



# VELO NB

## Complaints & Discipline Policy

### 1. GOAL

1.1. The goal of this policy is to provide a process for any individual to make a formal complaint related to perceived inappropriate, unethical, illegal or fraudulent conduct.

1.2. The goal of this policy is also to outline the process for non-compliance with Velo NB policies, Constitution, rules and regulations, agreements and the Code of Conduct.

### 2. PRINCIPLES

2.1. Individuals engaged in Velo NB business, activities, and events are expected to fulfill certain responsibilities and obligations including, but not limited to, complying with Velo NB's policies, constitution, rules and regulations, agreements and the Code of Conduct.

2.2. This policy does not prevent immediate discipline or sanction from being applied as reasonably required. Further discipline may be applied according to this policy.

2.3. Every complaint submitted under this policy will be reviewed and will proceed accordingly based on the severity of the incident.

### 3. FIELD OF APPLICATION

3.1. This policy applies to individuals' conduct that occurs during Velo NB's business, activities, and events including, but not limited to, conferences, travel associated with Velo NB activities, social media activity, and any meetings.

3.2. This policy also applies to individuals' conduct outside of Velo NB's business, activities, and events when such conduct adversely affects relationships within Velo NB (and its work environment), is detrimental to the image and reputation of Velo NB, or upon the acceptance of Velo NB. Applicability will be determined by the Independent Case Manager.

3.3. Respondents may be subject to additional measures outside the procedure described in this policy. For example, Staff of Velo NB may also be subject to appropriate disciplinary action, if applicable. Violations may result in a warning, reprimand, restrictions, suspension, or other disciplinary actions up to and including termination of employment.

### 4. DEFINITIONS

4.1. Independent Case Manager: An external organization or individual appointed by Velo NB to address complaints under this Policy. The Independent Case Manager shall not be a Member of, or affiliated with, Velo NB or affiliated with a Member.

4.2. Panel: A group that shall be appointed at the discretion of the Independent Case Manager and consist of a single arbitrator or a committee of three independent people, as determined by the Independent Case Manager, who are free from a conflict of interest.

4.3. Days: Calendar days including weekends and holidays.

4.4. Complainant: The party reporting the alleged infraction / issue.

4.5. Respondent: The Respondent is the person or organization that is required to respond to the complaint / report made by the Complainant.

4.6. Affected Party: Any individual or entity, as determined by the Independent Case Manager, who may be affected by a decision rendered under this Policy and who may have recourse to an appeal under this Policy

4.7. Member: The Members of Velo NB are the provincial and territorial associations recognized by the Board which have met the prescribed financial and administrative obligations.

## **5. POLICY STATEMENT**

5.1. Any individual who wishes to file a formal complaint related to conduct perceived to be in direct contradiction with Velo NB constitution, policies, Code of Conduct, or other applicable agreements may file a complaint under this policy.

5.2. Velo NB will ensure that the complaint process is administered in a manner consistent with the principles of natural justice and procedural fairness.

## **6. PROVISIONS**

### **Reporting a Complaint**

1. Third-party resources may be engaged as required depending on the nature of the complaint in the absence of a relevant NSO process or if the NSO process refers a provincial level complaint back to the PSO for resolution.

Individuals who wish to report an incident or complaint to Velo NB or to the Independent Case Manager by filling out the Complaint Submission Form and sending it to:

appeals@velo.nb.ca

In accordance with this procedure, the Case Manager has the discretion to choose the resolution process based on the nature of the complaint reported. Complaints can be referred back to the club or the NB Safe Sport Dispute Resolution Program. If it is a complaint dealing with maltreatment as defined in the [Universal Code of Conduct to Prevent and Address Maltreatment in Sport of Maltreatment](#) in which case it is to be automatically referred to the NB Safe Sport Dispute Resolution Program or legal authority as appropriate.

2. At Velo NB's discretion, Velo NB may act as the Complainant and initiate the complaint process under the terms of this Policy. In such cases, Velo NB will identify an individual to represent Velo NB.

3. Complaints or incident reports must be made in writing and the person making the report may contact the Independent Case Manager for direction.

### **Receiving a Complaint**

4. Upon receipt of a complaint, the Independent Case Manager has a responsibility to:

- a) Determine whether the complaint is frivolous, and/or not within the jurisdiction of this Policy, and therefore dismissed (this decision is not appealable);
- b) Propose to resolve the complaint by alternate dispute resolution;
- c) Determine if the local police service should be contacted,
- d) Determine if an investigation is required; and/or
- e) Choose which process should be followed, and may use the following examples as a general guideline:

Process #1 - the Complaint alleges the following incidents:

- i. One instance of disrespectful, abusive, racist, or sexist comments or behaviour
- ii. One instance of disrespectful conduct
- iii. One instance of a minor incidents of violence (e.g., tripping, pushing, elbowing)
- iv. Minor inconsistency of conduct with the values of Velo NB
- v. Minor non-compliance with Velo NB's policies, procedures, rules, or regulations
- vi. Minor violations of the Code of Conduct

Process #2 - the Complaint alleges the following incidents:

- i. Repeated minor incidents that would normally be dealt with under Process #1
- ii. Any incident of hazing
- iii. Behaviour that constitutes harassment, sexual harassment, or sexual misconduct
- iv. Major incidents of violence (e.g., fighting, attacking, sucker punching)
- v. Pranks, jokes, or other activities that endanger the safety of others
- vi. Conduct that intentionally damages Velo NB's image, credibility, or reputation
- vii. Consistent disregard for Velo NB's By-laws, policies, rules, and regulations
- viii. Major or repeated violations of the Code of Conduct
- ix. Intentionally damaging Velo NB property, committing financial misconduct (e.g., fraud), or improperly handling Velo NB monies
- x. Abusive use of alcohol, any use or possession of alcohol by minors, or use or possession of illicit drugs and narcotics
- xi. A conviction for any Criminal Code offence
- xii. Any possession or use of banned performance enhancing drugs or methods that violates the Canadian Anti-Doping Program.

5. The Independent Case Manager may, in his/her sole discretion, determine that the alleged incident is better addressed under a different Velo NB policy or procedure.

6. The Independent Case Manager may determine, in his/her sole discretion, that the alleged incident requires investigation. In this case, the Independent Case Manager may appoint an investigator. The investigator must be an independent third party skilled in investigating. The investigator must not be in a conflict of interest situation and must have no connection to either party.

7. The investigation may take any form as decided by the investigator, guided by any applicable Federal and/or Provincial legislation, but at a minimum shall include:

- a) Complainant interviewed;
- b) Witnesses interviewed,
- c) Any relevant documents collected and reviewed;
- d) Statement of facts (Complainant's perspective) prepared by the investigator and acknowledged by Complainant,
- e) Statement delivered to Respondent,
- f) Respondent interviewed,
- g) Witnesses interviewed and/or
- h) Any relevant documents collected and reviewed;
- i) Statement of facts (Respondent's perspective) prepared by investigator and acknowledged by Respondent.

8. Following the investigation, the investigator will provide an investigator's report to the Independent Case Manager who will disclose it, as necessary, to the Chief Executive Officer of Velo NB (or the Chair of the Board if the CEO is the subject of a complaint) and to others as necessary as determined by his or her discretion, to assist in the decision-making on the reported complaint. The investigator's report should include a summary of evidence from the parties (including both statements of facts, if applicable) and recommendations from the investigator of whether or not, on a balance of probabilities, an incident occurred that could be considered non-compliance with Velo NB policies, By-laws, rules and regulations, agreements and the Code of Conduct.

### **Discipline Under Process #1 - Handled by Independent Case Manager**

9. Following the determination that the complaint or incident should be handled under Process #1, the Independent Case Manager will review the submissions related to the complaint or incident, including the investigator's report (if applicable) and determine one or more of the following sanctions:

- a) Verbal or written reprimand
- b) Verbal or written apology
- c) Service or other contribution to Velo NB
- d) Removal of certain privileges
- e) Suspension from certain events and/or activities
- f) Suspension from all Velo NB activities for a designated period
- g) Any other sanction considered appropriate for the offense

10. The Independent Case Manager will inform the Respondent of the sanction, which will take effect immediately.

11. Records of all sanctions will be maintained by Velo NB.

### **Management of Complaint Under Process #2: Resolved by Panel**

12. Following the determination that the complaint or incident should be handled under Process #2, the Independent Case Manager will oversee management and administration of the complaint or incident.

13. The Independent Case Manager has a responsibility to:

- a) Work with the investigator, if appointed, to receive the investigator's report
- b) Appoint the Panel, if necessary
- c) Coordinate all administrative aspects and set timelines
- d) Provide administrative assistance and logistical support to the Panel as required
- e) Provide any other service or support that may be necessary to ensure a fair and

timely proceeding that complies with the applicable principles of natural justice and fair proceeding.

14. The Independent Case Manager will establish and adhere to timelines that ensure the matter is heard in a timely fashion.

15. After notifying the parties that the complaint has been accepted, the Independent Case Manager may propose using alternate dispute resolution with the objective of resolving the dispute. If all parties to a dispute agree to alternative dispute resolution, a mediator or facilitator, acceptable to all parties, shall be appointed to mediate or facilitate the dispute. The mediator or facilitator shall decide the format under which the dispute shall be mediated or facilitated and shall specify a deadline before which the parties must reach a negotiated decision. Any negotiated decision will be binding on the parties. Negotiated decisions may not be appealed.

16. If the dispute is not resolved via alternative dispute resolution, the Independent Case Manager will appoint a Panel to hear the complaint. In extraordinary circumstances, and at the discretion of the Independent Case Manager, a Panel may be extended to a committee of three independent people appointed to hear the complaint. In this event, the Independent Case Manager will appoint one of the Panel's members to serve as the Chair.

17. The Panel will then decide the format under which the complaint will be heard. This decision may not be appealed. The format of the hearing may be an oral in-person hearing, an oral hearing by telephone or other communication medium, a hearing based on a review of documentary evidence submitted in advance of the hearing, or a combination of these methods. The hearing will be governed by the procedures that the the Panel deem appropriate in the circumstances, provided that the following minimal procedures shall be features of any hearing:

- a) The parties will be given appropriate notice of the day, time, and place of the hearing, in the case of an oral in-person hearing or an oral hearing by telephone or other communication medium
- b) Copies of any written documents which the parties wish to have the Panel consider will be provided to all parties, through the Independent Case Manager, in advance of the hearing
- c) The parties may engage a representative, advisor, or legal counsel at their own expense
- d) The Panel may request that any other individual participate and give evidence at the hearing
- e) The Panel may allow as evidence at the hearing any oral evidence and document or thing relevant to the subject matter of the complaint, but may exclude such evidence that is unduly repetitious, and shall place such weight on the evidence as it deems appropriate
- f) The decision will be by a majority vote of the Panel

18. If the Respondent acknowledges the facts of the incident, the Respondent may waive the merit portion of the hearing, in which case the Panel will determine the appropriate sanction. The Panel may still hold a hearing for the purpose of determining an appropriate sanction.

19. Subject to adherence to the principles of natural justice and procedural fairness, a hearing may proceed even if a party chooses not to participate in the hearing.

20. If a decision may affect another party to the extent that the other party would have recourse to a complaint or an appeal, that party will become a party to the current complaint and will be bound by the decision.

21. In fulfilling its duties, the Panel may obtain independent legal and/or expert advice.

### **Decision**

22. After hearing and/or reviewing the matter, the Panel will determine whether an infraction has occurred and, if so, the sanctions to be imposed. Within fourteen (14) days of the hearing's conclusion, the Panel's written decision, with reasons, will be distributed to all parties, the Independent Case Manager, and Velo NB. In extraordinary circumstances, the Panel may first issue a verbal or summary decision soon after the hearing's conclusion, with the full written decision to be issued before the end of the fourteen (14) day period. The decision will be considered a matter of public record unless decided otherwise by the Panel.

### **Sanctions**

23. The Panel may apply the following disciplinary sanctions, singularly or in combination:

- a) Verbal or written reprimand
- b) Verbal or written apology
- c) Service or other contribution to Velo NB
- d) Removal of certain privileges
- e) Suspension from certain events and/or activities
- f) Suspension from all Velo NB activities for a designated period of time
- g) Payment of the cost of repairs for property damage
- h) Suspension of funding from Velo NB or from other sources
- i) Expulsion from Velo NB
- j) Any other sanction considered appropriate for the offence

24. Unless the Panel decides otherwise, any disciplinary sanctions will begin immediately, notwithstanding an appeal. Failure to comply with a sanction as determined by the Panel will result in an automatic suspension until such time as compliance occurs. Records of all decisions will be maintained by Velo NB.

### **Suspension Pending a Hearing**

25. The Independent Case Manager may determine that an alleged incident is of such seriousness as to warrant suspension of an individual from engaging in Velo NB business, activities, and events pending completion of a criminal process, the hearing, or a decision of the Panel.

### **Criminal Convictions**

26. A Respondent's conviction for a Criminal Code offence, as determined by Velo NB, will be deemed an infraction under this policy and will result in expulsion from Velo NB. Criminal Code offences may include, but are not limited to:

- a) Any child pornography offences
- b) Any sexual offences
- c) Any offence of physical violence
- d) Any offence of assault
- e) Any offence involving trafficking of illegal drugs

### **Confidentiality**

27. The discipline process and appeals process are confidential and involve only Velo NB, the parties, the Independent Case Manager, the Panel, and any independent advisors to the Panel. Once initiated and until a decision is released, none of the parties will disclose confidential information relating to the discipline or appeal to any person not involved in the proceedings.

### **Timelines**

28. If the circumstances are such that adhering to the timelines outlined by this policy will not allow a timely resolution to the complaint, the Panel may direct that these timelines be revised.

### **Records and Distribution of Decisions**

29. Decisions issued regarding complaints under this policy shall be made public and published on the website of Velo NB, unless the Independent Case Manager or the Panel, determines otherwise.

### **Appeals**

30. Any decision rendered under this policy (either through Process #1 or 2) may be appealed under the Velo NB Appeal Policy.