



INVESTIGATIONS POLICY

Purpose

1. The purpose of this Policy is to address how investigations will be conducted when necessary and as determined by the Independent Third Party pursuant to the *Discipline and Complaints Policy*.
2. Investigations shall only be conducted when the Independent Third Party considers that there is a need for an independent assessment to determine whether an allegation (or, where there are several allegations, which allegations), should be heard by a discipline panel pursuant to the *Discipline and Complaints Policy* because they constitute, if found to be true, a likely breach of the *Code of Conduct and Ethics* or any other relevant and applicable The MLA policy, or whether the allegations are frivolous, vexatious or made in bad faith.

Investigation

3. The Independent Third Party shall appoint the investigator, taking into consideration the financial resources of the MLA.
4. The investigator must be an independent third-party with training or investigation experience. The investigator must not be in a conflict-of-interest situation and should have no connection to either Party.
5. Federal and/or Provincial legislation related to Workplace Harassment or Workplace Violence may apply to the investigation if Harassment/Violence was directed toward a worker in a Workplace. The investigator shall review workplace safety legislation, The MLA's policies, and/or consult independent experts to determine whether legislation applies to the Reported complaint.
6. The investigation may take any form as decided by the investigator, guided by any applicable Federal and/or Provincial legislation. The investigation may include:
 - a) Interviews with the Complainant(s);
 - b) Interviews with the Respondent(s); and
 - c) Witness interviews

Investigator's Report

7. Upon completion of their investigation, the investigator shall prepare a report that includes a summary of evidence from the Parties and any witnesses interviewed. The report shall include an executive summary, which The MLA may share separately from the full report with the Parties.



8. The investigator's report shall contain a non-binding opinion regarding whether an allegation (or, where there are several allegations, which allegations) should be heard by a discipline panel pursuant to the *Discipline and Complaints Policy* because they constitute a likely breach of the *Code of Conduct and Ethics* or any other relevant and applicable MLA Policy, or whether the allegation(s) are frivolous, vexatious or made in bad faith.¹ The investigator may also make non-binding recommendations regarding the appropriate next steps (i.e., mediation, disciplinary procedures, further review or investigation).
9. Where necessary to protect the identity of any person that participated in the investigation, the investigator may redact names and anonymize witness testimony that may result in the identification of the individual.
10. The investigator's report will be provided to the Independent Third Party who will disclose it to the MLA, which may disclose, at its discretion, either the full report or only the executive summary to the Parties. If necessary, and at the discretion of the Independent Third Party, other relevant Parties may be provided with an executive summary of the investigator's findings.
11. The investigator's report shall be used for the purposes described in this Policy and in Section 25 of the *Discipline and Complaints Policy*.
12. The investigation report and any executive summary shall remain confidential once disclosed to the MLA, the Complainant and Respondent or any other relevant Party. Any failure to respect this provision may be subject to a complaint and disciplinary measures being taken pursuant to the *Discipline and Complaints Policy*.
13. Should the investigator find that there are possible instances of offence under the *Criminal Code*, particularly related to criminal harassment (or stalking), uttering threats, assault, sexual interference, or sexual exploitation, the investigator shall advise the Complainant and the MLA to refer the matter to police.
14. The investigator must also inform the MLA of any findings of criminal activity. The MLA 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 Prohibited Methods (as indicated in the version of the World Anti-Doping Agency's Prohibited List in force at the time), any sexual crime involving Minors, or any suspected abuse of a Minor, fraud against the MLA, or other offences where the lack of reporting would bring The MLA's reputation into disrepute.

¹ As indicated in the Sport Dispute Resolution Centre of Canada's Investigation Guidelines, a Reported complaint shall not be characterized as vexatious if the evidence demonstrates that there was a reasonable basis for filing and pursuing it. For a complaint to be considered to have been made in bad faith, the investigator must consider that it was filed consciously for a dishonest purpose or due to the moral underhandedness of the Complainant and that there was an intention to mislead.



Reprisal and Retaliation

15. An individual who Reports a complaint to the MLA, or who gives evidence in an investigation, may not be subject to reprisal or retaliation from any individual or group. Any such conduct may constitute Prohibited Behaviour and will be subject to disciplinary proceedings pursuant to the *Discipline and Complaints Policy*.

False Allegations

16. An Individual who submits allegations that the investigator determines to be malicious, false or for the purpose of retribution, retaliation, or vengeance (or that otherwise fall within the definition of Prohibited Behaviour) may be subject to a complaint under the terms of the *Discipline and Complaints Policy*. The investigator may recommend to the MLA that the Individual be required to pay for the costs of any investigation that comes to this conclusion. Any Individual 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 the MLA Events, activities, or business. The MLA or the Individual against whom the allegations were submitted, may act as the Complainant with respect to making a complaint pursuant to this Section 16.

Confidentiality

17. The investigator will protect confidentiality to the extent possible and shall only share information on a need-to-know basis. However, the investigator may need to share information in order to ensure that natural justice has been served.

Privacy

18. The collection, use and disclosure of any personal information pursuant to this Policy shall be in accordance with any applicable privacy policies and practices of the MLA.
19. The MLA and any of its delegates pursuant to this Policy (i.e., Independent Third Party, the investigator), shall comply with The MLA's applicable privacy policies and practices in the performance of their services under this Policy.

Board Approved: March 28, 2023