



Launch of the SDRCC Investigation Unit as a Pilot Project

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It is in 2016 that the SDRCC established an ad hoc committee to revive the idea, first raised in the year 2000 in a report entitled “A Win-Win Solution”, of creating an ombuds program for sport in Canada. Just over a year after tabling the “*Closing the Loop - A Proposal for a Sport Ombuds in Canada*” to the Minister of Sports and Persons with Disabilities, the SDRCC Board of Directors recognized the immediate challenges that the sport community was facing in dealing with harassment and abuse allegations. The need for expert assistance was evident and the concept of an investigation service was discussed by the SDRCC Board of Directors in May 2018. When the Honourable Kirsty Duncan announced stronger measures to eliminate harassment in the Canadian sport system in June, the ideas debated by the Board the previous month simply crystallized.

Federally-funded sport organizations must now take all necessary measures to create a workplace free from harassment, abuse or discrimination of any kind. Among other things, “they must make provisions - within their governance framework - for access to an independent third party to address harassment and abuse cases [...] effective immediately”. The Minister’s directives have obviously created a need for federally-funded organizations to have access to independent third-party services. The SDRCC Board of Directors, supported in its efforts by many in the sport community, decided to play a leadership role in extending its expertise to launch a pilot project to increase access to independent investigation services. Ideally however, such services would be accessible through an independent intake/hotline service (see box below).

HOTLINE / INTAKE SERVICE: One of the most difficult obstacles for victims and witnesses of harassment and abuse is to have to report issues to individuals often perceived as being partial. The SDRCC believes that complaints should be filed through a confidential hotline/intake service, answered by individuals who are properly trained to handle crisis situations and callers in distress.

The SDRCC recommendation is that a partnership be entered with an organization that already offers such services. At the date of publishing, no funding is currently available to implement this service.



Who Can Use the Services of the Investigation Unit?

The services are offered, on a voluntarily and fee-for-service basis, to all federally-funded sport organizations. At this time, the pilot project does not target other organizations, such as provincial sport organizations or clubs. However, if the project is implemented on a permanent basis in the future, this option may be considered to allow more sport organizations to retain the services of qualified investigators.

When will the Services be Available?

The plan is for the services will officially be launched in November 2018 and the pilot project is expected to last 18 months, until March 31, 2020. An evaluation of the pilot will be conducted in the early days of the year 2020 to determine if the program is to be pursued as a permanent service of the SDRCC.

What are the Fees Associated with these Services?

The SDRCC is well aware that federally-funded sport organizations do not have unlimited financial resources and aims to keep the fees reasonable and the services accessible. When retaining the services of a member of the Investigation Unit, the sport organization may do it through the execution of a standard form agreement designed by the SDRCC with pre-defined remuneration conditions. Alternatively, the sport organization may can negotiate different financial arrangements with the investigator.

Who Oversees the Investigation Unit?

As a means of keeping its arbitration services segregated from the new investigation services, the SDRCC Board of Directors has created an *Advisory Committee - Investigation Services* to oversee the operations of the Investigation Unit. The composition of the committee, formed of an athlete representative appointed by AthletesCAN, a member of the SDRCC Board and three external members, together combining expertise in sport, harassment matters and investigations, ensures it is properly qualified to formulate and recommend criteria, policies and guidelines for the program. The members of the committee are: Karen Bellehumeur, Joseph de Pencier, Jean Dupré, Allision Forsyth, and Jennifer Oliveros



Brief Overview of Operations

In the absence of an independent hotline/intake service, the participating NSO, upon receipt of a complaint, will notify the SDRCC of such complaint. An investigator will be appointed to conduct a **preliminary assessment**. The appointed investigator contacts the complainant and, if deemed appropriate, the respondent, and consults with the NSO in order to draw a list of potential witnesses and other considerations. An investigation plan will be designed by the investigator, with an estimate of costs and recommendations on immediate actions, if required.

The sport organization, in receipt of the investigation plan, will take the necessary measures to implement it, which may include **retaining an investigator** from the SDRCC Investigation Unit (not necessarily the one who prepared the plan) or any other investigator of its choice. In the latter case, the terms of the mandate are to be negotiated between the sport organization and the external investigator. The investigator retained will **conduct the investigation** and validates the facts. After gathering information from the various witnesses, the complainant and the respondent, reviewing files and documents, the investigator will analyze the information and draw conclusions. The investigator will communicate the results of the investigation in a **written investigation report**. The report will contain the allegations, a description of the facts, an analysis of each incident and a conclusion with recommendations. If the conclusion points to a code of conduct or policy breach, the report will formulate non-binding recommendations as to the appropriate course of action, as provided in the sport organization's relevant discipline policies.

Further to the receipt of the report, the sport organization will proceed with the implementation of the **proper course of action**, as contemplated in its own rules. For example, such course of action may be to provide the complainant and the respondent with an opportunity to provide written comments about the investigation report, or call for a full disciplinary hearing process to be held. Whether or not the outcome of the process thereby followed agrees with the recommendations of the investigation report, such outcome is **subject to an internal appeal** under the sport organization's appeal policy, also a mandatory requirement for federally-funded sport organizations.



The parties may **further appeal** the internal appeal panel's decision **before the SDRCC**, if they are not satisfied with the outcome or with the fairness of the process followed. Any such appeal will be heard by a single and independent SDRCC arbitrator, under the Ordinary Tribunal. As of note, to guarantee the independence of the Ordinary Tribunal seized with such appeals, none of the SDRCC arbitrators will be allowed in the pool of investigators forming the SDRCC Investigation Unit unless they have resigned as arbitrators.

Guaranteeing the Independence of the Unit

The SDRCC will implement strict guidelines in the creation of its Investigation Unit to maintain it separate from its arbitration services. First, the two services are overseen by two different committees that share no member: the Advisory Committee for the Investigation Unit, and the ADR Services Committee for the roster of arbitrators. The two services will be administered as two separate entities and measures will be in place to ensure that no information on cases is shared between the investigators and the arbitrators, other than through formal submissions by the disputing parties. During the pilot project phase, SDRCC mediators, who have no decision-making authority in the conduct of mediation or resolution facilitation, will be allowed to remain mediators and conduct investigations. This will occur under strict conditions with regards to mandatory disclosure of prior investigations conducted for the benefit of parties, where these parties are later involved in SDRCC cases. The provision allowing mediators to also be investigators will be revisited as part to the pilot project evaluation.

A Nation-Wide Coordinated Approach

While the SDRCC is proud to offer a solution to help federally-funded sport organizations access independent investigation services in the short-term, it cautions that this does not constitute a complete nor a permanent solution. Indeed, much is yet to accomplish in terms of education, awareness and policy-making, to ensure that sports everywhere in Canada offer a safe and welcoming environment for ALL athletes and other participants.