

## Team HOTHAM

### TH.1 COMPLAINTS PROCEDURE

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All complaints will be kept confidential and will not be disclosed to another person without the complainant's consent except if law requires disclosure or if disclosure is necessary to effectively deal with the complaint.

Individuals and organisations may also pursue their complaint externally under anti-discrimination, child protection or other relevant legislation.

If you wish to remain anonymous, the MHRS may have difficulty assisting you to resolve your complaint. Procedural fairness (natural justice) means that the MHRS is required to provide the person/people you have complained about with full details of the complaint so they have a fair chance to respond.

#### **INFORMAL APPROACHES**

##### **Step 1: Talk with the other person (where this is reasonable and appropriate)**

In the first instance, you (the Complainant) should try to sort out the problem with the person or people involved (respondent) if you feel able to do so.

##### **Step 2: Contact a Member Protection Information Officer**

Talk with the *Member Protection Information Officer (MPIO)*, who will usually be the Athletics Director, if:

- the first step is not possible/reasonable;
- you are not sure how to handle the problem by yourself;
- you want to talk confidentially about the problem with someone and obtain more information about what you can do; or
- the problem continues after you tried to approach the person or people involved.

*A list of the MHRS' MPIO(s) is found on the MHRS Notice Board*

The MPIO will:

- take confidential notes about your complaint;
- try to find out the facts of the problem;
- ask what outcome/how you want the problem resolved and if you need support;
- provide possible options for you to resolve the problem;
- act as a support person if you so wish;
- refer you to an appropriate person (e.g. Mediator) to help you resolve the problem, if necessary;
- inform the relevant government authorities and/or police if required by law to do so;
- maintain confidentiality.

##### **Step 3: Outcomes from initial contact**

After talking with the MPIO, you may decide:

- there is no problem;
- the problem is minor and you do not wish to take the matter forward;
- to try and work out your own resolution (with or without a support person such as an MPIO); or
- to seek a mediated resolution with the help of a third person (such as a mediator); or
- to seek a formal approach.

### **FORMAL APPROACHES**

#### **Step 4: Making a Formal complaint**

If your complaint is not resolved or informal approaches are not appropriate or possible, you may:

- make a formal complaint in writing to the President of the MHRS; or
- approach a relevant external agency such as an anti-discrimination commission for advice.

On receiving a formal complaint and based on the material you have provided, the President of the MHRS will decide whether:

- he/she is the most appropriate person to receive and handle the complaint and, if not, nominate another member of the Committee of MHRS who, in this respect, will have all the powers of the President under this Procedure;
- the nature and seriousness of the complaint warrants a formal resolution procedure;
- to appoint a person to **investigate** (gather more information on) the complaint;
- to refer the complaint to mediation;
- to refer the complaint to a hearings tribunal;
- to refer the matter to the police or other appropriate authority; and/or
- to implement any interim arrangements that will apply until the complaint process set out in these Procedures is completed.

In making the decision(s) outlined above, the President of the MHRS (or his nominee) will take into account:

- whether they have had any personal involvement in the circumstances which means that someone else should handle the complaint;
- your wishes, and the wishes of the respondent, regarding the manner in which the complaint should be handled;
- the relationship between you and the respondent (for example an actual or perceived power imbalance between you and the respondent);
- whether the facts of the complaint are in dispute; and
- the urgency of the complaint, including the possibility that you will be subject to further unacceptable behaviour while the complaint process is underway.

If the President is the appropriate person to handle the complaint (or otherwise his nominee) he will, to the extent that these steps are necessary:

- put the information they've received from you to the person/people you're complaining about and ask them to provide their side of the story;
- decide if he has enough information to determine whether the matter alleged in your complaint did or did not happen and here whether there has been a breach of the Member Protection Policy; and/or
- determine what, if any, further action to take. This action in the event of the President finding breach of this policy may include disciplinary action in accordance with clause 9.1 of the Member Protection Policy.

#### **Step 5: Investigation of the complaint**

- An investigator appointed under Step 4 will conduct an investigation and provide a written report to the Committee of the MHRS who will determine what further action to take;

- If the complaint is referred to mediation, it will be conducted in accordance with Attachment A2 or as otherwise agreed by you and the respondent and the mediation provider;
- If the complaint is referred to a hearings tribunal, the hearing will be conducted in accordance with Attachment A5;
- If the complaint is referred to the police or other appropriate authority, the MHRS will use its best endeavours to provide all reasonable assistance required by the police or other authority.

#### **Step 6: Reconsideration of initial outcome/investigation or appeal**

If, under the formal complaint process, mediation is unsuccessful, you may request that the President reconsider the complaint in accordance with **Step 4**.

You or the respondent(s) may be entitled to appeal. The grounds and process for appeals under this Policy are set out in Attachment A5.

#### **Step 7: Documenting the resolution**

The President will document the complaint, the process and the outcome.

### **MEDIATION**

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Mediation is a process during which people in conflict are helped to communicate with each other to identify the areas of dispute and to make decisions about resolving it. This document outlines the general procedure of mediation that will be followed by MHRS.

1. If mediation is chosen, the MPIO will, under the direction of the MHRS and in consultation with the complainant and the respondent(s), arrange for a mediator.
2. The mediator's role is to assist the complainant and respondent(s) reach an agreement on how to resolve the problem. The mediator, in consultation with the complainant and respondent(s), will choose the procedures to be followed during the mediation.
3. The mediation will be conducted confidentially and without prejudice to the rights of the complainant and the respondent(s) to pursue an alternative process if the complaint is not resolved.
4. At the end of a successful mediation the mediator will prepare a document that sets out the agreement reached which they will sign as their agreement.
5. If the complaint is not resolved by mediation, the complainant may:
  - a. Write to the President of the MHRS to request that the MHRS reconsider the complaint in accordance with **Step 4**; or
  - b. Approach an external agency such as an anti-discrimination commission.
6. Mediation will **not** be recommended if:
  - a. The respondent has a completely different version of the events and will not deviate from these;
  - b. The complainant or respondent are unwilling to attempt mediation;
  - c. Due to the nature of the complaint, the relationship between the complainant and the respondent(s) or any other relevant factors, the complaint is not suitable for mediation; or
  - d. The matter involves proven serious allegations, regardless of the wishes of the Complainant.

## **INVESTIGATION PROCESS**

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If an investigation needs to be conducted to gather more information the following steps will be followed:

1. The MHRS will appoint an investigator and outline the terms of engagement and roles and responsibilities. The investigator will:
  - 1.1 Interview the complainant and record the interview in writing.
  - 1.2 Convey full details of the complaint to the respondent (s) so that they can respond.
  - 1.3 Interview the respondent to allow them to answer the complaint, and record the interview in writing.
  - 1.4 Obtain statements from witnesses and other relevant evidence to assist in a determination, if there is a dispute over the facts
  - 1.5 Make a finding as to whether the complaint is:
    - substantiated (there is sufficient evidence to support the complaint);
    - inconclusive (there is insufficient evidence either way);
    - unsubstantiated (there is sufficient evidence to show that the complaint is unfounded); and/or
    - mischievous, vexatious or knowingly untrue.
  - 1.6 Provide a report to the President documenting the complaint, investigation process, evidence, finding and, if requested, recommendations.
2. We will provide a report to the complainant and the respondent(s) documenting the complaint, the investigation process and summarising key points that are substantiated, inconclusive, unsubstantiated and/or mischievous.
3. The complainant and the respondent(s) will be entitled to support throughout this process from their chosen support person/adviser.
4. The complainant and the respondent(s) may have the right to appeal against any decision based on the investigation. Information on our appeals process is in Attachment A5.