



**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. 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 through an effective dispute resolution process, supported by unbiased and neutral case managers, investigators, mediators and arbitrators.

This document sets out the fundamental principles of the NBSSCM and guides the development of applicable operational policies.

Availability of the Program

1. 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 National Sport Organization (NSO) who do not have an operating PSO or MSO in New Brunswick.
2. 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 and supporting documentation.
3. It is recognized that any participant involved with a PSO/MSO has the right to have their allegation(s) of misconduct, Maltreatment and/or Prohibited Behaviour (as defined in the UCCMS), dealt with impartially, fairly, timely, equitably, transparently, and with respect.
4. Since 2022, PSOs/MSOs of Sport NB have had a Code of Conduct that reflects the principles set forth in the [Universal Code of Conduct to Prevent and Address Maltreatment in Sport \(UCCMS\)](#).

5. All PSOs/MSOs 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.
 - a) It is strongly recommended that all PSOs/MSOs designate the NBSSCM as the dispute resolution mechanism to receive and address all allegations of Maltreatment or Prohibited Behaviour, as those terms are defined in the UCCMS. However, currently, it is not required that all PSOs/MSOs use the NBSSCM.
 - b) PSOs/MSOs must identify their dispute resolution pathway to Sport NB and their participants.
6. It is also recognized that participants have the right to have allegations of failure on the part of the PSO/MSO to follow its constitution or by-laws reviewed in a procedurally fair manner.
7. Sport NB entered a Memorandum of Understanding (MOU) on the 27th day of October 2020 with the SRB to implement a fair, impartial, timely, and transparent process to deal with complaints of Maltreatment or Prohibited Behaviour or alleged failure of a PSO/MSO to follow its own constitution, by-laws, or policies.
8. In accordance with the MOU, Sport NB and SRB agree to provide this process for the resolution of complaints of Maltreatment/or Prohibited Behaviour, as defined in the UCCMS and, or alleged failure of a PSO/MSO to follow its own constitution, by-laws, or policies.

Essential Principles

1. 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.
2. 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 relevant documentation submitted to the NBSSCM, 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.
3. 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.
4. 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

1. Sport NB shall establish a process to allow individuals to submit complaints and appeals.
2. Each submission will be reviewed by an independent third party to ensure it falls within the jurisdiction of the NBSSCM.
3. A party submitting a complaint or appeal will receive appropriate written reasons from the independent third party if their complaint or appeal is rejected.

Complaint of Maltreatment or Prohibited Behaviour

1. Any individual may file a complaint of Maltreatment and/or Prohibited Behaviour directly to the NBSSCM, subject to the limitations identified below.
 - a) 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.
 - i. Complaints involving the substantially the same issues/incidents may not be filed.
 - b) If it is mandatory for the PSO/MSO to use the applicable NSO mechanism for complaints of Maltreatment, Prohibited Behaviour or other disputes, such matters will not be eligible for the NBSSCM.
 - c) If an individual selects to use the applicable NSO mechanism, 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.
 - d) If an individual has been designated as a Canadian Safe Sport Program (CSSP) Participant by a CSSP Sport Organization or otherwise under the CSSP Rules, any alleged Maltreatment or Prohibited Behaviour that occurred or continued during the activities of the CSSP Sport Organization must be reported to the SIC and will be addressed pursuant to the CSSP policies and procedures.
 - e) If the Case Manager receives a complaint that they consider would otherwise fall within the above section, they shall refer the matter to the SIC and notify the individual(s) who made the complaint of such action.
2. At the discretion of the Case Manager, any complaints of alleged incidents of Maltreatment or Prohibited Behaviour submitted to the NBSSCM under criminal investigation or before a criminal court may be held in abeyance until the criminal processes have been concluded.
3. If a complaint is within the jurisdiction of the NBSSCM, the matter will proceed by mediation/arbitration according to the applicable dispute resolution policies.

- a) Before submitting a complaint for mediation/arbitration, a matter may be sent to a neutral investigation if the Case Manager deems it appropriate in the circumstances.
- 4. The Case Manager will appoint a mediator/arbitrator from a list maintained by Sport NB.
- 5. Any mediation/arbitration will be conducted in accordance with the procedures set out in the applicable dispute resolution policies of the NBSSCM.

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

1. Participants may submit two types of appeals through the NBSSCM:
 - a) appeals of final arbitral decisions made by a mediator/arbitrator appointed under the NBSSCM, and
 - b) final decisions of a PSO/MSO related to allegations that the organization failed to follow their constitution, by-laws, or policies.
2. Appeals must be submitted to the NBSSCM, in writing, in accordance with appeal procedures under the applicable appeal policies of the NBSSCM.
3. 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.
4. 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. An PSO/MSO internal appeal procedure is deemed exhausted when:
 - a) the PSO/MSO or its internal appeal panel has rendered a final decision;
 - b) the PSO/MSO has failed to apply its internal appeal policy within reasonable time limits or on reasonable grounds; or
 - c) the PSO/MSO has waived the requirement to exhaust its internal appeal process.
5. 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 a 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.
6. 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.