



Appendix A – Investigation Procedure

Determination

1. When a complaint is submitted pursuant to the Policy and is accepted by the Independent Third Party, the Independent Third Party will determine if the incident(s) should be investigated.

Investigation

2. If the Independent Third Party considers that an investigation is necessary, they will appoint an investigator. The investigator must be independent of the Independent Third Party and OBA, with experience in investigating. The investigator must not be in a conflict-of-interest situation and should also have no connection to any Party.
3. Provincial legislation related to Workplace Harassment may apply to the investigation if Harassment was directed toward an employee in a Workplace. The investigator should review workplace safety legislation, the Organization's policies for human resources, and/or consult independent experts to determine whether legislation applies to the complaint.
4. The investigation may take any form as decided by the investigator, guided by any applicable provincial legislation. The investigation may include:
 - a) interviews with the Complainant;
 - b) witness interviews;
 - c) statement of facts (Complainant's perspective) prepared by the investigator, acknowledged by the Complainant and provided to the Respondent;
 - d) interviews with the Respondent; and
 - e) statement of facts (Respondent's perspective) prepared by investigator, acknowledged by the Respondent and provided to the Complainant.

Investigator's Report

5. Upon completion of their investigation, the investigator shall prepare a written report that shall include a summary of evidence from the Parties and any witnesses interviewed. The report shall also include a non-binding recommendation from the investigator regarding whether an allegation or, where there are several allegations, which allegations, should be heard by an External Discipline Panel pursuant to the *Discipline and Complaints Policy*



because they constitute a likely breach of the *Code of Conduct and Ethics*, the UCCMS or any other relevant and applicable OBA or member policy.

6. The investigator may also make non-binding recommendations regarding the appropriate next steps (i.e., mediation, disciplinary procedures, further review, or investigation).
7. The Investigator's Report will be provided to the Independent Third Party who will disclose it, at their discretion, all, or part of the investigation report to OBA and the relevant members (if applicable). The Independent Third Party may also disclose the Investigator's Report – or a redacted version to protect the identity of witnesses – to the Parties, at their discretion, with any necessary redactions. Alternatively, and only if determined to be necessary or appropriate, the Independent Third Party or the External Discipline Panel, other relevant Organizational Participants may be provided with an executive summary of the investigator's findings by the Independent Third Party.
8. Should the investigator find that there are possible *Criminal Code* offences, the investigator shall advise the Parties, OBA and, where applicable, the member, and the matter shall be referred by the Independent Third Party to the police.
9. The investigator must also inform OBA or the member (as applicable) of any findings of criminal activity. The OBA or the member (as applicable) may decide whether to report such findings to police but is required to inform police if there are findings related to the trafficking of prohibited substances or methods (as indicated in the version of the World Anti-Doping Agency's Prohibited List currently in force), any crime involving Minors, fraud against the Organization or any member(s) (as applicable), or other offences where the lack of reporting would violate applicable legal obligations or bring the Organization or the member (as applicable) into disrepute.

Reprisal and Retaliation

10. Any Organizational Participant against whom a complaint has submitted to the Independent Third Party by an Organizational Participant, or which Organizational Participant gives evidence in an investigation are strictly prohibited from engaging in reprisal or retaliation.
11. Any such conduct may constitute Prohibited Behaviour be subject to disciplinary proceedings pursuant to the *Discipline and Complaints Policy* or, as applicable, the policies and procedures of the OSIC.

False Allegations

12. An Organizational Participant who submits allegations that the investigator determines to be malicious, false, or for the purpose of retribution, retaliation or vengeance may be



subject to a complaint under the terms of the *Discipline and Complaints Policy* and may be required to pay for the costs of any investigation that comes to this conclusion. The investigator may recommend to OBA or the member (as applicable) that the Organizational Participant be required to pay for the costs of any investigation that comes to this conclusion.

13. Any Organizational Participant who is liable to pay for such costs shall be automatically deemed to be not in good standing until the costs are paid in full and shall be prohibited from participating in any member and OBA Events, activities or business. OBA or any member(s) (as applicable), or the Organizational Participant against whom the allegations were submitted, may act as the Complainant with respect to making a complaint pursuant to this Section 10.

Confidentiality

14. The investigator will make reasonable efforts to preserve the anonymity of OBA, Respondent, and any other party. However, OBA and its members recognize that maintaining full anonymity during an investigation may not be feasible. The investigator must inform any witness or participant in the investigation of this limitation.

Privacy

15. The collection, use and disclosure of any personal information pursuant to this policy is subject to OBA's *Privacy Policy*.
16. OBA, its members, or any of their delegates pursuant to this policy (i.e., Independent Third Party, Commissioner of Fair Play and Resolution, External Discipline Panel), shall comply with OBA's *Privacy Policy* (or, in the case if a member, the member's *Privacy Policy*) in the performance of their services under this policy.