



**New Brunswick Safe Sport  
Complaint Mechanism**

**Program Guidelines**

## Preamble and Objectives

There has been a major push nationally to make our sport system in this country as safe and positive as possible. It is widely recognized that, when disputes arise, they are a major drain on the sport system, absorbing time, volunteer/staff resources, money, and energy that could otherwise be invested to increase development, opportunity, and participation in sport across the province. To this end, the New Brunswick Safe Sport Complaint Mechanism (NBSSCM) was established.

The NBSSCM is a collaboration between Sport New Brunswick (Sport NB) and the Department of Tourism, Heritage and Culture (Sport & Recreation Branch) (SRB). The NBSSCM is designed to respond to the needs of the PSO/MSO members of Sport NB, as defined within their by-laws, excluding those defined as Associate Members.

The NBSSCM strives to provide support to complainants within the New Brunswick amateur sport system for certain disputes by an unbiased Case Manager mechanism.

This document sets out the fundamental principles of the NBSSCM.

## Availability of the Program

- a) Provincial Sport Organizations (PSO) and Multi-Sport Organizations (MSO) that are Members of Sport NB are eligible to participate in the NBSSCM. This includes any clubs affiliated with a NSO who do not have an operating PSO in NB.
- b) Associate Members may be eligible to participate in the NBSSCM if they have signed an agreement with Sport NB and have adopted the required policies.
- c) It is recognized that any participant involved with a PSO/MSO has the right to have their allegation(s) of maltreatment, as defined in the UCCMS, dealt with impartially, fairly, timely, equitably, transparently, and with respect.
- d) All member PSOs/MSOs of Sport NB were required by SRB to adopt a Code of Conduct reflecting the principles set forth in the [Universal Code of Conduct to Prevent and Address Maltreatment in Sport \(UCCMS\)](#) by the 15<sup>th</sup> day of April 2022.
- e) All PSOs/MSOs of Sport NB are required to have a policy which outlines an internal dispute resolution process for the resolution of all complaints that may arise in the sport environment.

- It is strongly recommended that all PSOs/MSOs designate the NBSSCM as the dispute resolution mechanism to receive and address all allegations of maltreatment under the UCCMS. However, currently, it is not required that all PSOs/MSOs use the NBSSCM.
- f) It is also recognized that participants have the right to have allegations of a failure on the part of the PSO/MSO to follow its constitution or by-laws reviewed in a procedurally fair manner that respects the principles set out above in Section II.b).
- g) Sport NB entered a Memorandum of Understanding (MOU) on the 27<sup>th</sup> day of October 2020 with the SRB to implement a fair, impartial, timely, and transparent process to deal with complaints of maltreatment, as defined in the UCCMS, or alleged failure of a PSO/MSO to follow its own constitution, by-laws, or policies.
- h) In accordance with the MOU, Sport NB and SRB agree to provide this process for the resolution of complaints of maltreatment, as defined in the UCCMS, or alleged failure of a PSO/MSO to follow its own constitution, by-laws, or policies.

## Essential Principles

- a) The SRB, Sport NB and the PSO/MSO acknowledge that the Rules of Natural Justice and Procedural Fairness must be observed, which include the right to be heard and the right to an objective and impartial dispute resolution process.
- b) SRB, Sport NB, and the PSO/MSO recognize that once a complaint has been accepted as falling within the NBSSCM, all parties to the complaint must have access to all documentation, except as ordered by the Case Manager or the Mediator/Arbitrator where deemed appropriate, and be given notice of any hearing to be adequately prepared and able to answer any allegations.
- c) Sport NB will be responsible for establishing an independent process to receive and review complaints, including administering the complaint process and engaging impartial arbitrators and mediators to deal with complaints and appeals that fall within the jurisdiction of the NBSSCM.
- d) Sport NB shall establish dispute resolution policies to ensure all complaints within the jurisdiction of the NBSSCM are properly addressed on a timely basis, free from any interference or bias.

## Intake Process

- a) Sport NB shall establish a process to allow individuals to submit complaints and appeals.
- b) Each submission will be reviewed by an independent third party to ensure it falls within the jurisdiction of the NBSSCM.

## Complaint of Maltreatment

- a) All participants of eligible PSOs/MSOs may file complaints of maltreatment directly to the NBSSCM, subject to the limitations identified below.
  - i. If a participant selects to file a complaint through the applicable PSO/MSO process, they must complete this process before filing an appeal to the NBSSCM, if necessary. Complaints involving the same issues/incidents may not be filed.
  - ii. If it is mandatory for the PSO/MSO to use the applicable National Sport Organization (NSO) mechanism for complaints of maltreatment or other disputes, such disputes or complaints will not be eligible for the NBSSCM.
  - iii. If an individual selects to use the applicable NSO mechanism for complaints of maltreatment, they may not file a complaint under the NBSSCM at the same time. A decision through the NSO complaint mechanism is binding on the PSO/MSO and an individual may not submit another complaint through the NBSSCM or appeal to the NBSSCM. This includes if a decision has been made under the applicable NSO mechanism.
  - iv. If an individual has been designated as an Abuse-Free Sport Participant by a Signatory under OSIC, any alleged maltreatment or prohibited behaviour (as those terms are defined in the UCCMS) that occurred or continued during the activities of the Signatory must be reported to the OSIC and will be addressed pursuant to the OSIC's policies and procedures.
- b) If the Case Manager, under the applicable dispute resolution policies, receives a complaint that they consider would otherwise fall within the above section, they shall refer the matter to the OSIC and notify the individual(s) who made the complaint of such action.
- c) Any complaints of alleged incidents of maltreatment or prohibited behaviour submitted to the NBSSCM under criminal investigation or before a court will be held in abeyance until the criminal processes have been concluded.
- d) If a complaint is within the jurisdiction of the NBSSCM, the matter will proceed by mediation/arbitration according to the applicable dispute resolution policies.
- e) The Case Manager will appoint a mediator/arbitrator from a list maintained by Sport NB.
- f) Any mediation/arbitration will be conducted in accordance with the procedures set out in the applicable dispute resolution policies.

## Appeal regarding Failure to Comply with Constitution/By-Laws/Policies

- a) Participants may submit two types of appeals through the NBSSCM; appeals of final arbitral decisions made by a mediator/arbitrator appointed under the NBSSCM, and final decisions of a PSO/MSO alleging that it failed to follow their constitution, by-laws, or policies.
- b) Appeals must be submitted to the NBSSCM, in writing, in accordance with appeal procedures under the applicable dispute resolution policies.
- c) A participant who is directly affected by a final decision made by a PSO/MSO may submit an appeal to the NBSSCM, if there are sufficient grounds, alleging that a PSO/MSO has failed to comply with its constitution, by-laws, or policies.
- d) This appeal may only be made after the matter has first been processed through the internal appeal process at the PSO/MSO level, and this internal process has been exhausted.
- e) In the case of the validity of a constitution, by-law, or policy being challenged in court, any complaints submitted to the NBSSCM will be held in abeyance until the final decision of the Court. All decisions of the Court shall be binding on the PSO/MSO, with no further proceedings under the NBSSCM, except as otherwise ordered by the Court.
- f) If necessary, the Appeal Manager will appoint a mediator/arbitrator from a list maintained by Sport NB. Any appeal process will be conducted in accordance with the applicable dispute resolution policies.