SPORT DISPUTE RESOLUTION CENTRE OF CANADA (SDRCC)

CENTRE DE RÈGLEMENT DES DIFFÉRENDS SPORTIFS DU CANADA (CRDSC)

Citation: Anonymous v. Hockey Canada, 2025 CASDRC 35

File No.: SDRCC ST 25-0054
Date of Decision 2025-09-30

ANONYMOUS

(CLAIMANT)

AND

HOCKEY CANADA

(RESPONDENT)

AND

ANONYMOUS

(AFFECTED PARTY)

Before:

David Bennett (Arbitrator)

Appearances:

For the Claimant:	Donald C. Murray (counsel)
For Hockey Canada:	Cristy Cooper (counsel) and Adam Klevinas (counsel)
For the Affected Party	The Affected Party and their parent

DECISION

1. On June 15, 2025, the Claimant submitted a request for review pursuant to s. 8.5.2 of the SDRCC's *Canadian Sport Dispute Resolution Code* (2025) ("*Code*"). The Claimant has requested a review of the Respondent's decision which found that the Claimant engaged in behaviour which amounts to maltreatment under the Hockey Canada's *Maltreatment Complaint Management Policy* and violated Hockey Nova Scotia's *Code of Conduct Policy*.

2. The Claimant requested a review of the Respondent's decision on the basis of that in its investigation and decision, the Respondent:

i. Failed to provide the Claimant with natural justice;
ii. Failed to evaluate the evidence in accordance with the appropriate standard of proof; and,
iii. Failed to connect the proven behaviour of the Respondent with the required violation of a Hockey Nova Scotia Policy.

3. This matter was reviewed by written submissions.

4. A short decision was issued on September 15, 2025. For the reasons that follow, I have granted the Claimant's request for review and I order that the matter be sent back to the Claimant for a new investigation and decision.

5. I have anonymized the Claimant's name. As a result of this decision there are no sanctions in place, and this case may get resolved through alternate methods.

A. THE PARTIES

The Claimant

6. The Claimant is the owner, operator, assistant coach and general manager of a U18 Female hockey team which competes in a league ("League") at the highest level in Nova Scotia. The "Team" operates within the jurisdiction of Hockey Nova Scotia which is governed by the Respondent.

The Respondent

7. The Respondent is a national sport organization ("NSO") and the national governing body for amateur hockey in Canada. The Respondent oversees the management and structure of hockey programs in Canada from entry-level to high performance teams and competitions.

The Affected Party

8. The Affected Party brought the anonymous complaint against the Claimant.

B. BACKGROUND

9. The background set out below forms the factual background of this review.

Affected Party's Complaint

10. On January 28, 2025, the Respondent's Independent Third Party received a complaint from an anonymous complainant (the Affected Party) alleging that the Claimant engaged in conduct contrary to Hockey Nova Scotia's policies, including Hockey Nova Scotia's *Code of Conduct Policy*, Hockey Nova Scotia's *Maltreatment, Bullying and Harassment Protection and Prevention Policy* and the *Universal Code of Conduct to Prevent and Address Maltreatment in Sport* (UCCMS). The complaint alleged that the Claimant violated these policies through the following:

    (1) That the Claimant acted in the role of head coach of the "Team" despite being registered as an assistant coach;

(2) That the Claimant demonstrated a consistent, methodological system of manipulation and control of the players on the team by:
   a. Instituting a rule that the players were not to play any other sports other than hockey; and,
   b. Dictating what the players on the "Team" could eat for meals, snacks and beverages without taking into account that some of the players had food restrictions and could not eat some of the foods as directed;

(3) That the Claimant isolated the players from their parents and caregivers through the following:
   a. By implementing a rule that phones were to be taken away at curfew during away games and returned in the morning, and included a prohibition on all electronic devices so that no one could have a laptop/iPad after curfew;
   b. By circulating a memorandum to players' parents in which he advised that the "coaches are responsible for the girls" during a weekend, out-of-province tournament;
   c. By prohibiting players' fathers from dropping items off for their daughters, and they were not allowed to stand around the windows at practice or games, and stating that, in his opinion, "it was sickening that the dads are dropping off things like water bottles, shin pad tape, etc. for the girls."
   d. Through a lack of communication to parents, an example of which is that the Respondent communicated with the players with a group chat on Instagram that excluded parents.

(4) That the Claimant restricted the players' ability to obtain additional training outside of the team;

(5) That the Claimant deliberately singled out, ridiculed and shamed players both privately and in front of their teammates;

(6) That the Claimant shamed players about their physical appearance and called them "fat";

(7) That the Claimant voiced his anger toward "Team" players as they were losing by telling them, "You guys suck right now!", as well as other derogatory remarks directed at them; and,

(8) That the Claimant and an assistant coach were seen to enter the Claimant's hotel room with the 17-year-old female team captain without a female staff member present notwithstanding that there was a female assistant coach.

Investigation

11. On February 20, 2025, the Respondent's Independent Third Party issued a Jurisdiction Order and assumed jurisdiction over the matter on the basis that the allegations, if proven, would amount to "a severe form of maltreatment" under the UCCMS. The Independent Third Party elected to proceed under Process 1 of the *Maltreatment Complaint Management Policy*. Process 1 provides for a summary procedure for investigating and addressing complaints of maltreatment. The Independent Third Party appointed Sean P. Bawden as Adjudicative Chair.

12. Pursuant to paragraph 17 of the *Maltreatment Complaint Management Policy*, Adjudicative Chairs may proceed as follows:

    a. Propose alternative dispute resolution techniques, where appropriate;

b. Ask the Complainant and the Respondent for either written or oral submissions regarding the Complaint;
c. Conduct any additional interviews which the Adjudicative Chair believes are necessary to gather all the relevant facts; and/or
d. Convene the Parties to a meeting, either in person or by way of video or teleconference, for the purpose of asking the Parties questions.

13. When the Adjudicative Chair completes the process set out in paragraph 17, the Adjudicative Chair, "will determine if a Violation occurred and if sanctions should be applied […] A short written decision, with reasons, will be released by the Adjudicative Chair to the Independent Third Party" (at para 19).

14. Mr. Bawden investigated the matter by conducting the following investigative steps:

i. Reviewed the complaint package which was provided to him by the Independent Third Party on February 26, 2025, which contained the following documents:
   a. The original complaint dated January 28, 2025;
   b. Additional complaint information dated February 13 and 19, 2025;
   c. The Jurisdiction Order dated February 20, 2025; and,
   d. The Respondent's written response to the allegations.
ii. On March 21, 2025, Mr. Bawden issued an initial Procedural Order in which he advised that before making any decisions, he wished to meet with both the Affected Party and the Claimant;
iii. On March 31, 2025, Mr. Bawden met with the Claimant via Zoom for approximately one hour;
iv. On April 2, 2025, Mr. Bawden met with the Affected Party and two witnesses via Zoom;
v. Mr. Bawden was advised of and received a document titled "[Team] U18 Major Hockey Club Code of Conduct and Information Sheet 2024-25";
vi. Mr. Bawden questioned the Claimant as to whether he had seen the document before, whether he was aware of who created it and whether he agreed as to its contents;
vii. After questioning the Claimant, Mr. Bawden was satisfied he could proceed to the final decision.

15. Mr. Bawden then concluded the investigation and released a written decision ("Decision") which included sanctions.

The Decision

16. On May 16, 2025, Mr. Bawden found that the Claimant engaged in behaviour which amounts to maltreatment under Hockey Canada's *Maltreatment Complaint Management Policy* and violated Hockey Nova Scotia's *Code of Conduct Policy* in relation to all but one of the allegations.

17. In summarizing the Affected Party's complaint, Mr. Bawden characterized the scope of the allegations as: intimidation, coercion, manipulation, abuse of power, bullying and/or harassment and maltreatment.

18. Mr. Bawden went through the eight allegations made by the Affected Party and made findings in relation to them.

Credibility Assessment

19. Mr. Bawden noted that the parties provided divergent evidence in relation to a number of allegations in this matter. He found a credibility assessment was necessary in order to reconcile the divergent evidence.

20. Mr. Bawden provided an overview of the jurisprudence as it relates to assessing a party's credibility and the reliability of their evidence. Despite accurately identifying the case law, Mr. Bawden did not assess the credibility of the parties or the reliability of their evidence.

Allegation 1: Improperly Acting as Head Coach

21. Mr. Bawden substantiated the allegation that the Claimant acted as head coach improperly. Mr. Bawden found that during his interview, the Claimant described himself as the owner and general manager of the "Team" and also an "associate coach", which the Claimant explained is "a step up from an assistant coach". The Claimant acknowledged a distinction between his role and that of a head coach, describing that head coaches "must have certain qualifications" and carry more responsibilities. The Claimant acknowledged that he did not have the required qualifications and certifications for the head coach position.

22. Mr. Bawden also made note of the "Team" Code of Conduct, which identified the Claimant as the head coach of the "Team". From this, Mr. Bawden determined that the Claimant had been acting and holding himself out as the head coach of the "Team" without proper certifications and qualifications.

23. Mr. Bawden indicated in his decision that his finding in relation to this allegation informed his decision-making with respect to the allegations that the Claimant engaged in a pattern of isolation, manipulation, control, bullying and harassment.

Allegations 2: Manipulation and Control

24. Mr. Bawden investigated the allegations that the Claimant prohibited "Team" players from playing any sport other than hockey, and rules the Claimant was alleged to have imposed around athletes' diets, as fitting into the broader category that the Claimant was engaging in behaviours which amount to manipulation and control.

25. Mr. Bawden substantiated the allegation that the Claimant imposed a team rule that players were not to play any other sport than hockey. During his interview, the Claimant acknowledged that he told players that, "If your goal is to play hockey and play like five different high school sports, this is perhaps not the team for you." However, the Claimant denied imposing a rule that players could only play hockey. Instead, the Claimant reported that he told players that if they were a multisport athlete, they would have to discuss that with him.

26. Mr. Bawden reviewed the "Team" Code of Conduct and noted that in the Code of Conduct, there were two passages which were determinative of the issue. The first stated that,

"Hockey takes priority", and that, "High School sports are not permitted. Injuries sustained away from the team are detrimental to our team growth. If you are a high-level multi-sport athlete, please speak with [the Claimant]."

27. Mr. Bawden found that it was demonstrable that the Claimant had imposed a prohibition on "Team" players engaging in other sports without first obtaining permission from the Claimant. Mr. Bawden concluded that this could "be viewed as a form of attempted control" by the Claimant over his players.

28. Mr. Bawden then substantiated the allegation that the Claimant imposed rules and restrictions on what "Team" players could eat and drink while ignoring the dietary restrictions of the players. Mr. Bawden summarized statements the Claimant made during his interview that players were arriving at games with sugary drinks with large calorie counts. The Claimant reported to Mr. Bawden that early in the season, the team nutritionist had attended one of the team meetings. Mr. Bawden confirmed that the team nutritionist was a registered dietitian who had completed a graduate Diploma of Sports Nutrition through the International Olympic Committee.

29. The Claimant advised Mr. Bawden that he let the team nutritionist lead the conversation as it related to players' diets. She reportedly told the players at the meeting that, "These were bad things to consume prior to physical activity." The Claimant advised that his own thoughts were that the players should not be drinking the sugary, high calorie drinks.

30. The Claimant told Mr. Bawden that, in response to the team nutritionist's presentation, the "Team's" team captain made an announcement that, "Girls, we are not drinking these anymore." The Claimant then advised that he, and "potentially others", told the players to "eat healthy" and told the players that they had good snacks available at games including oranges, nuts and granola bars.

31. Mr. Bawden accepted that the team nutritionist made a presentation to "Team" players about nutrition and that some players made comments about sugary drinks. However, Mr. Bawden determined it was not the players who created a rule that they could not have certain food or drink, but that it was the Claimant who was imposing his direction as to what was or was not appropriate for a "high-level athlete" to consume.

32. Mr. Bawden found that this fell under Hockey Nova Scotia's *Maltreatment, Bullying and Harassment Protection and Prevention Policy* as a form of "Physical Maltreatment", which Mr. Bawden summarized as:

> Physical Maltreatment occurs when any Participant, including a Participant in a position of power, physically hurts or by any means deliberately creates a significant risk of physical harm to another Participant. Under that policy, Physical Maltreatment includes, without limitation non-contact behaviours, including withholding, recommending against, or denying adequate hydration or nutrition.

33. Mr. Bawden concluded that, "by commenting on, discouraging the consumption of, or otherwise involving himself in the player's food and drink choices", the Claimant engaged in a form of physical maltreatment as defined by Hockey Nova Scotia's *Maltreatment, Bullying and Harassment Protection and Prevention Policy*.

Allegation 3: Isolating Players from Their Parents

34. Mr. Bawden substantiated the allegation that the Claimant had engaged in behaviours which isolated the players from their parents. This included that the Claimant implemented a rule that players would have their phones and other electronic devices taken from them at curfew during away games and returned in the morning, sent out a memorandum to players' parents which limited contact the players had with their parents during tournaments, and that the Claimant excluded parents from rinkside.

35. During his interview, the Claimant admitted that he collected players' electronic devices at curfew for the purposes of removing their ability to communicate with anyone. There was no suggestion that the Claimant also removed hotel telephones from players' rooms. Mr. Bawden determined that there are legitimate reasons at times for the prohibition of cell phones and other electronic devices, such as to protect against the possibility of surreptitious photographs and videos of players undressing. However, Mr. Bawden found that there was no indication that such protections were necessary and that the Claimants' intent appeared to be to limit and control the players' ability to communicate with the outside world. Mr. Bawden found this to be unnecessary, inappropriate and wrong. Mr. Bawden also noted that the "Team" Code of Conduct set out that no curfews would be imposed and that players were not expected to be babysat.

36. Mr. Bawden noted that there was an allegation that because of the no devices policy at tournaments, there was an incident in which a player became ill and was unable to contact anybody for assistance. Mr. Bawden found that this incident did not amount to maltreatment.

37. Mr. Bawden substantiated the allegation that the Claimant circulated a memorandum to parents and found that it demonstrated the Claimant was "clearly attempting to isolate the players from their parents." The memorandum was created and circulated by the Claimant over the TeamSnap application. The memorandum included the following direction to parents (as set out in the Decision):

> …. the team would like to communicate a few exceptions for the rest of the weekend…
>
> This weekend is for the Team and for the Girls to spend it together with the coaching staff. We appreciate the parents taking the time to come and support the Team, however, we would like the girls to enjoy their time together.
>
> With that said, we'd like to communicate the following expectations for the remainder of the weekend:
>
> - the coaches are responsible for the girls throughout the weekend. One of the goals of the weekend is team building so they will eat, sleep and do all activities together. Let's give them their space to do this.
> - We ask the parents to refrain from contact from the girls 2 hours before the game. When we load the bus and go to the rink, they should be focused on the game, and the coaching and medical staff will help anyone that needs anything.
> - We will give 5-7 minutes after the game in the lobby to say hello to family and friends that are here to support the girls. We ask that you just support the girls,

tell them good game, and let the coaches give them the feedback they want in the way they choose to do it.
- We ask that parents are respectful at the rink, and if you are drinking, please don't show up to the rink. We are all a reflection of the organization and don't want distractions like that for the girls.

38. The Claimant acknowledged creating and circulating the memorandum and advised that he had done so to address problem behaviours demonstrated by some players' parents which were becoming a distraction. This included excessive drinking at out-of-province tournaments, which some players' parents were treating as a vacation. The Claimant felt that some action had to be taken to curb the distraction this was posing.

39. Mr. Bawden accepted the Claimant's explanation but found that the memorandum was not just limited with the parents' alcohol consumption and was broader than the stated objective. Mr. Bawden identified that he was concerned with the statements contained in the other bullet points and found that they were disproportionate to the legitimate goals of the memorandum. Mr. Bawden accepted the Affected Party's allegation that the statements contained in the memorandum represented an attempt to manipulate and control the "Team" players, who were minors. Mr. Bawden declared that the "directions contained in the memorandum are disturbing."

40. Mr. Bawden substantiated the allegation that the Claimant was excluding parents at rinkside. During his interview, the Claimant advised Mr. Bawden that he had expressed frustration to the players' parents that they tend to congregate in common spaces between dressing rooms and the ice surface, creating congestion in a limited space. Mr. Bawden accepted this rationale, however, made note that the Claimant expressed sentiments bordering on disgust at players' fathers bringing items to their daughters for games.

41. Mr. Bawden acknowledged that the goal of fostering self-responsibility was important; however, the players on the "Team" were as young as 15-years-old and they led busy lives between sport and school. Mr. Bawden allowed that occasionally, players will forget items and should be permitted to rely on their parents as a necessary backup.

42. Mr. Bawden found that in prohibiting parents from congregating rinkside, the Claimant was further isolating the players from their parents, specifically their fathers, and that the Claimant had exceeded what was necessary.

43. Mr. Bawden did not address the allegation that the Claimant did not communicate with players' parents and made no finding as it relates to the example of the chat group.

Unnumbered Allegation: Grooming

44. Mr. Bawden included in the Decision a finding as it relates to grooming. This allegation was not identified as being a part of the initial complaint and was included after allegation 3.

45. Mr. Bawden did not find that the Claimant engaged in behaviours which might be defined as "grooming", but stated a belief that he had concerns that without corrective action by Hockey Canada, the Claimant "may be emboldened to take steps towards grooming" and wrote that, "Minors should never be isolated from their parents in this manner."

Allegation 4: Restriction on Additional Training

46. Mr. Bawden substantiated the allegation that the Claimant refused to allow private coaches unaffiliated with the "Team" to observe team practices. The Claimant acknowledged that he restricted outsiders from attending and observing "Team" practices. The Claimant advised that this was done so as he felt the "Team" had adequate and appropriate coaching staff to meet the needs of the players. He also expressed concern about potential interference during team practices.

47. Mr. Bawden found that this did not amount to maltreatment, as the Claimant may have had legitimate reasons for the prohibition.

Allegations 5, 6 and 7: Singling Players Out, Shaming Their Physical Appearances and Voicing Anger

48. Mr. Bawden addressed these three allegations together as they represented examples of the Claimant making inappropriate statements that had the potential for causing physical or psychological harm. These allegations were substantiated.

49. The Claimant denied the Affected Party's allegations. As a result, Mr. Bawden reconciled the divergent evidence by referencing the credibility and reliability assessment he outlined above. Mr. Bawden indicated that given his findings on credibility, he "expressly" found that the Affected Party and the two witnesses he interviewed were more credible than the Claimant, and determined that the Claimant had engaged in the alleged behaviours.

50. Mr. Bawden concluded his analysis by writing:

> Without making an express finding with respect to any particular word or phrase, for example, I am not necessarily finding that the Respondent used the word, "fat", I am prepared to accept the witnesses' testimony that the Respondent has said things to players that could constitute maltreatment.

Allegation 8: Meeting with Team Captain

51. Mr. Bawden found that the evidence did not support substantiating this allegation. Mr. Bawden noted the Claimant's denial of the allegation and that, in doing so, the Claimant stated that he admitted to having a meeting with the team captain while at a tournament, but denied that the meeting excluded a female coaching staff member.

52. The witness's evidence was found to be "less than absolute" as the witness acknowledged that it was possible that a female coach was present in the room and that the witness did not know.

53. As a result, Mr. Bawden found that this allegation could not be substantiated.

Sanctions Imposed

54. Mr. Bawden found that the substantiated allegations amounted to maltreatment, as defined by Hockey Canada's *Maltreatment Complaint Management Policy*. It was found that the

substantiated allegations represented repeated volitional acts that had the potential for physical or psychological harm. The result of this finding is that the actions and behaviours amounted to a violation of Hockey Nova Scotia's *Code of Conduct Policy*, specifically, the following:

(a) Ensure a safe environment by selecting activities and establishing controls that are suitable for the age, experience, ability, and fitness level of their players;
(b) Prepare their players systematically and progressively, using appropriate time frames and monitoring physical and psychological adjustments while refraining from using training methods or techniques that may harm those players;
(c) Avoid compromising the present and future health of their players by communicating and cooperating with sports medicine professionals in the diagnosis, treatment, and management of the players' medical and psychological treatments;
(d) Provide each player on their team (and their parents/guardians if the player is a minor) with the information necessary to be involved in decisions that affect the player;
(e) Act in the best interest of their players' development as a whole person;
[…]
(j) Respect players on other teams;

55. Mr. Bawden also highlighted a passage as it relates to the coach-athlete relationship from Hockey Nova Scotia's *Code of Conduct Policy* and found that this was also violated:

> The coach-athlete relationship is a privileged one and plays a critical role in the personal, sport, and athletic development of an athlete. Coaches must recognize the power inherent in their position and respect and promote the rights of all participants in sport.

56. Mr. Bawden then identified the factors which must be considered when determining the appropriate sanctions set out at paragraph 42 of Hockey Canada's *Maltreatment Complaint Management Policy*. From these, Mr. Bawden made the following considerations when determining the appropriate sanctions:

- The respective ages of the parties involved: Mr. Bawden found that there was a power imbalance given the respective age disparities between the parties, noting that the Claimant was an adult man and the players were minors under 18-years-old.
- A Respondent Who is in a Position of Trust, Intimate Contact or High-Impact Decision-Making May Face More Serious Sanctions: Mr. Bawden found that the Claimant held himself out as the head coach of the "Team" and acted as the owner and general manager of the team. Accordingly, this attracted the highest degree of scrutiny and review.
- Severity of the Violation: Mr. Bawden found that the violations were serious breaches of acceptable conduct, but were not on the severe end of the spectrum. He expressed concern that the Claimant was trending in the wrong direction, but had not engaged in behaviour which would amount to severe maltreatment. Mr. Bawden found that this finding militated towards corrective actions such as better separation from the player and better supervision of the Claimant.
- Whether the Claimant Poses an Ongoing and/or Potential Threat to the Safety of Others: Mr. Bawden found that, if left unchecked, the Claimant may present as a threat to the safety of the players on teams he is permitted to coach. Mr. Bawden expressed a belief

that the Claimant may continue to exploit the power imbalance for purposes other than legitimate hockey reasons.

- Real or Perceived Impact of the Incident on the Complainant, Hockey Canada and/or its Members or the Sporting Community: Mr. Bawden started his analysis by highlighting the positive contribution the Claimant had made to his community and to women's hockey by starting up a new franchise. However, Mr. Bawden expressed concerns about the Claimant's "objects and intentions" and concerns about the Claimant's actions and behaviours in only his first year with the "Team". Mr. Bawden believed that if Hockey Canada were to let the Claimant continue as he had been, then it may serve to bring the reputation of the sport "further into disrepute".

57. Mr. Bawden then identified the range of sanctions pursuant to paragraph 44 of Hockey Canada's *Maltreatment Complaint Management Policy* and imposed the following sanctions:

    i. The Claimant shall not to hold himself out as a head coach of the ["Team"] or any other hockey team until such time as he had obtained the necessary coaching qualifications;
    ii. The Claimant shall not to act or present himself as the senior-most coach of the ["Team"] nor any other team organized by or under the auspices of Hockey Canada until the conclusion of the 2026-27 ["League"] season; and,
    iii. The Claimant shall not engage in any rule or policy making that directly impacts the players on the "Team" until the conclusion of the 2026-27 ["League"] season.

C. SUBMISSIONS

58. Because this is a review of Mr. Bawden's decision and not a hearing *de novo*, I have not included in this section submissions which are seeking to argue or relitigate points or findings of fact that are outside of the scope of this review. I have considered all of the evidence put before me; however, for the sake of clarity and brevity, it will not all be reflected in this section.

Claimant's Submissions

59. The Claimant has requested a review on the basis that the Respondent misapplied the Standard of Proof, unfairly evaluated the Claimant's evidence and reached unreasonable conclusions about whether the Claimant's behaviour violated the Hockey Nova Scotia *Code of Conduct Policy*. This resulted in the imposition of sanctions which were disproportionate.

60. The Claimant identified the grounds for review as that the adjudicator erred in the hearing and disposition of the anonymous complaint by doing the following:

    i. Failing to provide the Claimant with natural justice;
    ii. Failing to evaluate the evidence in accordance with the appropriate standard of proof; and,
    iii. Failing to connect the proven behaviour of the Respondent with the required violation of a Hockey Nova Scotia Policy.

61. The Claimant requested that the findings on maltreatment be overturned, or, in the alternative, that sanction 3 be eliminated and sanction 3 varied to state the following: "Until

the conclusion of the 2026-27 ["League"] seasons, the Claimant shall not, on behalf of the ["Team"], create any rule or policy that directly impacts players on the ["Team"], except with the participation of two other team staff."

a. Failure to Provide Natural Justice

62. The Claimant asserted that Mr. Bawden erred in his conduct of the hearing and disposition of the anonymous complaint by failing to provide the Claimant with natural justice. Mr. Bawden did so through the following:

- He relied on evidence of anonymous witnesses offering evidence on unspecified factual issues; and,
- He failed to hear from the four independent witnesses identified by the Claimant in relation to the issues Mr. Bawden found the Claimant was either not credible or unreliable on.

63. The Claimant submitted that it is a fundamental feature of natural justice that each side may be heard. As such, the Claimant must have been given the opportunity to respond to the allegations and provide as full an answer as he desired to make to the allegations against him. This, according to the Claimant, includes the ability to provide a direct response to the merits of any particular complaint and a response to the credibility and reliability of the evidence or the witnesses offered in support of the complaint.

64. The Claimant argued that the process adopted by Mr. Bawden did not allow the Claimant to know what evidence was offered by the Affected Party and the witnesses, or what the quality of that evidence was. The Claimant was clear that this line of argument was not an argument for the right to cross-examine the Affected Party or the witnesses, but that he was deprived of the opportunity to offer evidence about testimonial factors within his knowledge which could have affected the finding of credibility and reliability of the witnesses.

65. The Claimant submitted that anonymous evidence deprives a person of the ability to address serious allegations, citing the decisions in *Young v Young*, 1985 CarswellAlta 218, at para 8, and *Jennings v The Superintendent of Motor Vehicles*, 2019 BCSC 1911, at paras 39-45. These decisions were cited by the Claimant to demonstrate how the risk of depriving a person's ability to address serious allegations can be mitigated through the provision of a witness's name.

66. The Claimant submitted that Mr. Bawden failed to provide basic natural justice when he did not interview any of the four witnesses identified by the Claimant as a part of his defence. On March 25, 2025, the Claimant was asked for a list of witnesses who were present at the times of the matters in the Affected Party's complaint. The list of four witnesses was provided to Mr. Bawden on March 27, 2025, by email. Mr. Bawden did not interview those witnesses and did not canvass the Claimant's list of witnesses for written evidence. Instead, he made adverse findings against the Claimant and against the value of his evidence without considering the evidence those witnesses may have offered.

67. This amounted to a failure to provide the Claimant with his rights according to the principle of natural justice and should amount to a loss of jurisdiction, as per the decision in *Syndicat des employees professionels de l'Universite du Quebec a Trois-Rivieres c. Universite du Quebec a Trois-Rivieres at al.*, 1993 CarswellQue 142, at paras 38-53.

b. Failure to Apply the Appropriate Standard of Proof to the Evidence

68. The Claimant submitted that Mr. Bawden failed to apply the appropriate standard of proof to the evidence and failed to evaluate the evidence in accordance with the appropriate standard of proof.

69. There were "two fundamental errors". The first is how Mr. Bawden applied the standard of proof. The Claimant singled out statements Mr. Bawden made in the Decision where the adjudicator indicated he would decide the "competing versions of events" based on "which of the two versions of events I prefer". The Claimant argued that this created a standard of either/or rather than a measuring of the value and weight of accepted evidence against the standard of proof on a balance of probabilities. The Claimant submitted that the adjudicator needed to provide a decision about what evidence was accepted and why, and then a measurement of those facts against the balance of probability standard. The Claimant relied on the decision of *Law Society of Upper Canada v Neinstein*, 2007 CarswellOnt 1560, at paras 46-67.

70. The second error is that Mr. Bawden applied the balance of probabilities standard to the evidence of the Claimant alone. The Claimant singled out the manner in which Mr. Bawden characterized the allegations against the Claimant. This included at paragraph 12 (e) through (g) and paragraph 100 of the Decision wherein Mr. Bawden set out allegations 5, 6 and 7. Mr. Bawden then made findings in relation to these allegations at paragraphs 101 to 103, in which Mr. Bawden wrote:

> [101] I group these allegations together as they represent examples of the Respondent uttering inappropriate statements that have the potential for physical or psychological harm.
>
> [102] The witnesses allege that the Respondent has made comments directed at individual players that could constitute Maltreatment. Given my findings on credibility, in which I expressly find the Complainant and the witnesses more credible than I find the Respondent, I find these allegations to be sustained on a balance of probabilities. Simply stated, the Respondent's denials are not credible.
>
> [103] Without making an express finding with respect to any particular word or phrase, for example, I am not necessarily finding that the Respondent used the word "fat," I am prepared to accept the witnesses' testimony that the Respondent has said things to players that could constitute Maltreatment.

71. The Claimant questioned these findings, arguing that Mr. Bawden could not make these findings on a balance of probabilities without being able to articulate what the Claimant was alleged to have said. No factual finding was made and the finding is unsupported by any evidence that Mr. Bawden has identified.

72. The Claimant submitted that if the adjudicator was relying on the fact that any evidence he did have from the Affected Party and the witnesses was more credible than any evidence offered by the Claimant, then Mr. Bawden had reversed the burden of proof as the Claimant's lack of credibility could not serve to support an allegation by the Affected Party that on its own might have lacked sufficient reliability.

73. As a result, Mr. Bawden was not able to find that the Claimant used the word "fat" to describe players on the "Team" and instead made a finding that the Claimant had said "things that could constitute maltreatment." The Claimant argued that this finding could not be made because an adjudicator is first required to find proof of the words before the issue of maltreatment could be found. This allegation ought to have failed.

74. Furthermore, the unreliability of the allegation was not a factor in Mr. Bawden's credibility and reliability assessment as it related to the other parties. Instead, he made blanket judgments about the Claimant's credibility and reliability without subjecting the evidence of the other parties to the same level of scrutiny.

c. Failure to Connect Behaviour to the Required Violation of a Hockey Nova Scotia Policy

75. The Claimant accepted the manner in which Mr. Bawden identified the correct test for establishing maltreatment pursuant to Hockey Nova Scotia's *Code of Conduct Policy*. The test is, in essence, a three-part test, first requiring a finding on conduct. The proven conduct must then meet the definition of "maltreatment" in Hockey Canada's *Maltreatment Complaint Management Policy*. It must then be shown that the conduct breaches one or more of the applicable codes of conduct to which the Claimant is bound to adhere to.

76. The Claimant submitted that Mr. Bawden erred in his decision by failing to show a connection between the Claimant's behaviour and a violation of the Hockey Nova Scotia *Code of Conduct Policy* (see above "Sanctions Imposed" section). The Claimant argued that by failing to connect his behaviour or conduct to Hockey Nova Scotia's *Code of Conduct Policy*, the matter ought to have been dismissed.

77. In relation to Mr. Bawden's finding that the Claimant created or imposed a prohibition on sugary drinks and that this demonstrated control, the Claimant submitted that Mr. Bawden decided that the Claimant's expressed views on sugary drinks during his interview amounted to his imposing the prohibition. The failure to distinguish between the two resulted in a finding that did not identify any actual evidence of control as he did not identify any evidence that the Claimant prevented any player on the team from consuming any food or drink. Furthermore, Mr. Bawden chose not to obtain further evidence on this point from witnesses identified by the Claimant or were otherwise available to be called to speak to the issue, which included the team nutritionist. Despite this, Mr. Bawden refused to find that the rule or prohibition had been created by the players.

78. Accordingly, the issue of control had not been made out and could therefore not constitute a violation of Hockey Nova Scotia's *Code of Conduct Policy*.

79. The Claimant submitted that control had also not been made out as it relates to the allegation he created a rule prohibiting athletes from participating in sports other than hockey while playing on the "Team". The Claimant argued that any "rule" was ineffective and was aspirational rather than obligatory, noting Mr. Bawden's finding that the rule was a "form of attempted control", emphasizing "attempted".

80. The Claimant submitted that several "Team" players played other sport and discussed with the team their intention to continue doing so. In addition, there were three other players who did not discuss their intention to play outside sports but did so regardless. The Claimant

denied this was a rule and denied there was any control exerted. Furthermore, the Claimant argued that Mr. Bawden failed to provide any evidence from any "Team" player that there was a rule or even a practice. Instead, the Claimant provided that he told Mr. Bawden that participation in outside sports cause players to miss games, including playoff games, and that, in one case, an athlete was injured in another sport that resulted in a season-ending injury for that player.

81. There was also no evidence that players who participated in other sports suffered consequences on the team from either the Claimant or the team's leadership group.

82. The second policy violation cited by Mr. Bawden requires coaches to prepare their players while refraining from using methods or techniques which may harm those players. The Claimant submitted that no such allegation had been made about him in this regard that would amount to a violation of this policy.

83. The third policy violation cited by Mr. Bawden requires coaches to avoid compromising the present and future health of their players. The Claimant submitted that there was no allegation made which engages this policy.

84. The fourth policy violation cited by Mr. Bawden requires that coaches provide each player on their team with the information necessary to be involved in decisions which affect that player. The Claimant speculated that this policy violation may be in relation to the issue raised around the issue of no devices, the failure to assist at night, the Claimant's memorandum to parents and the exclusion of parents at rinkside. The Claimant submitted Mr. Bawden erred in his finding that the memorandum to the players' parents was authored by the Claimant. Instead, he provided evidence that the author of the memorandum was not the Claimant, however, Mr. Bawden rejected the Claimant's evidence on this point without providing an explanation or reasons for his finding on this point.

85. The Claimant clarified that the "Team" President was the author of this document. Furthermore, that the "Team" President had been identified as a witness by the Claimant and that Mr. Bawden could have determined this issue if he had contacted the "Team" President for an interview. However, Mr. Bawden did not contact the "Team" President.

86. The Claimant disputed the finding as it related to the cell phone/no screens policy. The Claimant submitted that this policy was implemented in accordance with Hockey Canada's best practices; that the policy was supported by "Team" players, with one exception; that it was implemented with the knowledge and approval of the "Team" players' parents, with one exception being the same player's parents; and that the policy did not jeopardize player safety as player accommodations had telephones in every room.

87. The Claimant submitted that Mr. Bawden's findings as it related to excluding the parents from rinkside were based on the Claimant's expressions "bordering on disgust" at fathers bringing items to their daughters before games. As a result, Mr. Bawden transformed his discomfort with the Claimant's attitude about how some parents were involving themselves with their daughters' preparedness for elite-level hockey into a complaint about fathers being involved at all. This led Mr. Bawden to elevate the issue into one in which the Claimant was attempting to isolate the minor players from their parents. This finding was

then linked to the issue about screens and focus on tournaments into the broader allegation that the Claimant was separating and isolating the players from their parents.

88. The Claimant submitted that the policy of stopping parents from giving items to their daughters had a legitimate purpose, which was to stop parents from disrupting the team room and team preparation and to discourage parents from treating team space as unrestricted parental space. Parents were still able to give items to team staff that could then be given to the players. Furthermore, parents could still attend games and monitor everything their child did after the player left the dressing room.

89. The fifth policy violation relied on by Mr. Bawden requires that coaches act in the best interest of their players' development as a whole person. The Claimant speculated that this policy violation may be equated with Mr. Bawden's findings that the Claimant singled out players, shamed their physical appearances and voiced anger. The Claimant submitted that Mr. Bawden never specified what conduct of the Claimant amounted to a violation, instead finding that he was prepared to accept the witnesses' testimony that the Claimant "said things to players that could constitute maltreatment". No word or phrase was identified. The evidence therefore did not support or justify a finding that the Claimant violated the Nova Scotia *Code of Conduct Policy* as the adjudicator was obligated to make a finding in relation to this allegation.

90. The sixth policy violation cited by Mr. Bawden requires coaches to respect players on other teams. The Claimant submitted that this policy violation did not relate to any of the complaints and no explanation was given for its inclusion in the reasons.

91. The Claimant argued that no violation of the Hockey Nova Scotia *Code of Conduct Policy* was established and that the complaint ought to have been dismissed.

d. Coaching Qualifications

92. The Claimant submitted that while he disagrees with Mr. Bawden's findings that he held himself out as a head coach without have the appropriate certifications and qualifications, the Claimant accepted the appropriateness of the order requiring him not to hold himself out as having qualifications he did not have. The Claimant provided documentation that since the Decision, he had obtained his head coach qualification.

e. Sanctions

93. The Claimant made submissions in relation to sanction two and three. He submitted that, in relation to sanction 2, Mr. Bawden's use of the term "senior-most coach" was not a term used under Hockey Canada or Hockey Nova Scotia qualifications or practices and that the use of such a term was ambiguous. It was unclear how he arrived at this sanction as no rationale was provided. It was also not articulated whether this was a suspension or an eligibility restriction. It was unfair to use a term that was unknown to Hockey Canada and Hockey Nova Scotia as there was no obvious need to differentiate from the obligation to obtain the head coach qualification.

94. The Claimant argued that sanction 3 was disproportionate to its purpose and that it could have been achieved by requiring the use of a committee. Mr. Bawden was also prohibited from imposing a sanction that is premised on a speculative concern about what might

happen in the future as the sanction must respond to what has happened in the past, not address what might happen in the future.

Respondent's Submissions

95. The Respondent requested that the Claimant's request for review be dismissed and that its decision and the sanctions imposed be upheld. The Respondent denied that Mr. Bawden committed the errors alleged by the Claimant and maintained that the Decision and the underlying investigation and adjudication were fair and reasonable.

a. Failure to Provide Natural Justice

96. The Respondent submitted that the Claimant's submissions with respect to the issue of anonymity of the witnesses fundamentally ignored the unique context in which the Decision was made. The Hockey Nova Scotia policies serve the ameliorative purpose of promoting safe sport and the reduction of maltreatment and other types of misconduct in the hockey community. To that end, observing anonymity of witnesses is common practice in safe sport investigations.

97. The Respondent submitted that the need for anonymity is especially important in this particular matter as the Claimant is the owner, General Manager and "ostensible head coach" of the "Team". There is therefore a risk posed to witnesses that their current and future prospects of playing on the team are compromised.

98. The Respondent noted that it is permitted to provide complainants and witnesses anonymity and that Hockey Canada's *Maltreatment Complaint Management Policy* specifically contemplates such protection under Schedule A, which sets out the investigation procedure. Furthermore, it states at s. 8 that the Independent Third Party may redact an investigator's report prior to disclosure to protect the identity of witnesses. As a result, the anonymity of witnesses may be reasonably anticipated.

99. The Respondent submitted that the Claimant failed to establish that he suffered any real prejudice as a result of the decision to keep the witnesses anonymous. The Claimant argued that he was unable to probe the credibility or reliability of the evidence or the witnesses; however, the Claimant's ability to test the evidence in this regard must be balanced with the nature and purpose of the Policy, which is to provide redress for complaints of maltreatment. It is therefore incumbent on the adjudicator to balance the safeguarding process participants on the one hand while ensuring that the Claimant was treated in a procedurally fair manner.

100. The Respondent argued that the Claimant was provided with the allegations against him and knew the case he was expected to meet. He was permitted to make both written and oral responding submissions, including being given the opportunity to respond to the new evidence that arose during a witness interview. The Claimant therefore had a procedure for challenging the evidence adduced against him, despite which, Mr. Bawden found the Affected Party and the witnesses more credible.

101. The Respondent submitted that the Claimant had a fair and full opportunity to respond to the complaint made against him and did not establish that the anonymization of the witnesses' names was a deprivation of natural justice.

102. The Respondent then addressed the Claimant's submissions as it relates to the issue that the adjudicator did not interview the four witnesses he provided Mr. Bawden for his defence. Citing the decisions of *Baker v Canada (Minister of Citizenship and Immigration)*, [1999] 2 SCR 817 [*Baker*], *Dunsmuir v New Brunswick*, 2008 SCC 9 [*Dunsmuir*], and *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [*Vavilov*], the Respondent acknowledged that in investigations and administrative decision-making matters, it is settled law that parties subject to administrative decisions should have the opportunity to present their cases fully and fairly and have decisions affecting their rights, interests, or privileges made using a fair, impartial, and open process, appropriate to the statutory, institutional, and social contest of the decision. However, the rights afforded under the principle of procedural fairness are variable and case specific. The specific procedural requirements that the duty imposes are determined with reference to all of the circumstances.

103. The Respondent submitted that the Claimant's position that he was entitled to make as full an answer as he desired is not sustained and that the duty of procedural fairness is not unlimited. Instead, the Claimant's legitimate expectations around procedural fairness are circumscribed by the relevant policy. In this case, Hockey Canada's *Maltreatment Complaint Management Policy*, which provides a framework for the investigation and adjudication of complaints. This process is for less complex issues and will follow a summary procedure. Section 14 of this policy sets out the process by which the Independent Third Party will determine the appropriate procedure.

104. The Respondent argued that s. 17 of Hockey Canada's *Maltreatment Complaint Management Policy*, likewise gives the adjudicator of a matter under the summary procedure discretion over how to conduct the process: witness interviews of any nature or quantity are optional and the adjudicator only has to be satisfied that he has gathered all the relevant facts. In the matter at hand, Mr. Bawden solicited and received the names of the Claimant's proposed witnesses and determined that they were not necessary to gather all of the relevant facts. This decision was properly within the discretion of Mr. Bawden and there was no obligation, neither under Hockey Canada's *Maltreatment Complaint Management Policy* not under the principles of procedural fairness and natural justice, to submit to the request of a respondent to interview certain individuals where such interviews are not deemed necessary to make factual findings. The Respondent argued that determining otherwise would effectively permit the responding party to the complaint the ability to dictate the scope and process of an investigation.

105. The Respondent cited the decision in *Whitelaw v Attorney General (Canada)*, 2024 FC 1115 [*Whitelaw*], in which the Federal Court of Canada accepted that the investigator found it unnecessary to interview the respondent's proposed witnesses because they considered that the witnesses did not have direct knowledge of the matter. In that decision, the court noted, "investigators have a wide latitude regarding how they conduct their investigation; they are not required to turn over every stone nor can they be held to a standard of

perfection … In other words, the Court generally will not order a new proceeding just because an applicant can think of a fairer or different process" (at para 18).

106. The Respondent acknowledged that while Mr. Bawden could have, in the interest of complete clarity, provided reasons for his decision not to interview each of the Claimant's witnesses, the fact that he did not do so does not make the Decision deficient or unreasonable. Mr. Bawden interviewed the Affected Party, the Claimant and two additional anonymous witnesses and found that there was sufficient evidence upon which he could determine the matter. There was also no basis to find that their evidence was therefore biased or unreliable.

107. The Respondent submitted that the manner in which Mr. Bawden conducted the hearing and disposition of the Affected Party complaint was in accordance with the principle of natural justice and denied that the Claimant suffered any corresponding deprivation.

b. Failure to Apply the Appropriate Standard of Proof to the Evidence

108. The Respondent submitted that Mr. Bawden applied the correct standard of proof in this matter.

109. The Respondent argued that the Claimant is incorrect in its assertion that Mr. Bawden supplanted the appropriate balance of probabilities standard of proof in civil matters with a standard of either/or. The Claimant relied on a single line to make this point, despite Mr. Bawden identifying the correct standard at paragraph 30 of the Decision and indicating his intention to follow it. Mr. Bawden then restated this standard of proof throughout the decision.

110. The Respondent denied that paragraph 102 of the Decision makes out the either/or approach. Instead, this paragraph was characterized by the Respondent as showing that the Adjudicator made findings of credibility which caused him to consider it was more likely than not that the allegations made in the complaint against the Claimant respecting certain statements were true. The use of the term "preferred" does not, on its own, disclose an error on Mr. Bawden's part, as asserted by the Claimant.

111. The Respondent disputed the Claimant's submission that Mr. Bawden erred by not applying the same standard of proof to the evidence of the Affected Party and the witnesses. The Respondent submitted that while the Decision does not contain all of the detail and analysis sought by the Claimant, it does not mean that the Decision or the underlying process was deficient or unfair. The Respondent acknowledged that Mr. Bawden "could have better particularized his findings in various places", including with respect to the statements made by the Claimant which were taken to constitute maltreatment. However, the Respondent argued that the summary approach does not mean that there was insufficient proof for his findings, or that the burden of proof was reversed, or that the Claimant's assessed lack of credibility was taken to support allegations that would otherwise have been considered unreliable.

c. Failure to Connect Behaviour to the Required Violation of a Hockey Nova Scotia Policy

112. The Respondent disputed the Claimant's arguments that Mr. Bawden failed to connect the Claimant's conduct with a code of conduct breach, specifically, those factors outlining

the coach's responsibilities at sections (a) to (e) and (j) of Hockey Nova Scotia's *Code of Conduct Policy*.

113. The Respondent acknowledged that Mr. Bawden did not provide specific explanation as to which of the sustained allegations/factual findings he considered to be a breach of specific policy sections. However, the summary approach of this decision does not mean that there is no or an insufficient nexus between Mr. Bawden's factual findings and the policy breaches. The Respondent characterized the Claimant's argument on this point as his divorcing and scrutinizing particular sections of the Decision in isolation from the reasoning as a whole. The result is that the Claimant has ignored that there is a line of analysis within the Decision which reasonably leads from the evidence to Mr. Bawden's conclusions. This, in essence, is a "line-by-line treasure hunt for error" that *Vavilov* cautions against.

114. The Respondent submitted that Mr. Bawden prefaced Part VII (Sanction and Direction) of the Decision with Part IV (Applicable Policies) and Part VI (Factual Findings and Analysis). In Part VI, Mr. Bawden provided his findings as to whether certain conduct occurred on a balance of probabilities and whether that constituted maltreatment and amounted to a breach of Hockey Nova Scotia's *Code of Conduct Policy*.

115. The Respondent explained how each finding resulted in a finding that the Claimant breached Hockey Nova Scotia's *Code of Conduct Policy* by reviewing and setting out the findings in relation to the coach's responsibilities at (a) to (e) and (j) in that policy.

116. In relation to (a), the Respondent submitted that Mr. Bawden found that the Claimant engaged in manipulation and control. He then referred to the "Team's" written Code of Conduct which stated that "High school sports are not permitted". On the basis of this document, Mr. Bawden determined that it was demonstrably a team rule that "Team" players were not permitted, absent the Claimant's consent, to play any other sport. Mr. Bawden determined that on this document alone, it was dispositive of the issue. Mr. Bawden then determined that the issue of team nutrition was one in which the Claimant had imposed his direction, which was determined to amount to maltreatment. The Respondent submitted that it was clear how the conduct engages (a). Mr. Bawden also found undue control in relation to the Claimant's imposing a no cell phones/devices policy and again in relation to the memorandum sent to parents.

117. In relation to (b) and (c), the Respondent submitted that the findings regarding the players' nutrition was related to player preparation and training as well as to their health.

118. In relation to (d), the Respondent submitted that even if the Claimant is correct that he did not author this memorandum, he endorsed and circulated it. The Respondent also disputed the Claimant's submission that the no cell phones/devices policy was in accordance with Hockey Canada best practices, pointing out that the Claimant did not support this claim in his submissions with any evidence. Furthermore, the evidence from the Claimant and the witnesses did not support the Claimant's submission that the policy was universally supported and approved. Finally, the Respondent submitted that the fact there were phones in the accommodations was acknowledged and considered by Mr. Bawden

but that in at least one instance, the presence of these phones was inadequate to help with one athlete who became ill and was unable to contact the Claimant.

119. In relation to (e), the Respondent submitted that the responsibility here is a broad and holistic standard of conduct and that, given the findings in their totality, Mr. Bawden's findings amounted to a determination that the Claimant did not act in the best interests of his players' development as a whole person. This, the Respondent argued, was patently obvious.

120. In relation to (j), the Respondent acknowledged that the inclusion of this responsibility – to respect players on other teams – was included in error. However, the inclusion of this responsibility was not fatal to the Decision as a whole or to the sanctions imposed. The Respondent submitted that administrative decisions do not need to be perfect and that the decision can still be reasonable despite this error, citing *Rinchen v. Canada (Citizenship and Immigration)*, 2022 FC 437, and *Dedvukaj v. Canada (Citizenship and Immigration)*, 2024 FC 1300, as authorities.

121. The Respondent submitted that it rejected the Claimant's position that Mr. Bawden failed to connect the alleged conduct to a breach of Hockey Nova Scotia's *Code of Conduct Policy* and was therefore obligated to dismiss it. While Mr. Bawden did not explain the violations in the detail sought by the Claimant, it cannot be argued that no violations of the *Code of Conduct Policy* were determined. The Respondent then argued that while the Claimant may not agree with Mr. Bawden's interpretation, deference will generally be given to any reasonable interpretation adopted by an administrative decision maker, citing *Whitelaw*.

d. Sanctions

122. The Respondent submitted that the sanctions imposed are appropriate. In relation to sanction 2, the Respondent argued that the Claimant's position failed to appreciate the distinction between the first and second parts of the sanction. The first sanction ordered the Claimant not to hold himself out as a head coach until such time as he has obtained the correct qualifications. This sanction is set on an indefinite basis. Sanction 2 is a time-limited prohibition until the conclusion of the 2026-27 season. The term "senior-most coach" is an all-encompassing broad term intended to avoid the possibility that the Claimant may subvert the first order during the 2025-26 and 2026-27 seasons by assigning himself an alternate title while acting in a leadership role. This was intentionally chosen as the Claimant had identified himself as an "associate coach" while recognizing that he did not have the qualifications to act as a head coach.

123. The Respondent submitted that the use of the term "senior-most coach" is neither ambiguous nor vague.

124. The Respondent then addressed the Claimant's submissions as it relates to sanction 3. This sanction created a prohibition on the Claimant from engaging in any rule or policy making that directly impacts players on the "Team". The Respondent disputed the Claimant's claim that Mr. Bawden was prohibited from imposing a sanction that is premised on a speculative concern about what might happen in the future. The Respondent submitted that Mr. Bawden was permitted to do just that pursuant to s. 42(e) of Hockey Canada's *Maltreatment Complaint Management Policy*, which sets out that one of the factors to be

considered when determining appropriate sanctions is, “Whether the Respondent poses an ongoing and/or potential threat to the safety of others”. This invites adjudicators to make an assessment of what might happen in the future based on the evidence reviewed and any findings regarding past conduct.

125. The Respondent submitted that Mr. Bawden made an assessment of what might happen when he determined that, “unchecked, the [Claimant] may present as a threat to the safety of the players on the teams over which he is permitted to be a head coach”. Mr. Bawden also expressed concern that the Claimant, “has exploited and may continue to exploit the power reposed in him for purposes other than legitimate hockey reasons”. These findings are tied to an order which attempts to mitigate the impact of the Claimant’s influence.

126. The Respondent disputed that sanction 3 was overly restrictive or disproportionate to its objectives as the Claimant could delegate his role or decision-making authority to other coaches or staff members.

127. The Respondent submitted that the sanctions imposed were reasonable and justified in the circumstances. They were transparent, intelligible and justified and that they ought not to be interfered with.

Affected Party’s Submissions

128. The Affected Party submitted that Mr. Bawden’s decision should not be overturned as he was the only person who was presented with all of the evidence and positioned to make the determination he did.

129. The Affected Party submitted that their complaint was made because of the promise of anonymity and that the anonymous process is in place to protect those who bring forward complaints or act witnesses from retribution or reprisal. Furthermore, the Affected Party submitted that maintaining the anonymity of the Affected Party and the witnesses did not unduly impact the Claimant’s ability to offer a defence to the allegations brought against him.

130. The Affected Party submitted that in total, they identified 10 witnesses, but were uncertain who from that list were contacted, as anonymity had been maintained.

131. The Affected Party submitted that there is a sincere fear of reprisal as “Team” players are playing in a part of the country where opportunities to play are limited. The players are competing for the opportunity to play at university-level and Team Canada. This means that in bringing a complaint or acting as a witness, reprisal can have devastating impacts on a player’s future.

132. The Affected Party disputed the Claimant’s submissions that he did not call players “fat” or that he did not direct what players could and could not eat. The Affected Party provided examples of instances when this happened.

133. The Affected Party submitted that the Claimant exhibited conduct amounting to systematic control and manipulation by telling athletes what they could eat or drink in the absence of parental supervision. The Affected Party disputed that the rules were created by

the team captain, as claimed by the Claimant. The Affected Party submitted that they were directed by him and while the Claimant did not physically remove food or drinks or prevent players from having them, he would ridicule and criticize players in front of their teammates if they had drinks like coffee or lemonade.

134. The Affected Party submitted that the Claimant held himself out at different times as a head coach and that the perception among athletes was that he was the head coach. This was despite the Claimant lacking the proper qualifications to act in this role. This, they argued, was evidence that the Claimant lacked credibility.

135. The Affected Party submitted that the Claimant implemented controls that were not suitable. This included imposing rules on what players could and could not eat, creating rules to remove parents from the players during practices and games, contacting players directly through social media, in group chats that intentionally omitted parents and guardians, instructing players to make hockey a priority over other matters in players' lives (including high school exams) and asking players to take pictures of themselves in a home setting to make sure they were at home and not outside prior to games. The Affected Party submitted that this demonstrated clear attempts at control.

136. The Affected Party submitted that there was indeed a rule created in the "Team" Code of Conduct and that multiple players who played high school and other league sports were told they could not play them anymore. The Claimant told the players that he expected that the team was their top priority as their parents had paid a lot of money for them to be there. The Affected Party submitted that the Claimant's evidence that participation in other sports was at his discretion was evidence of the Claimant's attempt to exert control. This attempt to control the athletes and the sports they participated in was cited as evidence that the Claimant was violating the Hockey Nova Scotia *Code of Conduct Policy* with regard to requirement (e), which requires coaches to "Act in the best interest of their players' development as a whole person".

137. The Affected Party submitted that the Claimant violated requirement (d), which requires coaches to provide each player on their team and their parents and guardians with the information necessary to be involved in decisions that affect the player. The Affected Party submitted that parents were omitted from these conversations, were kept out of private conversations between the Claimant and players and that, when they complained, they were penalized. One example was when parents complained about the no cell phone policy. The Affected Party submitted that it was after this complaint that the policy was extended to include laptops and other devices.

138. The Affected Party submitted that it did not matter who authored the memorandum. Because it was sent out on behalf of the team, the Claimant was ultimately responsible for the contents of the memorandum.

139. The Affected Party submitted that the most appropriate sanction would be a suspension. In the alternative, that the sanctions ought to be increased or that the Claimant's request should be dismissed.

D. ISSUES

140. The issues before this review are:

1. Did Mr. Bawden fail to provide the Claimant natural justice?
2. Did Mr. Bawden fail to apply the appropriate standard of proof to the evidence?
3. Did Mr. Bawden fail to connect the Claimant's behaviour to the required violation of a Hockey Nova Scotia Policy?
4. Are the sanctions imposed reasonable and proportionate?
5. If the answer is yes to any of the above, is such a finding fatal to Mr. Bawden's decision?

E. STANDARD OF REVIEW

141. This review was brought under s. 8.5.2(b) of the SDRCC's *Code*. The relevant sections of s. 8.5.2 are as follows:

(a) The Safeguarding Panel shall not conduct a hearing de novo and the hearing is not a redetermination of the investigation. The findings of fact and credibility made in the investigation report shall be accepted by the Safeguarding Panel, except where the findings are successfully challenged by a Party in accordance with Subsection 8.5.2(b).

(b) A review of the findings of fact or credibility by the investigator or the decision that a Party did or did not violate the UCCMS may only be made on the following grounds:

(i) Error of law that has a material impact on the findings and/or decisions made. For greater clarity, an error of law includes:

(1) a misinterpretation of a section of the UCCMS;

(2) a misapplication of an applicable principle of general law;

(3) acting without any evidence;

(4) acting on a view of the facts which could not reasonably be entertained; or

(5) failing to consider all the evidence that is material to the decision being challenged.

(ii) Substantive failure to observe the principles of procedural fairness and natural justice in the investigative process and in reaching a determination on whether there was a violation of the UCCMS, or in reaching a conclusion on the appropriate sanction (if any). The extent of natural justice rights afforded to a Party will be less than that afforded in criminal proceedings and may vary depending on the nature of the alleged violation and sanction that may apply.

(iii) Fresh evidence where such evidence:

(1) could not, with the exercise of due diligence, have been discovered and presented during the investigation and prior to the decision being made;

(2) is relevant to a material issue arising from the allegations;

(3) is credible in that it is reasonably capable of belief; and

(4) has high probative value, in the sense that, if believed, it could, on its own, or when considered with other evidence, have led to a different conclusion on the material issue.

(iv) For greater clarity, fresh evidence in this section may not be admitted where the evidence was available with the exercise of due diligence and, absent compelling justification, was not produced during the investigation, or where the party did not participate in the investigation.

142. The standard of review in this matter is reasonableness, pursuant to s. 8.5.2(c) of the SDRCC's *Code* which states: "When assessing a review of a finding of violation, the Safeguarding Panel shall apply the standard of reasonableness."

143. In *Vavilov*, the SCC provided guidance for the application of reasonableness as the standard of review:

> [15] In conducting a reasonableness review, a court must consider the outcome of the administrative decision in light of its underlying rationale in order to ensure that the decision as a whole is transparent, intelligible and justified. What distinguishes reasonableness review from correctness review is that the court conducting a reasonableness review must focus on the decision the administrative decision maker actually made, including the justification offered for it, and not on the conclusion the court itself would have reached in the administrative decision maker's place.

F. ANALYSIS

a. Did Mr. Bawden fail to provide the Claimant natural justice?

144. The Claimant's submissions on this point are that Mr. Bawden erred by denying the Claimant natural justice (known more commonly as procedural fairness) in two ways: (i) he relied on evidence of anonymous witnesses offering evidence on unspecified factual issues; and, (ii) he failed to hear from the four independent witnesses identified by the Claimant in relation to the issues Mr. Bawden found the Claimant was either not credible or unreliable on.

i. Anonymity

145. I find that the use of anonymous witnesses and the anonymity of the Respondent did not deny the Claimant natural justice and that this was done in a manner that was procedurally fair. I accept the Respondent's submissions on this point. The use of anonymity is always a balancing act that must consider different competing interests, which includes the considerations of conducting a procedurally fair investigation or hearing, the rights of the complainant, the fear of reprisal, the ability to scrutinize evidence and the need to ensure safe sport, among other things.

146. I accept the Respondent's submissions, that it was permitted to offer anonymity in this matter and to maintain confidentiality over the identities of the Affected Party and the two witnesses Mr. Bawden interviewed. The relevant policies, including Hockey Canada's *Maltreatment Complaint Management Policy*, contemplate the use of anonymity and

confidentiality in investigations into allegations of maltreatment. At the same time, I recognize that the promise of anonymity has significant public policy considerations as it relates to fostering Safe Sport, ensuring the safety of athletes and encouraging future participation in sport. This promise of anonymity offers protection to athletes who are, by and large, in vulnerable positions when bringing complaints against parties such as coaches, and allows them to seek redress.

147. I accept the evidence of the Affected Party that without the promise of anonymity they would not have brought forward their complaint. I also recognize that the Affected Party and other athletes have a legitimate concern about the potential for reprisal which may significantly impact their future, as athletes are playing for a future in the sport and for scholarships. The threat of reprisal may not be real, but the perception alone is a chilling effect on athletes from bringing forward complaints of maltreatment. This is because reprisal may significantly alter the trajectory of an athlete's life and career prospects. In this regard, young athletes are extremely vulnerable. While I make this point, generally, this is not to suggest a belief that the Claimant would reprise against the Affected Party and the witnesses had he otherwise known their identities.

148. Despite the policy considerations set out above, the promise of anonymity is not absolute as the policy considerations will be balanced against the principle of procedural fairness. The reasonableness of promising anonymity will be determined on a case-by-case basis and will consider whether a party has been unable to provide a proper defence as a result of the promise.

149. I find that, in this matter, the Claimant has not demonstrated that the promise of anonymity has resulted in an unfairness that has prejudiced him or otherwise resulted in an investigation or decision in which the Claimant was unable to provide a defence as a result. I do not find that, in this case, the Claimant was denied natural justice.

ii. Procedural Fairness

150. I find that the Respondent failed to conduct the investigation in a way that was procedurally fair and that the Decision is unreasonable.

151. I accept the Claimant's submissions that he was denied procedural fairness and natural justice when Mr. Bawden did not hear from any of the four witnesses provided by the Claimant as a part of his defence.

152. At the outset of this matter, during the Preliminary Conference Call, I advised the parties to refer to *McInnis and Athletics Canada*, SDRCC 19-0401. In that decision, I provided guidance to investigators carrying out investigations in sport-related matters. This included a non-exhaustive list of factors to help investigators which I will reproduce here:

- Follow the rules of the governing body to determine whether the complaint must be disclosed;
- Ensure that the respondent be made fully aware of the complaint and contents;
- Review and carefully consider all evidence (both inculpatory and exculpatory);

- Interview all witnesses put forward by both sides unless there are compelling reasons not to do so. If an investigator chooses not to interview someone this should be identified in the final report and reasons given for why that decision was made;
- There is not an absolute right to know the names of witnesses or have access to their witness statements, but respondents should be given accurate information of what is being alleged (i.e. place, time and occurrence);
- Allow the respondent to respond to all allegations and/or evidence that will be relevant to the investigation's findings;
- Allow the complainant to provide further evidence if complaint not founded;
- Give ample time for both the respondent and the complainant to make their cases;
- Provide a final report that presents its findings in an impartial manner that is free from hyperbole and editorializing;
- Final investigation reports should be written in a way that the findings against one respondent are separate from unique claims against another where multiple respondents are being investigated on separate issues;
- It is appropriate for investigators to make recommendations regarding policy and procedure and systemic issues, but not to recommend sanctions. It is not the role of the investigator to advocate for an appropriate penalty or sanction. That is the discretion of a panel;
- Carry out an investigation and produce a final report in a timely manner. (at para 165)

153. The above list is provided to show how to ensure an investigation, any investigation report and resulting decision proceeds according to the principle of procedural fairness. In instances where an investigator fails to call witnesses a party has identified as being relevant to their position, investigators open themselves to criticisms of unfairness and bias and make themselves subject to challenge. Investigators will ensure that their investigations stand up to the scrutiny by setting out the reasons for their decision not to call witnesses.

154. In the matter at hand, Mr. Bawden provided no such reasons. The Claimant submitted a list of four witnesses he identified as relevant to his complaint and as eyewitnesses to matters before the investigation. These witnesses were not interviewed as a part of the investigation and were not called before the hearing. No explanation, rationale or reasoning was given to support this decision to exclude these witnesses. As per *Vavilov*, it is therefore impossible to determine whether the decision was reasonable.

155. By failing to account for his decision not to interview these witnesses, it is impossible to know whether the credibility and reliability analysis was reasonable. It is also impossible to trace the reasonableness of Mr. Bawden's findings as the evidentiary record is incomplete. The error is such that it flows into each and every finding, including the appropriateness of the sanction imposed.

156. It is evident that further investigation and interviews would have assisted Mr. Bawden in his fact finding, determination of maltreatment and in coming to the appropriate sanction imposed. This can be seen where Mr. Bawden found that the Claimant's conduct amounted to maltreatment when the team imposed restrictions on sugary drinks. It is not clear in his findings to what extent the Claimant was involved in this restriction and the decision fails to sufficiently justify this finding.

157. It is also not clear whether such a finding amounts to maltreatment. Mr. Bawden wrote the following on maltreatment in relation to this allegation:

> Hockey Nova Scotia's *Maltreatment, Bullying and Harassment Protection and Prevention Policy* provides that Physical Maltreatment occurs when any Participant, including a Participant in a position of power, physically hurts or by any means deliberately creates a significant risk of physical harm to another Participant. Under that policy, Physical Maltreatment includes, without limitation non-contact behaviours, including withholding, recommending against, or denying adequate hydration or nutrition.
>
> I find that by commenting on, discouraging the consumption of, or otherwise involving himself in the player's food and drink choices, the Respondent engaged in a form of Physical Maltreatment as such term is defined by Hockey Nova Scotia's *Maltreatment, Bullying and Harassment Protection and Prevention Policy*.
>
> I further find that such actions constitute "Maltreatment" under the applicable Hockey Canada Policy as they had the potential for physical or psychological harm. (at paras 70 and 71)

158. It is not clear in the evidence or in the decision how restricting sugary drinks amounts to "a significant risk of physical harm" or "withholding, recommending against, or denying adequate hydration or nutrition". There is no evidence athletes were deprived "adequate hydration or nutrition". It is also not clear whether creating a rule against sugary drinks amounts to a form of maltreatment. This appears to be a misapplication of the general law relating to maltreatment especially in the absence of sufficient rationale to justify these findings.

159. Further investigation is also necessary in this matter to respond to issues relating to team dynamics and what is appropriate at the high performance level. The extent to which certain behaviours, such as imposing a curfew, taking players' electronic devices during tournaments and limiting contact with parents both during tournaments and at rinkside, are appropriate or acceptable are different at this level than in other settings, such as a workplace. Without speaking to matters like team dynamics and best practices, it is difficult or impossible to follow Mr. Bawden's decision as it relates to the sanctions imposed. More interviews with teammates and coaching staff, as well as a review of other investigative materials, will provide much needed context to these findings and better support findings of maltreatment. It will also support any potential sanctions and justify the appropriate range of sanctions by speaking to the seriousness of the Claimant's conduct.

160. There are other gaps in Mr. Bawden's decision-making that are significant enough to render the decision unreasonable and which I find fatal. I accept the Claimant's evidence that Mr. Bawden failed to connect his findings to a breach of Hockey Nova Scotia's *Code of Conduct Policy*. In the Decision, Mr. Bawden stated that his findings in relation to the allegations amount to a violation of the coach's responsibilities under (a) through (e) and (j) of the *Code of Conduct Policy*, without articulating which specific finding engages which responsibility. I disagree with the Respondent's assertions that the connections here are "obvious". It is insufficient to assert that the connection is obvious as it is impossible to follow the reasoning from Mr. Bawden's findings on the allegations to the breach of the *Code of Conduct Policy*.

161. The failure to connect the findings to a breach of the *Code of Conduct Policy* is especially present in the case of allegations 5, 6 and 7, in which the Claimant was alleged to have called "Team" players "fat", ridiculed and shamed them and told his players, "You guys suck right now!" Mr. Bawden identified that the evidence here was in dispute and that there was a resulting divergence he would reconcile through a credibility assessment. However, I find that no such credibility assessment was done. Mr. Bawden provided an overview on what a credibility assessment is, but stopped short of setting out the factors which led him to find one party or another more credible. It is therefore also impossible to follow Mr. Bawden's reasoning here.

162. After his assertion that the Claimant was less credible than the Affected Party and the two anonymous witnesses, Mr. Bawden found that the Claimant engaged in conduct by saying "things to players that could constitute Maltreatment" without specifying what "things" were said and how they amounted to maltreatment. This finding is unsupported by the evidence and is therefore unreasonable. It is the case that the Claimant cannot be said to breach the policy if the breach itself cannot be specified. It is also unreasonable to impose a sanction where we cannot know what the extent of the breach of the policy is.

163. The Respondent argued that any errors ought to be excused because this investigation was undertaken under their summary procedure. With all due respect to the Respondent, I do not accept this justification. Operating under the summary procedure is no excuse to ignore the Claimant's rights or to provide a decision that fails to provide sufficient rationale that one can trace the decision-maker's logic. The procedure used must still result in a decision which adheres to the law. If this cannot be achieved using the summary procedure, then it is perhaps the case that such procedure is inadequate for the purposes of an investigation such as this.

164. I note that in proceeding under the summary procedure, no attempts were made to resolve the matter through alternative dispute resolution techniques. Prevention of maltreatment can be done collaboratively, not just by punitive measures.

165. I find that Mr. Bawden failed to provide the Claimant with the procedural fairness he was due by failing to interview his witnesses or to account for the decision with sufficient reasoning. The result is a decision that lacks justification, transparency and intelligibility such that it does not meet the threshold of reasonableness. The failure to interview the Claimant's witnesses, or to account for the decision not to interview them, are fatal to the decision.

166. Given my findings on this issue, I have not addressed any of the other issues raised before this review, including the appropriateness of the sanctions imposed.

G. DISPOSITION

167. I find that the Adjudicative Chair failed to provide the Claimant with his rights under the principles of procedural fairness and natural justice and that the Decision is unreasonable. I make the following order:

(1) The matter shall be sent back to the Respondent;

(2) Any sanctions in place on the Claimant are to be lifted pending the final disposition of the Affected Party's complaint;
(3) The Respondent is encouraged to re-determine the appropriate procedure to address the Affected Party's complaint; and,
(4) The Respondent is further encouraged to consider resolving the matter through the use of mediation.

168. I wish to note that this was a well-argued and presented case. The submissions of all parties in this matter were effective and clear and I would like to thank them for their professionalism at all times. I would also like to thank the Affected Party, who was unrepresented, for their submissions in this matter.

Signed in Ottawa, this 30th of September 2025

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David Bennett, Arbitrator