



**commonwealth
sport**

SAFEGUARDING POLICY

PREAMBLE

Consistent with the Mission and Vision of Commonwealth Sport ('**CS**') and its core values, the welfare of the CS community, especially minors, is of paramount concern. CS takes its responsibilities for creating safe and positive environments for all participating in and involved with any Commonwealth Sport Programme very seriously.

All forms of Harassment and/or Abuse are prohibited and will not be tolerated by CS .

CS has developed and adopted this Policy to set out the measures it will take to promote a safe and positive environment, both independently and in partnership with other necessary parties, including Commonwealth Games Associations ('**CGA**'), International Federations ('**IF**'), parents (or legal guardians), Athletes, and others involved in all Commonwealth Sport Programmes.

This Policy gives CS the power to investigate Safeguarding Concerns and impose Provisional Safeguarding Measures on individuals and for the Federation Court to impose sanctions. This will enable CS to fulfil its commitment, ensuring that safe, happy and positive environments are created for individuals to participate in Commonwealth Sport Programmes.

ARTICLE 1 - DEFINITIONS AND APPLICATION

1.1 Definitions

1.1.1. Adult means any person aged 18 years and over.

1.1.2. Case Management Group ('CMG') means the CS Case Management Group, as appointed under this Policy.

1.1.3. Child(ren) means any person aged 17 years and under.

1.1.4. Covered Person means any person in one or more of the following categories, as defined in the CS Code of Ethics and Conduct:

- (a) Accredited Persons
- (b) Athlete;
- (c) Athlete Support Personnel;
- (d) CGAs;
- (e) CGOCs;
- (f) CGA Officials;
- (g) CGF Officials;
- (h) CGOC Officials;
- (i) Bid Committee Members; and
- (j) Any other person from time to time involved in the governance, administration and/or participation of a Commonwealth Sport Programme.

1.1.5. Commonwealth Sport Programme means the Commonwealth Games, the Commonwealth Youth Games, the CS General Assembly, GAPS Camps, eqUIP, any other programmes or activities governed, organised and/or administered by CS.

1.1.6. Designated Person shall be the CEO of Commonwealth Sport who may delegate some or all of their responsibilities under the Federation Court Procedural Rules to a suitably qualified person (e.g. legal counsel);

1.1.7. Federation Court means the CS Federation Court as established under the CS Constitution, and includes such other tribunal as the CS Executive Board may designate from time to time to hear cases under this Policy.

1.1.8. Harassment and/or Abuse. Harassment and/or Abuse can be expressed in five forms which may occur in combination or in isolation. These include i) psychological abuse, ii) physical abuse, iii) sexual harassment, iv) sexual abuse, and v) neglect.

These forms of abuse are defined as:

- (a) **Psychological abuse** — means any unwelcome act including confinement, isolation, verbal assault, humiliation, intimidation, infantilisation, or any other treatment which may diminish the sense of identity, dignity, and self-worth.
- (b) **Physical abuse** — means any deliberate and unwelcome act – such as for example punching, beating, kicking, biting and burning – that causes physical trauma or injury. Such act can also consist of forced or inappropriate physical activity (e.g., age- or physique- inappropriate training loads; when injured or in pain), forced alcohol consumption, or forced doping practices.
- (c) **Sexual harassment** — any unwanted and unwelcome conduct of a sexual nature, whether verbal, non-verbal or physical. Sexual harassment can take the form of sexual abuse.
- (d) **Sexual abuse** — any conduct of a sexual nature, whether non-contact, contact or penetrative, where consent is coerced/manipulated or is not or cannot be given.
- (e) **Neglect** — within the meaning of this Policy means the failure of a coach or another person with a duty of care towards the Protected Person to provide a minimum level of care to the Protected Person, which is causing harm, allowing harm to be caused, or creating an imminent danger of harm.

Harassment and/or Abuse may be based on any grounds including race, religion, colour, creed, ethnic origin, physical attributes, gender, sexual orientation, age disability, socio-economic status and athletic ability. It can include a one-off incident or a series of incidents. It may be in-person or online.

Harassment and/or Abuse often result from an abuse of authority, meaning the improper use of a position of influence, power or authority by a Covered Person over or against a Protected Person.

1.1.9. Prohibited Conduct means conduct described in Article 2 of this Policy.

1.1.10. Provisional Safeguarding Measure means the Covered Person is barred temporarily from their role within the Commonwealth Sport Movement and/or from participating in any Commonwealth Sport Programme.

1.1.11. Protected Person means any Person who is the subject of Prohibited Conduct by a Covered Person.

1.1.12. Safeguarding means the measures taken to protect individuals from Harassment and Abuse.

1.1.13. Safeguarding Concern(s) means any concern of or related to Prohibited Conduct, which may include but is not limited to a report of a concern, incident, suspicion, action, behaviour or failure to act in a way which has caused or which causes or which may cause

Harassment and/or Abuse.

1.2 Application

- 1.2.1.** This Policy shall apply to all Covered Persons and is established to deal with Safeguarding Concerns.
- 1.2.2.** It shall be the personal responsibility of every Covered Person to make themselves aware of this Policy including, without limitation, what conduct constitutes Prohibited Conduct under this Policy, and to comply with its requirements. Covered Persons should also be aware that Prohibited Conduct under this Policy may also constitute a criminal offence and/or a breach of other applicable laws and regulations including other regulations of CS or any other sports organisations. Covered Persons must comply with all applicable laws and regulations at all times.
- 1.2.3.** Save for the application of this Policy, CGAs are responsible for managing Safeguarding Concerns reported in their country or territory and for dealing with Safeguarding Concerns relating to their Officials, Athletes and Athlete Support Personnel in their jurisdiction under their own safeguarding policies and procedures. CS requires CGAs to adopt and implement procedures for the investigation and prosecution of reported Safeguarding Concerns in their territories.
- 1.2.4.** Where the responsible CGA is unwilling or unable to investigate and/or prosecute a Safeguarding Concern under their applicable safeguarding policy, CS shall, at the sole discretion of the CS CMG, investigate the matter under this Policy.

ARTICLE 2 – PROHIBITED CONDUCT

2.1 The following conduct constitutes Prohibited Conduct under this Policy¹:

2.1.1. Harassment and/or Abuse, which shall include:

- (a) Psychological Abuse;
- (b) Physical Abuse;
- (c) Sexual Harassment;
- (d) Sexual Abuse;
- (e) Neglect;

2.1.2. Engaging, or attempting or threatening to engage, in conduct that directly harms the physical and/or mental welfare and/or safety of one or more Protected Person(s);

2.1.3. Complicity, i.e. assisting, encouraging, aiding, abetting, conspiring, covering up or any other type of intentional complicity involving Harassment and/or Abuse;

2.1.4. Retaliation which includes any adverse action taken or threatened to be taken by a Covered Person against a person participating in any investigation or proceedings under this Policy;

2.1.5. Failing to cooperate with any investigation carried out by, or on behalf of CS in relation to a possible breach of this Policy, including but not limited to accurately, completely and without undue delay providing any information and/or documentation and/or access or assistance requested by CS as part of such investigation;

¹ IOC Consensus Statement (2016).

- 2.1.6. An abuse of process and/or breach of confidentiality in relation to a Safeguarding Concern;
- 2.1.7. Failing to comply with a Provisional Safeguarding Measure imposed by the CMG or with a sanction imposed by the CS Federation Court;
- 2.1.8. Knowingly making or encouraging someone else to make a false or misleading report of a Safeguarding Concern;
- 2.1.9. A breach of a CGA's safeguarding policy, code of conduct or relevant policy; and/or
- 2.1.10. Failure to report any Safeguarding Concern in accordance with Article 3 of this Policy.
- 2.2 For the avoidance of doubt, it is not necessary for the Prohibited Conduct (or attempted or threatened Prohibited Conduct) to take place in the context of a Commonwealth Sport Programme for an investigation to be carried out under this Policy.
- 2.3 Prohibited Conduct which may constitute a breach of this Policy may also amount to:
 - 2.3.1. A criminal offence and/or a breach of other applicable laws and/or regulations. This Policy is intended to supplement such laws and regulations with further rules of conduct for those involved in Commonwealth Sport Programmes. This Policy is not intended and should not be interpreted to prejudice or undermine in any way the application of such laws and regulations which must be complied with at all times; and/or
 - 2.3.2. A breach of a CGA's safeguarding policy and/ or the safeguarding policy of another organisation in relation to Harassment and/or Abuse in Commonwealth Sport Programmes. This Policy is not intended to limit the responsibilities of Covered Persons under those policies. Nothing in those policies will be effective to limit the application of this Safeguarding Policy or to remove, supersede or amend in any way the jurisdiction of the CS Safeguarding Officer, or Federation Court under this Policy.

ARTICLE 3 – REPORTING, AND CONFIDENTIALITY

- 3.1 At the first available opportunity, full details of any incident, fact or matter that may amount to Prohibited Conduct under this Policy should be reported to CS.
- 3.2 In addition to any reported Safeguarding Concern, the CS Safeguarding Officer may consider any information that has come to their attention by whatever means that indicates (on its own or with other information) a possible Safeguarding Concern.
- 3.3 CS will report any behaviour, which in the reasonable opinion of CS, may amount to criminal behaviour to the appropriate legal authorities.
- 3.4 **Reporting a Safeguarding Concern**
 - 3.4.1. CS will take a report of a Safeguarding Concern in the way that is most comfortable for the person initiating the report including an anonymous, in-person, verbal, or written report.
 - 3.4.2. Regardless of the method of reporting, it is helpful to CS to be given the following information: (1) the name of the complainant(s); (2) the type of misconduct alleged; (3) the name(s) of the alleged victim(s); (4) the name(s) of the Person(s) alleged to have committed the misconduct; and (5) the date(s) and location(s) of the alleged misconduct.
- 3.5 **Anonymous Reporting**
 - 3.5.1. CS recognises it can be difficult to report a Safeguarding Concern and strives to remove as many barriers to reporting as possible. Anonymous reports may be made to CS.

3.5.2. Individuals reporting concerns anonymously should be aware that anonymous reporting may make it difficult to investigate or properly address Safeguarding Concerns in some circumstances.

3.6 Confidentiality

3.6.1. To the extent permitted by law, and as appropriate, CS will handle any Safeguarding Concern it receives confidentially and discretely and will not make public the names of the complainant(s), Protected Person(s) and/or Covered Person(s)).

3.6.2. However, during the investigation, at any stage, the CS Safeguarding Officer may in their absolute discretion, decide that information should be shared in order to ensure the proper effective discharge of CS' legal responsibilities, functions and/or to protect the integrity and reputation of CS.

ARTICLE 4 – MANAGEMENT OF SAFEGUARDING CONCERN

4.1 The CS Safeguarding Officer is responsible for managing all Safeguarding Concerns.

4.2 The CS Safeguarding Officer may, at their sole discretion, appoint an independent investigator, if they consider it appropriate to do so.

4.3 Following an initial assessment of a reported Safeguarding Concern, the CS Safeguarding Officer will:

4.3.1. Review whether the information should be referred to the relevant police, law enforcement agency and/or relevant body in the country or territory in which the Safeguarding Concern arose;

4.3.2. Review whether there are any other mandatory reporting requirements relating to the Safeguarding Concern;

4.3.3. Review whether a recommendation should be made to the CMG to impose a Provisional Safeguarding Measure;

4.3.4. Review whether the matter should be dealt with by a CGA rather than CS; and/ or

4.3.5. Investigate the Safeguarding Concern under this Policy.

4.4 The CS Safeguarding Officer does not need to give a reason for the initiation of an investigation into a Safeguarding Concern and the decision to do so cannot be contested.

4.5 As soon as reasonably practicable, following the commencement of an investigation, the CS Safeguarding Officer shall take reasonable steps to inform the alleged victim of the process and the confidentiality requirements under this Policy. The CS Safeguarding Officer will take reasonable steps to keep the Protected Person apprised from time to time of the progress of the matter during the investigation.

4.6 Investigations conducted by the CS Safeguarding Officer may be conducted in conjunction with, and/or information obtained in such investigations, may be shared with relevant authorities or bodies.

4.7 If at any time during the investigation, the CS Safeguarding Officer considers that a Safeguarding Concern would be more appropriately investigated and dealt with by a CGA, CS' investigation shall be stayed, and the CS Safeguarding Officer shall refer the matter to the relevant CGA to investigate and manage the matter appropriately. The CGA must

keep CS informed of the progress of the matter as required by CS. At any time, the CS Safeguarding Officer may decide that the matter should be referred back to CS to be dealt with under this Policy.

- 4.8** In the course of an investigation, the CMG may consider whether it is necessary to notify any other individual with whom the Covered Person may have or had contact. At the CMG's discretion, and as appropriate or required by law, CS may notify relevant persons of any such allegation that (a) law enforcement authorities are actively investigating; or (b) that CS is investigating.

ARTICLE 5 – CMG

- 5.1** The CS Executive Board shall appoint suitable persons to the CMG.
- 5.2** The role of the CMG is to:
- 5.2.1.** Provide oversight and support to the CS Safeguarding Officer in managing investigations under this Policy;
- 5.2.2.** Impose Provisional Safeguarding Measures pursuant to Article 6 of this Policy;
- 5.2.3.** Determine whether there is a case to answer in respect of a Safeguarding Concern; and
- 5.2.4.** Implement any other measures where appropriate in order to manage safeguarding risks.

ARTICLE 6 – PROVISIONAL SAFEGUARDING MEASURES

- 6.1** If the CS Safeguarding Officer determines that a Covered Person poses or may pose a risk of harm to a Protected Person under this Policy, they may ask the CMG to impose a Provisional Safeguarding Measure.
- 6.2** The CMG may impose a Provisional Safeguarding Measure by a majority decision.
- 6.3** In determining whether a Provisional Safeguarding Measure is warranted, the CMG will consider the following factors, without limitation:
- 6.3.1.** Whether anyone, including the Covered Person subject to investigation is or may be at risk of harm if the Covered Person continues to participate in a Commonwealth Sport Programme;
- 6.3.2.** Whether the Safeguarding Concern is of a serious nature, which would warrant a Provisional Safeguarding Measure; and/or
- 6.3.3.** Whether a Provisional Safeguarding Measure is necessary or desirable to allow the conduct of any investigation by the CS Safeguarding Officer or any other authority or body to proceed unimpeded.
- 6.4** CS shall also be entitled to recognise and apply provisional suspensions and/or provisional measures imposed by other bodies, such as CGAs, NOCs, IFs, national federations and/or other safeguarding authorities.
- 6.5** The CS Safeguarding Officer will promptly notify the Covered Person in writing of the terms of any Provisional Safeguarding Measure imposed by the CMG.
- 6.6** Subject to clause 6.8 of this Policy, the Covered Person may lodge an appeal against a Provisional Safeguarding Measure within fourteen (14) days of receipt to the CS Federation Court in accordance with the CS Federation Court Procedural Rules.

- 6.7** An appeal against a Provisional Safeguarding Measure can only be brought by the Covered Person on one of the following grounds:
- 6.7.1.** The assertion that the alleged Prohibited Conduct has no reasonable prospect of being upheld; or
- 6.7.2.** The assertion that that it is clearly unfair in all of the circumstances to impose a Provisional Safeguarding Measure prior to a final hearing in accordance with the Federation Court Procedural Rules.
- 6.8** If a Provisional Safeguarding Measure will be in place for more than two months, the CMG must review and ratify the measure remaining in place at the expiry of the two-month period. The CS Safeguarding Officer will notify the Covered Person of the decision of that review and the Covered Person shall have the same rights of appeal following a decision to ratify a Provisional Safeguarding Measure as they had following the original imposition of the Provisional Safeguarding Measure.
- 6.9** Where a Provisional Safeguarding Measure is imposed, this shall be taken into consideration in the determination of any sanction which may ultimately be imposed in relation to the Safeguarding Concern.

ARTICLE 7 – REFERRAL TO FEDERATION COURT

- 7.1** Following an investigation by the CS Safeguarding Officer under this Policy, the CMG shall evaluate all the evidence and shall decide whether there is a case to answer and therefore refer the matter to the Designated Person to prosecute the matter before the Federation Court in accordance with the CS Federation Court Procedural Rules.
- 7.2 Jurisdiction & Appeal**
- 7.2.1.** The Federation Court shall have jurisdiction to decide on alleged breaches of this Policy. The Federation Court may, either on its own initiative or upon the application of one or all of the parties concerned, stay the proceedings before the Federation Court pending the outcome of any related criminal or civil proceedings.

ARTICLE 8 – SANCTIONS

- 8.1** Where the Federation Court determines that Prohibited Conduct has been committed, the Federation Court shall impose an appropriate sanction upon the Covered Person from the range of permissible sanctions set out in the Federation Court Procedural Rules, including a lifetime ban from Commonwealth Sport Programmes.
- 8.2** When determining the appropriate sanctions applicable, the Federation Court shall take into consideration amongst other things:
- 8.2.1.** all aggravating and mitigating circumstances; and
- 8.2.2.** any risk posed by the Covered Person continuing to participate in Commonwealth Sport Programmes, which is sufficient to justify preventative action.

ARTICLE 9 – MUTUAL RECOGNITION

- 9.1** Subject to the right of appeal, any decision taken by CS under this Policy must be recognised and respected by all CGAs.
- 9.2** Where CS is informed that a Covered Person has been:
- 9.2.1.** convicted of a criminal offence which would amount to Prohibited Conduct under this

Policy; or

- 9.2.2.** held by their CGA, IF or any other competent sports governing body to which the Covered Person is subject, to have committed a violation which would constitute a violation under this Safeguarding Policy, CS shall recognise the applicable conviction/decision imposed.

ARTICLE 10 –DUTY TO INFORM

- 10.1** CGAs shall promptly inform CS of any allegations (where possible) and/or sanction(s) imposed on any person under their jurisdiction relating to any Safeguarding Concerns.
- 10.2** CS shall promptly inform the CGAs of any allegations (where possible) and/or sanction(s) imposed on any person under their jurisdiction relating to any Safeguarding Concerns.

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