



Guide to
**EFFECTIVE
CONDUCT
MANAGEMENT**



GUIDE TO EFFECTIVE CONDUCT MANAGEMENT

INTRODUCTION

The Alberta Amateur Hockey Association (Hockey Alberta) is committed to helping its member Local Minor Hockey Associations (LMHA) undertake effective conduct management by assisting in implementing standards for investigating complaints and meting out sanctions and discipline for conduct-related issues. This helps facilitate proper people treatment at all levels, and reduces the number of situations for which appeals are sought.

The standards are based on the principles of independent investigation and due process.

Hockey Alberta's role in a conduct-related complaint is to investigate the process used by an LMHA in dealing with complaints and levying sanctions/discipline, and hold the LMHA accountable to that process. Hockey Alberta is not an appeal committee for an LMHA decision; Hockey Alberta's role is to ensure a fair process was undertaken. During a hearing and appeal process, an LMHA should never suggest that if the accused is not happy with the decision, they can "appeal" to Hockey Alberta. The onus is on the LMHA to undertake a fair and transparent process, from first acknowledging a complaint through to an appeal by the subject of the complaint.

Hockey Alberta will only consider reviewing a complaint when the entire process is completed by the LMHA, including the decision of the Appeal Committee. Hockey Alberta will only investigate the complaint based on the following criteria:

1. Did the process used by the LMHA meet the minimum standards outlined in this document, or was there a procedural error?
2. Was there a misapplication or misinterpretation of facts pertaining to the decision?
3. Did the decision violate a person's protected rights under the Charter of Rights and Freedoms?

Establishing consistent standards for conduct management resolves many issues for Hockey Alberta, the LMHA, and its members, including:

1. Provides minimum requirements for an LMHA in its conduct management process.
2. Defines Hockey Alberta's expectations from any individual making a complaint about an LMHA's handling of a conduct management review.
3. Focuses on the action, not the individual, thereby removing personality conflicts from the process.

Prior to dealing with a conduct-related issue or complaint, an LMHA needs to have key policies, procedures and guidelines in place. An LMHA should establish, and distribute to its membership, the following:

1. A stated purpose that sets the direction for the organization's behavior and decision-making.
2. A code of conduct that identifies inappropriate behavior and potential consequences. This code of conduct should be acknowledged by all members.
3. A process for handling complaints, including the appeal process and what can be appealed.
4. A document retention policy.

In addition, the LMHA should recruit appropriate individuals to form a pool of potential fact-finders or committee members when an investigation, discipline or appeal committee is undertaken. This helps with availability of unbiased members, consistency of approach, and understanding of required process.



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LMHA STANDARDS WHEN REVIEWING A CONDUCT MANAGEMENT COMPLAINT

There are recommended standards for an LMHA when accepting, dealing with, and resolving a conduct-related complaint:

- 1. Acknowledgment**
- 2. Investigation**
 - Independent Investigator
 - Thorough Investigation
 - Findings Presented
- 3. Due process - The Right to:**
 - Notice
 - Defend
- 4. Sanctions**
- 5. Due process – The Right to:**
 - Appeal
- 6. Document retention**



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Step 1: Acknowledgement

The LMHA must acknowledge the complaint, regardless of the situation.

This provides an opportunity to diffuse an emotionally-charged situation. This acknowledgment is best recorded in the minutes of the LMHA's Board meeting, since the minutes serve as one of the permanent records of the organization; if the complaint is anonymous, record in the meeting minutes as an "anonymous concern". If your organization is staffed, ensure that you have a reporting mechanism that allows this information to be entered into meeting minutes. **For a sample form, see:**

- ***Appendix A, Complaint Acknowledgement Form Template***

Acknowledgment is simply recognizing that some sort of concern has come to the LMHA. The Board will decide if an investigation is warranted based on the nature of the complaint and the evidence presented.

If it is determined that an investigation is not warranted, the reasons must be documented. If the complainant decides to pursue further action, especially legal, the LMHA has documentary support, and is not relying on memory or hearsay. All documentation must be stored as per the LMHA's Document Retention Policy (see Step 6, Document Retention) for more information.

If it is determined that the complaint is worthy of further investigation, the next step in the process is to conduct the investigation.



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Step 2: Investigation

The LMHA must investigate the complaint, thoroughly and independently, and present the findings.

A. ASSIGN AN INVESTIGATOR

The first task is to identify and assign an investigator or factfinder, independent of the situation, to investigate the complaint. The investigator:

- Should not need be a Board member or an LMHA member
- Must not have received the complaint
- Must reasonably removed in relation to the individual(s)/ team(s) involved in the complaint so as to not have a perception of bias
- Must reasonably removed in relation to the individual(s) submitting the complaint so as to not have a perception of bias

The investigator's responsibilities are to:

1. Act as a factfinder for the LMHA
2. Review the complaint and identify its root(s).
3. Research, compile, and present information to the Board to facilitate the decision-making process.
4. Corroborate or refute what is documented in the complaint.

B. ENSURE INVESTIGATION IS THOROUGH

The investigator must conduct a thorough investigation and assemble documentation related to the situation. In carrying out an investigation, the investigator is expected to:

1. Interview the complainant and document all conversations.
2. Interview the subject of the complaint and document all conversations. At this point in the process, the interview would be general in nature, intended to collect information to determine if the complaint has merit. The subject of the complaint should not be questioned in an accusatory manner, as the Board has not yet determined if there is sufficient information to move ahead with the complaint.
3. Compile a list of potential witnesses, including those provided by the complainant and the subject of the complaint, interview as many witnesses as possible, and document all conversations.
4. Compile all statements and any other evidence.
5. Present all information to the Decision Committee to determine if a hearing is warranted.

When conducting interviews, the investigator should:

- Ask questions that encourage interview subjects to talk
- Avoid questions that encourage one-word answers
- Start with broad/general questions, and gradually work to narrower/more detailed questions
- Listen actively to all information presented by interview subjects.

C. PRESENT THE FINDINGS

Once the investigation is complete, the investigator organizes and compiles all information and submits to the Board. The Board determines if there is enough information to move ahead with the complaint. When making this determination, the decision must be consistent with the LMHA's policies. If the Board determines no further action will be taken on the complaint, the reasons for this decision must be provided in writing, with documentation stored as per the LMHA's document retention policy.

For assistance in conducting a proper and complete investigation, please refer to:

- **Appendix B, Hockey Canada Investigation Guidelines**



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Step 3: Due Process – Right to Notice, Right to Defend

When the Board determines that the action(s) outlined in the complaint appear(s) to have violated a code of conduct, bylaw, policy, rule or guideline, the subject of the complaint is entitled to due process. The subject of the complaint is entitled to the following:

1. The right to notice

The subject of the complaint must be informed of what s/he is alleged to have done. This must be done in a timely manner, based on the following caveats:

- Notification does not have to be immediate, as long as any delay is due to the LMHA exercising due diligence in reviewing the complaint.
- The subject of the complaint is not privy to the entire complaint, only what s/he is alleged to have done. Include specific examples of the type(s) of behavior(s), not simply “you have broken the association’s code of conduct”.
- Do not divulge who has submitted the complaint.

The subject of the complaint has the right to review the information in the complaint, and the evidence collected by the investigator. The opportunity to review the documents should be provided in a controlled atmosphere; the subject of the complaint does not have the right to take the documents. Any information that could identify the complainant should be redacted.

2. The right to defend

After reviewing the documentation pertaining to the complaint, the subject of the complaint has the right to provide evidence that refutes the information included in the complaint. That evidence is presented during a formal Decision Committee hearing.

The Decision Committee

The Decision Committee shall be comprised of 3-5 panelists (to prevent a tie vote), each of whom must be independent from the incident being reviewed. In assembling the Decision Committee, the LMHA Board should keep the following in mind:

- An LMHA should create a panelist pool by identifying members at the beginning of the year to serve on a term or annual basis.
- The president of the LMHA should not be a member.
- Panelists should not be from the Board or the membership.

The Decision Committee will be responsible for setting a hearing date, and notifying the complainant and the subject of the complaint. In preparation for the hearing, panelists must review the complaint and the investigation to ensure a clear understanding of the details of the situation. Once all evidence has been presented in the hearing, the panelists will:

- Deliberate and render a decision based on the facts presented.
- Present a written decision, with reasons, to the Board, the complainant, and the subject of the complaint.

The Hearing

The Decision Committee shall utilize a hearing process with a formal structure that is outlined to all parties in advance. It is not required that the Decision Committee observe strict legal practice, and procedural defects should not invalidate the outcome of the hearing unless a substantial wrongdoing or miscarriage of justice occurs. The following is an outline that can be utilized to organize the hearing process:

1. Presentation of information/details pertinent to the complaint.

- Information/details may be received/presented orally or in writing. If information/details are submitted in writing, sufficient copies should be available for each panelist and the subject of the complaint.
- Complainant presents first, followed by the subject of the complaint.
- Complainant has rebuttal opportunity, followed by the subject of the complaint.
- All presentations are done during an uninterrupted time period.



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- Decision Committee panelists may ask questions/seek clarification at any point during the presentation of information/details.
- 2. Review of information/details by the Decision Committee.**
 - Once the submission of information/details is complete, the Decision Committee considers the evidence.
 - The Committee moves to a private setting to review the information/details presented.
 - The Committee may only consider actions relevant to the incident; past incidents/actions are not to be considered at this point in the process.
 - Onus of proof is on the complainant, and s/he must provide clear information/details that the subject of the complaint has committed the action(s) outlined in the complaint.
 - 3. Decision rendered by Decision Committee panelists. The decision must:**
 - Be based on reasonable probability that a code of conduct, bylaw, policy, guideline or rule has been violated.
 - Decision must be supported by the majority of panelists. If necessary, the Decision Committee chair, shall vote.
 - 4. Decision Committee Hearing outcome delivered to the Board.**
 - The decision must be documented in writing, including the rationale for the decision and all supporting documentation.



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Step 4: Sanctions

Once the Decision Committee has been determined there has been a violation of a code of conduct, bylaw, policy, rule or guideline, the Board of Directors is responsible for deciding if the situation requires discipline or sanction to be levied against the subject of the complaint. At this point, the Board of Directors may take into account any previous disciplinary action or history of the subject of the complaint.

The focus for Hockey Alberta and its Member LMHAs is to maintain a safe and healthy environment for all participants and stakeholders, and to manage any risks to that safe and healthy environment. Any discipline or sanction levied must be done with the goal of seeking to remedy the issue, thereby helping ensure a safe and healthy environment exists for hockey. Discipline or sanctions are intended to:

1. Educate about the impact of an action.

Often, the subject of the complaint is unaware of the impact of his/her actions because there was no intent to cause harm or risk. If a sanction is required for this type of reason it must be appropriate to the action, and within the confines of what can be controlled by the LMHA. As well, the subject of the complaint must be provided with the resources required for education, such as where to take a course.

2. Correct an undesired behavior.

This is the most common reason for sanctioning, but it is also can provide challenges because what is considered acceptable behaviour can vary by LMHA. The biggest challenge is that the subject of the complaint must show the ability to change; otherwise no amount or type of sanction will suffice. If you do not believe the accused is able to change, the decision must be made as to whether this person poses a risk to the player, the organization, and/or its members. Based on the decision, the Board must undertake proper risk management, including determining whether this is the type of member desired in the organization.

If discipline or sanction is required, the LMHA should answer the following questions to help determine the type and severity of discipline or sanction that is appropriate.

- Is this person a safety risk? If so, what is the likelihood of an occurrence, and the impact of that occurrence?
- What was the severity of the risk the action could have had on the person and organization?
- What is acceptable to your organization? As noted in the Introduction to this document, the LMHA should have a purpose statement of what it wants to achieve. Does this action achieve that goal?
- What is the history of the subject of the complaint? Is this a one-time event or is there a history?
- What was the impact of the action(s)?
- Is the sanction consistent with the organization's policies? If not, why not?
- Is the sanction reasonable for the action and the past history?
- What is the role of the subject of the complaint within the organization? Is s/he a new member of the organization? NOTE: Different roles affect the risk and thus can result in different sanctions.
- What is the duration of the sanction? The sanction cannot be indefinite.
- What is the goal of a sanction, and do you believe sanction will achieve this goal?

A good sanction is one that challenges the individual, yet provides the opportunity to re-emerge to the environment in a positive manner. A conduct-related sanction is not done for punitive reasons. Because of the subjectivity and varying factors that must be taken into account, there is no hard guideline for sanctions. However, asking some or all of these questions can help guide your organization in making a decision.

Rendering a Decision on Discipline or Sanction

- 1) The formal decision of the Board of Directors regarding the complaint, and the levying of discipline or sanction must be delivered in writing.



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- 2) The decision should focus on the behaviour of the subject of the complaint, and the outcome being sought through sanction.
- 3) The decision must include an outline of the appeal process, acceptable reasons for requesting an appeal, and reasonable timelines for submitting an appeal.
- 4) The details of any sanctioning decisions by the Board should only be shared with the subject of the complaint.
- 5) The complainant should be informed only that the process is completed, and whether action has or has not been taken.
- 6) All documentation must be stored as per the LMHA's document retention policy.

The following sample forms are available to assist in this process. Please refer to:

- ***Appendix C, Notification of a Decision Committee Template***
- ***Appendix D, Decision Committee Outcome (Rule Broken) Template***
- ***Appendix E, Decision Committee Outcome (Rule Not Broken) Template***



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Step 5: Due Process - The Right to Appeal

Once the Decision Committee Hearing has been completed, and the LMHA's Board of Directors has levied discipline or sanction of a specified duration, the subject of the complaint has the right to request an appeal.

An appeal will only be considered if the subject of the complaint can provide evidence that indicates:

- The LMHA's processes were not followed;
- There were facts that were not heard; and/or
- There was bias or conflict of interest by investigator or the panelists on the Decision Committee.

The appeal should be held by an Appeal Committee comprised of panelists who were not part of the original decision. The LMHA must ensure that this process is done in a timely manner, and that the entire process is documented.

The Appeal Committee

The Appeal Committee shall be comprised of 3-5 panelists (to prevent a tie vote), each of whom must be independent from the incident being reviewed **AND** the Decision Committee process. That means neither the President nor any Board members may be involved in the Appeal. In assembling the Decision Committee, the LMHA Board should keep the following in mind:

- An LMHA should create a panelist pool by identifying members at the beginning of the year to serve for term or annual basis.
- Panelists do not have to be from the LMHA's membership.

Once the Appeal Committee is formed, the panelists must determine whether the appeal request is eligible to be heard, based on the criteria listed above. The onus is on the subject of the complaint to provide information/details indicating the error(s) made by the Decision Committee or the Board of Directors that would warrant an appeal being heard.

- a. If the Appeal Committee determines the appeal **IS NOT ELIGIBLE** to be heard, based on the LMHA's policy outlining the allowable grounds for an appeal, the Committee informs the Board and the Appellant of the decision, and the rationale, in writing. It is imperative that the LMHA state clearly in its policy what is or is not eligible to be appealed. This information should also be included in the Decision Committee Outcome letter (*see Appendix D*).
- b. If the Appeal Committee determines the appeal **IS ELIGIBLE** to be heard, the Committee starts the process to schedule an Appeal hearing.

If an appeal is eligible to be heard, the Appeal Committee is responsible to:

- Notify parties and schedule a date and time for the Appeal Hearing.
- Review all information/details pertaining the complaint, the Decision Committee hearing, and the discipline and sanction decision by the Board of Directors in order to develop a clear understanding of the facts and the situation surrounding the appeal.
- If applicable, require participants to attend a pre-hearing conference, or hold a structured hearing.
- Deliberate and render a decision based on the facts presented.

The Appeal Hearing

The Appeal Committee shall utilize a hearing process with a formal structure that is outlined in advance. It is not required that the Appeal Committee observe strict legal practice, and procedural defects should not invalidate the outcome of the hearing unless a substantial wrongdoing or miscarriage of justice occurs.

1. Presentation of information/details pertinent to the complaint.
 - The Appeal Hearing will focus on the subject of the complaint presenting information/details that demonstrate how the Board of Directors or Decision Committee erred in rendering decisions on the original complaint or the



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- levying of discipline or sanction.
- Information/details may be received/presented orally or in writing. If information/details are submitted in writing, sufficient copies should be available for each panelist. This presentation may not include information/details already presented during to the Decision Committee.
 - The Appeal Committee may allow the introduction of new evidence that was not available or not introduced in the original proceeding.
 - The Appeal Committee can dismiss the appeal summarily if it is determined to be frivolous or vexatious.
2. Review of information/details by the Appeal Committee.
- Once the submission of information/details is complete, the Appeal Committee considers the evidence.
 - The Committee moves to a private setting to review the information/details presented.
3. Decision rendered by Appeal Committee.
- Decision must be supported by the majority of panelists. If necessary, the Committee chair shall vote. The Appeal Committee's decision will be one of the following:
 - a. Affirms the original decision, and rejects the appeal.
 - b. Rejects the original decision, and upholds the appeal. This decision occurs if there is a reasonable belief that in rendering the original decision by the Decision Committee or Board of Directors, one or more of the following occurred:
 - i. The LMHA's processes were not followed;
 - ii. There were facts that were not heard; and/or
 - iii. There was bias or conflict of interest by investigator or Decision Committee panelists.
4. Appeal Committee Hearing outcome is delivered to the Board of Directors and to the subject of the complaint by the Chair of the Committee. The decision must be documented in writing, including the rationale for the decision. Unless outlined in the bylaws and regulations of the LMHA, the decision of the Appeal Committee is final, and no other appeals are allowed.
- If the appeal is upheld:
 - The Appeal Committee can reverse, quash or modify the original decision, or order a new hearing.
 - The LMHA president provides the decision and rationale to the subject of the complaint.
 - If the appeal is upheld but no new hearing ordered:
 - The Board of Directors evaluates the findings and makes the appropriate changes to the original sanction.
 - The LMHA president provides the update and rationale for any changes to the subject of the complaint.
 - If the appeal is upheld, and a new hearing is ordered:
 - The process must be restarted with the Decision Committee.
 - A new set of Decision Committee panelist must be selected, who are completely independent of those involved in the original Decision, Discipline and Appeal committees.
 - The LMHA president informs the subject of the complaint of the process and timelines expected for the new Decision Committee.

For the following sample forms, see:

- **Appendix F, Notice of Appeal Form Template**
- **Appendix G, Rejection of Appeal Letter Template**
- **Appendix H, Notification of Appeal Hearing Letter Template**
- **Appendix I, Appeal Outcome Template**



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Step 6: Document Retention

Proper records and documentation must be kept.

The ongoing duty of an LMHA in conduct-related issues is to maintain proper records, and to ensure all documentation is collected and stored according to the organization's Document Retention Policy. The Document Retention Policy outlines how long records are kept, who has access to them, who can destroy them, and how they are to be destroyed.

If an LMHA does not have a Document Retention Policy, you are advised to seek legal counsel to help in developing this policy, to ensure that it meets the specific needs and requirements of your organization.

Good record-keeping:

- Establishes consistency and precedence, which improves efficiency.
- Provides support should the issue escalate further, especially legally.
- Requires security, both in terms of location and access. Ensure records are kept in a secure location and limit access to individuals with specific roles (i.e. president, vice presidents, etc).

The Board of Directors should review the details and circumstances pertaining to the entire situation - including the original complaint, Decision Committee Hearing, levy of discipline or sanction, and Appeal Hearing - and determine if there were flaws in any of the processes that jeopardize the purpose of the organization or put the organization or its participants at risk, especially if it is completely new situation or if the same situation keeps occurring.

For a summary checklist template, please see:

- ***Appendix J, Complaint Tracking Form Template***

Appendix A, Complaint Acknowledgement Form Template

(MHA Letterhead)

(Name and address of person receiving the letter)

(Date)

Via **(How this letter is being sent)**

Dear **(Person's first name)**

The purpose of this letter is to inform you that your letter of complaint submitted to **(Name of MHA)**, dated **(Date of Complaint)** regarding an incident involving **(name of individual/team named in complaint)** has been received by the **(Name of MHA)**.

As per the Association's Conduct Management Policy, your complaint will be reviewed by the Board of Directors to determine an appropriate course of action, either:

- There is sufficient reason to undertake an independent investigation that could lead to a Decision Committee hearing.
- There is not sufficient reason to indicate any further action is warranted, and closing the file.

Once a decision has been made by the Board of Directors, that outcome will be communicated to you.

Thank you.

(MHA REP)

*Hockey Canada
Investigation Guidelines for Branches
and Minor Hockey Associations*



Acknowledgements

Hockey Canada would like to extend its gratitude to the Government of the Northwest Territories (Department of Human Resources) for its permission to use their manual (developed by Anita Sākayi'kn based on a number of sources) as a foundation for this document.

Hockey Canada appreciates the work undertaken by Anita Sākayi'kn and Shaleen Woodward to adapt that original manual into a guide that is appropriate for use by Hockey Canada at all levels.



Denotes areas of the document to pay special attention to.

The following information has been broken down to assist with its use. It is important to note that these contents are only recommendations to assist you in creating your own internal investigative process.

Note that investigations can be undertaken by one or two investigators at the discretion of the branch, league or minor hockey association.

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COMMON QUESTIONS

What if an interviewee objects to the question or line of questioning?

As long as your questions are not based on discrimination or bias and are asked respectfully, you have nothing to be concerned about. Explain the purpose of the interview is to establish the facts to the best of everyone's ability. The individual has the right to choose not to respond; however, you should explain that a failure to respond may cause the investigators to draw a negative inference. Make note of such a refusal.

What if either the respondent or the complainant asks what will happen to the respondent as a result of the investigation?

Explain that your job finishes once the findings are made and the report is submitted to the Branch/Minor Hockey Association. Further explain that the Branch/Minor Hockey Association will review the report and make a decision as to any further action, based on the findings and other relevant information.

What if someone refuses to be interviewed?

A respondent has the right not to participate in an investigation, including being interviewed. However, the respondent must be advised that the investigation will proceed regardless and investigators may have to draw a negative inference as a result. Witnesses can't be compelled to participate. Make a note of any refusal to participate in an interview.

DEFINITIONS

Balance of probabilities – a legal standard which requires that a dispute be decided in favour of the party whose claim is more likely to be true.

Complainant – is the individual who has filed a formal written complaint.

Due process – is conducting an investigation in a manner that will ensure that the legal rights of the individual are protected.

Interviewees – all individuals being interviewed, including the complainant, respondent, and other witnesses.

Investigator – is anyone authorized to do an investigation?

Respondent - is the individual whom a complaint has been filed against.

INVESTIGATION MANUAL CONTACT INFORMATION

Hockey Canada Branches

BC Hockey

6671 Oldfield Rd.
Saanichton, B.C.
V8M 2A1
Telephone: 250-652-2978
Fax: 250-652-4536
www.bchockey.net

Hockey Alberta

100 College Blvd. - Box 5005, Room 2606
Red Deer, Alta.
T4N 5H5
Telephone: 403-342-6777
Fax: 403-346-4277
www.hockeyalberta.ca

Saskatchewan Hockey Association

#2-575 Park Street
Regina, Sask.
S4N 5B2
Telephone: 306-789-5101
Fax: 306-789-6112
www.sha.sk.ca

Hockey Manitoba

145 Pacific Ave.
Winnipeg, Man.
R3B 2Z6
Telephone: 204-925-5755
Fax: 204-925-5761
www.hockeymanitoba.ca

Hockey Northwestern Ontario

214 Red River Road - Suite 100
Thunder Bay, Ont.
P7B 1A6
Telephone: 807-623-1542
Fax: 807-623-0037
www.hockeyhno.com

Ontario Hockey Federation

400 Sheldon Drive - Unit 9
Cambridge, Ont.
N1T 2H9
Direct line: 226-533-9070
Main line: 226-533-9075 / 647-367-0075
Fax: 517-620-7476
www.ohf.on.ca

Hockey Eastern Ontario

Suite 201 - 813 Shefford Road
Ottawa, Ont.
K1J 8H9
Telephone: 613-224-7686
Fax: 613-224-6079
www.hockeyeasternontario.ca

Hockey Québec

7450 Boulevard - Les Galeries d'Anjou, Suite 210
Montréal, Que.
H1M 3M3
Telephone: 514-252-3079
Fax: 514-252-3158
www.hockey.qc.ca

Hockey New Brunswick

861 Woodstock Road
Fredericton, N.B.
E3B 7R7
Telephone: 506-453-0089
Fax: 506-453-0868
www.hnb.ca

Hockey P.E.I.

40 Enman Crescent
Suite 209
Charlottetown, P.E.I.
C1E 1E6
Telephone: 902-368-4334
Fax: 902-368-4337
www.hockeypei.com

Hockey Nova Scotia

7 Mellor Ave, Unit 17
Dartmouth, N.S.
B3B 0E8
Telephone: 902-454-9400
Fax: 902-454-3883
www.hockeynovascotia.ca

Hockey Newfoundland and Labrador

32 Queensway
Grand Falls-Windsor, N.L.
A2B 1J3
Telephone: 709-489-5512
Fax: 709-489-2273
www.hockeynl.ca/

Hockey North

3506 McDonald Drive
Yellowknife, N.W.T.
X1A 2H1
Phone: 867-920-2729
Fax: 867-920-2739
www.hockeynorth.ca

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INVESTIGATION PRINCIPLES

INVESTIGATION PRINCIPLES

The following principles govern every investigation:

1. Due Process

Due process means that the investigation will be carried out in a fair, impartial and just manner. This includes the fundamental rights of the person who the complaint is filed against to:

- a) be made aware of all allegations made against him/her
- b) be made aware of who made the allegation(s);
- c) be made aware of all evidence;
- d) be aware of the source(s) of the evidence; and
- e) respond to the allegation(s)

2. Standard of Proof

The standard of proof that applies in investigations is based on the principle of “on the balance of probabilities”, that is whether it is more likely than not that the allegations are true.

3. Corroboration of Events

The corroboration of various events, either by witnesses or documentation can be important. The presence or lack of corroborating evidence may be relevant in determining whether the required standard of proof has been met.

4. Credibility

Refers to the objective and subjective components that factor in to whether a witness or piece of evidence is believed. The issue of credibility of the complainants, respondent, and witnesses is significant. Depending on the circumstance, an investigator may find a witness or piece of evidence to be more credible where there are corroborated witnesses or documentation. Credibility can be a crucial factor in determining the outcome of an investigation.

5. Hearsay

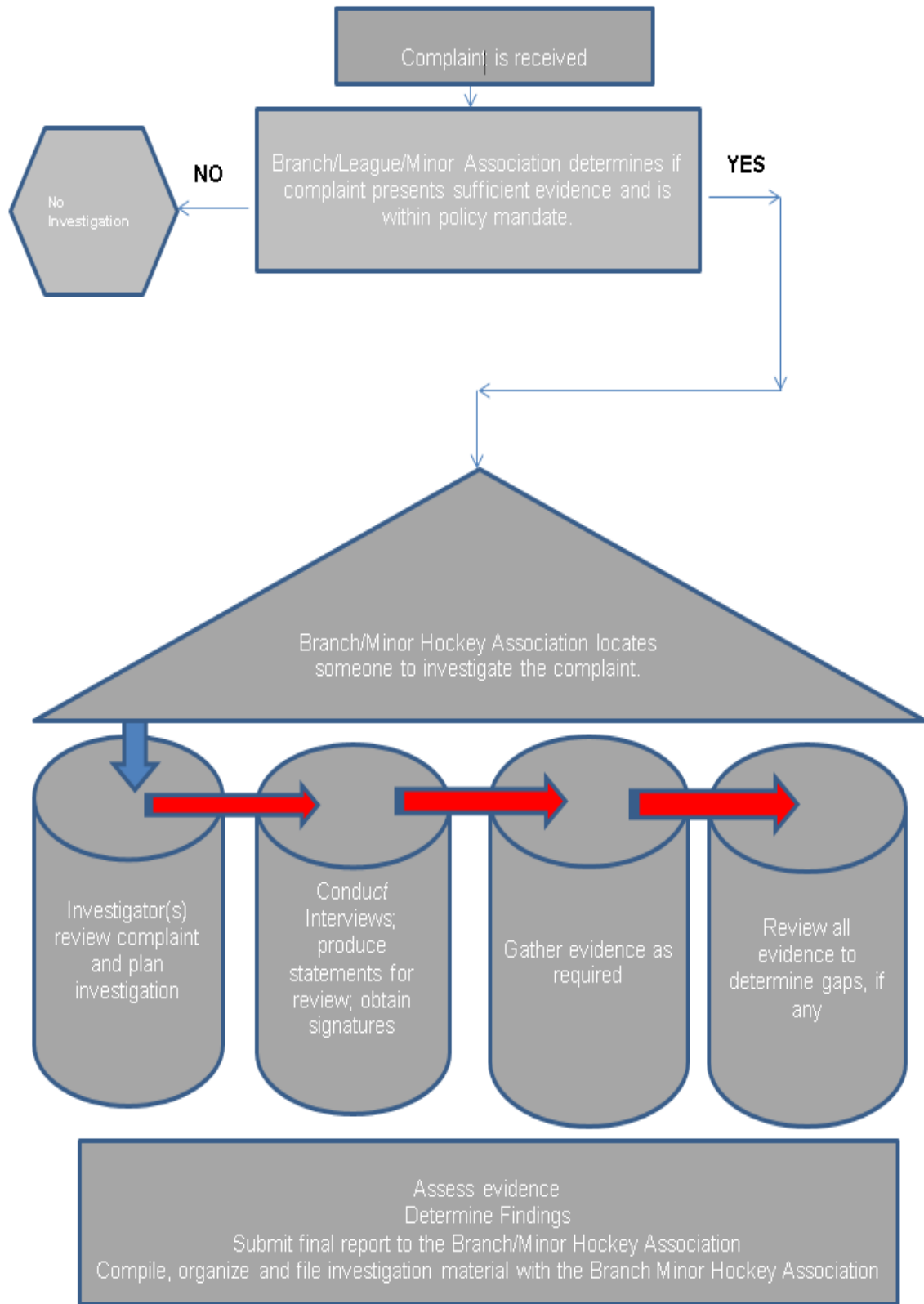
Hearsay is where the person does not have first hand knowledge – for example were told something by a mutual friend. Hearsay evidence is not allowed in investigations.

6. Reasonableness

It is necessary to consider whether or not the behaviour in question was such that a reasonable person would know or ought to have known it to be offensive and unwelcome.



INVESTIGATION FLOW CHART





INVESTIGATOR ROLES & RESPONSIBILITIES

INVESTIGATOR ROLES & RESPONSIBILITIES

Determining and substantiating facts

Your ultimate role as an investigator is to determine and report findings; this can only be done by determining if allegations are substantiated.

Ensuring rights of all parties

Investigators must ensure the rights of all parties, including:

- ***The right to representation*** – Any person being interviewed during the investigation has a right to be accompanied by a representative, including legal counsel.
- ***The right to be heard*** – Any person affected by investigation findings has the right to be heard and to fully present their case.
- ***The right to call evidence*** – The complainant and the respondent have a right to provide names of witnesses that the investigator may wish to interview or produce other evidence.
- ***The right to adequate notice*** –All reasonable steps should be taken to allow a person to be present in person at their interview and have adequate time to prepare prior to the interview occurring.
- ***The right to unbiased investigators*** – The investigator must not have a vested interest or bias in the outcome of the investigation.
- ***The right to know what is being investigated*** – The respondent has the right to full disclosure of all allegations being investigated, including the name of the complainant and a written statement containing the allegation.
- ***The right to refuse participation*** – The respondent has the right to refuse to participate in the investigation, but must be informed that the investigation will proceed without him/her and that adverse inferences may be drawn from the refusal to participate.

Gathering evidence

There are two types of evidence:

- ***Oral*** – This is the evidence gained by interviewing the complainant, respondent and all pertinent witnesses. The quality of the interviews is key to ensuring a thorough investigation.
- ***Physical*** – Physical evidence can include everything from copies of relevant documents (for example Branch policies) to doing a site visit.

Confidentiality and Completeness

Investigators are responsible for ensuring integrity, confidentiality, and thoroughness of the investigation.

Documenting

All interviews must be documented as accurately and comprehensively as possible. Interviews should be transcribed and provided for review and signature.

Communicating

If the investigation is taking longer than expected or if there are anomalies that crop up, it is your responsibility to provide this information to the Branch/Minor Hockey Association.

Seeking Advice

You may run into issues that may require advice, including legal advice. Your role is to request assistance of the Branch/Minor Hockey Association when required

Maintaining Documents

Maintain all documents including your hand written notes and interview statements. Transfer all documents to the Branch/Minor Hockey Association upon completion of the investigation.

Assessing

After all the evidence has been gathered it must be analyzed to determine whether on a balance of probability it substantiates a finding that the alleged conduct occurred. Even the best interviews are of limited value if there is an incomplete or faulty analysis of the evidence.

Reporting

The end product of the investigation is a written report outlining the investigation process used; summary of testimony and other evidence; assessment of the evidence as a whole and substantiation of findings.

You are required to submit a separate management report outlining any issues that arise regarding to unacceptable conduct discovered during the course of the investigation, but which are outside your mandate to investigate.

Managing

The Branch/Minor Hockey Association is responsible for overall management of the process. This includes everything from ensuring interviews are scheduled appropriately; to briefing the necessary Branch/Minor Hockey Association representatives; to file management. As part of the management role the Branch/Minor Hockey Association should complete an Investigation Data Sheet at the start of each investigation. A template (#1) can be found as an attachment to these guidelines.

Limitations

All investigations begin with *Terms of Reference* signed by the President of the Branch/Minor Hockey Association or designate. The Terms of Reference should be a one-page document authorizing the investigator(s) to commence an investigation. It also provides the investigation parameters and report due date. What it doesn't do is spell out what you are not authorized to do. There are, however, very clear limitations to what a **Branch/Minor Hockey Association** investigator can and can't do or say. If in doubt as to whether or not you can take a particular action, ask!

Listed below are some definite "cannots":



- *The investigator cannot* – harass someone into participating in an investigation. .
- *The investigator cannot* – take sworn testimony or use the Bible to indicate that sworn testimony is being taken. This does not preclude you from requesting that all interviewees review their statements and sign as to accuracy.
- *The investigator cannot* – force or threaten a participant into revealing information that they are not prepared to give freely.
- *The investigator cannot* – alter or withhold testimony or information provided to shape the direction or outcome of the investigation. This does not preclude you from omitting irrelevant information from your report, but be on guard that you are not “picking and choosing” what information you base your findings on.



INVESTIGATOR CRITERIA

INVESTIGATOR CRITERIA

Attitude

Two critical attitudes inherent in an effective investigator are:

- *awareness of and ability to confront and set aside one's own personal biases; and*
- *Objectivity (remains impartial throughout the investigation) including a clear understanding of whose problem the allegation is. Individuals who become personally engaged in a complaint or have a saviour mentality do not do well in the investigator role.*

Comprehensive Note Taking

Investigators must be prepared to take detailed and comprehensive notes and to compile appropriate documentation on all activities during an investigation.

Cultural Diversity

Being aware of and respectful to cultural diversity has a positive impact on the quality of the overall investigation. An investigator who has no tolerance or interest in cultural diversity may lack the objectivity necessary to perform an effective investigation.

Continuously Inquisitive

A lifelong propensity for being curious is a major asset for an investigator. This investigator is more apt to ask the less obvious, difficult, or overlooked questions. A good investigator doesn't stop questioning too soon.

Reaching Decisions

The best investigators do not reach judgements hastily. They do not make findings before the investigation is complete. It is imperative that investigators have the ability to make sound, well reasoned decisions.

Respectful to All

Investigators who are naturally respectful in their dealings with all people will have an easier time gaining the trust of interviewees. Being respectful also means conducting an investigation as quickly and efficiently as possible.

Fairness

Investigators must not waiver in their commitment to fair process and respect for individuals' rights.

Knowledge of the Policy

Investigators must not start an investigation without fully understanding the policies and procedures that exist within their Branch/Minor Hockey Association.

Familiarity with the Branch/Minor Hockey Association

It is helpful if the investigator is aware of and understands the various Branch/Minor Hockey Association policies and procedures. It is unrealistic, however, to assume that every investigator will be fully cognizant of every policy and procedure. Therefore, it is crucial that you have a short learning curve in order to fully understand all the evidentiary documents in each investigation.

Outside the Hockey Hierarchy

The investigator must be far removed from the hockey hierarchy of the parties involved. Even if you believe your judgment would not be influenced, there may be a perception of such by others, and this damages all credibility of the investigation.

Credibility

The ideal investigator will already have a reputation for being fair, respectful, honest, and a critical thinker. How you handle your investigations will have an impact on the organizations assessment of the value of the investigation process. If credibility is lost, people tend to believe the results are either pre-determined or inaccurate and will lose faith in the process.

Objectivity

You must remain objective at all times. Any real or perceived bias on your part can have a negative impact on the outcome of the investigation and/or the credibility of the investigation.

The ability to remain objective goes back to the awareness of your own personal biases and your ability to recognize such and “park them at the door.” If your biases, whether real or perceived, are such that a reasonable person would likely conclude that your ability to remain neutral has been affected, you should withdrawal from the investigation.



INVESTIGATOR ETHICS

INVESTIGATOR ETHICS

Maintaining professional ethics and personal integrity is essential to ensuring the credibility and fair outcome of the investigation. Ethics that will keep you in good standing include:

No Off-the-Record Conversations

During the course of gathering evidence for an investigation, there should be no “off the record” conversations. If the speaker thinks it is something so important that you must be aware, and you use the information to make your findings, he/she must be held accountable for it as the source, because you, as the investigator, will be.

Witness names are included in the investigation report. Knowing not only what was said but also who said it is important in ensuring due process.



Hidden agenda

It is unrealistic to think that people won't, at times, have hidden agendas, and you must be cautious of such. When a hidden agenda or possible hidden agenda is identified, it is unethical to ignore it. How you deal with the issue will depend upon the situation. If it is from one of the people interviewed, you can note such in your report.

Conflict of Interest

Due to the relatively small number of people working within hockey, it is inevitable that an investigator will at one time or another be asked to conduct an investigation in which they know one of the parties. There are two ethical questions that you must answer immediately:

- *Can I, as the investigator, separate myself from the relationship that exists and investigate in a completely fair and unbiased manner?* – If there is any doubt, you must remove yourself immediately from the investigation.
- *Will my involvement with the investigation be perceived as biased on my part?* – This is an equally important question, and if the answer is yes, then you must also remove yourself from the investigation. You are also in conflict if you provided advice about resolution options, or helped formulate the complaint.



INVESTIGATION PROCESS

INVESTIGATION PROCESS

The investigation does not begin and end with interviewing; there are steps before, after and in-between; and each step lays the foundation for making sound, reasoned findings.

Pre-Investigation

Before any investigation commences, the formal complaint is reviewed by the Branch/Minor Hockey Association to determine whether there is sufficient evidence to support moving the complaint to the investigation phase. The complaint must also be appropriate for investigation under Branch/Minor Hockey Association policies. Once this is done, an investigator is assigned.

Preparing

Prior to commencing the investigation, there is considerable preparation that must be done. If you begin the investigation without a plan, you may find yourself working very inefficiently and sometimes ineffectively.

Time Commitment

The time required to complete an investigation varies with the nature of the complaint, the location, the number and circumstances of the witnesses. Complaints should be investigated as quickly as possible.



Investigations are stressful for all participants and can result in additional tension in the organization. The sooner the findings are made and the issues are dealt with one way or another, the better. Do not commit to doing an investigation if you have vacation or other lengthy commitments scheduled.

The investigator must be willing to meet with the complainant, respondent and witnesses based on their availability. This may mean meeting after the work day or on weekends. Do not, however, be in such a rush to make findings that the investigation has gaps or the analysis is shoddy.



To make your best efforts at meeting the reporting deadline, a good technique is to work backward from the due date in planning your investigation tasks.

Review the Complaint

You are reviewing the complaint for two purposes:

- *To ascertain no conflict of interest exists.*
- *To ensure a full understanding of the exact allegations being made. This can be done at a pre-interview meeting with the complainant.*

Terms of Reference

Prior to commencing an investigation, *Terms of Reference* are drafted for signed authorization by the Branch/Minor Hockey Association. This is the document that authorizes you to do the investigation. A copy must be provided to the complainant and respondent, and one shown to each witness. Witnesses are only shown the Terms of Reference, they are not provided with a copy. The document always:

- *Identifies the complainant.*
- *Identifies the respondent.*
- *Outlines the nature of the complaint.*
- *Provides the names and positions of the person/people authorized to do the investigation.*
- *Provides the scope of the investigation.*
- *States that the investigators will make findings only. **Investigators are not authorized to make recommendations.***
- *Identifies the date the investigation report is due.*
- *Identifies the Branch/Minor Hockey Association authorizing the investigation.*
- *Identifies the **Branch/Minor Hockey Association** receiving the report and making decisions based on the findings and other relevant facts.*

A template for *Terms of Reference* can be found as Appendix #2. Throughout the investigation, you must remain attentive to these terms to ensure you are fulfilling your obligations and not overstepping your boundaries.

Review the Policy

No matter how familiar you are with the Branch/Minor Hockey Association policy, it is always a good idea to review it to refresh yourself as to its application; scope and rights and responsibilities.

Contact the Complainant

As soon as is feasible, contact the complainant and inform her/him of your authorization to proceed with the investigation; speak to confidentiality issues; and schedule a pre-interview meeting.

Contact the Respondent

As soon as possible after contacting the complainant, and before any witnesses are contacted, you must contact the respondent and schedule a pre-interview meeting. During this contact, tell the respondent what the nature of the complaint is; who made it;

speak to confidentiality issues; tell the respondent how to access the applicable policy on-line or arrange to provide a copy; and provide a copy of the signed, written complaint.

Meeting Space

You need to plan for a private meeting room to conduct the interviews and ensure you have supplies such as tissue, stapler, pens etc. on hand. An interview room and supplies checklist can be found in Appendix #3.

Evidence Plan

This is a living plan that will evolve over the course of the investigation and is two-fold. You need two evidence plans:

- *A physical evidence plan* - In most investigations, a major percentage of your physical evidence will be documents. A template for document tracking can be found as Appendix 4. Remember, this list may expand as interviews progress. Likewise, you may initially gather documents that you later find are irrelevant to the investigation; however, you still must track and include them in the final file that gets forwarded to the Branch/Minor Hockey Association.




Other types of physical evidence include such things as site visits. There is more information about site visits elsewhere in this guide.

- *An interview plan* – This plan consists of who to interview, when and where to interview and what to ask. The complainant is always the first person interviewed, generally followed by the respondent, followed by witnesses. There may be times when it is more productive to speak to witnesses before speaking to the respondent.




- This list, too, may expand as the investigation proceeds. You must interview any witness identified by the complainant or respondent who has direct evidence; but you may also independently identify witnesses to interview. Although you should try as much as possible to interview each person only once, on occasion, there is need for a follow-up interview. The section on interviews speaks more specifically to planning the interview questions.

Special Considerations

-  **No two investigations are alike; there is something unique about each one.** Keep this in mind and remember that you may also need to plan for interpreters; give consideration to speaking to the Branch/Minor Hockey Association about separating the complainant and respondent during the investigation if there are safety concerns; and you are interviewing them in the same location within a short period of time or other unusual circumstances.

Conducting Complainant and Respondent Pre-Interview Meetings

Complainant – *Ideally this interview should be held in person. However, if the complainant lives in a different community the pre-interview can be held over the phone.*

-  At the initial pre-interview meeting, the complainant may display a number of emotions from stress to anger. To be prepared, ensure you have the meeting in a private location, and keep this list handy to ensure you don't forget any of the issues that need to be discussed.
- *Explain the investigation process* including ensuring the complainant has a copy of the applicable policy and responding to questions around the policy and investigation process.
- *Explore the possibility of mediation* – ensure the complainant is aware of mediation as an option.
- *Explain the complainant's right to be accompanied by someone during all interviews* – including a lawyer. Explain the purpose of the representative is not to provide answers or speak on behalf of the complainant, but to provide support only.
- *Ensure the complainant's understanding that the respondent has the right to a copy of the complaint* – including the specific allegations it contains and the name of the complainant. Explain that any witnesses being interviewed may be provided with information about the complaint for context purposes.
- *Explain confidentiality obligations and limitations* – including a reminder that the complainant must talk to no one, including witnesses, about his/her complaint; specific allegations; the investigation; the evidence; or any questions asked during the investigation. Explain possible consequences of breaching this confidentiality covers a range listed below:
 - Verbal apology
 - Written apology
 - Letter of reprimand from the organization

- Referral to counseling
- Removal of certain privileges of membership or employment
- Prohibition from taking on volunteer positions within Hockey Canada
- Demotion or pay cut
- Temporary suspension with or without pay
- Termination of employment or contract
- Expulsion from membership
- Any other sanction which the Panel considers appropriate

The complainant must also be advised of the limitations of the confidentiality they can expect from the investigators and other parties. This includes the legal obligation to comply with a request to turn over all investigation material to a court.

- *Clarify the allegations in the complaint* – including dates, times, and locations alleged incidents occurred. If any part of the complaint is unclear, you must clarify it before presenting the complaint to the respondent. **Terms of Reference should not be finalized until you are crystal clear on what the allegation is.**
- *Obtain names and contact numbers of witnesses* – If possible, obtain work number, email address, fax number, and home number. It will be important to clarify whether witnesses may be contacted in their workplace, as well as whether documents can be securely faxed to them at work.
- *Show the complainant a copy of Terms of Reference and Letter of Authorization from the Minor Hockey Association* – It is important the respondent is aware of your authorization to do the investigation. He/she will also want to know what the parameters of the investigation are.

Respondent – *Ideally this should be held in person. However, if the respondent lives in a different community the pre-interview can be held over the phone.* At the initial pre-interview meeting, the respondent may display a number of emotions from disbelief to anger. To be prepared, ensure you have the meeting in a private location, and keep this list handy to ensure you don't forget any of the issues that need to be discussed.

- *Provide the respondent with a signed written copy of the statement of complaint* – Allow him/her time to review and absorb the material.
- *Ensure respondent is aware he/she has a right to respond to the allegation(s) in writing* prior to the interview.
- *Explain the investigation process* – Ensure the respondent has a copy of the policy and respond to questions around the policy and investigation process.
- *Explain the right to be accompanied by someone during all interviews* – This can include a lawyer. Explain the purpose of the representative is not to provide answers or speak on behalf of the respondent, but to provide support only.

- *Explain confidentiality obligations and limitations* – The expectation is that the respondent will talk to no one about the complaint; specific allegations; the investigation; or any questions asked during the investigation. This includes no discussions with witnesses in regards to any aspect of the complaint or investigation. Explain possible consequences of breaching this confidentiality.

The respondent must also be made aware of the limitations of the confidentiality they can expect from the investigators and other parties.

- *Obtain names and contact numbers of witnesses and show them a copy of the Terms of Reference* – If possible, obtain work number, email address, fax number, and home number. It will be important to clarify whether witnesses can be contacted at their workplace.
- *Show them a copy of Terms of Reference and Letter of Authorization from the Minor Hockey Association* – It is important the respondent is aware of your authorization to do the investigation. He/she will also want to know what the parameters of the investigation are.

Allow enough time between this pre interview contact and the interview for the respondent to absorb the information in the complaint; prepare a written response and arrange for representation if he/she wishes.



Interviewing

The quality of your interview is dependent upon:

- *Well-formed questions* - If you don't ask the right questions of the right persons, your interview will be flawed from the beginning.
- *Interview techniques* – Interviews are more than just asking questions, they require the use of techniques such as paraphrasing, probing, reflecting, and attentive listening.
- *Expect the unexpected* - A good interviewer must be able to “think on one's feet”. The interview process starts with a plan that includes the initial questions to ask the interviewees. However, as the interview progresses, you may decide to delete questions because they turn out to be irrelevant; and you will most certainly add questions as the various pictures develop.

The Plan


Before initiating any interviews, you should have a well-formed plan. The plan includes:

-  *A witness list (which is a living document and may grow as the investigation proceeds) and interview schedule* - A template for maintaining an orderly list of interviewees; their contact numbers; and date, time, and location of interview can be found as Appendix #5.
-  *The order of interviews* - Start with the complainant, followed by the respondent. If the interviews will be conducted in the same location, do not schedule these so close together that there is the risk of them running into each other; this would be uncomfortable for both parties and only adds unnecessary stress.

In rare circumstances it may be beneficial to interview one or more witnesses before interviewing the respondent. You will need to make this assessment yourself after interviewing the complainant.

The order you interview your witnesses in will, in part, be dependent on their availability. Sometimes you may want to interview all of the complainant's witnesses, then all the respondent's witnesses. At other times, you will find they both identify the same witnesses. You may want to interview them in chronological order of the alleged incidents. Schedule enough time between witness interviews to ensure they do not see each other.

In general, everyone is interviewed only once even if they are named as witnesses by both parties. On occasion, because of something that has been said during another interview, you may want to call an interviewee back a second time; or if you discover gaps after the interview, you may need to do a follow up interview.

-  *The initial questions you will ask each interviewee* - These usually start with the basic: Who said or did what? When? Where? How? and Why? The interview will naturally progress to more specific questions. During your initial interviews, you may want to start by asking your complainant and respondent to speak to the allegations and then move to more detailed questions.


The questions formulated in your investigation plan are only a guide. It is far more important for you to respond quickly in terms of formulating questions as information comes to light during the course of the investigation. **It may happen that new information puts a new or different slant on the situation and you will have to adapt or add questions accordingly.**

Don't fall into the trap of thinking something said was relatively minor and, in the interest of not doing a second interview, put the comment or issue aside. It may come back to haunt you. Remember your interview is only as good as your questions and the techniques you use.

The Questions

Formulating investigative interview questions is both an art and a science. No guide can provide you with exactly what questions to ask because each investigation has its own set of allegations, facts, and players. However, there are some common approaches that will help you in all investigations.

- *Start with the basics* – What? Where? When? Why? How? and Who? Ask the interviewees to describe the incident, and then follow up with clarification, probing, para-phrasing, and filling in the gap questions.
- *Use precise language* - Too often, we get caught up in semantics; what one word means to one person may mean something entirely different to another. For example, it is important when you hear words like immediately, sometimes, often, and usually, that you clarify specifically what the interviewee's definition of the word or term is.
- *Break questions into logical sequences* – In complex or multi-allegation complaints, it helps to break the questions into logical sequences, perhaps chronologically or by incident, and then number your questions accordingly. This will help during the assessment stage when you want to cross-reference interviewee statements by incident or allegation.
- *Start with the least controversial or emotional allegation* – In instances of multi or complex allegations, it is sometimes better to begin asking questions in regards to the least controversial or emotional allegations or incidents and then progress to the more difficult ones.
- *When an interviewee states something to be true* – Ask how they know it to be true. Don't take statements at face value until you have fully explored them.
- *Ask the obvious* – **don't make assumptions.**
- *Probe until you are sure you have all the facts* – Be careful not to cross what can sometimes be a fine line and end up intimidating or harassing the interviewee. In many cases, you can phrase your probing questioning or re-questioning by stating "I want to make sure I have a full understanding..." or "Did you say...." or "For my clarification, could you repeat that."
- *Several small concise questions* – Small concise questions generally elicit more information than one long convoluted question.

-  *Don't preface all your questions* – This is an individual decision you will need to make with each question and each interviewee. In some instances, much can be learned by asking a question without putting it into context. In others, not putting the question into context may elicit a less than accurate response.
- *Ask for facts, not opinions* – Both sides, including many witnesses, will have strong opinions. It is easy to get caught up in the emotion of the interviewees. You won't err by sticking to asking factual questions and not soliciting opinions.
- *Break-point questions* – These are questions that depending on the answer, you will either stop or proceed with that line of questioning. For example: If you ask “Were you present during the physical altercation between Jane and Judy?” and the witness response is “No”, that would be a natural stop point. However, if the response was “Yes”, then you would proceed with asking for more details.
- *Critical questions* – Don't get so caught up in the investigation process that you forget to ask the respondent the critical question of “Did you do what has been alleged?” If the respondent affirms such, it will end your investigation without having to call witnesses.¹
- *Establishing chronology* – It is always important to establish chronology of events. This line of questioning can also assist in identifying gaps and contradictions. Establishing chronology includes asking questions about the sequence of the incidents and pre and post incident events or actions.
- **Don't fall into the trap** – of coaching or filling in the blanks for the interviewee. Remember, you are there to ask the questions. The interviewee is there to answer in his/her own way.
- *Hearsay* – This is not evidence and cannot be introduced at a formal court hearing. However, hearsay evidence can point you in the right direction as to whom you should be questioning.


Interview Strategies


There are many communication tips and techniques to use accordingly during investigative interviews. They assist you in clarifying and confirming information; facilitating the process; and detecting contradictions and gaps.

- *Reframing* – This is a technique in which you ask the same question in a different way. Reframing can be used to ensure the interviewee understands the question. It can also be used as a technique in which you ask a question early in the interview and then reframe it later on to see if it elicits a different response. If

¹ The exception being if the respondent cites mitigating or aggravated circumstances. In order to gauge the gravity of your findings you may need to interview witnesses.

it elicits a different response, this could indicate a credibility problem and you may want to explore further.

- *Paraphrasing* – To paraphrase is to re-state an interviewee's response using different words to clarify and confirm understanding of what the interviewee intended the statement to mean.
- *Echoing* – Repeating what was just said to generate a reaction or further development of the statement is a technique called echoing.
- *Respecting Silence* – People need time to think about the question you have posed, respect the silence while they are thinking.
- *What else can you tell me?* – Often this short, simple question elicits extensive information.
- *Be attentive to your communication style* – People have different reactions to communication styles. Be attentive that your tone, volume, or style of speaking is not irritating the person you are interviewing; this will not be helpful in eliciting full and accurate responses. You also need to be attentive that the words you are using to acknowledge responses are neutral and that there is nothing about your body language that may be offensive. Never appear shocked by anything that is said.
-  *If there is more than one investigator, switch investigators as questioners*
Prior to the start of the interviews, you will decide who is going to do the interviewing; it may be just one of the investigators, or you may want to choose different interviewees for each investigator to take the lead on questioning. Having a plan doesn't mean you have to stick to it; you may find once you are in the interview that the interviewee relates better and is more open with one of you, in which case, that person should take over the lead. When one investigator is leading, it does not preclude the other investigator from asking questions.
- *Pregnant Pause* – Do not be too quick to ask a question on the heels of a response. Sometimes, the longer the pause, the more information will be elicited.
- *Setting the tone* – This is something you are responsible for at the beginning of the interview. This is done by reviewing the purpose of the interview, being respectful; telling the interviewee to let you know if they desire a break or need you to re-phrase a question at any time; acknowledging any representatives present and their role; and listening attentively.

-  Remain calm and do not get caught up in the emotion of the interviewees or allow yourself to be provoked. At the same time, do not be fearful of confrontation, be prepared to ask the tough follow-up questions. Remember you are in the lead, but how you lead will impact the quality of the interview. **Leading does not mean you do most of the talking, if you find this occurring then something has gone awry with the questioning process.**
- *Verifying* – It is always better to err on the side of verifying critical information by saying something like “Earlier you said...., am I correct” than to realize later on that you are not exactly certain what the person said or meant.
- *Contextualize* – Ask for information about the context so you can make a more reasoned judgment about the gravity of the incident.
- *Controlled Rambling* – Almost invariably, at least one interviewee will rapidly jump from point to point when asked to describe an incident. Don’t be too quick to control this, if they are stopped too soon, you risk missing information. Allow them to ramble, taking notes as normal and review the notes to see if there are areas that were missed or that you want to pursue further. Remember, that just as the interviewees can request a break at any time, the investigators can also decide when a break is needed. From time to time, you may need to do this to organize your line of questioning.
- *Describing the Incident* – Instead of beginning your line of questioning in regards to an incident by describing it in detail, ask the interviewee to describe it for you. This way, you are not putting words in their mouth or giving them a frame of reference to build on. If you describe the incident, it can result in the interviewee telling you what they think you want to hear as opposed to their view of the actual events. Once the interviewee has described the incidents, you can fill in the gaps by asking detailed questions such as date, time etc.
- *Approaching difficult or reluctant interviewees* - At some time as an investigator you will be faced with this. There is no one “best” response other than be prepared. Prior to the interview, give some thought to how you might react if someone starts yelling, becomes hysterical, or walks out.

The key in dealing with aggressive responses during an interview is to not take it personally. For most of the participants, this is a stressful and, to some, threatening process. Anger is generally a manifestation of their anxiety. This is not to say that out-of-control behaviours should be tolerated. As an Investigator, you are responsible for setting and maintaining ground rules for the behaviour of all parties during the process.

Remember, if you are faced with excessive behaviour, you can always call a break time to consult with your co-investigator or the staff Investigator and to allow the interviewee to get their emotions under control.

Handling Evasive Responses

The key to dealing with evasive responses is being able to recognize red-flag words, phrases, and responses. Recognizing them should set off warning bells telling you to probe deeper. It may also assist you later in the analysis stage in assessing credibility. Responding with these words and phrases does not always mean someone is trying to be evasive or that their credibility is in question. You always need to look at the context of the responses and the overall interview.

Here are some red-flag responses, phrases and words to be aware of:

- *Parroting* – Using the identical words as in the question. When people do this, they are sometimes trying to avoid telling you all they know or are not being truthful in what they know.
- *Not to the best of my knowledge* – Adding or answering with “Not to the best of my knowledge” is a technique that people often use when they want to temper their statement. If you think they are being purposely evasive, try reframing the question later in the interview. This phrase is something that an interviewee might use if they suspect there is truth to an allegation but have no direct knowledge. Don’t assume a credibility issue just because this is the response you receive. You must assess it in the context of the entire situation.
- *At this time* – If someone states “That is all I can remember at this time”, it may be a technique they are using just in case they are re-interviewed and feel the pressure to be more forthcoming in the next interview. You may want to try reframing at a later point in the interview.
- *I believe* – There are some people who will state “I believe it occurred” because he/she is the type of person who always second guesses themselves or has to be 101% certain. At the same time, using the phrase “I believe” may be an evasive response.
- *Premature closing* – Watch for interviewees who end their response with phrases like “I can only say this”; “Is that what you wanted to know?”; “That’s basically it”. These people may have a tendency to only give you as little information as need be, and you will need to use probing and other techniques to draw more information from them.
- *Use of “kind of” and “sort of”*- If an interviewee responds with “I kind of did...” or “I sort of did...” they really haven’t fully answered your question and have neither

fully affirmed nor denied. Statements such as this will need to be followed-up with further direct questioning.

- *Using the third person* – Be attentive to statements such as “They did....” or “Somebody...” These always need to be followed-up with “Who is they?” and “When you say somebody, who are you referring to?”
- *Personalizing* – Be wary of the respondent that over states his/her innocence or answers questions with personal kudos by making statements such as “Why would I lie?”; “Only a fool would do that”; “I came here to tell the truth”, “I can’t imagine doing that” Generally speaking, this is not the way someone denies an allegation or states their innocence.
- *Avoiding “I”* – Watch for the respondent who shies away from saying “I went...” “I did...” etc. and substitutes the word “we”. Be sure to ask who he/she is referring to if the word “we” is used in a response.
- *Omissions* – Using phrases such as “Next thing I knew...” may mean the interviewee is purposely omitting something. This presents a gap that needs to be completed in with more detail.
- *Non-answers* – An evasive technique that interviewees use both consciously and unconsciously is to talk and talk but never actually answer the question posed. Repeat and/or reframe the question until you get a response.
- *Answering a different question* – Much like non-answers, this is a technique in which you ask one question and a different question is answered. Often this is very subtle; for example, if you ask “Did you ever yell at Mary?”, and the answer is “I really respect how Mary plays for me.” The question posed has not been answered. It may be that the respondent respects Mary’s playing style and has never yelled at her. On the other hand, the respondent may have yelled at Mary and is trying to deflect the question.
- *Delaying* – Often when someone responds “That’s hard to say” or “That’s a tough question”, they are being genuine. In some contexts, however, he/she may be trying to avoid the question.
- *Refusing to answer* – An interviewee can refuse to answer a question, but it does not bode well for their credibility. Likewise, if someone responds with “I won’t dignify that with an answer”, it may mean they have something to hide. Unless your question is biased or unreasonable, there should be no reason for someone not to reply.
- *Red-flag words* – Other words and phrases that can be red-flags when used in certain contexts are:

- I don't "exactly" recall. When you receive a response like this, you need to probe further to find out what the interviewee does recall exactly.
- I was never "formally told". If this is a response you are given, you need to find out what the person means by this statement. Chances are they knew but are trying to wiggle out with the use of semantics.

Opening and Closing the Interview

Throughout the interview, your role includes that of facilitator. **You are establishing the tone of the interview in your first few moments.** You can begin to establish trust between yourself and the interviewee by using common courtesies:

- *Take the time up-front* - to thank your interviewee for coming; ensuring they know where restroom facilities etc. are located; and advising them they can take a break at any time.
- *Don't begin the interview* - without re-stating the purpose and terms of the investigation.
- *If an interviewee brings a representative* - clarify that they understand their role to be that of support but not to represent or speak for the person they are representing. This can and must be done in a tactful, non-confrontational manner.

End your interview by explaining that on occasion you have to call someone back to clarify issues or ask additional questions. You also need to:

- *Ensure* - you have all necessary contact numbers.
- *Explain to the complainant and respondent* - what your next steps will be; and ensure they are aware that your final product is a report to the Branch/Minor Hockey Association containing your findings.
- *Ask each interviewee* - if they have any further questions and give them your contact information.
- *Remind the interviewee and representative* – that confidentiality is expected and they are not to share anything that was discussed including any of the questions asked.
- *Thank each interviewee* – for taking the time out of their busy day to meet with you.

Taking Notes

The investigator(s) must take notes documenting what each interviewee says during the course of the interview. You may not voice or video record the interviews. If you are not able to take verbatim notes, you may have developed your own shorthand and shortcuts or will learn quickly. It is acceptable to use a laptop computer to take notes as long as you are vigilant about dating and identifying who took the notes and when they were taken.



- *One useful approach* - is to have your initial questions numbered and when taking down the responses, just identify the response with the corresponding numbers.
- *Be vigilant about* - differentiating quotes from paraphrasing.
- *At the top of each page* - place interviewee's name, date of interview, and page number. This will be a lifesaver if you ever get your interview notes mixed up.
- *Keep a stapler handy* – stapling the pages of each interview, immediately afterwards helps keep you organized.

Signed Statements

As soon as possible after each interview, an investigator gathers all the handwritten and/or laptop notes from the interview and word-processes them into a statement of testimony. Do not include irrelevant statements, but be careful that you don't find yourself picking and choosing. It is better to err and include something than to leave it out. This word-processed statement is what you are going to provide the interviewee to review, sign, and date as their official statement. If you leave something that was said out of a signed statement, you will not be able to use it later when making your findings. **Be careful that you don't unconsciously edit the statement to fit your personal theory.**

Once you have completed word-processing the statement, you:

- *Phone* - the interviewee to arrange for him/her to review the word-processed statement for accuracy. If you have the capability of sending the statement to a secure e-mail address in PDF format this too is acceptable.
- *Explain* - if after reviewing the statement, he/she agrees that you have summarized the interview accurately, it must be signed, dated and returned to you. This will be the official record of the interview.
- *Further explain* - if inaccuracies are found, he/she can strike out the inaccuracy, make the correction and initial it.

Gathering Physical Evidence

Prior to and in-between interviews, you will also be gathering physical evidence as required.

- *In every investigation* – You need to ensure you have the most recent policies and procedures of the organization.
- *Other documents* - Each investigation requires its own set of physical evidence. For example, you may need to gather policies, procedures, written complaint forms, photos, game sheets, etc.
- *Logging and tracking paper evidence* – This task is critical. This includes all your personal notes, messages etc. Lost documents do not bode well for the credibility of the investigation.
- *Site visit* - A common pitfall for investigators is not doing a site visit where appropriate. The best floor plans or descriptions cannot substitute for a site visit by the investigator(s). Never trust that an interviewee's description of the site where the alleged behaviour happened is accurate. You should verify the description, preferably by doing a site visit.



Dependent on the context of the allegation, you may even want to visit the site at different times of the day or on various days of the week. Not all investigations require a site visit; for those that do, try your best to make this happen; and remember to carefully document the details of your visit. This includes noting measurements, lighting, doors, windows, security cameras, accessibility, and offices etc. in the near vicinity. You can also take pictures or sketch diagrams to verify layout and location of rooms.

The key reason for doing a site visit is to determine whether the action could have occurred at the location and in the way it was alleged to have occurred.

Analysis

Once all of your interviews are complete and your physical evidence gathered, the next task is to assess the evidence that will form the basis of your findings. Don't start your assessment pre-maturely. Evidence should be assessed only after it is all gathered. Keep your investigation materials and evidence organized throughout; this will make the assessment task less daunting.

Getting Started

Begin the assessment process by separately reviewing all of your witness statements, and cross-referencing them with each other. Appendix 6 is a Witness Cross-Reference Chart, which may help you organize your material. This assists you in identifying gaps, congruencies and inconsistencies in the statements. If gaps are identified, you may need to re-interview some of your interviewees.

You also need to review all your physical evidence to identify gaps, congruencies, and inconsistencies with the statements and allegations.

Evidence Testing

This is a critical step in the investigation. In cases where you have two investigators, you may want to approach it by having each investigator do their own analysis and then meet to compare and discuss and do further analysis. By using this approach, you receive the benefit of two independent insights and assessments.

If you are nearing the investigation report due date, it is better to ask for an extension than to do a hurried analysis and risk overlooking a critical piece of “the puzzle”. Don’t let a sense of urgency impair your analysis.

The key question in your analysis will be how to assess the likelihood that the alleged activities occurred. The civil standard for proof is on a balance of probabilities. This standard is one of the basic principles of any hockey investigation. It means that when you look at the evidence and you assess it, if it is more likely that it did occur than that it did not occur, then you have met the standard of “on a balance of probability”. This is very different from a criminal standard of proof that requires you to believe “beyond a reasonable doubt”.

The issue of credibility of all interviewees is also relevant. There are instances where complainants may not have corroborating witnesses or documentation. In such instances, credibility, or believability of those who have been interviewed, may be a crucial factor in assessing the merits of the complaint. Credibility is more than just the appearance of sincerity or believability; there are other elements to be factored in. Some questions to answer when determining credibility include:

- Did the interviewee have opportunities to gain the knowledge they claim to have?
- Does the interviewee have a vested interest in the outcome of the investigation?
- Can the information provided be independently verified by any other means?
- Is there any apparent motive to misrepresent information?
- What was the source of the witness? Investigator identified? Complainant referred? Respondent referred?
- Is the information provided in a signed statement?
- Does the interviewee contradict himself or herself during the course of the interview?



There are other tests, described below, to assist you in assessing the evidence in the context of the allegation. Be aware, however, that no single test of evidence should be the sole basis for making a finding. Each piece of evidence is weighted against the entire body of evidence.

- *Fact versus perception* –When reviewing the oral evidence, check carefully to ensure the interviewee was sharing what they believed to be fact versus their perception. Be aware of any perceptions you may have based on your particular mind-set or value system.
- *Search for motive* – Establishing motive is not necessary. However, if a clear motive for substantiated actions can be identified, it serves as a good test of your findings.
- *Search for self-interest* – The complainant, respondent, and some witnesses, due to the nature of the environment, may have a self-interest in the outcome of the investigation. Don't lose sight of this during any part of the investigation.
- *Face-saving* – There are people who, if given the choice, will tell a story to save face or make themselves look good rather than admit to a mistake or error in judgment. Be aware of this.
- *Corroboration and verification* – The assertions of one party over another cannot be accepted as fact simply because they say so. Most often, you will not be able to corroborate every statement that is made during an investigation, or verify it through physical evidence such as checking logbooks, timesheets etc. This is, however, your goal. For every piece of evidence, ask yourself “Was this corroborated?” If so, “By whom?” “How credible is the person providing corroboration?” If a statement is corroborated by physical evidence, ask yourself “Is this evidence really what it seems?” “Is there any other evidence to verify or corroborate this?”
- *Congruency* - The test of congruency is important. Ask yourself “Is the oral testimony consistent with the physical evidence?” Could the behaviour/action actually have happened in the manner described, given the physical evidence?
- *Relevance* – In most investigations, there is an abundance of evidence, making it difficult at times to “see the forest for the trees”. This is where testing the relevance of the evidence will help. Ask yourself if the evidence proves or disproves the allegation, or is it actually irrelevant to the allegations.

Another test of relevance is being aware of the pitfall of what is called the Halo Effect. An example of the Halo Effect is just because everyone testified how nice the respondent is, does not automatically mean the allegations are unsubstantiated.

- *People Charts* – People charts include the organization structure and the analysis of formal and informal power structures and what impact these dynamics had. Due to the relatively small size of some Minor hockey Associations, you may also need to do a chart of familial and personal relationships..
- *Collusion* – One of the reasons confidentiality is stressed early on in the process, is to deter collusion amongst the witnesses. This is not always possible. Collusion can happen in any environment. However, it is more prevalent in environments that rely heavily on teamwork. If too many statements are identical in details and words, you may have a situation of collusion, and should take this into account during your analysis.
- *Red-flags* – These are the same red-flag words, phrases and statements that you were aware of during questioning.



Reasoning Gone Wrong

- *Emotion* – Showing emotion or lack of, is not significant. People react to situations differently. For example, people cry for many reasons, such as: sadness; depression; anger; inability to be in control; happiness; and stress. Do not get caught up in trying to analyze emotions or your assessment may be flawed.
- *Mistaken cause and effect* – This occurs when you link an unwarranted cause and effect relationship between events or conditions that happen to exist at the same time. For example, at its simplest, the following is a mistaken cause and effect: Every time it rains I fall walking home. The rain is causing me to fall. The error here is that a causal conclusion is being drawn from insufficient evidence.
- *Inadequate sample* – If you err in interviewing not enough witnesses or the wrong witnesses, it can lead you to faulty conclusions. If a witness provides you with the names of eight witnesses, interview them all. If you think someone besides the persons who have been named by the complainant and respondent can corroborate the complainant or respondent statements, interview that person.
- *Doesn't fit with my finding* – If you have a finding, but one piece of evidence just doesn't fit, don't disregard the piece of evidence. It may be that your finding is incorrect and the piece of evidence was critical. In other words, you can't pick and choose what evidence you use in making your findings. Be careful, it is easy to do this without consciously making the decision to do so.
- *Interviewer bias* – As stated earlier in this guide, you must “park your biases at the door”. A good test, after the analysis is complete and before you submit your report, is to compare your personal biases against the findings to ensure they did not creep in and colour the investigation or findings in any way.

- *Filling in the blanks* – Check your evidence to ensure that what you were assessing was either true physical evidence or evidence supplied by an interviewee, and that you did not inadvertently fill in any blanks yourself.
- *Assumptions* - Do not make assumptions, they almost always come back to haunt an investigator. **All is not always what it seems!**
- *Faulty Analysis* – At its simplest, this is when you add two plus two and come up with five.

Critical Assessment Questions

After you have done a thorough analysis of all your evidence, there are three final, critical questions that need to be answered before you can arrive at your findings:

- *Did it occur?* – Did the alleged actions/behaviour occur as described?
- *Reasonableness?* – Would a reasonable person know, or ought to know, that the action/behaviour was unacceptable in the hockey environment?
- *Does the action/behaviour fit the policy's scope?* – While you may have found that the behaviour occurred and was unacceptable, you have one final test and that is to ensure it fits within the scope of the policy. This is usually discovered prior to a formal investigation, but on occasion, you may find that once you have all the facts, the behaviour was such that it does not fit within the scope of the policy.

Findings

For each allegation that was made, you have a choice of one of four findings:

- *Substantiated* – A substantiated allegation is one that you have, by a preponderance of evidence, found to be true.
- *Unsubstantiated* – An unsubstantiated allegation is one that, by a preponderance of evidence, is unfounded. On occasion, an unsubstantiated allegation is one that does not fit within the mandate of the policy.
- *Frivolous or Vexatious* - A frivolous or vexatious allegation is one that is found to be petty or trivial. Seldom will a frivolous or vexatious complaint get as far as the formal investigation stage, but it may occur.
- *Malicious* - A malicious allegation is one that is found to be purposely made without justification and with ill will against a person.

An unsubstantiated finding does not mean that the allegation was necessarily either frivolous or malicious. Remember, complainants may have their own perception of events. It can mean that there was simply insufficient evidence to conclude on a balance of probabilities that an allegation is true.

If the allegation was unsubstantiated but issues were identified, the issues must be brought to the attention of the Branch/Minor Hockey Association by means of a separate report.

Reporting

Investigation Report - The report's sole purpose is to present the findings of the investigation to the Branch/Minor hockey Association in such a way that he/she can fully understand how you have reached your conclusions. The report should be written in a clear, concise manner using plain English. It should contain enough information for any reader to follow the investigation through to its logical conclusion. The reader should be able to easily understand the logic used; how the evidence was established and evaluated; and how the investigators came to their findings. If the report does not do this, then it is flawed and leaves the investigation open to dispute.

The report outlines the investigation process used; summary of testimony; and substantiation of findings based on your comprehensive evidence gathering and analysis.

After initially identifying the complainant, he/she is then referred to as the complainant throughout the report. The same goes for the respondent.

Before starting to draft your report ask:

- *Why am I writing this report?* – In other words, what purpose is it intended to serve and how will it be used? The report is your written summary of the investigation, your analysis and findings. The report will be used by the Branch/Minor Hockey Association to determine further action based on the findings and other relevant information. The Branch/Minor Hockey Association must be able to follow your report through to the findings and end up with a clear picture of how the investigation was done; what evidence was uncovered; how you came to your findings; and what the findings are. The Branch/Minor Hockey Association must have a comfort level that the findings are sound and were made according to due process. The report paints the picture for the Branch/Minor Hockey Association who was not a part of the investigation.
- *Who am I writing the report for?* – The simplistic answer is the Branch/Minor Hockey Association. In reality, more people than the Branch/Minor Hockey Association President and/or Executive Director may read the report. The Branch/Minor Hockey Association upon reviewing the report, only has to provide the findings to the complainant and respondent. This is usually done verbally, followed up by a letter. However, the Branch/Minor Hockey Association has the right to choose to share the entire report with both parties. There are instances when it may be in the Association's best interest to share the report. .

If disciplinary action occurs as a result of the report findings and the matter then goes to a civil court, the courts are entitled not only to a copy of the entire report but to full disclosure of all information, including but not limited to names of witnesses, interview statements, and your hand-written notes.

A report template is found as Appendix 7. Remember, this is only a template and with more complex or multi-complainant or respondent investigations, you will want to tailor it to meet the needs of the situation.



Three common mistakes investigators make when writing the report are:

- *Providing too much information* - After writing your draft, check to see that you haven't included information that is irrelevant and has no bearing on the findings.
- *Leaving out critical information* – Review your report to ensure that you have included all pertinent information; in other words, the road map to determining the findings. It is the critical piece of information not included in the report that others reading it will detect and may use to question the logic and objectivity of your findings.
- *Not starting to write the report until the investigation is complete* - While it is true that under no circumstances should you be making your findings before the investigation is complete, this does not preclude you from starting to draft the front pieces of your report, including interview summaries. It can feel overwhelming if you leave writing the entire report until the end. You also risk forgetting to include a critical piece of evidence if you don't start drafting the report as soon as possible.

Management report - During the course of an interview, other issues may surface that do not fit within the mandate of the policy or the *Terms of Reference*, but which the Branch/Minor Hockey Association should be made aware of. There may be a range of issues, such as inappropriate conduct, unethical or illegal practices; and poor coaching issues. You do not have the authority to investigate these issues if they are outside your terms of reference; however, you must note and report them in a separate confidential management report for the Branch/Minor Hockey Association. The investigation *Terms of Reference* should authorize you to do so.

Debriefing

Upon submission of the investigation report to the Branch/Minor Hockey Association, the recipient should be offered the opportunity to meet with the Investigator for a debriefing.

There may also be occasions during the investigation in which you will want to brief the Branch/Minor Hockey Association. Uncovering any potential illegal or dangerous activities will warrant a phone call to the Branch/Minor Hockey Association. Other situations may include delays in the investigation; the need to physically separate the respondent and complainant during the investigation; and other anomalies.

Where an extension to the timelines in the Terms of Reference is sought, the Branch/Minor Hockey Association should provide a formal written response to the request.

FILE MAINTENANCE

Good file maintenance starts at the beginning of the investigation and occurs throughout.

It is critical that you keep impeccable records of everything you do during the investigation. During the course of the investigation, you are required to keep detailed notes as to where and when you became aware of a fact, testimony and/or documents. These notes are considered part of the file and must be transferred along with all other materials. A lost item raises questions as to the credibility of the investigation. Sooner or later, you will have an investigation that is challenged, and the detail and organization of your notes and documents may be your lifeline.

The following is contained as part of the official investigation record and must be forwarded to the Branch/Minor Hockey Association upon completion of the investigation:

- *All documents* - gathered during the course of the investigation; including documents gathered but later found to be irrelevant.
- *Interviewee statements* - including the initial notes taken by the investigator(s) during the interviews. You must forward the original hand-written notes and signed statements.
- *The original signed, written complaint.*
- *The respondent's original signed, written response* – if the respondent has chosen to submit such.
- *Terms of References* - with original signature of the Branch/Minor Hockey Association President.
- *All hand-written notes* – including notes you may have taken, including site diagrams; hand-written notes in regards to phone conversations etc.
- *Interview Schedule* – including dates and times of interviews; and all contact numbers.
- *Investigation and Management Reports* – these will be copies of the final reports, with the originals having been sent to the Branch/Minor Hockey Association. Management Reports should be kept separate from the Investigation file.

Safeguard the file – the file must be kept in a locked filing cabinet. This is the official file, there should be no existing copies of anything not included in the file. Should you need to review your notes and other material for an arbitration or other court hearing, you will have controlled access to the file. This is a critical step in maintaining the integrity of the investigation documents.



Appendix #1

INVESTIGATION DATA SHEET

Date of Formal Complaint:

Date Complaint Rec'd by Investigator:

Complainant:

Respondent:

Investigator(s):



Appendix #2 Terms of Reference

1. XXXXXXXXXXXX of XXXXXXXXXXXX authorizes XXXXXXXXXXXX, Investigator to investigate the complaint(s) XXXXXXXXXX made by XXXXXXXXXXXXXXXX (Complainant) against XXXXXXXXX\ (Respondent).
2. The investigation will be done in accordance with *regulations, policies and procedures of XXXXXXXXXXXXXXXXXXXXXXXX*.
3. The investigator(s) is/are authorized to investigate only the above complaint(s). This does not preclude them from submitting a separate report in regards to any other issues that arise including illegal or unethical behaviour; and behaviours or practices contributing to an unhealthy environment.
4. All persons interviewed during this investigation will be provided the opportunity to be accompanied by a representative.
5. The investigators will prepare statements, based on the individual interviews, of each person interviewed. Each person interviewed will receive a word-processed copy of their written statement for review and endorsement and may retain a copy of their own statement.
6. The investigator will provide regular feedback and updates to the Branch/Minor Hockey Association on the status of the investigation.
7. The investigation report will include details of the investigation, an examination of the allegations, available evidence, and documentation provided; and conclusions on whether the allegations are substantiated, unsubstantiated, malicious, or frivolous. The report will be submitted to XXXXXXXXXXXX on or before XXXXXXXXXXXXXXXX.

Branch/MHA Representative _____

Signature: _____

Date: _____



LETTER OF AUTHORIZATION

TO WHOM IT MAY CONCERN

This is to advise you that *{insert name of person and position making the authorization}* have authorised *{insert name(s) of investigator(s)}* to conduct an investigation on my behalf. This authorization is in effect until *{insert date}*.

Sincerely,

{Insert Signature Block}



Appendix #3 Interview Room Checklist

It is not always possible to arrange for the “perfect” interview room. Ideally, however, the following lists some criteria for the “perfect” meeting room. The highlighted criteria are absolutely essential.

- ❖ Size of room – not so big that the tone of the meeting is awkward to establish; or so small that people feel crowded.
- ❖ Furnishings – a round table, if big enough to accommodate all parties and the investigator papers etc., works well as it helps to establish a non-adversarial tone. **Some interviews will be long and in these cases, comfortable chairs are a must.**
- ❖ Background noise, acoustics, and sound proofing – for example, air conditioning that is too loud or a room that has construction happening nearby are not conducive to the interview process. **Check the room ahead of time to ensure conversations cannot be heard outside of the room.**
- ❖ **Location – do not use a room in the same building where the alleged incidents occurred or where the complainant and respondent are involved in hockey. Privacy is essential.**
- ❖ Temperature – try to find a room in which the temperature can be easily controlled or does not have a reputation for always being too hot or too cold.
- ❖ Accessibility – may be an issue depending on complainant, respondent and witnesses.
- ❖ Cell phone – **during the interviews, ensure that all cell phones are turned off or are on vibrate.** The exception may be if you are interviewing a professional such as a firefighter or medical person who needs to be on call. This is not an ideal situation, but can’t always be avoided.

SUPPLY CHECKLIST

- ✓ POLICIES
- ✓ TERMS OF REFERENCE
- ✓ BRANCH/MINOR HOCKEY ASSOCIATION ORG. CHART
- ✓ DOCUMENTS, AS NEEDED
- ✓ CONTACT NUMBERS AND INTERVIEW SCHEDULE
- ✓ COPY OF COMPLAINT
- ✓ DRAFT QUESTIONS
- ✓ PAPER
- ✓ STAPLER
- ✓ PENS, PENCILS, PAPER
- ✓ TISSUE
- ✓ INVESTIGATOR CONTACT NUMBERS
- ✓ CELL PHONE
- ✓ LAPTOP – if possible



Appendix #4

INVESTIGATION DOCUMENT LIST

Document #	Document Examples: Terms of Reference Org Chart Job Descriptions	Provided By:	Date Provided:
1.			
2.			
3.			
4.			
5.			
6.			
7.			
8.			
9.			
10.			
11.			
12.			
13.			



Appendix #5

SCHEDULE OF INTERVIEWS

<i>Name, Title & Contact Numbers</i>	<i>Interview Number</i>	<i>Date & Time</i>	<i>Location</i>	<i>Notes</i>

<i>Name, Title & Contact Numbers</i>	<i>Witness Number</i>	<i>Date & Time</i>	<i>Location</i>	<i>Notes</i>



Appendix #6

WITNESS CROSS REFERENCE CHART

	COMPLAINANT	RESPONDENT	WITNESS(ES)
INCIDENT			
PRIOR			
SUBSEQUENT			
CONCURRENT			
DISCREPANCIES			

Hockey Canada Investigation Guide

APPENDIX # 7 - INVESTIGATION REPORT

Respectfully Submitted to:
XXXXXXXXXXXX

By:
XXXXXXXXXXXX

On:
Day/month/year

INVESTIGATION REPORT

TABLE OF CONTENTS

	PAGE
1. INTRODUCTION	
2. INVESTIGATION PRINCIPLES	
2. ALLEGATIONS	
3. SUMMARY OF EVIDENCE	
4. ANALYSIS AND FINDINGS	
5. SUMMARY	

INVESTIGATION REPORT

Complainant:

Respondent:

Investigator:

I. INTRODUCTION

At the request of Name, of XX Branch/Minor Hockey Association, XXXX conducted an investigation into complaint(s) filed by XXXXXXXXXXXX.

The investigation process included interviewing the complainant, respondent, and X# of witnesses over the period of XXXXXXXX weeks. Interviews were held XXXXXXXXXXXX.

All interviewees were provided the opportunity of having a representative present. All interviews began with an explanation of the *Branch/Minor Hockey Association Policy*. Emphasis was placed on the section most applicable to the interviewee. Issues of process, confidentiality, and rights and responsibilities were highlighted.

Following all interviews, the investigator prepared a word-processed statement of the interview. These statements were provided to interviewees for confirmation of accuracy and signature of such. If interviewees did not agree that the word-processed statement was an accurate reflection of the interview, they were afforded the opportunity to make corrections and sign such.

During the course of the investigation, the investigators to the greatest extent possible:

- Remained objective, unbiased, and did not draw any conclusions until all evidence had been gathered and assessed.
- Documented and accurately summarized all interviews.
- Clarified all allegations, issues, and concerns.
- Substantiated and/or corroborated all facts and incidents, and fairly applied the rules of evidence as applied to the balance of probabilities.
- Applied themselves to this investigation as expeditiously as was practicable.

2. INVESTIGATION PRINCIPLES

The following are the principles which governed the investigation and the assessment of evidence as gathered by the investigation team:

- The standard of proof required is a civil law principle based on the balance of probabilities, that is, by a preponderance of the evidence is it more likely than not that the allegations are true?.
- The corroboration of various events, either by witnesses or documentation is pertinent. The assertions of one party over another cannot be accepted as fact simply because they say so.
- The issue of credibility of the complainants, respondent, and witnesses is pertinent. There are instances where complaints may not have corroborating witnesses or documentation. In such instances, credibility may be a crucial factor in assessing the merits of the allegations.
- Hearsay evidence is not considered. If, during an investigation, any evidence was brought forward solely as hearsay, it is disregarded.
- Reasonableness is considered. It is necessary to consider whether or not the behaviour was such that a reasonable person would know, or ought to have known, it to be offensive and unwelcome.
- Upon investigation and analysis of evidence and documentation, the investigators may reach one of the following findings in regards to each allegation:
 - Substantiated;
 - Unsubstantiated;
 - Frivolous or Vexatious;
 - Malicious.

3. ALLEGATIONS

The complaints alleged XXXXXXXXXX under Section XXXXXXXX of the *Branch/Minor Hockey Association regulations/policies*. **Cite appropriate Sections**

4. SUMMARY OF EVIDENCE

4.1 Complainant

4.2 Respondent

4.3 Witness #1

4.4 Witness #2

5. ANALYSIS AND FINDINGS

6. SUMMARY

Appendix C, Decision Committee Notification Letter Template

(MHA Letterhead)

(Name and address of person receiving the letter)

(Date)

Via **(How this letter is being sent)**

Dear **(Person's first name)**

The purpose of this letter is to inform you that a complaint has been submitted to **(Name of MHA)** regarding an incident involving yourself on **(Date of incident)** at **(location incident occurred)**.

The complaint states that you were observed to have undertaken the following actions:

- **(list each action as a separate bullet point)**
- **xx**
- **xx.**

An investigation was completed by an independent investigator into the items outlined in the complaint. As a result of this investigation, the **(name of MHA)** believes there is reasonable evidence that actions outlined in the complaint violated the following **rule(s)/policy(ies)**:

- **(list each rule/policy violated as a separate bullet point)**
- **(cite the specific rule/policy in its complete format, including policy number etc where applicable)**

(Name of MHA) is committed to providing a fair process that allows you to respond to the specific items outlined in the complaint. As part of this process, you have the opportunity to appear in person at a Decision Committee hearing to address the items outlined in the complaint.

The Decision Committee hearing is scheduled for **(date)**.

The Decision Committee will be comprised of **(number of members)**.

A document outlining the structure and format for the Decision Committee hearing is included with this letter. **(include MHA's process/policy document for a Decision Committee)**

Please confirm your attendance by **(how you want them to confirm and to who)** no later than **(date)**. Failure to attend or participate will not impede the decision-making process. Should you have any questions please contact **(who and contact information)**.

Thank you,

(MHA Representative)

Appendix D, Decision Committee Ruling (rule broken) Template

(MHA Letterhead)

(Name and address of person receiving the letter)

(Date)

Via **(How this letter is being sent)**

Dear **(Person's first name)**

This letter is to inform you of the outcome of the Decision Committee hearing held on **(date of hearing)**. The Decision Committee has reviewed the information collected through an independent investigation and presented during the hearing on **(date of hearing)**. As a result of this review, the Decision Committee has concluded that the following rules/policies have been violated:

- **(list each rule/policy violated as a separate bullet point)**
- **Xx**

As a result of the **violation(s)** outline above, it has been determined that the following sanctions will be applied:

- **(list each sanction being applied as a separate bullet point)**
- **Xx**

Upon successfully completing the sanctions outlined above, you will be permitted to participate in all **(name of MHA)** events.

If you disagree with the decision you may be eligible to file an appeal, as per the organization's Appeal Policy. **(Name of MHA)** will consider an appeal, based on one or more of the following:

- **(list what can be appealed based on MHA's appeal policy, with each item as a separate bullet point)**
- **Xx**

The Appeal Policy for **(name of MHA)** is attached with this letter, as well as a form for submitting an appeal. Both documents are also available on the website at **(weblink)**.

To file an appeal, please complete the following steps:

- Fill out the Appeal Form.
- **(list the other steps required to submit an appeal, with each step as a separate bullet point)**
- **Xx**

The deadline submit your appeal is **(date)**.

Should you have any questions please contact **(MHA Rep's name and contact information)**.

Thank you,

(MHA Rep)

Appendix E, Decision Committee Ruling (rule not broken) Template

(MHA Letterhead)

(Name and address of person receiving the letter)

(Date)

Via **(How this letter is being sent)**

Dear **(Person's first name)**

This letter is to inform you of the outcome of the Decision Committee hearing held on **(date of hearing)**. The Decision Committee has reviewed the information collected through an independent investigation and presented during the hearing on **(date of hearing)**.

As a result of this review, the Decision Committee has concluded that no rules or policies were violated, and there will be no further action taken.

Should you have any questions please contact **(MHA Rep's name and contact information)**

Thank you,

(name of MHA Rep)

Appendix F, Notice of Appeal Form Template

NOTICE OF APPEAL

Name of Person Submitting Appeal:

Home Phone:

Cell Phone:

Business Phone:

Email Address:

Date of Decision Committee Hearing:

Contents of Notice

On what grounds is this appeal being filed? (Please indicate all criteria that apply.) **(MHA lists the same criteria included in the Decision Committee letter for which an appeal will be considered)**

- XX
- XX
- XX

Please outline how the indicated criteria were not met, or were violated, by the Decision Committee or the Board of Directors of **(MHA name)**. Be as specific as possible and, where applicable, summarize any new evidence you would be prepared to present during an Appeal Hearing.

Appellant's Signature: _____

Date: _____

Appendix G, Denial of Appeal Letter Template

(MHA Letterhead)

(Name and address of person receiving the letter)

(Date)

Via **(How this letter is being sent)**

Dear **(Person's first name)**

The purpose of this letter is to inform you that your Notice of Appeal Letter - dated **(Date of Appeal Letter)** and submitted to the **(Name of MHA)** - has been denied.

Your Notice of Appeal Letter stated that you believed the following errors had occurred during Decision Committee and discipline process to warrant a formal Appeal Committee hearing:

- **(list each action as a separate bullet point)**
- **Xx**
- **xx.**

An Appeal Committee was formed, and the Committee reviewed the information contained in your letter. As a result of this review, the Appeal Committee has determined there is not sufficient evidence to indicate that the error(s) outlined in the letter occurred.

As a result, your Letter of Appeal has been denied, and the discipline/sanction action(s) levied by the Board of Directors of **(Name of MHA)** remains in effect. For your reference, the discipline/sanctions levied is:

- **(list each action as a separate bullet point)**
- **Xx**
- **xx.**

The decision of the Appeal Committee is final.

Should you have any questions please contact **(who and contact information)**.

Thank you,

(MHA Representative)

Appendix H, Notification of Appeal Hearing Letter Template

(MHA Letterhead)

(Name and address of person receiving the letter)

(Date)

Via **(How this letter is being sent)**

Dear **(Person's first name)**

The purpose of this letter is to inform you that your Notice of Appeal Letter - dated **(Date of Appeal Letter)** and submitted to the **(Name of MHA)** - has been accepted, and a date for a formal Appeal Committee hearing has been set.

Your Notice of Appeal Letter stated that you believed the following errors had occurred during Decision Committee and discipline process to warrant a formal Appeal Committee hearing:

- **(list each action as a separate bullet point)**
- **Xx**
- **xx.**

An Appeal Committee was formed, and the Committee reviewed the information contained in your letter. As a result of this review, the Appeal Committee has determined there is sufficient evidence to indicate that one or more errors may have occurred.

An Appeal Committee hearing has been scheduled for **(DATE, TIME AND LOCATION)**. The Appeal Committee will be comprised of **(number of members)**. **(If a pre-hearing is being scheduled, provide the Date, Time and Location Information.)**

The Appeal Hearing will focus on your presentation of NEW evidence and other information to demonstrate how the Board of Directors or Decision Committee erred in rendering decision(s) on the original complaint or the levying of discipline or sanction. Your presentation may not include information/details already presented to the Decision Committee. You may present your evidence orally, or in writing at the hearing. If you present information in writing, please ensure you provide enough copies for all members of the Appeal Committee.

Please confirm your attendance by **(how you want them to confirm and to who)** no later than **(date)**. Failure to attend or participate will not impede the decision-making process. Should you have any questions please contact **(who and contact information)**.

Thank you,

(MHA Representative)

Appendix I, Appeal Result Notification Template

(MHA Letterhead)

(Name and address of person receiving the letter)

(Date)

Via **(How this letter is being sent)**

Dear **(Person's first name)**

The purpose of this letter is to notify you of the decision of the Appeal Committee pertaining to the appeal hearing that was held on **(date of hearing)**.

The Appeal Committee reviewed information provided regarding the original decision as well as the information presented during the appeal hearing. As a result, the Appeal Committee has made the following determinations:

- **(list each item that was included in the appeal)**
- **(for each item, state if there is or is not merit to item)**

As a result of these findings the Appeal Committee recommends to the Board of Directors of **(name of MHA)** the following:

- **(list each recommendation as a separate bullet point)**
- **(recommendations can range from no further action to a redo of the entire process)**
- **(include in this area the rationale for the recommendation)**

The Appeal Committee's decision is final. Should you have any questions about the contents of the Appeal Committee's decision, please contact **(name, title and contact information)**.

Thank you,

(Name of MHA rep)

Appendix J, Complaint Tracking Form Template

(MHA NAME)

Complaint Tracking Form

Name of MHA rep who received the complaint: _____

Date complaint received by MHA: _____

Person who submitted the complaint: _____

Nature of the complaint: _____

Date of incident: _____

Date MHA has followed up: _____

Is an investigation warranted?

Yes

No, why not

Investigation

Investigators name(s): _____

Date started: _____

Date completed: _____

Is the investigation attached: _____

Decision Committee

Committee

Members:

Was there a hearing?

Yes, hearing date

No, Why not

Appendix J, Complaint Tracking Form Template

Hearing notification letter sent:

Yes

Date: _____

How: _____

Was there a violation of policy or rules?

Yes

Policy/Rule Violated: _____

No

Reason: _____

Has decision letter been sent?

Yes

Date: _____

How: _____

Sanction

Type of Sanction: _____

Appeal

Communicated right of appeal

Yes

How: _____

Are they exercising right of appeal

Yes

What is being appealed? _____

No

Appeal Date: _____

Appeal Committee: _____

Outcome of Appeal: _____