for overseeing the imposition of Provisional Measures, agreed outcomes, Sanctions and appearing before the Safeguarding Tribunal or the Appeal Tribunal in cases arising from a potential breach of the UCCMS (or other conduct rules, as applicable)

e. ***External Discipline Panel*** – A Panel of one or three people who are appointed by the Independent Third Party to decide on complaints that are assessed under Process #2 of this Policy.

f. ***Event*** - An event, which may include a social event, sanctioned by Softball Canada or a Member.

g. ***Independent Third Party*** – the individual retained by Softball Canada to receive reports and complaints, and to fulfill the responsibilities outlined in the *Discipline and Complaints Policy*. This individual must not be in a real or perceived conflict of interest or have a direct relationship with any of the Parties.

h. ***Internal Discipline Chair*** – An individual appointed by Softball Canada to decide on complaints that are assessed under Process #1 of this Policy. The Internal Discipline Chair may be a Director, head coach, staff member, or other individual affiliated with Softball Canada but must not be in a conflict of interest or have a direct relationship with any of the Parties.

i. ***Maltreatment*** – as defined in the *UCCMS*

j. ***Minor*** – as defined in the *UCCMS.*

k. ***OSIC*** **-** Office of the Sport Integrity Commissioner, an independent division of the SDRCC which comprises the functions of the Sport Integrity Commissioner

l. ***Parties –*** the individuals involved in a dispute.

m. ***Softball Canada Participant*** - Refers to all categories of individual members and/or registrants defined in the By-laws of Softball Canada who are subject to the policies, rules and regulations of Softball Canada, as well as all persons employed by, contracted by, or engaged in activities with, Softball Canada including, but not limited to, employees, contractors, Athletes, coaches, instructors, officials, umpires, volunteers, judges, managers, administrators, parents or guardians, spectators, committee members, or directors and officers.

n. ***Person in Authority*** – Any Organizational Participant who holds a position of authority within the Organization including, but not limited to, coaches, instructors, officials, managers, support personnel, chaperones, committee members, or directors and officers.

o. ***Power Imbalance*** – as defined in the *UCCMS*

p. ***Provisional Suspension*** – means that the Softball Canada Participant is barred temporarily from participating in in any capacity in any Event or activity of Softball Canada and its Members, or as otherwise decided pursuant to the *Discipline and Complaint Policy*, prior to the decision rendered in a hearing conducted pursuant to this Policy.

q. ***Respondent*** – The Party responding to the complaint.

r. ***UCCMS*** - *Universal Code of Conduct to prevent and address Maltreatment in Sport*, as amended from time to time by the SDRCC

s. ***UCCMS Participant*** - A Softball Canada Participant affiliated with Softball Canada who has been a) designated by Softball Canada and b) who has signed the required consent form. UCCMS Participants may include an Athlete, a coach, an official, an Athlete Support Personnel, an employee, a contractual worker, an administrator, or a volunteer acting on behalf of, or representing Softball Canada in any capacity.

t. ***Vulnerable Participant*** – as defined in the UCCMS

Appendix A – Investigation Procedure

Determination

1. When a complaint is submitted pursuant to the *Policy* and is accepted by the Independent Third Party, the Independent Third Party will determine if the incident(s) should be investigated.

Investigation

2. If the Independent Third Party considers that an investigation is necessary, they will appoint an investigator. The investigator must be an independent third-party with experience in investigating. The investigator must not be in a conflict-of-interest situation and should have no connection to either party.

3. Federal and/or Provincial/Territorial legislation related to Workplace Harassment may apply to the investigation if Harassment was directed toward a employee in a Workplace. 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.

4. The investigation may take any form as decided by the Investigator, guided by any applicable Federal and/or Provincial/Territorial legislation. The investigation may include:

   a. Interviews with the Complainant

   b. Witness interviews

   c. Statement of facts (Complainant's perspective) prepared by investigator, acknowledged by the Complainant and provided to the Respondent

   d. Interviews with the Respondent

   e. Statement of facts (Respondent's perspective) prepared by investigator, acknowledged by the Respondent and provided to the Complainant

Investigator's Report

5. Upon completion of their investigation, the investigator shall prepare a written report that shall include a summary of evidence from the Parties and any witnesses interviewed. The report shall also include a non-binding recommendation from the investigator regarding whether an allegation or, where there are several allegations, which allegations, should be heard by an External Discipline Panel pursuant to the *Discipline and Complaints Policy* because they constitute a likely breach of the Code of Conduct and Ethics, the UCCMS or any other relevant and applicable NSO or Member policy. The investigator may also make non-binding

recommendations regarding the appropriate next steps (i.e., mediation, disciplinary procedures, further review or investigation).

6. The investigator's report will be provided to the Independent Third Party who will disclose it, at their discretion, all or part of the investigation to Softball Canada and the relevant Members (if applicable). The Independent Third Party may also disclose the investigator's report – or a redacted version to protect the identity of witnesses – to the Parties, at their discretion, with any necessary redactions. Alternatively, and only if necessary, other relevant Parties may be provided with an executive summary of the investigator's findings by the Independent Third Party.

7. Should the investigator find that there are possible *Criminal Code* offences, the investigator shall advise the Parties, Softball Canada and, where applicable, the Member, and the matter shall be referred by the Independent Third Party to the police.

8. The Investigator must also inform Softball Canada or the Member (as applicable) of any findings of criminal activity. Softball Canada or the Member (as applicable) may decide whether to report such findings to police but is required to inform police if there are findings related to the trafficking of prohibited substances or methods (as indicated in the version of the World Anti-Doping Agency's Prohibited List currently in force), any sexual crime involving Minors, fraud against Softball Canada or any Member(s) (as applicable), or other offences where the lack of reporting would bring Softball Canada or the Member (as applicable) into disrepute.

Reprisal and Retaliation

9. A Softball Canada Participant who submits a complaint to the Independent Third Party or who gives evidence in an investigation may not be subject to reprisal or retaliation from any individual or group. Any such conduct may constitute Prohibited Behaviour be subject to disciplinary proceedings pursuant to the *Discipline and Complaints Policy* or, as applicable, the policies and procedures of the OSIC.

False Allegations

10. A Softball Canada Participant who submits allegations that the Investigator determines to be malicious, false, or for the purpose of retribution, retaliation or vengeance may be subject to a complaint under the terms of the *Discipline and Complaints Policy* and may be required to pay for the costs of any investigation that comes to this conclusion. The investigator may recommend to Softball Canada or the Member (as applicable) that the Softball Canada Participant be required to pay for the costs of any investigation that comes to this conclusion. Any Softball Canada Participant who is liable to pay for such costs shall be automatically deemed to be not in good standing until the costs are paid in full and shall be prohibited from participating in any Member and Softball Canada Events, activities or business. Softball Canada or any Member(s) (as applicable), or the Softball Canada Participant against whom the allegations were submitted, may act as the Complainant with respect to making a complaint pursuant to this Section 10.

Confidentiality

11. The Investigator will make reasonable efforts to preserve the anonymity of Softball Canada, Respondent, and any other Party. However, Softball Canada and its Members recognizes that maintaining full anonymity during an investigation may not be feasible.

Privacy

12. The collection, use and disclosure of any personal information pursuant to this Policy is subject to Softball Canada's Privacy Policy.

13. Softball Canada, its Members, or any of their delegates pursuant to this Policy (i.e., Independent Third Party, Internal Discipline Chair, External Discipline Panel), shall comply with Softball Canada's Privacy Policy (or, in the case if a Member, the Member's Privacy Policy) in the performance of their services under this Policy.