



Gymnastics New Zealand

Complaints Policy

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SECTION 1: INTRODUCTION	6
1. PRELIMINARY SECTION	6
2. FLOWCHART OF COMPLAINTS PROCESS	7
3. APPLICATION.....	7
SECTION 2: DEFINITIONS AND INTERPRETATIONS	8
4. INTERPRETATIONS	8
5. DEFINITION OF MISCONDUCT	8
6. EXAMPLES OF MISCONDUCT.....	8
7. OTHER DEFINITIONS	10
SECTION 3: JURISDICTION	12
8. JURISDICTION OF GYMNASTICS NEW ZEALAND.....	12
9. EXCLUSIONS	12
SECTION 4: COMPLAINTS	13
10. WHAT IS A COMPLAINT?.....	13
11. WHAT TO INCLUDE WHEN MAKING A COMPLAINT?	13
12. WHO CAN MAKE A COMPLAINT?	13
13. CONFIDENTIALITY OF A COMPLAINT	13
14. CONFIDENTIALITY OF A COMPLAINANT’S IDENTITY.....	13
15. POWER OF GYMNASTICS NEW ZEALAND TO PROCEED WITH A COMPLAINT UNDER CERTAIN CIRCUMSTANCES	13
16. A WHISTLEBLOWING COMPLAINT	14
17. POLICE, ORANGA TAMARIKI OR OTHER RELEVANT AUTHORITIES	14
18. SPORTS AND RECREATION COMPLAINTS AND MEDIATION SERVICE NEW ZEALAND.....	14
19. CRIMINAL CONVICTIONS	14
SECTION 5: CONCERNS	16
20. WHAT IS A CONCERN?	16
21. PROCESS FOR DEALING WITH A CONCERN	16
22. POWER OF GYMNASTICS NEW ZEALAND TO PROCEED WITH A CONCERN UNDER CERTAIN CIRCUMSTANCES	16
23. SUBMITTING A COMPLAINT.....	17
24. CONFIDENTIALITY OF THE COMPLAINT	17
25. WITHDRAWING A COMPLAINT	17
26. RECEIPT AND PROCESS WHEN A COMPLAINT IS RECEIVED	17
27. TIER SYSTEM	18
28. SAFEGUARDING ORDERS	18
29. SANCTIONS	18
SECTION 7: TIER 2 COMPLAINTS (MINOR MISCONDUCT)	20
30. PROCESS FOR MANAGEMENT AND RESOLUTION OF TIER 2 COMPLAINTS.....	20
31. INVOLVEMENT OF GYMNASTICS NEW ZEALAND.....	20
32. SAFEGUARDING ORDERS, RECOMMENDATIONS AND SANCTIONS	20
SECTION 8: TIER 3 COMPLAINTS (SERIOUS MISCONDUCT)	21
33. OVERVIEW OF THE MANAGEMENT AND RESOLUTION OF TIER 3 COMPLAINTS	21
34. THE ROLE OF THE SPORTS INTEGRITY UNIT (SIU)	21
SECTION 9: PROCESS FOR TIER 3 COMPLAINTS	22
35. EARLY FACILITATION	22

36.	MEDIATION.....	22
37.	FINDING OF FACT AND/OR INVESTIGATION	22
38.	SIU TO MAKE SAFEGUARDING ORDERS, RECOMMENDATIONS OR IMPOSE SANCTION(S)	23
SECTION 10: PROCEDURE OF THE SIU		24
39.	ON RECEIPT OF THE REFERRAL	24
40.	COMPLIANCE WITH RULES	24
41.	DECISIONS MADE ON THE PAPERS	24
42.	WRITTEN SUBMISSIONS	24
43.	INFERENCES.....	24
44.	TIMING	24
45.	NOTIFICATION OF THE DECISION.....	24
46.	PUBLIC DECISIONS	25
47.	CONSEQUENCES OF DECISION	25
48.	RECOMMENDATIONS	25
49.	STATUS OF DECISIONS	25
50.	FAILURE TO ADHERE TO DECISIONS	25
51.	REPORTING	25
SECTION 11: SAFEGUARDING ORDERS, RECOMMENDATIONS AND SANCTIONS		26
52.	SIU SAFEGUARDING ORDERS.....	26
53.	RECOMMENDATIONS AND SANCTIONS AVAILABLE TO THE SIU	26
54.	SANCTIONS DECISIONS	27
SECTION 12: TIER 4 COMPLAINTS (GROSS MISCONDUCT)		28
55.	OVERVIEW OF MANAGEMENT AND RESOLUTION OF TIER 4 COMPLAINTS	28
SECTION 13: PROCEDURE OF THE NEW ZEALAND JUDICIAL COMMITTEE		29
56.	ON RECEIPT OF THE REFERRAL	29
57.	APPEARANCES / REPRESENTATION	29
58.	EVIDENCE	29
59.	WITNESSES	29
60.	ATTENDEES	30
61.	STANDARD OF PROOF.....	30
62.	CONFIDENTIALITY OF PROCEEDINGS	30
63.	MEDIA	30
64.	COSTS	30
65.	COMPLIANCE WITH RULES.....	30
66.	PRE-HEARING CONFERENCE.....	30
67.	COMPLAINANT’S STATEMENT	31
68.	COPY TO RESPONDENT.....	31
69.	RESPONDENT’S STATEMENT	31
70.	INTERESTED PARTIES	31
71.	HEARING	31
72.	RECORD OF HEARING	32
73.	DECISIONS	32
74.	TIMING	32
75.	NOTIFICATION OF THE DECISION.....	32
76.	PUBLIC DECISIONS	32
77.	CONSEQUENCES OF DECISION	32

78.	RECOMMENDATIONS	33
79.	STATUS OF DECISIONS	33
80.	FAILURE TO ADHERE TO DECISIONS	33
SECTION 14: RECOMMENDATIONS, ORDERS AND SANCTIONS AVAILABLE TO THE JUDICIAL		
COMMITTEE		34
81.	RECOMMENDATIONS, SAFEGUARDING ORDERS, AND SANCTIONS AVAILABLE TO THE JUDICIAL COMMITTEE.....	34
82.	COMPLIANCE	34
83.	SANCTIONS DECISIONS	35
SECTION 15: APPEALS		36
84.	APPEALS TO THE NEW ZEALAND SPORTS TRIBUNAL.....	36
85.	CLUB APPEALS	36
SECTION 16: LIABILITY AND INDEMNITY		37
86.	LIMIT OF LIABILITY AND INDEMNITY.....	37
APPENDIX 1: FLOWCHART OF CONCERNS AND COMPLAINTS PROCESS		38
APPENDIX 2: COMPLAINTS FORM		39
APPENDIX 3: SIU		40
87.	FUNCTIONS	40
88.	COMPOSITION	40
89.	PROCESS FOR APPOINTING SIU MEMBERS.....	40
90.	SIU MEMBER ELIGIBILITY REQUIREMENTS:	41
91.	VACANCIES OF SIU MEMBERS:	41
92.	VACANCY	41
93.	TERM	42
94.	MEETINGS	42
95.	REPORTING	42
96.	QUORUM	42
97.	URGENT MEETING OF THE SIU	42
98.	POWER OF THE SIU TO SEEK MORE INFORMATION	42
99.	OPERATING PRINCIPLES OF THE SIU	42
100.	DUTIES AND RESPONSIBILITIES OF THE SIU	43
101.	INELIGIBILITY.....	43
102.	REMOVAL OF SIU MEMBERS	43
103.	EXPENSES.....	43
104.	NOT WITHIN JURISDICTION	43
APPENDIX 4: JUDICIAL COMMITTEE		44
105.	FUNCTIONS	44
106.	COMPOSITION	44
107.	URGENT HEARING	44
108.	CHAIRPERSON	44
109.	INELIGIBILITY.....	44
110.	REMOVAL/REPLACEMENT	44
111.	REMUNERATION	44
112.	REGISTRAR	45
113.	POWERS OF ENQUIRY	45
114.	POWER TO APPOINT INDEPENDENT EXPERTS.....	45

APPENDIX 5: WHISTLEBLOWER COMPLAINTS PROCESS47

115. OVERVIEW OF A WHISTLEBLOWER COMPLAINT47

116. WHAT IS A PROTECTED DISCLOSURE?47

117. WHAT A DISCLOSER SHOULD DO47

118. ARE YOU A “DISCLOSER” UNDER SECTION 8 OF THE PROTECTED DISCLOSURES ACT?49

119. DOES THE CONCERN THAT HAS BEEN RAISED RELATE TO SERIOUS WRONGDOING AS SET OUT IN SECTION 10 OF THE PROTECTED DISCLOSURES ACT?.....49

SECTION 1: INTRODUCTION

1. Preliminary Section

- 1.1. The main purpose of this Policy is to set out the formal process for raising and dealing with Complaints and Concerns.
- 1.2. Before a Complaint can be made under this Policy, the Complainant must follow the relevant Member Club's complaints process. The Complainant and Member Club have an obligation to do all that is reasonable to resolve the issue that has been raised.
- 1.3. If the Complainant is concerned about how a Member Club is managing an issue that has been raised, the Complainant can raise this with Gymnastics New Zealand.
- 1.4. The purpose of this Policy is to:
 - a promote high standards of behaviour and respect amongst those involved in Gymnastics;
 - b ensure that the processes for making a Complaint and dealing with a Complaint are clearly specified, easily understood, fair, and consistent;
 - c provide a system for receiving, hearing, and determining Complaints of Members or Other Persons in order to protect them, others involved in Gymnastics, and the public;
 - d ensure the Complaints Process is delivered in a timely and practical way;
 - e ensure that it is clearly specified what is a Complaint and what is a Concern;
 - f provide a framework for receiving and dealing with Concerns;
 - g ensure that all incidents of Misconduct in a Gymnastics Context which occur at a national or international level are dealt with;
 - h minimise damage to the reputation of Gymnastics New Zealand and the sport in New Zealand due to alleged or proven Misconduct by Members or Other Persons;
 - i ensure the time and cost associated with managing Misconduct is minimised and used efficiently and effectively for all parties involved;
 - j ensure consistency in the procedures for dealing with Misconduct and the sanctions imposed;
 - k deter Members and Other Persons from engaging in Misconduct through the enforcement of appropriate and relevant sanctions for Misconduct;
 - l ensure Member Clubs and Associate Members largely retain their autonomy in dealing with Complaints where appropriate; and
- 1.5. This Policy should be read in conjunction with the GymSports New Zealand's

Constitution (**the Constitution**) and the Member Protection Policy.

2. Flowchart of Complaints Process

2.1. The flowchart provided as **APPENDIX 1: FLOWCHART OF CONCERNS AND COMPLAINTS PROCESS** to this Policy is to aid users of the Policy to familiarise themselves with the Complaints Process. It is by no means a substitute for the user reading the full text of this Policy and in the event of any inconsistency, the text of the Policy prevails.

3. Application

3.1. This Policy applies to all Members of Gymnastics New Zealand as defined in Rule 4 (Members) of the Constitution and Other Persons as defined in this Policy. For avoidance of doubt, this Policy shall only apply to employees of Gymnastics New Zealand if they are Members. This Policy does not waive or vary any entitlements at law or under any employment agreement to investigate, suspend and/or terminate the employee's employment where the employee has engaged in misconduct. Any evidence given at an investigation by Gymnastics New Zealand as an employer may be used in any procedure under this Policy, and vice-versa.

SECTION 2: DEFINITIONS AND INTERPRETATIONS

4. Interpretations

- 4.1. Every reference to the Constitution means the Gymsports New Zealand Constitution unless specified otherwise.
- 4.2. The words and phrases used in this Policy have the same meanings as defined in the Constitution unless otherwise specified.

5. Definition of Misconduct

- 5.1. Misconduct under this Policy has the following meaning:

Misconduct can be either Minor, Serious or Gross.

Misconduct which is **Minor Misconduct** means but is not limited to; any non-malicious action or inaction by a Member or Other Person that has or could result in an adverse but not harmful impact on a person(s) or organisation.

Misconduct which is **Serious Misconduct** means any action or inaction by a Member or Other Person that harms or could harm another person, or brings or could bring Gymnastics New Zealand (or any of its officers, employees or agents), any Member Club or Associate Member, or Gymnastics in New Zealand, into disrepute.

Misconduct which is **Gross Misconduct** means any action or inaction that causes, or has the potential to cause, significant or very serious harm to another person, organisation, or property. Repeated allegations of Serious Misconduct may also constitute Gross Misconduct. For the avoidance of doubt, Gross Misconduct includes, but is not limited to, theft, fraud, Sexual Harassment (as defined in the Membership Protection Policy), or conviction of an offence by a court where the offence is punishable by a term of imprisonment of six (6) months or more.

- 5.2. In the case of Misconduct by a Member Club or Associate Member, the action or inaction of the committee of the Member Club or Associate Member (or any person acting on the authority of the Member Club or Associate Member) is to be regarded as action or inaction of the Member Club or Associate Member.

6. Examples of Misconduct

- 6.1. Subject to clause 6.2, Misconduct includes but is not limited to the following in a Gymnastics Context:
 - a. breaching the FIG Statutes, FIG Regulations and/or any other applicable FIG rules;
 - b. competing unfairly;
 - c. obstructing the operation of a competition, event or meeting;
 - d. altering or tampering with any competition equipment;
 - e. fixing, or attempting to fix, the results of a competition whether for financial gain or otherwise;
 - f. misuse of any Gymnastics New Zealand vehicle, equipment or property;
 - g. theft, fraud, forgery, or other acts of dishonesty;

- h. use of any profane, offensive, or improper language;
- i. engaging in offensive or insulting behaviour;
- j. being under the influence of alcohol or illegal drugs while participating in a Gymnastics New Zealand activity (other than a prohibited substance or method as defined in the Gymnastics New Zealand Anti-Doping Regulation, which shall be determined in accordance with that Regulation);
- k. Harassment (as defined in the Membership Protection Policy);
- l. Child Abuse (as defined in the Membership Protection Policy);
- m. Discrimination (as defined in the Membership Protection Policy);
- n. breaching any aspect of the Gymnastics New Zealand Codes of Conduct (as set out in the Membership Protection Policy);
- o. abusing any official, Member, employee or other person representing or carrying out a duty on behalf of Gymnastics New Zealand;
- p. if a judge or an official shows favouritism, disfavour, or bias towards an individual or team;
- q. breaching or failing to comply with:
 - o any rule in the Constitution;
 - o any provision in any Gymnastics New Zealand Regulation (other than the Anti-Doping Regulation) including, for example, the Membership Protection Policy;
 - o any policies of Gymnastics New Zealand;
 - o any reasonable direction of Gymnastics New Zealand (or a person authorised on its behalf); or
 - o any decision of a General Meeting, the Gymnastics New Zealand Board, the Gymnastics New Zealand Judicial Committee, or any decision of any equivalent judicial body of a Member Club or Associate Member;
- r. acting in a manner unbecoming of a Member or which is prejudicial to the objects of Gymnastics New Zealand;
- s. engaging in any activity which is unlawful;
- t. failing or refusing, for a period of twenty (20) Days (or longer) to pay any fine or monetary penalty imposed by Gymnastics New Zealand from the date it was imposed; and/or
- u. assisting, coercing, or encouraging any Member or Other Person to engage in any of the conduct specified in this clause 6.

6.2. Misconduct excludes the following activities (**Exclusions**):

- a. non-selection or selection to a squad or team by Gymnastics New Zealand;
- b. allegations of doping; and
- c. the disputes, doubts, or differences described in Rules 18.2 (Disputes) and 18.3 (Disputes between Board and Member Clubs or Associate Members) of the Constitution.

7. Other Definitions

7.1. The following words and phrases used in this Policy have the following meanings:

"Complaint" means a formal statement relating to an allegation of Misconduct.

"Complainant" means a person who makes a Complaint about an allegation of Misconduct.

"Complaints Process" means the processes/procedures followed to deal with a Formal Complaint that has been made to Gymnastics New Zealand.

"Concern" means an issue that has been raised by a person(s) but a formal Complaint has not been made. A Concern can also be minor, serious, or gross. Refer to clause 21 for guidance on how a Concern will be dealt with under this Policy.

"Child" means a person under the age of 14.

"Day" means any weekday but does not include Saturday, Sunday or any day that is a public holiday.

"Endorsed Event" means a Gymnastics event held by or on behalf of a Club or Clubs which has been endorsed by Gymnastics New Zealand. The criteria for an endorsed event shall be determined by Gymnastics New Zealand and notified to Member Clubs annually.

"Gymnastics Context" For the purpose of this Policy, Misconduct will usually occur in a Gymnastics Context. Gymnastics Context includes, but is not limited to, where a person or persons are engaged in Gymnastics activity such as a competition, a training or practice, a social event following or part of a competition, a Gymnastics New Zealand social function, a formal meeting or similar activity, or some other activity related to or connected with Gymnastics.

For the avoidance of doubt, a finding that a person has engaged in Misconduct where it does not arise in a Gymnastics Context can still be made, but such findings shall generally only be made if the conduct is Gross Misconduct.

"Gymnastics Discipline" means one of the six codes of Gymnastics administered by Gymnastics New Zealand. For example, rhythmic gymnastics.

"Integrity Manager" is an employee of Gymnastics New Zealand who is responsible for overseeing the administration of the Complaints Process. The Integrity Manager will also be the Registrar of the Judicial Committee (see clause 108).

"Judicial Committee" is an independent group of people established to carry out the judicial and/or disciplinary functions in relation to Gross Misconduct or other Misconduct referred to it under this Policy.

"Member" has the meaning specified in Rule 4 of the Constitution.

"Member Club" has the meaning specified in Rule 5 of the Constitution.

“Membership Protection Policy” refers to the Policy that contains all of Gymnastics New Zealand’s Policies relating to its Members.

“Natural justice” incorporates the following principles:

- both the Complainant and the Respondent must know the full details of what is alleged and be provided with the opportunity to be heard/respond;
- all relevant submissions/responses must be considered;
- no person may determine the outcome of his or her own case;
- the decision maker/s must be unbiased, fair, and just; and
- the sanctions imposed must be fair.

“Non-Endorsed Event” means a Gymnastics event held by or on behalf of a Club or Clubs which has not been named a Gymnastics New Zealand endorsed event.

“Other Person” means any person or organisation who is not a Member of Gymnastics New Zealand who agrees to the application of this Policy to them in writing. For example, this may occur by; agreement in an entry form for a Gymnastics New Zealand event; agreement to provide services to Gymnastics New Zealand; or any other agreement in writing.

“Registrar” has the meaning specified in clause 108 of this Policy.

“Respondent” means the person/s or organisation/s against whom a Complaint has been made.

“Resolution” means that the Complaints Process has come to an end and the file relating to the Complaint can be closed.

“SIU” means the Sports Integrity Unit of Gymnastics New Zealand.

“Safeguarding Order” means a requirement made by the SIU on either the Respondent or Member Club during or after the Complaints Process (see clause 52).

“Sports Tribunal” means the Sports Tribunal of New Zealand established by Sport New Zealand.

“SRCMS” means the Sport and Recreation Complaints and Mediation Service, which is the complaints and mediation service provided by Sport New Zealand. If Sport New Zealand change the name of this service or make minor changes to its function, this does not have an impact on its function under this Policy.

“Young Person” means a person of or over the age of 14 years but under the age of 18 years.

SECTION 3: JURISDICTION

8. Jurisdiction of Gymnastics New Zealand

8.1. Subject to clause 9, Gymnastics New Zealand has the jurisdiction to hear and determine any allegation of Misconduct by a Member or Other Person, where the allegation is in any way connected to Gymnastics.

8.2. This includes, but is not limited to the following:

- a any endorsed national or international competition or event where a person is representing New Zealand, involved as a member of a New Zealand representative team (unless FIG, the International Olympic Committee, the Commonwealth Games Federation, and/or the New Zealand Olympic Committee have jurisdiction to determine the matter), or where a Member or Other Person is a judge, coach or official (of Gymnastics New Zealand, FIG, or otherwise) at any national or international competition;
- b the New Zealand Gymnastics Championships (Nationals);
- c the National Secondary Schools Gymnastics Championships;
- d any competitions, functions, meetings, or events that are controlled by Gymnastics New Zealand (either itself or by another person or organisation on its behalf) including, for example, a Gymnastics New Zealand General Meeting;
- e any competitions, functions, meetings, or events where the Member is representing Gymnastics New Zealand;
- f any training sessions, training camp or meetings connected with training held by a Member;
- g communications by or between Gymnastics New Zealand staff, Gymnastics New Zealand Board Members, members of Technical Committees and Sport Development Committees, and any other person; and
- h any allegation of Harassment, Discrimination or Child Abuse (as defined in the Membership Protection Policy).

8.3. Whether a Complaint is in any way connected to Gymnastics is at the discretion of Gymnastics New Zealand.

8.4. Any allegations of Misconduct outside the jurisdiction of Gymnastics New Zealand are to be within the jurisdiction of the relevant Member Club, Associate Member, or other relevant controlling body to hear and determine.

9. Exclusions

Anti-Doping Matters

9.1. The Sports Tribunal has sole jurisdiction (at first instance) to determine all matters within the Gymnastics New Zealand Anti-Doping Regulation, the Sports Anti-Doping Rules, or the World Anti-Doping Agency's Code. Any rights of appeal shall be as provided for in the Sports Anti-Doping Rules.

Other Exclusions

9.2. The Jurisdiction of Gymnastics New Zealand is subject to any applicable FIG statutes, FIG regulations, athlete agreements, or official agreements.

SECTION 4: COMPLAINTS

10. What is a Complaint?

- 10.1. A Complaint is a formal written statement relating to an allegation of Misconduct. Refer to SECTION 6: OVERVIEW OF THE COMPLAINTS PROCESS for the process on how to make a Complaint. Refer to clauses 19 and 23 for situations where a Complaint is not or does not need to be made in writing.

11. What to include when making a Complaint?

- 11.1. A Complaint should set out in as much detail as possible the nature of the alleged Misconduct; the persons involved; the date(s) and time(s) on which the alleged Misconduct occurred; the impact of the alleged Misconduct on the Complainant and/or other persons; and what Resolution is being sought.

12. Who can make a Complaint?

- 12.1. A Complaint may be made by any Member of Gymnastics New Zealand, or a person on behalf of, and with the authority of, another person (e.g., a friend of a Complainant). If a Complaint is made on behalf of another person, the person to which the Complaint relates to must sign the Complaint, **unless** that person is under the age of 18, (for example, a parent on behalf of a child), in which case the Child or Young person does not need to endorse or sign the Complaint.

13. Confidentiality of a Complaint

- 13.1. Every Complaint (and all evidence obtained in relation to the Complaint) which is made and received in accordance with this Policy must be kept confidential by the person(s) who made it, and the person(s) who receive it, except where:
- a Gymnastics New Zealand is required to disclose the Complaint (or aspects of it) by law, or by order of any tribunal or court;
 - b Gymnastics New Zealand is required to disclose the Complaint (or aspects of it) for the purposes of seeking legal or other professional advice, provided that such advisors shall keep the Complaint confidential;
 - c Gymnastics New Zealand and the SIU determines that the Complaint and/or facts relating to the Complaint are to be made public in the interests of Member awareness, behaviour modification, or public interest. Where Gymnastics New Zealand considers it appropriate, the identity of those involved may be kept confidential. However, where a Complaint relates to Harassment, Discrimination, or Child Abuse (as defined in the Membership Protection Policy), confidentiality shall be paramount, and all details of the parties concerned and the incident itself shall usually remain confidential.

14. Confidentiality of a Complainant's identity

- 14.1. If the Complainant wants to remain anonymous, for the purpose of Natural Justice, it is highly likely that the "Complaint" will need to be dealt with as if it were a Concern. This is at the discretion of Gymnastics New Zealand.

15. Power of Gymnastics New Zealand to proceed with a Complaint under certain circumstances

15.1. Gymnastics New Zealand has full discretion to proceed with a Complaint where the Complaint has been withdrawn and in situations where the Complainant wishes to remain anonymous.

15.2. Gymnastics New Zealand has full discretion to refer the complaint, where clause 15.1 applies, to the SIU to impose safeguarding orders or sanctions (as it deems appropriate), without the consent of the person(s) who raised the Complaint.

16. A Whistleblowing complaint

16.1. If a Complaint meets the definition of Serious Wrongdoing under the Protected Disclosures (Protection of Whistleblowers) Act 2022 (**Protected Disclosures Act**), the Complaint may be a Protected Disclosure under the Protected Disclosures Act.

16.2. A Protected Disclosure provides more protection at law for the person (known as the Discloser) making the Complaint.

16.3. To determine whether a Complaint is a Protected Disclosure refer to APPENDIX 5: WHISTLEBLOWER COMPLAINTS PROCESS or [view the Protected Disclosures Act](#).

16.4. In the event of any inconsistency between this Policy and the Protected Disclosures Act, the Protected Disclosure Act prevails.

17. Police, Oranga Tamariki or other Relevant Authorities

17.1. Nothing in this Policy prevents or limits those seeking to resolve matters arising out of alleged Misconduct from referring the Complaint to the New Zealand Police (or other relevant authorities).

18. Sports and Recreation Complaints and Mediation Service New Zealand

18.1. If making a Complaint through the above process is not considered appropriate or if the Complainant wants to remain anonymous to Gymnastics New Zealand, or if the person making the Complaint does not feel that it is appropriate for Gymnastics New Zealand to receive the Complaint, a person can make a Complaint to the SRCMS or the equivalent complaints and mediation service provided by Sport New Zealand.

18.2. The SRCMS operates independently for the whole sport and recreation sector in New Zealand.

18.3. When the Sport and Recreation Integrity Commission is established and operational, it will become responsible for the complaints and mediation services provided by Sport New Zealand (currently provided through the SRCMS). Subject to any major changes to how this service currently operates, this will not have any impact on the processes and procedures set out in this Policy.

18.4. For more information on the SRCMS and how to make a Complaint through the SRCMS [click here](#).

19. Criminal Convictions

19.1. A Complaint does not need to be made in writing if the alleged Misconduct has already resulted in a Member being convicted for an offence punishable by a term of imprisonment of six (6) months or longer. In such instances this will be sufficient for the Integrity Manager to refer to the Gymnastics New Zealand Board (“the **Board**”).

19.2. If a Member has been charged with an offence punishable by a term of

imprisonment of six (6) months or longer but the charge has not been determined, or if a Member has been convicted of an offence (including when a Member is granted a discharge without conviction), then, if the Integrity Manager or the Chief Executive considers it appropriate to do so, it may refer the matter to the Board to determine whether the Member may be suspended in accordance with Rule 11.4 (Suspension) of the Constitution.

- 19.3. If any Other Person has been charged with an offence punishable by a term of imprisonment of six (6) months or longer but the charge has not been determined, then, if the SIU considers it appropriate to do so, it may suspend that person from participation in any Gymnastics competitions, meetings, events, or activities under the control of Gymnastics New Zealand for such period as considered appropriate, provided that the Other Person is given notice of the proposed suspension and the right to be heard.

SECTION 5: CONCERNS

20. What is a Concern?

- 20.1. A Concern is not a Complaint.
- 20.2. A Concern is an issue that has been communicated to Gymnastics New Zealand, but a formal Complaint has not been made.
- 20.3. A Concern can be Minor, Serious, or Gross Misconduct (clause 5).
- 20.4. A Concern can be raised by anyone.
- 20.5. Gymnastics New Zealand, in their discretion, may investigate the Concern further by contacting the relevant parties to the Concern.
- 20.6. Gymnastics New Zealand will keep a record of all Concerns raised.

21. Process for dealing with a Concern

- 21.1. The process for dealing with a concern will be determined on a case-by-case basis. In most cases, Gymnastics New Zealand will contact the relevant Member Club and work alongside the Member Club to resolve the Concern.
- 21.2. Factors that will be considered when deciding on the process for dealing with the Concern, will include, but are not limited to:
 - a The nature of the Concern.
 - b The seriousness of the Concern.
 - c Who raised the Concern.
 - d Who (whether an individual or organisation/entity) the Concern is about.
 - e The age of the person who the Concern relates to.
 - f Whether the Concern was raised anonymously.
 - g Whether a Concern has been raised about the person or organisation before.

22. Power of Gymnastics New Zealand to proceed with a Concern under certain circumstances

- 22.1. Gymnastics New Zealand has full discretion to proceed with a Concern, by treating the Concern as a Complaint, regardless of whether the Concern has been withdrawn and in situations where the person who raised the Concern wishes to remain anonymous. In most situations this will only happen when the Concern relates to or is about "Gross Misconduct" as defined in clause 5.1.
- 22.2. Gymnastics New Zealand has full discretion to refer the concern to the SIU to impose safeguarding orders or sanctions (as it deems appropriate), without the consent of the person(s) who raised the Concern.

SECTION 6: OVERVIEW OF THE COMPLAINTS PROCESS

23. Submitting a complaint

- 23.1. All Complaints under this Policy are to be submitted to Gymnastics New Zealand using the Complaints Form at www.gymnasticsnz.com/safe-sport/. The Complaint Form is also attached at **APPENDIX 2: COMPLAINTS FORM** of this Policy. Gymnastics New Zealand acknowledges that in some circumstances it may be more appropriate for the Complaint to be made via phone call or in person. If a Complaint is made in this way, the Integrity Manager or Gymnastics New Zealand staff member will fill out the Complaints Form on behalf of the Complainant. The Integrity Manager or Gymnastics New Zealand staff member will print their full name, sign and date the Complaint Form. A record of the Complaint Form will be sent to the Complainant. The Complainant will not be required to sign the Complaint Form.
- 23.2. A Complaint may be submitted by a parent or guardian on behalf of a Child or Young Person.
- 23.3. Gymnastics New Zealand will acknowledge receipt of the Complaint and will confirm whether the Complaint will be treated as a Concern or Complaint based on the information that has been provided.

24. Confidentiality of the Complaint

- 24.1. Gymnastics New Zealand will endeavour to deal with Complaints on a confidential basis, unless required by law to disclose details of the Complaint, and as set out in clause 13 of this Policy.

25. Withdrawing a Complaint

- 25.1. A Complainant may withdraw their Complaint at any time before the Complaint has been resolved.
- 25.2. Withdrawing a Complaint must be done in writing to the Integrity Manager.
- 25.3. If a Complaint is withdrawn, Gymnastics New Zealand will keep a record of the initial Complaint.
- 25.4. Gymnastics New Zealand retains the power to investigate or refer the withdrawn Complaint to the SIU to impose recommendations, sanctions, or safeguarding orders (as deemed appropriate).

26. Receipt and process when a Complaint is received

- 26.1. Upon receipt of the Complaint, Gymnastics New Zealand will initially evaluate whether:
 - a The Complaint relates to an alleged breach of Misconduct (be it Minor Misconduct, Serious Misconduct or Gross Misconduct) and is therefore within the scope of this Policy (**Within Scope**).
 - b The Complaint has been submitted by a person who meets the definition of a Complainant.
 - c Gymnastics New Zealand has the Jurisdiction to deal with the Complaint.
- 26.2. If the Complaint is not Within Scope or the Complaint has been submitted by a person who does not meet the definition of a Complainant the Complaint or issue raised will be referred to the appropriate Member club or relevant organisation to

deal with.

26.3. The Integrity Manager or equivalent will then, in consultation with the Chief Executive, triage the Complaint by applying the Tier System set out at Clause 27.27.

26.4. Gymnastics New Zealand will maintain a record of all Complaints and Concerns received.

27. Tier System

27.1. Complaints will be triaged using the Tier System below:

- a **Tier 1:** If the Complaint is not Within Scope or the Jurisdiction of Gymnastics New Zealand, the process under this Policy is permanently discontinued.
- b **Tier 2** If the Complaint meets the definition of Minor Misconduct (clause 5), then the Complaint is a Tier 2 Complaint (see SECTION 7: TIER 2 COMPLAINTS (MINOR MISCONDUCT))
- c **Tier 3:** If the Complaint meets the definition of Serious Misconduct (Clause 5), then the Complaint is a Tier 3 Complaint (see SECTION 8: TIER 3 COMPLAINTS (SERIOUS MISCONDUCT)8).
- d **Tier 4:** If the Complaint meets the definition of Gross Misconduct (clause 5), then the Complaint is a Tier 4 Complaint (seeSECTION 12: TIER 4 COMPLAINTS (GROSS MISCONDUCT)).
- e **Tier 5:** If the Complaint meets the definition of Gross Misconduct and Gymnastics New Zealand believes that the New Zealand Police or/and Oranga Tamariki should be informed of the Gross Misconduct, then the Complaint is a Tier 5 Complaint. Tier 5 Complaints may also be referred to the Judicial Committee.

27.2. Tier 5 Complaints relate to Gross Misconduct that may be a criminal offence under New Zealand law. This includes but is not limited to:

- a Sexual misconduct or abuse.
- b Child abuse.
- c Criminal charges involving child abuse or misconduct.
- d Failing to report child abuse or sexual misconduct or abuse.

27.3. Tier 5 Complaints are a matter for the New Zealand Police or/and Oranga Tamariki. Gymnastics New Zealand will provide a supporting role as required by either the New Zealand Police or/and Oranga Tamariki. If required, Gymnastics New Zealand will undertake a Judicial process for Tier 5 Complaints. This will occur after the Complaint has been dealt with by the New Zealand Police or Oranga Tamariki.

28. Safeguarding orders

28.1. The SIU can impose safeguarding orders at any stage throughout the Complaints Process (see clause 52).

29. Sanctions

29.1. If the Complaint is upheld, the SIU and Judicial Committee both have the power

to impose sanctions (see clauses 53 and 81)

SECTION 7: TIER 2 COMPLAINTS (MINOR MISCONDUCT)

30. Process for management and resolution of Tier 2 Complaints

- 30.1. Where the Complaint involves a Member Club, the Member Club is responsible for the management and resolution of a Tier 2 Complaint as set out in their own policies.
- 30.2. If a Member Club does not do all that is reasonably practicable to resolve the Complaint, Gymnastics New Zealand will, at first instance, assist the Member Club to resolve the Complaint. If the Member Club continues to fail to do all that is reasonably practicable to resolve the Complaint, the SIU may impose one or more sanctions, and make any recommendations, as set out in Clause 52.
- 30.3. If Gymnastics New Zealand receives more than one Tier 2 Complaint that relates to the same Respondent, the Integrity Manager or equivalent, in consultation with the Chief Executive and the SIU, may elevate the Complaint to a Tier 3 or Tier 4 Complaint.
- 30.4. If the Complaint does not involve a Member Club, Gymnastics New Zealand will manage the Complaint.

31. Involvement of Gymnastics New Zealand

- 31.1. Gymnastics New Zealand will be available to assist the Member Club when necessary but will not be responsible for how the Complaint is managed.
- 31.2. Any assistance provided by Gymnastics New Zealand to the Member Club to resolve the Complaint will be limited to helping facilitate discussions between the Relevant Parties.
- 31.3. Gymnastics New Zealand will keep a record of all Tier 2 Complaints it receives.

32. Safeguarding orders, recommendations and sanctions

- 32.1. No safeguarding orders, recommendations or sanctions are to be made in respect of Tier 2 Complaints, except for provided for in clause 30.2.

SECTION 8: TIER 3 COMPLAINTS (SERIOUS MISCONDUCT)

33. Overview of the management and resolution of Tier 3 Complaints

- 33.1. Gymnastics New Zealand will work closely with the Member Club to determine who is the most appropriate organisation to be responsible for the management and resolution of the Complaint. If the Member Club is responsible, the Member Club's Complaints Process will be used to resolve the Complaint. If Gymnastics New Zealand is responsible, the following process will apply.
- 33.2. At the initial stage, Gymnastics New Zealand will gather information from the Complainant, the Respondent, and any other relevant party. Throughout the process, if deemed appropriate by Gymnastics New Zealand, Gymnastics New Zealand will attempt to resolve the Complaint through early facilitation.
- 33.3. If Gymnastics New Zealand deem it necessary, the Complaint may be referred to the SIU for the SIU to make any safeguarding orders under clause 52. This can occur before a process under clause 33.4, has been determined.
- 33.4. After gathering all relevant information, if the Complaint is not resolved through early facilitation, Gymnastics New Zealand, in consultation with the Complainant and the Respondent, will decide on the appropriate way to proceed with the Complaint, which shall be one of the following:
- a Mediation (as set out in clause 36); or
 - b Finding of fact, which may include an Investigation (as set out in clause 37).
- 33.5. The SIU may impose any safeguarding orders at any stage throughout the Complaints Process, excluding situations where the Complaint is in the process of being resolved by mediation or where the Complaint has been resolved by mediation.
- 33.6. The SIU can make recommendations at any stage throughout the Complaints Process or after a resolution has been reached.
- 33.7. Following an Investigation or a Finding of fact, Gymnastics New Zealand, in their discretion, can refer Tier 3 Complaints to the SIU. The SIU can impose sanctions under clause 52, excluding where Complaints have been resolved through mediation.
- 33.8. If Gymnastics New Zealand or the Member Club have followed the above process, regardless of whether a Resolution has been reached, the SIU, in their discretion, can close a Complaint.
- 33.9. The SIU, in their discretion can dismiss any Complaint if they deem it appropriate, at any stage.
- 33.10. There will be no hearings for matters referred to the SIU. All matters will be dealt with on the papers.

34. The role of the Sports Integrity Unit (SIU)

- 34.1. The SIU's role is to impose safeguarding orders during and after the Complaints Process and make recommendations and impose sanctions for Tier 3 Complaints.
- 34.2. The procedure of how the SIU operates is set out below at SECTION 10:

PROCEDURE OF THE SIU.

34.3. The jurisdiction of the SIU is set out at APPENDIX 3: SIU.

SECTION 9: PROCESS FOR TIER 3 COMPLAINTS

35. Early Facilitation

- 35.1. Gymnastics New Zealand will use its best efforts to contact the Complainant, Respondent and any other party that is involved in the Complaint (together the “**Relevant Parties**”) as soon as practicable after receiving the Complaint.
- 35.2. Gymnastics New Zealand will gather all relevant information from the Relevant Parties. During this initial stage, Gymnastics New Zealand will make all reasonable attempts, if appropriate, to reach a resolution through early facilitation. Early facilitation is a flexible and informal process where Gymnastics New Zealand works independently with the Relevant Parties involved to seek to resolve the Complaint.
- 35.3. At this stage Gymnastics New Zealand may choose to redefine the issue as a Concern rather than a Complaint.
- 35.4. If a resolution through early facilitation is not achieved, the process set out in clause 33.4 applies.

36. Mediation

- 36.1. If the Complainant and Respondent agree to mediation, and Gymnastics New Zealand believes that there is a reasonable prospect that the Complaint will be resolved by way of mediation, Gymnastics New Zealand will identify an appropriate mediator. This is likely to be through the SRCMS.
- 36.2. Mediation is a confidential and flexible process where people involved in a dispute come together to try and resolve an issue or reach a negotiated settlement.
- 36.3. Gymnastics New Zealand may choose to attend the mediation. To attend a mediation, Gymnastics New Zealand will likely require consent from all parties.
- 36.4. The terms of the mediation will be agreed with the mediator.
- 36.5. If an agreement is reached as a result of Mediation, it is to be recorded in writing and signed by all Relevant Parties and the mediator, and a copy is to be sent by the mediator to Gymnastics New Zealand.

37. Finding of fact and/or Investigation

- 37.1. If through the early facilitation there is an agreed Finding of fact, there will be no Investigation. If the Complaint requires an Investigation, Gymnastics New Zealand will appoint an investigator, likely through the SRCMS.
- 37.2. Gymnastics New Zealand will draft a Terms of Reference. The Terms of Reference will outline the nature of the Complaint, the allegations to be investigated and the process of the Investigation.
- 37.3. The Terms of Reference will be shared with the Complainant and the Respondent for review and comment.
- 37.4. The investigator will be impartial and will be required to adhere to the principles of Natural Justice process during the Investigation.

- 37.5. Investigations will remain confidential to the parties involved, unless otherwise required by law. Investigations will not be conducted under legal privilege.
- 37.6. The investigator will determine on the balance of probabilities whether any of the allegations made in the Complaint are substantiated on the facts. The investigator's factual findings and determination will be reported in a final report.
- 37.7. With the agreement of Gymnastics New Zealand, the investigator may look into further, any related matters that arise during the Investigation.
- 37.8. At the conclusion of the Investigation, the investigator will make the final report available in accordance with the Terms of Reference and this Policy.
- 37.9. The Respondent does not need to agree to or engage with the Investigation for a determination to be made. Before making any decision in the Respondent's absence, the investigator must be satisfied that the Respondent was aware of the Investigation taking place, the Terms of Reference, and the allegations that the Complainant had made against the Respondent. The investigator must be satisfied that the Respondent was given sufficient opportunity to take part in the Investigation process.

38. SIU to make safeguarding orders, recommendations or impose sanction(s)

- 38.1. The Complaint will be referred to the SIU once a Finding of fact has been completed or at the discretion of Gymnastics New Zealand. The SIU may decide to refer the Complaint to the Judicial Committee if, following the Finding of fact process, the Complaint meets the definition of a Tier 4 or Tier 5 Complaint.
- 38.2. If the SIU deem it necessary, the SIU may make any safeguarding orders under clause 51. Safeguarding orders can be made at any time during the Complaints process. Safeguarding order may be imposed before a process under clause 33.4, has been determined.
- 38.3. The SIU may impose any safeguarding orders at any stage throughout the Complaints Process, excluding where the Complaint is in the process of being resolved by mediation or where the Complaint has been resolved by mediation.
- 38.4. The SIU can make recommendations at any stage throughout the Complaints Process or after a resolution has been reached.
- 38.5. The SIU can impose sanctions under clause 52, excluding where Complaints have been resolved through mediation.

SECTION 10: PROCEDURE OF THE SIU

39. On receipt of the referral

39.1. Upon receipt of a referral of a Complaint from Gymnastics New Zealand, the Chairperson of the SIU will form a panel, which must consist of three members of the SIU (unless the matter is urgent – see clause 97), to deal with the Complaint. The Chairperson must then notify all Relevant Parties:

- a that the Complaint has been referred to the SIU and the reason(s) for the referral; and
- b the right of the Complainant and the Respondent to provide written submissions to the SIU and a timetable for when submissions are due.

39.2. Submissions filed under clause 39.1.b must be relevant to the nature of the hearing, i.e. submissions on appropriate sanction or submissions on whether or not safeguarding orders should be imposed. The SIU has full discretion to disregard submissions filed that are not relevant to the hearing.

40. Compliance with rules

40.1. The SIU must at all times comply with any applicable rules, policies, and/or procedures of Gymnastics New Zealand which apply to any matter contained in a Complaint before the SIU, provided they are not inconsistent with the Constitution or this Policy.

41. Decisions made on the papers

41.1. All Decisions of the SIU are to be made on the papers i.e. via email. No hearing will take place.

42. Written submissions

42.1. The Complainant and the Respondent have the right to file written submissions which the SIU must consider when making a Decision. The parties can choose to file supplementary information alongside their written submissions. The SIU has the discretion to disregard the supplementary information if they deem it to be irrelevant and/or inappropriate.

43. Inferences

43.1. The SIU may make such inferences and draw such conclusions as it considers appropriate from the failure by any person or party to comply with any order made by it.

44. Timing

44.1. Decisions of the SIU should be issued to the parties as soon as practicable after the SIU has met to determine the outcome of the referral.

45. Notification of the Decision

45.1. The SIU must provide written reasons for its Decisions and give notice of any

appeal rights (if applicable) to the Relevant Parties. Copies of all Decisions shall also be provided to Gymnastics New Zealand.

46. Public Decisions

46.1. Decisions of the SIU shall be made public at the discretion of Gymnastics New Zealand.

47. Consequences of Decision

47.1. If the SIU finds that Serious Misconduct has not been committed, it must advise Gymnastics New Zealand as soon as possible following its determination and dismiss the matter. If the SIU finds that Serious Misconduct has been committed, it may impose, in its discretion, any appropriate sanction(s) on the person or entity concerned in accordance with clause 52. If the SIU finds that Gross Misconduct has been committed, it must refer the Complaint to the Judicial Committee.

47.2. In accordance with Article 5.2 of the FIG Statutes, GNZ is obliged to communicate to the FIG Office the identity of any member convicted of harassment and/or abuse in relation with any Gymnastics activities by any judicial or disciplinary authority.

48. Recommendations

48.1. In addition to announcing its Decision, the SIU will provide its Decision to Gymnastics New Zealand and provide such recommendations to Gymnastics New Zealand or the Member Club as it considers appropriate.

49. Status of Decisions

49.1. Subject to any right of appeal under SECTION 15: APPEALS, all Decisions of the SIU shall be final and binding on all Relevant Parties.

50. Failure to Adhere to Decisions

50.1. Any failure to adhere to a Decision of the SIU is Gross Misconduct and the SIU must refer the matter to the Judicial Committee. It may also result in the affected person/entity (or its members) being suspended or terminated from Gymnastics New Zealand membership or from participating in Gymnastics New Zealand events in accordance with the Constitution, and/or such other steps being taken in accordance with the Constitution or the constitution of the relevant Member Club or Associate Member.

51. Reporting

51.1. The Chairperson of the SIU must keep a record of all referrals and related matters dealt with by the SIU and provide this to Gymnastics New Zealand.

SECTION 11: SAFEGUARDING ORDERS, RECOMMENDATIONS AND SANCTIONS

52. SIU safeguarding orders

- 52.1. The SIU, via urgent meeting or by email correspondence or similar, may impose any one or more of the following safeguarding orders.
- 52.2. In making the following safeguarding orders, the SIU will discuss the safeguarding order with the relevant Member Club, who will likely be responsible for making sure the safeguarding order is adhered to.
- 52.3. The safeguarding orders available to the SIU include, without limitation, the following:
- a that the Respondent is supervised at all times when in contact with athletes;
 - b that the Member Club prohibits the Respondent from having contact with the Complainant and provides the Complainant with another coach, if applicable; and/or
 - c that the Respondent is not available for selection for Gymnastics New Zealand events and/or international tours.
- 52.4. When a safeguarding order is made in relation to a Member of a Member Club, the Member Club must take all reasonably practicable steps to ensure that the safeguarding order is adhered to. Gymnastics New Zealand, when needed, may assist the Member Club to ensure that the safeguarding order is adhered to.
- 52.5. If the Club fails to take all reasonably practicable steps to ensure that the safeguarding order is adhered to, the SIU may sanction the Member Club under clause 53.
- 52.6. The SIU can make a safeguarding order under this clause for Complaints that have been referred to the Judicial Committee.
- 52.7. Any costs associated with safeguarding orders sit with the Member Club.
- 52.8. The above safeguarding orders do not preclude a Member Club from undergoing their own employment processes.

53. Recommendations and sanctions available to the SIU

- 53.1. The SIU may make any recommendations it deems appropriate.
- 53.2. The SIU may impose any one or more of the following sanctions, as it thinks fit:
- a a warning or reprimand;
 - b suspension from activities of Gymnastics New Zealand and/or its Members, including competitions, events, meetings, and other functions, for a period of up to six (6) weeks, and on such terms and conditions as it thinks fit;
 - c exclusion from a particular competition, activity, meeting, event, or events of Gymnastics New Zealand and/or its Members for a period of up to six (6) weeks, and on such terms and conditions as it thinks fit;
 - d non-selection for Gymnastics New Zealand events and/or international tours for a period of time;

- e demotion from any position or function granted by Gymnastics New Zealand or as a representative of Gymnastics New Zealand;
- f the cancellation of results of a competition or event (including team results if the SIU considers it appropriate to do so);
- g suspension of membership of Gymnastics New Zealand for up to six (6) weeks;
- h such other sanction as the SIU considers commensurate with the offence; and/or
- i such combination of any of the above sanctions as the SIU thinks fit.

53.3. The above recommendations and sanctions do not preclude a Member Club from undergoing their own employment processes.

54. Sanctions Decisions

54.1. The SIU must provide a Decision on sanction(s) in writing and the Decision must include reasons for the sanction(s) given. The Decision must be provided to the Relevant Parties and Gymnastics New Zealand as soon as practicable.

SECTION 12: TIER 4 COMPLAINTS (GROSS MISCONDUCT)

55. Overview of management and resolution of Tier 4 Complaints

- 55.1. Tier 4 Complaints will follow the same process set out at clauses 33.2 to 33.4 above.
- 55.2. If an agreement is reached as a result of Mediation, it is to be recorded in writing and signed by all Relevant Parties and the mediator, and a copy is to be sent by the mediator to Gymnastics New Zealand. Gymnastics New Zealand reserves the right to refer the Complaint to the Judicial Committee despite an agreement being reached between all Relevant Parties.
- 55.3. Where no agreement is reached as a result of Mediation, Gymnastics New Zealand may refer the Complaint directly to the Judicial Committee or refer the Complaint for a Finding of fact exercise, which may involve an Investigation, as set out in clause 37.
- 55.4. Following an Investigation or a Finding of fact, Tier 4 Complaints will be referred to the Judicial Committee. The Judicial Committee is independent from Gymnastics New Zealand. The primary function of the Judicial Committee is to establish whether the Misconduct is Gross Misconduct and, where applicable, to determine what sanction(s) is appropriate (under clause 81).
- 55.5. If the Judicial Committee determines that the Misconduct is not Gross Misconduct, the Complaint is to be sent to the SIU to determine whether the Misconduct is Serious Misconduct and to impose any safeguarding orders, make any recommendations or determine any sanction(s).
- 55.6. In performing its functions, the Judicial Committee should follow the procedures set out in this Policy at SECTION 13: PROCEDURE OF THE NEW ZEALAND JUDICIAL COMMITTEE but may depart from those procedures where the Judicial Committee considers it necessary and appropriate to do so. The Judicial Committee (or the Chairperson alone) shall determine matters of procedure and may issue written minutes in response to any question, application, or request from the Relevant Parties regarding procedure ("**Minutes**").
- 55.7. Issues regarding jurisdiction shall be notified by way of a written Decision rather than a Minute ("**Decisions**").
- 55.8. The SIU, at its own discretion may refer a Complaint to the Judicial Committee. If the Complainant does not agree with the Complaint being referred to the Judicial Committee, the Complaint is deemed to have been withdrawn and will proceed no further. This is subject to clause 15.
- 55.9. Nothing in this Policy prevents Gymnastics New Zealand and the SIU from referring Tier 4 Complaints directly, at any stage throughout the Complaints process, to the Judicial Committee.
- 55.10. The Judicial Committee shall observe the rules and principles of Natural Justice.

SECTION 13: PROCEDURE OF THE NEW ZEALAND JUDICIAL COMMITTEE

56. On receipt of the referral

- 56.1. The Judicial Committee's role of hearing and determining Complaints concerning Misconduct is a judicial proceeding, which will consist of a hearing.
- 56.2. The functions of the Judicial Committee are set out more fully at **Error! Reference source not found.**
- 56.3. Upon receipt of a referral or an appeal from Gymnastics New Zealand or from the SIU, the Chairperson of the Judicial Committee must notify all Relevant Parties of:
- a the names of the people who will be serving on the Judicial Committee for the proceedings;
 - b the right of the Complainant and the Respondent to be represented (clause 57);
 - c the requirement to submit a statement in accordance with clauses 67 and 68;
 - d the date and time of any pre-hearing conference (if the Chairperson considers a pre-hearing conference is necessary) as in accordance with clause 66 and 71; and
 - e at the discretion of the Judicial Committee, the matters to be discussed and determined at the pre-hearing conference.

57. Appearances / representation

- 57.1. Parties may present their case via papers, in person, or through a representative of their choice (including a lawyer). A party may choose not to appear or make written submissions, and if this occurs then, before making any decision in that party's absence, the Judicial Committee must be satisfied that the party concerned was aware of the date, time, and location of the hearing and that they had been requested to participate in accordance with this Policy.

58. Evidence

- 58.1. The Judicial Committee may receive as evidence any statement, document, information, or material that the Judicial Committee considers may assist it to deal effectively with a Complaint before it, whether or not it would be admissible in a court of law, and it may attach such weight to that evidence as it considers appropriate.

59. Witnesses

- 59.1. The Complainant and Respondent are entitled to call witnesses. Witnesses may be questioned on their evidence by members of the Judicial Committee, in accordance with any directions of the Chairperson. Where a person is requested to appear as a witness, and that person fails to attend or participate in the hearing without reasonable excuse or explanation for that failure, the Judicial Committee may draw inferences from that failure to attend.

60. Attendees

60.1. The Judicial Committee must determine who is entitled to be present at the hearing. The Judicial Committee has the power to request the attendance of any Member, Other Person, Party, or their representative at any proceedings before it. Where a person who is requested to attend fails to attend or participate in the hearing without reasonable excuse or explanation for that failure, the Judicial Committee may draw inferences from that failure to attend.

61. Standard of Proof

61.1. The standard of proof on all questions to be determined by the Judicial Committee shall be whether, on the balance of probabilities, the Respondent, that is the subject of the Complaint, committed Gross Misconduct.

62. Confidentiality of Proceedings

62.1. Subject to clause 76 (Public Decisions), all proceedings before the Judicial Committee (including the Complaint, any statements of the parties or any witnesses, Minutes, any record of the hearing, and any other documents or material submitted to the Judicial Committee) are confidential to the parties unless the Judicial Committee directs otherwise.

63. Media

63.1. The Judicial Committee shall not allow media to be present at the hearing.

64. Costs

64.1. The Respondent must pay their own costs to attend and be represented at any hearing before the Judicial Committee. Notwithstanding this general principle, the Judicial Committee shall have complete discretion to impose such cost orders as it considers appropriate, having regard to the circumstances.

65. Compliance with Rules

65.1. The Judicial Committee must at all times comply with any applicable rules, policies, and/or procedures of Gymnastics New Zealand which apply to any matter contained in a Complaint before the Judicial Committee, provided they are not inconsistent with the Constitution or this Policy.

66. Pre-hearing Conference

66.1. The Judicial Committee may hold a pre-hearing conference prior to any hearing of a Complaint and give such directions as it considers appropriate for the just, speedy, and inexpensive determination of the Complaint. This may include the Judicial Committee making any determination (in its discretion) as to whether the Complaint is within the jurisdiction and authority of the Judicial Committee. There may be further pre-hearing conferences prior to a hearing as determined by the Judicial Committee Chairperson.

67. Complainant's Statement

67.1. The Complainant, or Gymnastics New Zealand on their behalf, may file a statement with the Judicial Committee, and if so, it must be filed within the timeframe set out by a Direction by the Chairperson. The statement must set out:

- a the facts relating to the Complaint;
- b a submission setting out the outcome sought and why; and
- c an outline of all the evidence (including statements from any witnesses) and documents on which the Complainant intends to rely on in the proceeding.

67.2. The Complainant may choose to rely on the investigation report or their original written Complaint without a further written statement.

68. Copy to Respondent

68.1. On receipt of a statement by the Complainant (if any), the Registrar (in most circumstances the Registrar will be the Integrity Manager), must immediately forward a copy to the Respondent. If no statement is made by the Complainant, the Registrar must inform the Respondent accordingly.

69. Respondent's Statement

69.1. The Respondent may file a statement with the Judicial Committee within the timeframe set out by a Direction by the Chairperson. The statement must set out:

- a the facts in response to the Complaint and the Complainant's statement (if any);
- b a submission responding to the outcome sought by the Complainant; and
- c an outline of all the evidence (including statements from any witnesses) and documents on which the Respondent intends to rely on in the proceeding.

70. Interested Parties

70.1. If any other person is identified at any pre-hearing conference as being likely to have an interest in the proceeding, or as being required to provide evidence in the proceeding, the Registrar shall send to such party copies of any documents filed by the parties and a copy of the directions made at or after any pre-hearing conference, and request the interested party to advise the Judicial Committee as to whether or not they wish to be involved in the proceedings by a specified date. Any interested parties are bound by this Policy and for the avoidance of doubt, the obligations of confidentiality referred to in (clause 62) of this Policy.

71. Hearing

71.1. A Complaint before the Judicial Committee shall usually be determined by way of a hearing of the parties in such manner as the Judicial Committee determines appropriate (which may include a hearing by teleconference, videoconference, in person, or a combination of such means). However, if the Chairperson and the parties agree, a Complaint may be determined on the papers, by reference only to

the written documents filed with the Judicial Committee.

71.2. The Judicial Committee shall determine the date for the hearing as soon as practicable after any pre-hearing conference(s). The hearing date should be scheduled for a date arising as soon as practicable after the date by which the Respondent must file their statement.

71.3. The hearing shall be held at a venue and location which is most convenient to all the parties and the Committee Members, as determined by the Chairperson. This may include an online hearing by telephone conference or videoconference.

71.4. The procedure for a hearing before the Judicial Committee shall be determined by the Judicial Committee as it considers appropriate, and according to the principles of Natural Justice.

72. Record of Hearing

72.1. The Judicial Committee shall keep a record of the hearing, including all evidence presented, in the form determined by the Judicial Committee.

73. Decisions

73.1. In addition to issuing Minutes (described in clause 55.6), the Judicial Committee may issue written Decisions regarding matters before it.

74. Timing

74.1. Decisions of the Judicial Committee should be issued to the parties as soon as practicable after conclusion of the proceedings and consideration by the Judicial Committee.

75. Notification of the Decision

75.1. The Judicial Committee must provide written reasons for its Decisions and give notice of any appeal rights (if applicable). Copies of all Decisions shall also be provided to Gymnastics New Zealand and the SIU.

76. Public Decisions

76.1. Decisions of the Judicial Committee shall be made public at the discretion of Gymnastics New Zealand.

77. Consequences of Decision

77.1. If the Judicial Committee finds that Gross Misconduct has not been committed, it shall advise Gymnastics New Zealand as soon as possible following the hearing and dismiss the matter. If the Judicial Committee finds that Gross Misconduct has been committed, it may impose, in its discretion, any appropriate sanction(s) on the Respondent concerned in accordance with clause 81.

77.2. In accordance with Article 5.2 of the FIG Statutes, GNZ is obliged to communicate to the FIG Office the identity of any member convicted of harassment and/or abuse in relation with any Gymnastics activities by any judicial or disciplinary authority.

78. Recommendations

78.1. In addition to announcing its Decision, the Judicial Committee may provide recommendations to Gymnastics New Zealand as it considers appropriate.

79. Status of Decisions

79.1. Subject to any right of appeal under Section 15, all Decisions of the Judicial Committee shall be final and binding on all parties.

80. Failure to Adhere to Decisions

80.1. Any failure to adhere to a Decision of the Judicial Committee is Gross Misconduct and may result in the affected person/entity (or its members) being suspended or terminated from Gymnastics New Zealand membership or from participating in Gymnastics New Zealand events in accordance with the Constitution, and/or such other steps being taken in accordance with the Constitution or the constitution of the relevant Member Club or Associate Member.

SECTION 14: RECOMMENDATIONS, ORDERS AND SANCTIONS AVAILABLE TO THE JUDICIAL COMMITTEE

81. Recommendations, safeguarding orders, and sanctions available to the Judicial Committee

81.1. The Judicial Committee may make any recommendations of actions it deems appropriate.

81.2. The Judicial Committee may impose any one or more of the following sanctions or safeguarding orders, as it thinks fit:

- a a warning or reprimand;
- b that the relevant Member Club put in place a personal development plan for the Respondent;
- c that the relevant Member Club provides support to the Respondent, which includes but is not limited to:
 - i. education;
 - ii. coaching training;
 - iii. counselling;
- d suspension from such activities of Gymnastics New Zealand and/or its Members, including competitions, events, meetings, and other functions, for such period(s) and on such terms and conditions as it thinks fit;
- e permanent exclusion from a particular competition, activity, meeting, event, or events of Gymnastics New Zealand and/or its Members;
- f demotion from any position or function granted by Gymnastics New Zealand or as a representative of Gymnastics New Zealand;
- g the cancellation of results of a competition or event (including team results if the Judicial Committee considers it appropriate to do so);
- h reparation and/or compensation by way of monetary payment to the Complainant and/or other parties involved in the matter, in an amount and in such manner as the Judicial Committee thinks fit;
- i fines imposed in such manner, and in such amount(s), as the Judicial Committee thinks fit;
- j suspension or termination of membership of Gymnastics New Zealand;
- k an order for costs;
- l such other sanction as the Judicial Committee considers commensurate with the offence; and/or
- m such combination of any of the above sanctions as the Judicial Committee thinks fit.

82. Compliance

82.1. Every person to whom this Policy applies must comply with and enforce any sanction or safeguarding order imposed on it/them or any other person under this Policy.

83. Sanctions Decisions

83.1. The Judicial Committee may deliver its Decision on sanction(s) orally at the conclusion of the hearing or in a subsequent Decision after the substantive Decision is delivered. However, in all proceedings, it shall also deliver its Decision on sanction(s) in writing including giving reasons. The Judicial Committee shall deliver its Decision on sanction(s) as soon as practicable after the conclusion of the proceedings but may request submissions on sanction(s) from the parties prior to making a Decision on sanction(s) if it considers it appropriate to do so.

SECTION 15: APPEALS

84. Appeals to the New Zealand Sports Tribunal

- 84.1. **Grounds of Appeal:** The grounds of appeal are those set out in the Rules of the Sports Tribunal.
- 84.2. **Form of Appeal:** Any appeal made under this clause may be heard de novo (afresh) or otherwise, as determined by the Sports Tribunal.
- 84.3. **Timing:** An appeal must be filed within twenty-eight (28) Days of the appellant being notified of the Decision against which the appeal is made.
- 84.4. **Procedure:** Except to the extent set out in this Policy, the Rules of the Sports Tribunal apply to any appeal made under this clause.

85. Club Appeals

- 85.1. The Complainant may appeal to Gymnastics New Zealand where a Member Club has not followed a proper complaints process when dealing with a Complaint. Where Gymnastics New Zealand finds that a proper complaints process was not followed, Gymnastics New Zealand will, in the first instance, work with the Member Club to resolve the issues with its complaints process. If the Member Club fails to engage with Gymnastics New Zealand, Gymnastics New Zealand reserves the right to make their own Complaint about the inaction or action of the Member Club, to the SIU or Judicial Committee.
- 85.2. Where Gymnastics New Zealand finds that a proper complaints process was followed, Gymnastics New Zealand, in their discretion, can dismiss the Complaint.
- 85.3. Where Gymnastics New Zealand dismiss a Complaint, the Complainant may have grounds of appeal to the New Zealand Sports Tribunal.

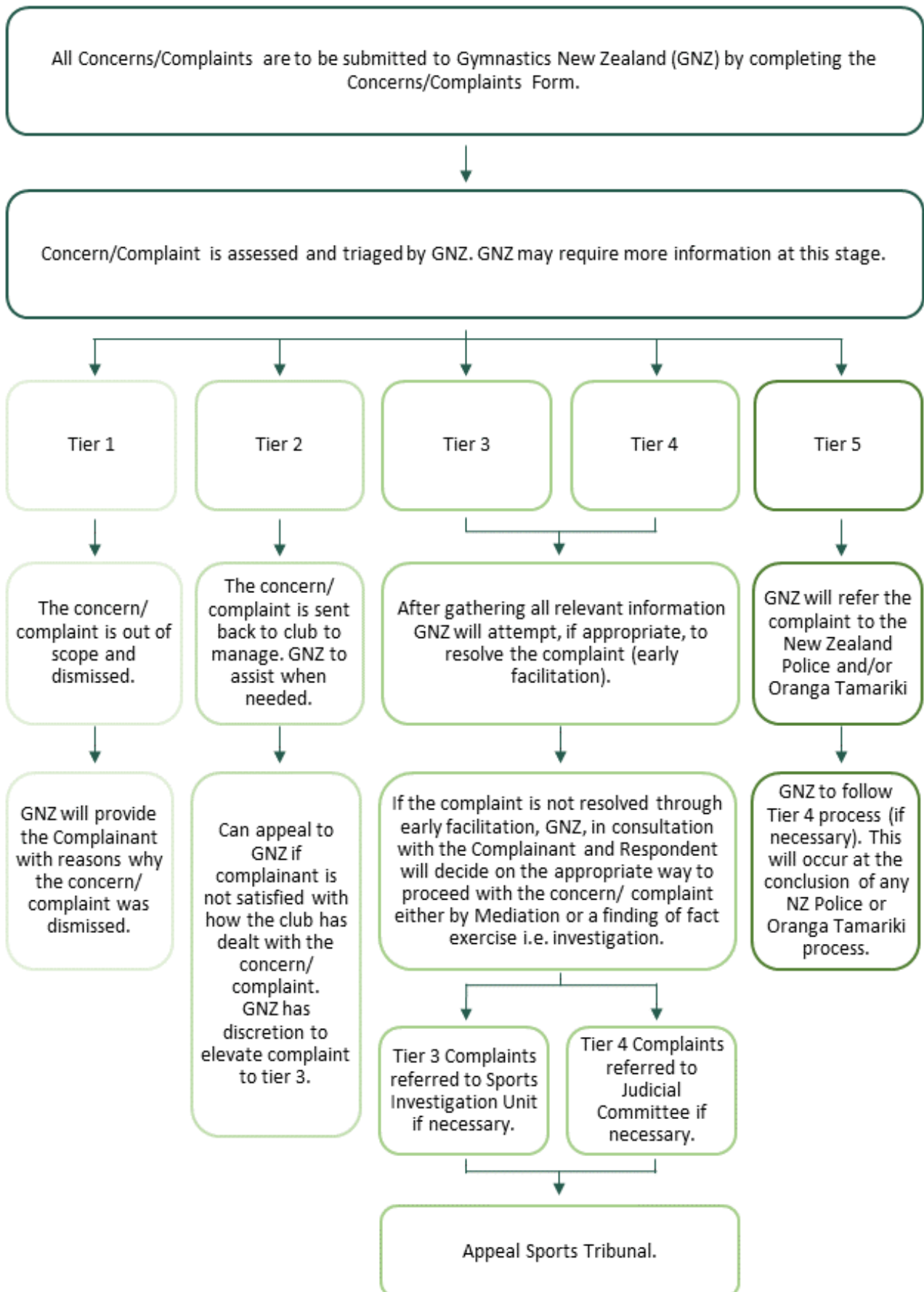
SECTION 16: LIABILITY AND INDEMNITY

86. Limit of Liability and Indemnity

86.1. So far as this Policy may extend, no criminal or civil proceeding shall be taken against the Chief Executive, Integrity Manager, any Judicial Committee members, any SIU members, Gymnastics New Zealand or any Member or employee of Gymnastics New Zealand, shall be subject to any criminal or civil liability in respect of any act or omission made, or in respect of words spoken or written at or for the purposes of any enquiry or proceeding under this Policy, or for the publication of any Decision relating to any procedure, enquiry or proceeding under this Policy.

86.2. The Chief Executive, Integrity Manager, and any member of the Gymnastics New Zealand Judicial Committee and the SIU shall be indemnified in full by Gymnastics New Zealand for any damages or costs awarded against them as a result of any act or omission made in the course of the exercise or intended exercise of any of their functions, duties, or powers under this Policy unless such act or omission is made in bad faith, together with all costs of defending any allegation, complaint, or claim against them.

APPENDIX 1: FLOWCHART OF CONCERNS AND COMPLAINTS PROCESS



APPENDIX 2: COMPLAINTS FORM

The complaints form can be found at www.gymnasticsnz.com/safe-sport/.

APPENDIX 3: SIU

87. Functions

87.1. The functions of the SIU are to:

- a make recommendations and impose safeguarding orders as set out in clauses 51 and 52;
- b determine the appropriate sanction(s) for Tier 3 Complaints (as described in clauses 34 and 52); and
- c appropriately refer Complaints to the Judicial Committee as set out in this Policy.

88. Composition

88.1. The SIU will be comprised of six (6) Members. Five of the Members will be appointed by the Board. The Members will consist of the following:

- a a Chairperson, ratified by the Board, who has independent legal qualifications;
- b the Chief Executive Officer of Gymnastics New Zealand;
- c a representative from the Board;
- d a representative from the Gymnastics New Zealand community;
- e an athlete representative (defined as an athlete retired from international competitive gymnastics); and
- f an independent representative with a background in sport integrity and ethics.

89. Process for appointing SIU Members

89.1. The Board shall appoint an SIU appointment panel, comprising of the following SIU members:

- a the CEO of Gymnastics New Zealand;
- b a representative from the Board of Directors; and
- c a person appointed by the Board who is independent of Gymnastics New Zealand (not a member as defined by the Constitution - Part II Membership, clause 4.1) and who is suitably skilled, qualified and/or experienced to carry out the functions of the appointment, taking into account the skills, qualifications and experience of the other Panel members.

89.2. Any decision of the Board regarding the appointment of SIU Members must be met with a majority.

89.3. In determining the appointed SIU Members, the Board shall take into account the following factors in considering potential appointees:

- a their prior experience in an advisory role at national or regional level in New Zealand, whether generally or related to sport or gymnastics;
- b their knowledge of, and experience with legal matters;
- c their occupational skills, abilities, experience and competency in direct correlation to the role being applied for; and
- d any declared or perceived conflicts of interest.

89.4. The Board must call for applications for the five appointed positions on the SIU. Applications will close when a suitable candidate has been found or such other date as determined by the Board. The Board must do all that it can to ensure that the SIU be gender-diverse.

89.5. Upon the receipt of any application/s, the Board will commence consideration as soon as possible. The Board must make their decisions as soon as is practical, or by such other date as determined by the Board. Subsequently, the Board must notify all current Members of the SIU of any new persons who have been appointed.

90. SIU Member Eligibility Requirements:

90.1. Any person who wishes to apply to be a Member of the SIU shall demonstrate a strong personal commitment to maintaining integrity and a high ethical standard. Members will have the capacity to objectively analyse sensitive legal documents and information and recommend appropriate courses of action resulting from collected evidence. They agree and are aware of the requirements to act impartially and with discretion whilst handling evidence, interview content and other confidential information.

90.2. No person shall be eligible for appointment or remain in office as a member of the SIU, if any of the circumstances stated in Rule 15.6 of the Constitution apply to them.

91. Vacancies of SIU Members:

91.1. If there is a vacancy (as described at clause 92) of any position of the SIU, that position shall be filled as follows. If a vacancy is created, the CEO in consultation with the Chair of the SIU and the Chair of the Board may replace the position with a suitable candidate.

92. Vacancy

92.1. A vacancy arises if:

- a a Member of the SIU resigns from office prior to the expiry of their term of office;
- b a Member of the SIU dies;
- c a Member of the SIU is removed under clause 102;

- d a SIU Members' circumstances significantly changes and this change significantly comprises their ability to effectively perform their role; or
- e a position on the SIU is not filled by the Gymnastics New Zealand Board either because there were insufficient applications or the Gymnastics New Zealand Board decided in its discretion that there were no suitable applicants.

93. Term

93.1. An SIU member will be appointed to serve a term of four years. At the end of the four year term, the Board, in their discretion may extend the term for another four years or for a term that the Board deems appropriate.

93.2. SIU members (once appointed by the Board) may be changed at the Board's discretion. All changes to SIU members must be recorded in the Board minutes.

94. Meetings

94.1. When a Complaint is referred to the SIU, the Chairperson of the SIU must call a meeting of the SIU to deal with the referral.

95. Reporting

95.1. The SIU Chair will maintain a written record of what was discussed at every meeting. The SIU is to provide a written report summarising the meeting(s), to be included in the Board Papers for the next scheduled Board Meeting.

96. Quorum

96.1. The quorum for an SIU meeting must be three (3) SIU Members. This is subject to clause 97.

97. Urgent meeting of the SIU

97.1. If a situation arises where the SIU needs to be established to determine a Complaint urgently, the SIU may comprise of only two Members, one of which must be the Chairperson or a person with legal qualifications.

98. Power of the SIU to seek more information

98.1. The SIU has the power to seek more information (including but not limited to any papers, documents, records, or items) from the parties.

99. Operating Principles of the SIU

99.1. The SIU will continually encourage the improvement of, and adherence to existing policies, procedures and practices at all levels.

99.2. The SIU will provide an open avenue of communication with the Gymnastics New Zealand Board.

99.3. The SIU will comply, in conformity, with all of New Zealand's legal, regulatory and statutory laws and requirements.

99.4. The SIU is authorised to obtain external resources as required to assist with its work, within delegated authority.

99.5. The SIU meetings shall be minuted.

99.6. The SIU shall submit an annual report to the Board.

99.7. The SIU shall annually conduct an assessment of its effectiveness and the contribution of individual committee members. This may reference any policies and procedures that govern/direct the operation of the SIU. This may include independent review. The Board shall determine changes.

100. Duties and Responsibilities of the SIU

100.1. Ensuring the Gymnastics New Zealand integrity policies are up-to-date and readily available to the public.

100.2. Ensuring existing processes regarding reporting are clear and obvious.

100.3. Operating in compliance with anti-doping, child protection, sports match-fixing and related corruption policies as developed and documented by appropriate external agencies.

100.4. The SIU shall conduct any inquiry in accordance to the procedures outlined in this Policy.

101. Ineligibility

101.1. A Member of the SIU cannot participate in SIU decisions where they have an interest in the matter before the SIU.

102. Removal of SIU Members

102.1. The SIU chairperson and/or Gymnastics New Zealand Chief Executive may recommend to the Board the removal of any SIU Member for any of the following reasons:

- a the SIU Member has failed, neglected, or breached any one or more of their duties as a SIU Member as outlined in this Policy; and/or
- b the SIU Member has brought the Board, any employee of Gymnastics New Zealand, any other Gymnastics New Zealand official, or Gymnastics New Zealand generally, into disrepute; and/or
- c the SIU member has missed three (3) or more meetings without obtaining leave from the Chairperson of the SIU.
- d the SIU member has failed to perform their role in an honest and ethical manner, failed to work effectively, productively, and collaboratively.

103. Expenses

103.1. SIU Members shall be reimbursed by Gymnastics New Zealand for their actual and reasonable expenses incurred in the conduct of Gymnastics New Zealand's business. Such reimbursement shall be by agreement.

104. Not within Jurisdiction

104.1. If any situation arises that, in the opinion of the SIU, is not provided for in the Constitution, the regulations, policies or procedures of Gymnastics New Zealand, the matter must be referred to the Chief Executive Officer.

APPENDIX 4: JUDICIAL COMMITTEE

105. Functions

105.1. The functions of the Judicial Committee are to:

- a hear and determine allegations of Misconduct properly referred to it under this Policy; and
- b undertake any inquiry or investigation where requested to do so by the Board.

106. Composition

106.1. The Judicial Committee shall consist of three (3) persons ("**Committee Members**"). The Committee Members should include at least:

- a one person with legal experience, preferably a lawyer;
- b one person with significant experience in disciplinary matters, preferably in relation to Gymnastics (or a particular Gymnastics Discipline); and
- c one person with extensive knowledge of Gymnastics (or a particular Gymnastics Discipline).

107. Urgent Hearing

107.1. If a situation arises where the Judicial Committee needs to be established to determine a Complaint urgently, the Judicial Committee may comprise of only one Committee Member, which shall be a person who fits the description in clause 106.1.a.

108. Chairperson

108.1. The Chairperson of the Judicial Committee shall be the person described in clause 106.1.a. If more than two people appointed to the Judicial Committee have legal experience, the Board or the Chief Executive by delegation from the Board, shall determine the Chairperson.

109. Ineligibility

109.1. None of the following persons may be a Committee Member:

- a Gymnastics New Zealand Board Member;
- b member of the same Member Club or Associate Member as any other Member against whom disciplinary proceedings have been brought; or
- c person who has an interest in the matter before the Judicial Committee.

110. Removal/Replacement

110.1. The Board may, in its discretion, remove or replace any Committee Member(s) at any time for any reason.

111. Remuneration

111.1. Committee Members may be paid an honorarium as determined by the Board. In addition,

they shall be paid travelling allowances and expenses which is to be determined by the Board.

112. Registrar

112.1. There shall be a Registrar for the Judicial Committee. The Registrar shall be the Integrity Manager. If the Complaint involves the Integrity Manager, the Board shall appoint another Gymnastics New Zealand employee to act as the Registrar for that Complaint.

112.2. The functions of the Registrar include the following:

- a. to provide information regarding procedure to any person seeking to make a Complaint;
- b. to facilitate and coordinate the management of all proceedings before the Judicial Committee;
- c. to be the secretary to the Chairperson of the Judicial Committee; and
- d. to undertake such other functions as may be determined by the Board.

112.3. When acting as the Registrar, the Integrity Manager has no power other than those contained within this clause.

113. Powers of Enquiry

113.1. The Judicial Committee shall have the power to enquire into the subject matter of any proceeding in accordance with this Policy. For the purposes of any such enquiry, the Judicial Committee or any person authorised in writing by it, may examine all and any evidence or information that relates to the subject matter.

113.2. The Judicial Committee may, if it thinks fit, require that any written information or particulars, or any copies or extracts furnished under this Policy, be verified by affidavit, statutory declaration, or otherwise as the Judicial Committee may require.

113.3. The Judicial Committee may make such inferences and draw such conclusions as it considers appropriate from the failure by any person or party to comply with any order or request made by it.

114. Power to Appoint Independent Experts

114.1. The Judicial Committee may, at any time, in respect of any proceeding and either of its own motion or on the application of any party, appoint a person who is independent of the parties to the proceeding and who has expertise in the subject matter of the Complaint, to assist and advise the Judicial Committee. Such person may:

- a be present at any hearing of the Judicial Committee;
- b enquire into and/or report on any question of fact or opinion not involving questions of law or construction; and
- c at the request of the Judicial Committee, give evidence to the Judicial Committee, and/or advise or assist the Judicial Committee in any proceeding.

114.2. A person appointed under clause 114.1 shall not be entitled to be present during any deliberations of the Judicial Committee.

- 114.3. If a person appointed under clause 114.1 provides a report and/or gives evidence in any proceeding, all parties shall have the right to question that person unless the Judicial Committee orders otherwise.
- 114.4. Gymnastics New Zealand shall be responsible for any fees and expenses incurred by any such independent expert(s), but the Judicial Committee may, in its discretion, order that any party shall meet or contribute to such fees and expenses.

APPENDIX 5: WHISTLEBLOWER COMPLAINTS PROCESS

115. Overview of a Whistleblower Complaint

115.1. Gymnastics New Zealand are committed to ensuring that people who have concerns relating to Gymnastics New Zealand or a Member Club, or its activities, are able to raise those concerns without fear of repercussion and with the confidence that they will be addressed. A person who makes a whistleblower complaint may also be protected at law under the Protected Disclosures Act.

115.2. This Section of the Policy provides an overview of what constitutes a whistleblower complaint, formally referred to as a “Protected Disclosure”, and should be read alongside the Protected Disclosures Act.

116. What is a Protected Disclosure?

116.1. For a disclosure of information to be considered a Protected Disclosure, the person disclosing the information has to be a Discloser (as defined in section 8 of the Protected Disclosures Act), the information has to relate to Serious Wrongdoing (as defined in section 10 of the Protected Disclosures Act), the Discloser has to disclose the Serious Wrongdoing in accordance with sections 11 and 14 of the Protected Disclosures Act, and the information must not be disclosed in bad faith.

117. What a Discloser should do

117.1. A Discloser is entitled to protection under the Protected Disclosures Act for a Protected Disclosure made to:

- a their organisation if it is made in accordance with any internal procedures or to the head or a deputy head of the organisation; or
- b to any appropriate authority at any time, whether or not the Discloser has also made the disclosure to their organisation or to another appropriate authority.
- c The meaning of appropriate authority is set out in section 25 of the Protected Disclosures Act. Examples of appropriate authorities that may be most relevant to Gymnastics include Oranga Tamariki, the Human Rights Commission, or the Ministry of Health. Refer to Schedule 2 of the Protected Disclosures Act for more examples.

117.2. In the Gymnastics context, any person who wishes to make a Whistleblower Complaint to Gymnastics New Zealand must do so in accordance with the Complaints Process set out in this Policy. Upon receipt of a Whistleblower Complaint, Gymnastics New Zealand will determine whether the Complaint is a Protected Disclosure under the Protected Disclosures Act and handle the Complaint in accordance with the receiver’s obligations (sections 13, 15 and 16) and the protections in the Protected Disclosures Act (Part 3).

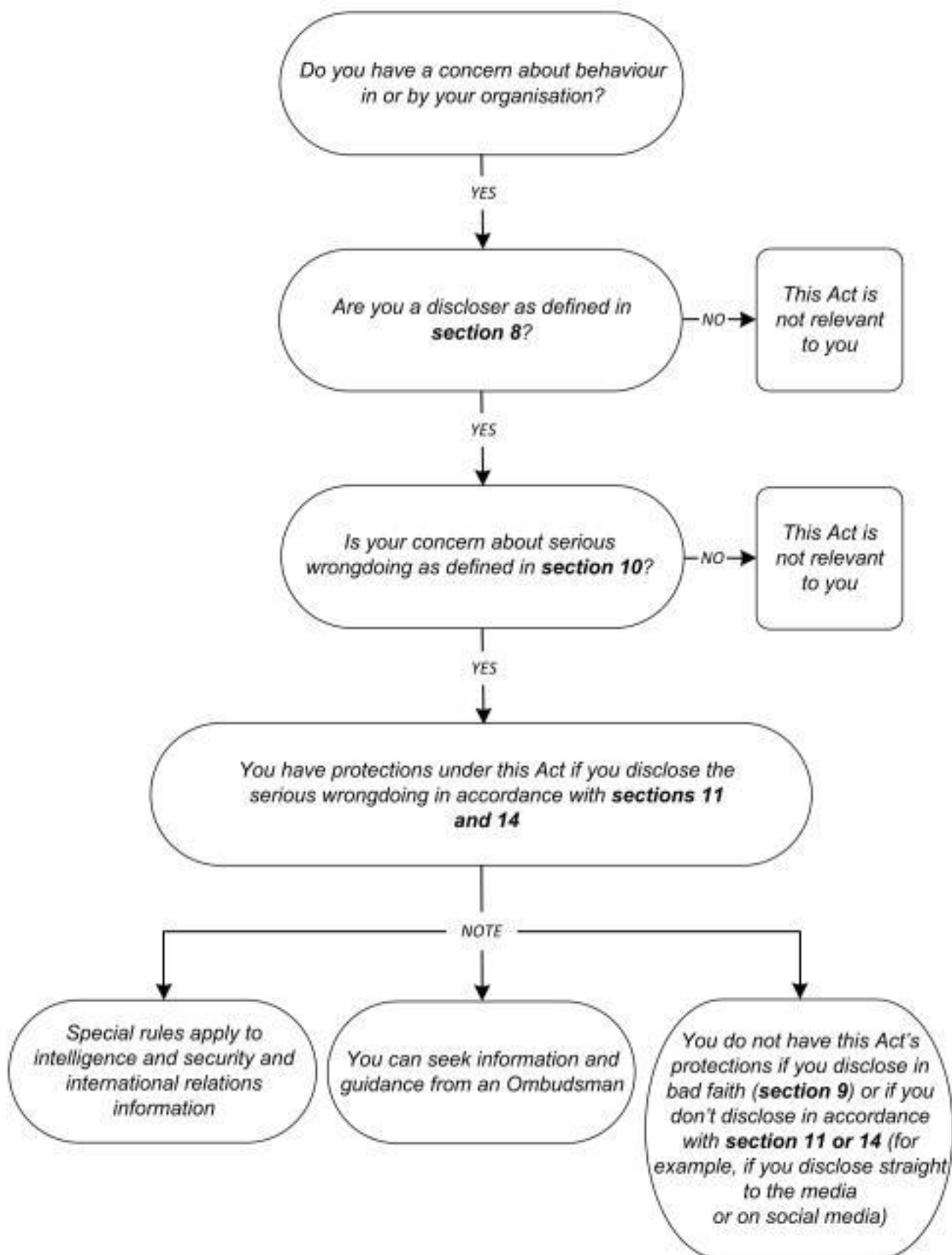
117.3. If the Discloser disclosed the information in bad faith, the disclosure is not considered a Protected Disclosure under the Protected Disclosure Act and the Discloser will not be protected under that Act or this Policy (see sections 9, 12 and 22 of the Protected Disclosures Act).

117.4. Refer to Subpart 2 (sections 11 – 16) of the Protected Disclosures Act on what to do when making a Protected Disclosure.

117.5. Refer to Part 3 of the Protected Disclosures Act for the protections applying to Disclosers.

117.6. The below flowchart gives an overview of whether the reader is protected as a Discloser and how the Protected Disclosures Act applies to a Discloser. This flowchart can also be found under section 7 of the Protected Disclosures Act. Definitions of the key concepts are set out below the flowchart.

Flowchart providing an overview of how the Protected Disclosures Act applies to a Discloser (person disclosing information)



118. Are you a “Discloser” under section 8 of the Protected Disclosures Act?

118.1. In the Gymnastics Context a Discloser is likely to be an individual who is (or was formerly):

- a an employee;
- b engaged or contracted under a contract for services to do work for Gymnastics New Zealand or a Member Club or Associate Member;
- c concerned in the management of Gymnastics New Zealand (including, for example, a person who is or was a Board member), a Member Club or Associate Member; or
- d a volunteer working for Gymnastics New Zealand without reward or expectation of reward for that work.

118.2. Refer to section 8 of the Protected Disclosures Act for the full list of who is a Discloser.

119. Does the concern that has been raised relate to Serious Wrongdoing as set out in Section 10 of the Protected Disclosures Act?

119.1. Serious Wrongdoing includes any act, omission, or course of conduct in (or by) any organisation that is 1 or more of the following:

- a an offence;
- b a serious risk to—
 - i. public health; or
 - ii. public safety; or
 - iii. the health or safety of any individual; or
 - iv. the environment:
- c serious risk to the maintenance of law, including—
 - i. the prevention, investigation, and detection of offences; or
 - ii. the right to a fair trial:
- d an unlawful, a corrupt, or an irregular use of public funds or public resources:
- e oppressive, unlawfully discriminatory, or grossly negligent, or that is gross mismanagement, and is done (or is an omission) by—
 - i. an employee (if the organisation is a public sector organisation):
 - ii. a person performing (or purporting to perform) a function or duty or exercising (or purporting to exercise) a power on behalf of a public sector organisation or the Government.