



**SPORT INTEGRITY
AUSTRALIA**

NATIONAL INTEGRITY FRAMEWORK: CASE CATEGORISATION & GUIDANCE FOR SANCTIONS

JANUARY 2023



ACKNOWLEDGEMENT OF COUNTRY

In the spirit of reconciliation the agency acknowledges the Traditional Custodians of country throughout Australia and their connections to land, sea and community. We pay our respect to their Elders past, present and future and extend that respect to all Aboriginal and Torres Strait Islander peoples.

The agency recognises the outstanding contribution Aboriginal and Torres Strait Islander peoples make to sport in Australia and celebrates the power of sport to promote reconciliation and reduce inequality.



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Alleged breaches of the National Integrity Framework Policies are reviewed utilising a system set out in this guidance.

The system establishes a transparent, objective and consistent basis for evaluating allegations of Prohibited Conduct and determining the appropriate Assessment process under the National Integrity Framework.

The decision and process of how to progress alleged breaches of the National Integrity Framework, as well as the associated resourcing, is determined by the terms of this guidance.

The system comprises of three main components:

- Case Categorisation
- Aggravating and Mitigating Circumstances
- Sanctions and Related Measures.

THE SYSTEM: CASE CATEGORISATION

Matters within scope of the National Integrity Framework are categorised through a 3-tier system, based on the nature of the alleged conduct, perceived level of harm, and complexity. Each matter should be considered on its merits in light of these categories.

■ CATEGORY 1: BLUE – LOW

Category 1 (Blue) matters involve **minor allegations of Prohibited Conduct** and mostly (although not always) involve a mistake, misunderstanding, or an absence of intent to harm. There are rarely, if any, complicating factors.

The presence of any **complicating factors** may escalate a matter to a more severe Category. Complicating factors include a real risk of harm, criminality, **aggravating** factors (as set out in *Aggravating and Mitigating Circumstances* later in this document), an uncooperative Respondent or risk to the sport.

Category 1 matters do not usually require an extensive Assessment.

Category 1 matters include (but are not limited to):

- Children having a physical altercation.
- Low level swearing, derogatory or disrespectful comments, chastising a child.
- Aggressive tone, disrespectful comments, or a heated altercation, in the absence of malice, vilification or bullying or other egregious behaviour.
- Lewd jokes (where adults involve minors, a higher category may result).
- Unnecessary physical contact (not involving sexual misconduct) including pushing, shoving or bumping into another.
- Non-compliance with the following Child Safe Practices, **but only where** no obvious aggravating circumstances or behavioural patterns of concern are present:
 - Exhibiting favouritism towards a child.
 - Photographing a child without appropriate consent.
 - Transport of a child/children without parent /guardian consent.
 - Gifting to a child/children unless an official award.
 - Engaging in open discussions of a mature nature in the presence of children.
 - Social media contact with a child/children (where there is no inappropriate content).
 - Accepting invitation to attend a private social function without an existing social, personal or family relationship.

■ CATEGORY 2: AMBER – MEDIUM

Category 2 (Amber) matters allege Prohibited Conduct violations, and may involve the risk of moderate or reasonable harm, or repeated, more severe or more complex **Category 1** allegations.

Category 2 matters may also allege more severe prohibited conduct violations, or complicating factors, having regard to frequency, intensity, number of reported incidents or complaints received, or where the circumstances indicate a reasonable possibility for escalation (and may require referral to law enforcement).

The presence of any **complicating factors** may escalate a matter to a more severe Category. Complicating factors include a real risk of harm, criminality, aggravating factors (as set out in *Aggravating and Mitigating Circumstances*), an uncooperative Respondent or risk to the sport.

Category 2 matters include (but are not limited to):

Frequency & Intensity

- Repeated or more severe Category 1 matters, including the risk of reasonable harm.

Member and Child Protection

- Athlete to athlete bullying.
- Mocking an athlete's appearance or body shape.
- Abuse of position of trust or power.
- Disregarding medical advice when directing training or playing protocol.
- Single incident access to change rooms or private areas (known to be used for changing) by officials.
- Harassing behaviours, including unwanted sexual interest.
- Inappropriate jokes, including insensitive jokes (race, religion and culture, disability, gender, sex).
- Egregious or severe acts of prohibited conduct, including repeated use of demeaning or bullying language.
- Hazing and degrading initiation, intimidation and harmful conduct.
- Repeated or multiple incidents of harmful coaching techniques or training as punishment.

- Striking or slapping an athlete.

- Repeated or multiple incidents of offensive conduct based on age, race, culture, religion, mental health, intellectual or physical disability.

Child Protection

- Non-compliance with any Child Safe Practices (aggravated), including:
 - profane or sexual language, or language intended to threaten or frighten
 - excessive swearing, derogatory or disrespectful comments, chastising a child.
 - Use of training as punishment or ignoring a child expressing pain during training.
 - Inappropriate stretching of an athlete, having regard to their clothing, that exposes an athlete.

Other

- Betting by members on their own sport.
- Inappropriate use of supply of supplements.
- Interfering with, or intimidating, complainants, witnesses.
- Failing to report criminal charges or convictions.

■ CATEGORY 3: RED – HIGH

Category 3 (Red) matters may involve criminal behaviour and /or immediate risk of harm, and includes child abuse, sexual abuse and includes sexual misconduct, as well as serious assault, doping and corruption.

Category 3 matters may include more severe **Category 1 or 2** allegations where there is the presence of significant complications.

Whether a matter is more severe is determined on the specific circumstances, including the frequency, intensity, number of reported incidents or complaints received.

The presence of any **complicating factors** may escalate a matter to a more severe Category. Complicating factors include a real risk of harm, criminality, **aggravating** factors (as set out in *Aggravating and Mitigating Circumstances*), an uncooperative Respondent or risk to the sport.

Category 3 matters must be reported to law enforcement /child protection, as mandated. Restrictive measures or provisional safety plans may be imposed as appropriate.

Category 3 matters include (but are not limited to):

Egregious and Criminal Conduct

- Sexual misconduct.
- Touching of genitals, breasts, buttocks (One off tapping of the buttocks as a sign of encouragement or bonding by fellow athlete may be more appropriately Categorised differently, depending on the circumstances).
- Child abuse.
- Exposing the child to age inappropriate or harmful material, or behaviours.
- Criminal charges or convictions.
- Failing to report child abuse or sexual misconduct.
- Serious assaults including striking or punching.
- Supplying alcohol or drugs to a minor.
- Use, possession or trafficking of illegal drugs.

Doping

- Doping.
- Supplying medicines or over the counter medicines except where permitted by law and with the consent of a parent.

Match Fixing and Corruption

- Match, race or competition fixing, or supplying inside information for the purposes of gambling.

THE SYSTEM: AGGRAVATING AND MITIGATING CIRCUMSTANCES

The following guiding principles are intended to outline the aggravating and mitigating circumstances that should be taken into account when evaluating and assessing a matter under the Case Categorisation System and before determining the appropriate response.

The relative level of aggravating and mitigating circumstances may impact on the ultimate re-categorisation of a matter as well as the appropriate sanction (if any).

In addition to aggravating or mitigating circumstances, there may be other factors to consider that increase the relative complexity of a matter.

Aggravating circumstances include consideration of:

- The presence of criminality, including sexual abuse.
- Actual or threatened use of violence.
- Breach was committed in the presence of a child under 18 years of age.
- Victim's vulnerability, for example, because the victim was very young or very old or had a disability, or because of the geographical isolation of the victim.
- Behaviour that is malicious, or targets vulnerable people.
- Behaviour that is coordinated or operating as part of a group.
- Behaviour that targets multiple parties or results in multiple victims.
- Breach motivated by race, religion, ethnicity, nationality, sexual identity, disability, gender.
- Gratuitous cruelty.
- Injury, emotional harm, loss or damage was substantial, including the level of embarrassment, distress or humiliation by the victim.
- Previously similar conduct or related breaches, previous sanctions.
- Failure to comply with provisional action.
- Breach whilst on probation or a sanction.
- Ongoing and sustained offending over a period of time.
- Abuse of position of power or trust.
- Attempting or disposing of evidence.
- Lack of cooperation.
- The breach was premeditated (rather than spur of the moment).
- The Respondent has previously undertaken education in relation to the particular type of conduct.

Mitigating circumstances include consideration of:

- First time breach.
- Unplanned, spur of the moment behaviour.
- Youth and age of the person breaching.
- Limited role played in the breach.
- The Respondent had taken reasonable steps, prior to commencing an Assessment, to settle the disagreement or dispute.
- The Respondent was not fully aware of the consequences of his or her actions because of the Respondent's age or any disability.
- Accepting responsibility and level of remorse / contrition.
- Level of cooperation.
- Harm suffered by the victim or the sport was not substantial
- The presence of provocation, persuasion, or coercion by others.
- Mental illness.
- Risk of loss of employment.
- Whether the prohibited behaviour was uncharacteristic including:
 - the length of service, balancing a previously unblemished record against the expectation of greater awareness of behavioural requirements,
 - whether there are records of previous counselling or breaches of the National Integrity Framework about related issues,
 - the extent to which there is evidence that the behaviour is atypical – to assess this, the behaviour over a longer period may need to be examined e.g. any records of discussion with the individual within the last two years. Relevance of previous behaviour diminishes over time,
 - the individual's attempts to manage any external personal issues impacting on the conduct, such as accessing welfare help.

THE SYSTEM: SANCTIONS AND RELATED MEASURES

The following principles are intended to serve as a minimum standard for providing guidance to National Sporting Organisations (NSO) and sporting clubs when sanctions and other measures may be appropriate to address allegations of Prohibited Conduct under the National Integrity Framework.

The purpose is to provide NSOs an appropriate range of sanctions and related measures that may be applicable in a particular type of integrity matter as part of assisting NSOs to develop and manage a robust integrity framework. Sport Integrity Australia may also provide advice to NSOs and clubs in individual cases as to whether particular conduct fits within the range of measures set out in this guidance.

NSOs are ultimately responsible for applying and administering sanctions and related measures as they see fit, having regard to, amongst other things, Sport Integrity Australia's guidance.

Sanctions

Rather than seeking to punish, sanctioning misconduct is primarily aimed at protecting an individual from harm with a secondary aim of protecting the integrity of sport.

Sanctions are also designed to provide a clear message that the behaviour was unacceptable, thereby acting as a deterrent.

The decision about whether to apply a sanction needs to be considered carefully on the facts and context of each case having regard to the following:

- the seriousness of the conduct
- whether it was a one-off incident or a part of an overall pattern of behaviour
- whether it was an honest and reasonable mistake
- the potential impact on public confidence in the integrity of the sport
- the views, if any, of the Complainant (for example, merely seeks an apology).

Aggravating and Mitigating circumstances (as set out in *Aggravating and Mitigating Circumstances*) should be taken into account before determining the appropriate sanctions, if any. Aggravating circumstances refers to the factors particular to a breach, the victim or the offending party that increase the severity or culpability.

For example, whether a person acted maliciously, or made an honest and reasonable mistake.

As a general rule, the more serious the alleged behaviour, the more appropriate it is to use sanctions.

Range of Sanctions and Related Measures include one or a combination of any of the following:

Category 1 Breaches

The following range of measures may be appropriate:

- Awareness of NIF Policies.
- Mandatory awareness and education requirements.
- Formal Warning and /or Reprimand.
- Requiring an apology.

Category 2 Breaches

The following range of sanctions could be considered (in conjunction with Category 1 measures):

- Formal conciliation or mediation.
- Counselling.
- Restricted duties or access.
- Supervision and mandatory oversight.
- Mandatory education and programs.
- Temporary suspension from relevant event /entity /club.

Category 3 Breaches

The following range of sanctions could be considered:

- Formal and mandatory awareness and education requirements.
- Formal Reprimand.
- Requiring an apology.
- Formal conciliation or mediation.
- Counselling.
- Role change /restricted duties or access.
- Supervision and mandatory oversight.
- Mandatory education and programs.
- Temporary suspension from relevant event /entity /club.
- Withdrawal of accreditation from the relevant sporting event.
- Permanent suspension /exclusion from the event /entity /club.
- Return of awards.

More than one sanction or measure may apply in any given circumstance.

Provisional Action

Provisional Action is the process undertaken to impose a temporary measure on a member of Sport while they are subject to the Complaints Process, or an investigation by law enforcement. Provisional Action is designed to keep members safe by removing or monitoring a person within the Sport who may pose a potential risk of harm to others.

The following principles should be considered when determining what type of Provisional Action may be appropriate:

- The type of Provisional Action recommended should be sufficient to mitigate the potential risk posed by the Respondent but should not be punitive; and
- The type of Provisional Action should not be more significant than a possible sanction may be, should the alleged Prohibited Conduct be Substantiated.

Provisional Action should be determined on a case-by-case basis. The categorisation of a matter within the Case Categorisation System and the sanctioning principles provide guidance as to the types of Provisional Action that may be suitable.

Alternatives to Sanctions (other measures)

Options available to address allegations of Prohibited Conduct through means other than breach proceedings and /or sanctions include:

- through a sport's own code of conduct framework.
- by encouraging awareness training for the individual.
- by informal counselling.
- by assigning new roles duties, although due care should be taken to ensure this action does not amount to a sanction without due process.
- by offering informal and formal alternative dispute resolution to assist in resolving interpersonal disputes.

Alternative measures may not satisfactorily resolve concerns about an individual's conduct and the individual may continue to engage in misconduct. It may therefore be necessary to administer more severe sanctions – even in relation to less severe matters – particularly where there are concerns that a pattern of misconduct may be emerging.

Proportionality

The application of sanctions and other measures must always adhere to due process, thereby enabling Respondents to be heard before sanctions are applied.

Sanctions and other measures must be applied in accordance with the principle of proportionality – that is, in proportion to the severity of the violation(s) in any given matter. This will include taking into account any aggravating and mitigating circumstances (see earlier).

Implementation and Monitoring

It is the responsibility of NSOs (and their member organisations) to implement and apply the National Integrity Framework, including effecting sanctions where applicable.

NSOs (and their member organisations) should adopt appropriate mechanisms, such as awareness and educational programs, to best facilitate an understanding of the National Integrity Framework within their organisation. This should include providing information on the role of Sport Integrity Australia, information on the National Integrity Framework Policies, and information on how to raise concerns about alleged breaches of the National Integrity Framework policies.

Through the National integrity Framework arrangements, Sport Integrity Australia and NSOs (and their member organisations) will have an integral role. NSOs will be responsible for ensuring rules and processes are in place to effect full cooperation and subsequent administration and enforcement of any sanctions.

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