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ADVANCING SAFE SPORT IN CANADA: A STATEMENT ON 'INDEPENDENCE'

What it means and what it should look like in practice

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Advancing Safe Sport in Canada:

A Statement on ‘Independence’: What it means and what it should look like in practice?

Discussions of Safe Sport and how to achieve it have been a constant in Canadian sport for many years. They have intensified recently in the wake of the #MeToo Movement and the shocking convictions for sexual abuse in Canadian and world sport. These discussions have informed several significant Safe Sport commitments in Canada, including the *Red Deer Declaration for the Prevention of Abuse, Harassment and Discrimination in Sport*¹ and the development of the *Universal Code of Conduct to Prevent and Address Maltreatment in Sport (UCCMS)*². These represent important steps forward in our efforts to protect athletes from harm. But, we still have a long way to go to realize Safe Sport.

Specifically, although prohibited behaviours have now been identified in the *UCCMS*, serious questions regarding the operationalization and implementation of the *UCCMS* remain unanswered. For example: where do formal complaints go?; who will conduct investigations and adjudications?; who will determine sanctions?; who will maintain a publicly accessible database of sanctioned individuals?; who will provide supports and resources for athletes who have experienced maltreatment? and, who will conduct the necessary educational programs to change the dominant culture? These are fundamental questions to be addressed in order to ensure the success of the Safe Sport movement in Canada.

Debates about implementation centre on the extent to which the complaint and investigative processes should be independent from sport organizations. Currently, the term “independence” is being applied in very different ways.

On the one hand, some NSOs claim they use an independent system because they hire Safe Sport Officers or independent investigators to investigate complaints; however, the investigators’ final reports are then returned to the CEO for action. Or, the NSO serves a triage role, determining whether a complaint should be sent to child protection services, an independent investigator, or someone internal to the organization for resolution. Both of these approaches violate principles of independence.

On the other hand, athletes and researchers argue that when the responsibility for any part of the process - deciding whether an investigation is needed, initiating investigations, assessing or applying penalties - within sport is borne by the very sports bodies within which allegations arise, they will always be compromised (or appear to be compromised). Conflicts of interests and obligations arise

from the pressures the sport organizations face to win medals and maintain funding from government and sponsors that is contingent on international success; from loyalty to their colleagues in positions of power; and from attempts to put their best face forward and maintain a positive image for their sport. These pressures conflict with their duty to those who raise complaints of maltreatment. As a result of the different ways in which “independence” is being interpreted and implemented, this position statement addresses the criteria necessary for the development and implementation of a truly independent system.

What does an independent safe sport complaint process look like?

A truly independent complaint process would involve four fundamental components:

I. Filing of a Complaint to an Independent Body

In an independent system, a complaint will be filed with a body that is completely separate from the sport organization and Sport Canada. There would be no conflicts of interest between the recipient of the complaint and the sport organization. This independent body would serve a triage function, determining whether the complaint should be directed to the police or child protection services, to an independent investigator, or to another body if the complaint is not relevant to maltreatment.

II. Independent Investigative Processes

Any complaint that is identified as a potential violation of the UCCMS should be directed by the independent body to an independent investigator to initiate an investigation. The independent investigator will have no relationship with the sport organization or any conflicts of interest, perceived or otherwise, in relation to the complainant, respondent, or any other member of the sport organization.

III. Independent Adjudication Processes

If the independent investigator concludes that the complaint should be examined through a hearing or adjudication process, members of the hearing panel must have no relationship with the sport organization or any conflicts of interest, perceived or otherwise, in relation to the complainant, respondent, or any other member of the sport organization. The adjudication of sanctions appropriate for findings of a breach of the UCCMS must occur without input or involvement from the sport organization.

IV. Independent Provision of Supports and Resources

Anyone affected by experiences of maltreatment should have access to educational, legal and psychological supports and resources, including clear information about the expectations of the UCCMS and the process of reporting a complaint.

These requirements for a truly independent complaint process are already anticipated in the UCCMS. For example, two of the fundamental principles of the UCCMS relate directly to independence:

- *Fair (procedural and substantive due process for all Participants)*
- *Independent administration (free from all conflicts of interest)*

A Safe Sport Officer or independent investigator hired and paid by a sport organization who reports to the CEO or Board of the organization, cannot under any circumstances be seen to be *Independent*, or be recognized by all *Participants* as representing *Fairness* or "*due process for all.*"

The UCCMS also asserts the need for conflict of interest free independence in its definition of *Reporting*, which also points to "an independent investigative process":

Reporting (or Report): The provision of information in writing by any person or a *Participant* to a relevant **independent authority** (the **independent** person or position charged with receiving a report and determining next steps) regarding *Maltreatment*. *Reporting* may occur through either: (i) the *Complainant* (of any age) or the one who experienced the *Maltreatment*, or (ii) a witness – someone who witnessed the *Maltreatment* or otherwise knows or suspects *Maltreatment*. In either case, the intention of *Reporting* is to initiate an **independent** investigative process, which could result in disciplinary action being taken against the *Respondent* [emphases added].

Ensuring Genuine Independence in Safe Sport in Canada

Discussions are currently underway about the best way forward to realize Safe Sport in Canada. The purpose of this statement is to insist that, in whatever form it takes, the tasks required to ensure Safe Sport in Canada be carried out by a single, pan-Canadian, independent body that would:

- *establish pools of trained triage (first point of contact), Investigating (information-gathering) and Hearings Officers (adjudicators);*
- *maintain a national, publicly accessible database of those criminally convicted and those suspended by sport organizations;*
- *provide referrals to independent support for complainants; and*
- *provide education on Safe Sport.*

By creating a single, independent, pan-Canadian independent body of investigation, adjudication and compliance, consistency in application of the UCCMS is assured to all athletes regardless of sport, geographical location in the country, or access to external supports and resources. Further, such a body would provide consistent, equitable support and expertise to sport organizations – both big and small – thus freeing up capacity and resources to pursue other endeavours. Finally, it would have and deserve the trust of all Participants in sport and be able to deliver on the promise of Safe Sport in Canada.

The Athletes Have Spoken

Canadian athletes have clearly, repeatedly, passionately and courageously called for an independent body to oversee Safe Sport in this country. At the National Safe Sport Summit held in May 2019, AthletesCAN presented the following Consensus Statements:

1. *That a Safe Sport Canada body be established with responsibility for all aspects of Safe Sport: policy, education and training, investigation and adjudication, support and compensation*
2. *That Safe Sport Canada be independent of the NSOs and MSOs.*

Canadian female wrestlers were very public in their calls for a completely independent system to investigate complaints: "... *at times it doesn't feel safe or comfortable for an athlete to come forward because we don't want to put our goal, our lifelong dream of making an Olympic Games in jeopardy. Sometimes it's this fear of keeping the status quo, because there's been no independent body that we can go to and feel safe*"; "*We want the minister to know that athletes support an independent body to handle safe sport issues,*" Jasmine Mian, a 2016 Olympian and chair of Wrestling Canada's athlete council, said in a release. "*It's not only in the best interest of athletes, but also in the best interest of the NSO. What constitutes safe sport should be consistent across Canada.*"³

In the recent 2019 prevalence study of maltreatment amongst Canadian National Team members⁴, there were similar calls for an independent body – completely separate from their NSOs – to receive and investigate complaints. In the words of some of these athletes: "*I would never feel comfortable going to my National Sport Organization if I were harassed in any way and would 100% need an independent body to report the harassment to. I would be far too scared to say anything to my coach or my HPD [high performance director]*" and, "*Asking sport organizations to deal with abuse in their ranks is like asking them to incriminate themselves.*"

We will continue to advocate for 'independence' as we have defined it in this statement in the next stage of discussions about Safe Sport in Canada.

References

- ¹ Red Deer Declaration For the Prevention of Harassment, Abuse and Discrimination in Sport. Conference of Federal-Provincial-Territorial Ministers Responsible for Sport, Physical Activity and Recreation. Retrieved from: <https://scics.ca/en/product-produit/red-deer-declaration-for-the-prevention-of-harassment-abuse-and-discrimination-in-sport/>
- ² Universal Code of Conduct on Preventing and Addressing Maltreatment in Sport. Retrieved from: <https://sirc.ca/safe-sport/>
- ³ Ewing, L. (2018). Canadian wrestlers want an independent body on safe sport issues. The Canadian Press. Retrieved from: <https://www.cbc.ca/sports/olympics/summer/canadian-wrestlers-want-an-independent-body-on-safe-sport-issues-1.4949823>
- ⁴ Kerr, G., Willson, E., & Stirling, A. (2019). Prevalence of maltreatment among current and former National Team members. Retrieved from: https://athletescan.com/sites/default/files/images/prevalence_of_maltreatment_reporteng.pdf

(<https://www.cbc.ca/sports/olympics/summer/canadian-wrestlers-want-an-independent-body-on-safe-sport-issues-1.4949823>, Dec. 17th, 2018)