

## **Terms of Reference**

### **Independent Interim Complaints Mechanism – Gymnastics NZ**

**Developed August 2020.**

## **1. Background**

- 1.1. Sport NZ is the kaitiaki (guardian) of the play, active recreation and sport system in Aotearoa, New Zealand. As a Crown agency, it promotes and supports quality experiences in play, active recreation and sport, including elite sport, to improve levels of physical activity and, through this, ensure the greatest impact on wellbeing for all New Zealanders.
- 1.2. Gymnastics New Zealand is the national sports organisation responsible for the development, promotion, governance and leadership of gymnastics (any and all disciplines) throughout New Zealand.
- 1.3. In August 2020, a number of former athletes came forward and made allegations of serious psychological and physical abuse of athletes within New Zealand gymnastics.
- 1.4. For these reasons, the scope of the existing independent interim complaints mechanism (the ICM) originally put in place for high performance athletes is being extended. Dyhrberg Drayton Employment Law (the Facilitator) will continue to run the service.
- 1.5. Gymnastics NZ has also commissioned an Independent Review of the sport by David Howman (Independent Reviewer). The ICM process will operate separately from the Independent Reviewer, but will provide appropriate information to him, as set out below.

## **2. Purpose**

- 2.1 The purpose of the extended scope of the ICM is to provide an independent interim complaints process for complaints regarding unacceptable conduct within gymnastics (any and all disciplines) in New Zealand.

## **3. Scope**

- 3.1 The expanded ICM is intended to be an interim measure but will run processes for gymnastics complaints made or referred to the ICM until further notice.
- 3.2 The ICM will deal with complaints from current and former athletes, participants, parents or associated parties involved in any level of gymnastics.
- 3.3 The ICM will deal with complaints occurring at any time; both current and historical.
- 3.4 Anyone can make complaints to the ICM. It will be possible to raise complaints anonymously, but anonymity may limit any actions which may be taken to address or resolve complaints. As effective dispute resolution usually requires the active participation of all parties, complainants are encouraged to provide contact details.

## 4. Process

- 4.1 Each complaint received by the ICM will be triaged and assessed on the individual facts of the case.
- 4.2 In brief, the process for dealing with a complaint consists of the following key stages:
  - 4.2.1 Prompt acknowledgement and assistance to those who need it
  - 4.2.2 Independent triage to:
    - 4.2.2.1 Assess the seriousness of the complaint.
    - 4.2.2.2 Establish what the complainant needs and/or seeks by way of process and outcomes.
  - 4.2.3 Identification of themes arising from the nature of the complaints, which will inform any wider action required of Gymnastics NZ and/or Sport NZ (for example, organisational culture change and safeguarding measures).
- 4.3 The next phase after triaging will differ depending on the nature of the complaint. It is anticipated complaints will fall broadly into one of the following categories:
  - 4.3.1 Current complaints, i.e. those arising from a circumstance or instance taking place within the past 12 months or so;
  - 4.3.2 Complaints where a resolution process was previously undertaken and the complainant regards the complaint is unresolved or, upon reflection, not resolved to their satisfaction;
  - 4.3.3 Historical complaints relating to individuals still competing, facilitating, volunteering or working within the sport;
  - 4.3.4 Historical complaints where the person or persons being complained about are no longer involved in the sport;
  - 4.3.5 Serious, potentially criminal matters.
  - 4.3.6 Each individual complaint will be handled depending on what category it fits into, with the input of the complainant:

### *Current Complaints*

- 4.3.7 The ICM will manage the complaint by way of an independent resolution process handled by the ICM lawyer. For less serious/informal matters, this may involve independent assessment, facilitation/mediation or other means of dispute resolution with the consent of the parties. Where formal adjudication is appropriate and agreed to by the complainant, complaints will be referred to the Gymnastics NZ Sport Integrity Unit (SIU). If referral consent is not granted, then the ICM will undertake an independent assessment and make a recommendation of next steps.

### *Complaints where a resolution has been undertaken previously*

- 4.3.8 The ICM will seek to refer the complaint process to the Independent Reviewer. If consent to referral is not given, the ICM will undertake an independent assessment of the process previously undertaken and make a recommendation of next steps.

*Historical complaints relating to personnel still within the sport*

- 4.3.9 The ICM will triage these complaints. For less serious and/or informal matters, the process may involve an independent assessment, facilitation/mediation or other means of dispute resolution with the consent of the parties. For more serious matters, the ICM will consider whether this is a case that is suitable for referral to the Gymnastic NZ SIU Disciplinary Panel or any other means of resolution that in the opinion of the ICM lawyer will provide the best resolution. This could include an investigatory process, particularly in the event there are multiple complaints about the same person.

*Historical complaints where the person(s) being complained about are no longer involved in the sport*

- 4.3.10 The ICM will triage all complaints and determine what the most appropriate course of action is, if any. All complaints, regardless of when they date back to, will feed into the prioritisation matrix and will inform any wider action required.
- 4.4 The ICM lawyers will retain oversight of the process undertaken by the Disciplinary Panel, limited to matters that the ICM has redirected to the Sport Integrity Unit and only for the duration of the ICM engagement. The ICM will ensure appropriate communication back to complainants about progress and outcomes.

## **5. Reporting and communications**

- 5.1 The triaging of all complaints will result in the building of a prioritisation matrix for referral and reporting purposes. In addition, the ICM will seek to highlight common themes that may inform wider action. The ICM will not identify any person within any matrix or other report or provide specific details of any complaint, nor will it offer opinion or recommendations. This will be shared with Gymnastics NZ and Sport NZ.
- 5.2 ICM will provide weekly updates to Gymnastics NZ and Sport NZ.
- 5.3 Where a complaint or disclosure received by the ICM could inform the review of the broader culture of gymnastics in New Zealand, the ICM will seek consent from the person providing the information to provide it to the Independent Reviewer. Information will be redacted or summarised if necessary to ensure the privacy of individuals.
- 5.4 The Gymnastics NZ SafeSport address will remain in place with a written and automatic notification function that advises that in using the address the sender is consenting to the content being directed to the ICM. For complaints that have already been made to the Gymnastics NZ SafeSport email address, Gymnastics NZ will contact each complainant to ask for their consent to pass the details of the complaint to the ICM lawyer.
- 5.5 In the event a complainant does not give consent, the complaint will remain with Gymnastics NZ to process through their internal complaints process or recommend it be referred to the appropriate authority if necessary, for example the NZ Police.

## **6. Amendment of Terms of Reference**

- 6.1 These Terms of Reference may be amended by agreement in writing between Sport NZ, Gymnastics NZ and the Facilitator.

## **7. Contractual relationship**

- 7.1 The terms set out in the current supplier contract between the Facilitator and Sport NZ will apply to this expanded ICM scope.