



Gymnastics
Western Australia

Gymnastics WA Member Protection Policy

Part C - Procedures



Department of
Sport and
Recreation



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Part C - Procedures

To ensure due process, consistency and that the principles of natural justice are followed in all aspects of handling or conducting complaints, allegations, investigations, tribunals and disciplinary measures, Gymnastics Western Australia will follow and implement the following procedures:

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Attachment C1: Complaints Procedure

A complaint can be about an act, behaviour, omission, situation or decision that someone thinks is unfair, unjustified, unlawful and/or a breach of this policy. Complaints will always vary. They may be about individual or group behaviour; they may be extremely serious or relatively minor; they may be about a single incident or a series of incidents; and the person about who the allegation is made may admit to the allegations or emphatically deny them.

Given all of the variables that can arise, Gymnastics Western Australia provides a step-by-step complaint procedure that people may use/enter at any stage. Individuals and organisations to which this policy applies may also pursue their complaint externally under anti-discrimination, child-protection or other relevant legislation.

If at any point in the complaint process Member Protection Information Officer (MPIO) considers that a complainant has knowingly made an untrue complaint or the complaint is vexatious or malicious, the matter will be referred to the Gymnastics Western Australia Board for appropriate action. 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.

Step 1 – Self Management

As a first step you (the complainant) should try to sort out the problem with the person or people involved if you feel able to do so. Self management can quickly resolve many lower level and accidental issues.

Step 2 – Obtaining Information and Support

If:

- the first step is not possible/reasonable; or
- you are not sure how to handle the problem by yourself; or
- you just want to talk confidentially about the problem with someone and get some more information about what you can do; or
- the problem continues after you tried to approach the person or people involved; then talk with your club's Member Protection Information Officer initially then, our Member Protection Information Officer (MPIO).

The MPIO will:

- take notes about your complaint (which the MPIO will keep in a secure and confidential place);
- try to sort 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;
- explain how our complaints procedure works;
- act as a support person if you so wish;
- refer you to an appropriate person to help you resolve the problem, if necessary;
- inform the relevant government authorities and/or police if required by law to do so; and
- maintain strict confidentiality.

Step 3 – Informal Internal Process (low level resolution)

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 a MPIO ; or
- to seek an informal mediated resolution with the help of a third person (such as a mediator or a official).

If you wish to remain anonymous, the Gymnastics Western Australia can't assist you to resolve your complaint. We have to follow the principles of natural justice and be fair to both sides. This means that Gymnastics Western Australia or you may be required to provide the person/people you have complained about with full details of the complaint so they have a fair chance to respond to all the allegations.

Step 4 - Formal Internal Process

If your complaint is not resolved to your satisfaction, you may:

- make a formal complaint in writing to the Executive Director of Gymnastics Western Australia or
- approach a relevant external agency such as an equal opportunity commission, for advice.

Step 5 - Formal Internal Process

If you decide to make a formal complaint in writing under Step 4, the Executive Director will, on receiving the formal complaint and based on the material you have provided, decide whether:

- they are the most appropriate person to receive and handle the complaint;
- the nature and seriousness of the complaint warrants a formal resolution procedure. Some complaints may be of a minor and/or purely personal nature with no connection to the activities of the Gymnastics Western Australia. In these cases, the Executive Director may determine that the complaint does not warrant a formal resolution procedure;
- to appoint a person to investigate the complaint;
- to refer the complaint to an informal or formal mediation session;
- 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 administrative or other arrangements that will apply until the complaint process set out in these Procedures is completed.

In making the decision(s) outlined above, the Executive Director will take into account:

- whether they have had any personal involvement in the circumstances giving rise to the complaint and, if so, whether their ability to impartially manage the complaint is compromised or may appear to be compromised;
- whether, due to the nature of the complaint, specific expertise or experience may be required to manage the complaint;
- your wishes, and the wishes of the respondent, regarding the manner in which the complaint should be handled;

- whether, due to the nature of the complaint, the relationship between you and the respondent and any other relevant factors, the complaint should be referred (or should not be referred) to informal or formal mediation or to a hearings tribunal. Relevant factors may include an actual or perceived power imbalance between you and the respondent, the nature of any ongoing working relationship between you and the respondent, and the personal attributes of you and the respondent (for example, if one party does not speak English fluently, some of the possible complaints resolution mechanisms may not be appropriate);
- the nature and sensitivity of any information or other material that must be provided by you, the respondent, and any of the other people involved in the complaint;
- whether the facts of the complaint are in dispute; and
- the urgency of the complaint, including the likelihood and the consequences (if the complaint is ultimately proven) that you will be subject to further unacceptable behaviour while the complaint process set out in these Procedures is being conducted.

If the Executive Director is the appropriate person to handle the complaint they will, to the extent that these steps are necessary:

- get full information from you (the complainant) about your complaint and how you want it resolved (if this information has not already been obtained through earlier steps);
- 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 whether they have enough information to determine whether the matter alleged in your complaint did or didn't happen; and/or
- determine what, if any, further action to take. This action may include disciplinary action in accordance with Attachment C6 – Disciplinary Measures, appointing a person to investigate the complaint, referring the complaint to an informal or a formal mediation session or a hearings tribunal and/or referring the complaint to the police or other appropriate authority.

Step 6

If:

- a person is appointed to investigate the complaint under **Step 5**, the investigator will conduct the investigation and provide a written report to the GWA Board who will determine what, if any, further action to take. This action may include a direction to the investigator to make further enquiries and obtain additional information, disciplinary action in accordance with Attachment C6 – Disciplinary Measures, and referring the complaint to an informal or a formal mediation session, a hearings tribunal and/or the police or other appropriate authority;
- the complaint is referred to an informal or a formal mediation session under **Step 5**, the mediation session will be conducted in accordance with Attachment C2 or as otherwise agreed by you and the respondent;
- the complaint is referred to a hearings tribunal under **Step 5**, the hearing will be conducted in accordance with Attachment C5;
- the complaint is referred to the police or other appropriate authority under **Step 5**, Gymnastics Western Australia will use its best endeavours to provide all reasonable assistance lawfully required by the police or other appropriate authority; and

- interim administrative or other arrangements are implemented under **Step 5**, Gymnastics Western Australia will periodically review these arrangements to ensure that they are effective.

Any costs relating to the complaint process set out in this Policy (e.g. investigation and/or mediation and/or appeals) are to be met by individual unless otherwise stated.

Step 7

If, under **Step 6**, an informal or formal mediation session is conducted, and you and the respondent(s) cannot reach a mutually acceptable mediated solution to the complaint, you may request that Executive Director reconsider the complaint in accordance with **Step 5**.

You or the respondent(s) may be entitled to appeal where:

under **Step 5**, a decision was made by the Executive Director

- not to take any action; or
- to take disciplinary action; or

- under **Step 6**, a decision was made by GWA Board:

- not to take any action; or
- to take disciplinary action.

The grounds for appeal and the process for appeals under this Policy are set out in Attachment C5.

If the internal complaints processes set out in this Policy do not achieve a satisfactory resolution/outcome for you, or if you believe it would be impossible to get an impartial resolution within Gymnastics Western Australia you may choose to approach an external agency such as an equal opportunity commission to assist with a resolution.

Step 8

The Executive Director will document the complaint, the process followed and the outcome. This document will be stored in a confidential and secure place. If the complaint was dealt with at a state/district level, the information will be stored in the state association office. If the matter is of a serious nature, or if the matter was escalated to and/or dealt with at the national level, the original document will be stored at the national office with a copy stored at the state office.

External procedure

There may be a range of external options available to you depending on the nature of your complaint. If you feel that you have been harassed or discriminated against, you can seek advice from the WA Equal Opportunity Commission without being obliged to make a formal complaint. If the commission advises you that the problem appears to be a type of harassment that comes within its jurisdiction, you may then make a decision as to whether or not to lodge a formal complaint with the commission.

Once a complaint is received by an anti-discrimination commission, an investigation will be conducted. If it appears that unlawful harassment or discrimination has occurred, there will usually be an attempt to conciliate the complaint confidentially first. If this fails, or is inappropriate, the complaint may go to a formal hearing where a finding will be made as to whether unlawful harassment or discrimination occurred. The tribunal will decide upon what action, if any, will be taken. This could include financial compensation for such things as distress, lost earnings or medical and counselling expenses incurred.

An anti-discrimination commission can decline to investigate a complaint, or dismiss a complaint at any point in the investigation, conciliation or public hearing stages.

If you do lodge a complaint under anti-discrimination law, you may use an appropriate person (e.g. an MPIO) as a support person throughout the process. It is also common to have a legal representative, particularly at the hearing stage of a complaint.

Attachment C2: Mediation

Mediation is a process by which people who are in conflict can be helped to communicate with each other about what is important for them and how to make decisions about resolving their dispute. Mediators provide a supportive atmosphere and method of talking to one another, to assist in sorting out the issues, coming up with acceptable solutions and making mutually satisfactory agreements.

This attachment outlines the general procedure of mediation that will be followed by Gymnastics Western Australia.

1. The people involved in a formal complaint (complainant and respondent(s)) may work out their own resolution of the complaint or seek the assistance of a neutral third person or a mediator. Mediation may occur either before or after an investigation of the complaint.
2. Mediation (getting those involved to come to a joint agreement about how the complaint should be resolved) will only be recommended:
 - a. After the complainant and respondent have had their chance to tell their version of events to the Executive Director on their own; *and*
 - b. The Executive Director does not believe that any of the allegations warrant any form of disciplinary action - proven serious allegations will not be mediated, no matter what the complainant desires; and
 - c. Mediation looks like it will work (i.e. the versions given by the complainant and respondent tally or almost tally and/or at the very least, it looks as though it will be possible for each party to understand the other party's point of view).
3. Mediation will **not** be recommended if:
 - a. The respondent has a completely different version of the events and they won't deviate from these;
 - b. The complainant or respondent are unwilling to attempt mediation; or
 - c. Due to the nature of the complaint, the relationship between you and the respondent(s) and any other relevant factors, the complaint is not suitable for mediation.
4. If mediation is chosen to try and resolve the complaint, the Executive Director will, under the direction of the Gymnastics Western Australia and in consultation with the complainant and the respondent(s), arrange for a mediator to mediate the complaint.
5. The Executive Director will notify the respondent(s) that a formal complaint has been made, provide them with details of the complaint and notify them the Western Australia has decided to refer the matter to mediation to resolve the complaint.

6. 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. At a minimum, an agenda of issues for discussion will be prepared by the mediator.
7. 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.
8. At the end of a successful mediation the mediator will prepare a document that sets out the agreement reached between the complainant and respondent(s) and it will be signed by them as their agreement.
9. If the formal complaint is not resolved by mediation, the complainant may:
 - a. Write to Executive Director request that the Gymnastics Western Australia Board reconsider the complaint in accordance with **Step 5**;
or
 - b. Approach an external agency such as an anti-discrimination commission.

Attachment C3: Investigation Process

If an investigation needs to be conducted the following steps are to be followed:

1. A written brief will be provided to the investigator to ensure the terms of engagement and scope of the investigator's role and responsibilities are clear.
2. The complainant will be interviewed and the complaint documented in writing.
3. The details of the complaint will be conveyed to the person/people complained about (respondent(s)) in full. The respondent(s) must be given sufficient information to enable them to properly respond to the complaint.
4. The respondent(s) will be interviewed and given the opportunity to respond. The respondent(s) response to the complaint will be documented in writing.
5. If there is a dispute over the facts, then statements from witnesses and other relevant evidence will be obtained to assist in a determination.
6. The investigator will 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.
7. A report documenting the complaint, investigation process, evidence, finding and, if requested, recommendations, will be given to Executive Director.
8. A report documenting the complaint and summarising the investigation process and key points that were found to be substantiated, inconclusive, unsubstantiated and/or mischievous will be provided to the complainant and the respondent(s).
9. Both the complainant and the respondent(s) are entitled to support throughout this process from their chosen support person/adviser.
10. 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 C5.

More detailed information on conducting internal investigations can be found at www.ausport.gov.au/ethics/policy.asp

Attachment C4: Investigation Procedure – Child Abuse

An allegation of child abuse is a very serious matter and must be handled with a high degree of sensitivity. The initial response to a complaint that a child has allegedly been abused should be immediate if the incident/s are serious or criminal in nature while less serious/urgent allegations should be actioned as soon as possible, preferably within 24 hours.

The following is a basic outline of the key processes to follow. More information can be obtained from the Department for Child Protection (DCP): Reporting Child Abuse and Neglect. <http://www.community.wa.gov.au/DCP/Resources/Child+Protection/>

Step 1 - Clarify basic details of the allegation

1. Any complaints, concerns or allegations of child abuse should be made or referred to the MPIO of Gymnastics Western Australia.
2. The initial response of the person that receives the complaint from the child (or person on behalf of the child) is crucial to the well-being of the child. It is important for the person receiving the information to:
 - Listen to, be supportive and do not dispute what the child says;
 - Reassure the child that what has occurred is not the fault of the child;
 - Ensure the child is safe;
 - Be honest with the child and explain that other people may need to be told in order to stop what is happening; and
 - Ensure that what the child says is quite clear but do not elicit detailed information about the abuse. You should avoid suggestive or leading questions.
3. The person receiving the complaint should obtain and clarify basic details (if possible) such as:
 - Child's name, age and address;
 - Person's reason for suspecting abuse (observation, injury or other); and
 - Names and contact details of all people involved, including witnesses.

Step 2 – Report allegations of a serious or criminal nature

1. Any individual or organisation to which this policy applies, **should immediately report any incident of a serious or a criminal nature to the police and other appropriate authority.**
2. If the allegation involves a child at risk of harm, the incident should immediately be reported to the police or other appropriate government agency. You may need to report to both the police and the relevant government agency.
3. The relevant State or Territory authority should be contacted for advice if there is **any** doubt about whether the complaint should be reported.
4. If the child's parent/s are suspected of committing the abuse, report the allegation to the relevant government agency.

Attachment C4: Investigation Procedure – Child Abuse

Step 3 – Protect the child

1. The MPIO should assess the risks and take interim action to ensure the child's/children's safety. Some options that Gymnastics Western Australia could implement include redeployment of the alleged offender to a non-child related position, supervision of the alleged offender or removal/suspension from their duties until the allegations are finally determined.
2. The MPIO should also address the support needs of the person against whom the complaint is made. Supervision of the person should ideally occur with the knowledge of the person. If stood down, it should be made clear to all parties that are aware of the incident that this does not mean the person is guilty and a proper investigation still needs to be undertaken.

Step 4 – Further clarify and investigate allegation

1. Seek advice from the police and relevant government agency as to whether Gymnastics Western Australia should carry out its own internal investigation (in addition to or in conjunction with any police or relevant government agency investigation).
2. If the police and/or relevant government agency advises that it is appropriate, then appoint an independent person (where possible) with appropriate expertise to conduct an investigation. The investigator should:
 - Contact the parents/carers of the child at an appropriate time and as directed by the police or relevant government agency.
 - If appropriate, meet with parents/carers and the child to clarify the incident and offer support on behalf of Gymnastics Western Australia if required (example, professional counselling).
 - Meet with the person against whom the allegation refers at an appropriate time and as directed by the relevant authority and give the person an opportunity to explain or respond to the allegation and identify any witnesses and supporting evidence. The person should have an opportunity to invite a support person/adviser to attend at a meeting and should be offered support (example, professional counselling) if necessary.
 - Obtain a signed statement and record of interview from the person.
 - Make contact with any witnesses and obtain written and signed statements outlining details of the allegation (what happened, when, how). This should only occur following advice from the relevant authority.
 - Obtain other information that could assist in making a decision on the allegation.
 - The information collected during the investigation should be made available to the relevant authorities.

- Strict confidentiality, impartiality, fairness and due process must be maintained at all times.

Step 5 – Record and analyse all information

1. If an internal investigation was conducted under **Step 4**, the investigator will provide a report to the Executive Director.
2. The decision-maker(s) will be Executive Director and will remain separate and at arm's length from the investigator.
3. The Executive Director will consider all the information and determine a finding. It will also recommend action and its rationale for the action.

Step 6 – Undertake disciplinary action

1. For incidents of a serious or criminal nature, consideration must be given to the findings of the police and/or the government agency before making a decision on disciplinary proceedings.
2. If disciplinary action is to be taken, follow the procedures outlined in Attachment C6 of the policy.
3. Implement any disciplinary decision recommended by the GWA Board. The action should be immediate.
4. Check with the relevant state government authority to see if you need to forward a report.

Attachment C5: Appeals Procedure

It is considered good and fair practice to provide a process to appeal against decisions or disciplinary actions imposed.

1. A complainant or a respondent(s) who is not satisfied with a decision described in **Step 7** of the Complaints Procedures can lodge one appeal to Gymnastics Western Australia on one or more of the following bases:
 - 1.1 That a denial of natural justice has occurred; or
 - 1.2 That the disciplinary measure(s) imposed is unjust and/or unreasonable.
2. A person wanting to appeal in accordance with paragraph 1 must lodge a letter stating their intention and the basis for their appeal in accordance with the Gymnastics Western Australia's Appeal & Grievance Regulations.

Attachment C5: Disciplinary Measures

Any disciplinary measure imposed by Gymnastics Western Australia Board under this policy must:

- Observe any contractual and employment rules and requirements;
- Conform to the principles of natural justice;
- Be fair and reasonable;
- Be based on the evidence and information presented;
- Be within the powers of the Gymnastics Western Australia Board to impose the disciplinary measure.

Individual

Subject to contractual and employment requirements, if a finding is made that an individual has breached Gymnastics Western Australia's Member Protection Policy (including the Codes of Conduct), one or more of the following forms of discipline may be imposed by Gymnastic Western Australia.

A direction that the individual make a verbal and/or written apology;

1. A written warning;
2. A direction that the individual attend counselling to address their behaviour;
3. A withdrawal of any awards, placings, records, achievements bestowed in any tournaments, activities or events held or sanctioned by the Gymnastics Western Australia;
4. A demotion or transfer of the individual to another location, role or activity
5. A suspension of the individual's membership or participation or engagement in a role or activity;
6. Termination of the individual's membership, appointment or engagement;
7. Recommend that Gymnastics Western Australia terminate the individual's membership, appointment or engagement;
8. In the case of a coach or official, a direction that the relevant organisation de-register the accreditation of the coach or official for a period of time or permanently;
9. Any other form of discipline that the GWA Board considers appropriate.

When imposing any form of discipline, it will be accompanied by a warning that a similar breach of policy by that individual in the future may result in the imposition of a more serious form of discipline.

Attachment C5: Disciplinary Measures

Member Clubs

If a finding is made that a Gymnastics Western Australia club has breached the Gymnastics Western Australia's Member Protection Policy (including the Codes of Conduct), one or more of the following forms of discipline may be imposed by Gymnastics Western Australia a written warning;

1. A monetary fine;
2. A direction that any rights, privileges and benefits provided to that club by the state association be suspended for a specified period;
3. A direction that Gymnastics Western Australia cease to sanction events held by or under the auspices of that club;
4. Any other form of discipline that Gymnastics Western Australia considers to be appropriate.

When imposing any form of discipline, it will be accompanied by a warning that a similar breach of policy by the club in the future may result in more serious form of discipline.

Factors to consider when imposing discipline

1. The form of discipline to be imposed on an individual or organisation will depend on factors such as:
2. If the individual is a parent and/or spectator (ability to enforce a penalty may be difficult);
3. Nature and seriousness of the behaviour or incidents;
4. In a case where action is taken concurrently with or in lieu of a resolution of a formal complaint, the wishes of the complainant;
5. If the individual concerned knew or should have known that the behaviour was a breach of the policy;
6. Level of contrition of the respondent(s);
7. The effect of the proposed disciplinary measures on the respondent(s) including any personal, professional or financial consequences;
8. If there have been relevant prior warnings or disciplinary action; and/or
9. If there are any mitigating circumstances such that the respondent(s) shouldn't be disciplined at all or not disciplined so seriously.