

FREQUENTLY ASKED QUESTIONS (FAQS)

Note: The New Brunswick Safe Sport Complaint Mechanism (NBSSCM) is completely confidential: no information revealed or discussed during the resolution facilitation process can be used against the parties or released publicly without the agreement of all parties. This does not pertain to situations that fall under child maltreatment and “duty to report” where necessary.

Before proceeding with filing a complaint with the NBSSCM, there may be other avenues you wish to explore. Complaints may also be filed with the sport governing body, and in some cases, law enforcement and/or child protective services.

1. What is dispute resolution?

Dispute resolution is a process that occurs in many forms, including, mediation, mediation/arbitration and arbitration. In mediation, a mediator facilitates options for resolution without rendering any kind of formal decision. In arbitration, the arbitrator considers the merits of both sides of the case then renders a decision. In mediation/arbitration, the process may start with mediation and, if the dispute is not resolved, concludes via arbitration.

2. What types of disputes will be covered under the service of the New Brunswick Safe Sport Complaint Mechanism?

The following types of disputes may be eligible to enter this program:

Maltreatment

This program can address disputes that deal with complaints of maltreatment as set forth in an organization’s code of conduct policy reflecting the principles set forth in the [Universal Code of Conduct to Prevent and Address Maltreatment in Sport \(UCCMS\)](#). Please note as part of this complaint process, standards of “duty to report” to proper authorities will apply.

What if the National Sport Organization (NSO) has an independent third-party dispute resolution mechanism for complaints relating to maltreatment?

If it is mandatory for the PSO/MSO to use the NSO mechanism, such disputes or complaints will be referred to the NSO. Should the NSO deny jurisdiction, the complaints **may** be eligible for the NB Safe Sport Complaint Mechanism.

If the PSO/MSO or NSO policy does **not** state that it is **mandatory** for complaints at a provincial level to be forwarded to the NSO mechanism, the complainant may choose to submit their dispute/complaint to the NB Safe Sport Complaint Mechanism. It is the intent that all complaints relating to maltreatment be referred to the Program for consideration.

Appeals

Two types of appeals may be eligible for the NBSSCM (subject to grounds for appeal):

1. Final decisions of a PSO/MSO alleging that it failed to follow their constitution/by-laws or policies
2. Final arbitral decisions made by a Mediator/Arbitrator appointed under the NBSSCM

Appeals concerning final decisions of a PSO/MSO failing to follow their constitution/by-laws or policies may only be made **after** the matter has first been processed through the internal appeal pathway at the PSO/MSO level and all internal avenues for appeal have been exhausted. All efforts to resolve the dispute must be made at the Club and PSO/MSO levels prior to being considered through the NBSSCM.

All appeals submitted to the NBSSCM for consideration must provide sufficient grounds for the appeal as outlined in the program [Dispute Resolution Policies](#).

3. Will complaints that commenced prior to the launch date of the NB Safe Sport Complaint Mechanism be eligible to be included in the program and forwarded for consideration of mediation/arbitration?

Yes – there is no current timeline restrictions in place for complaints processed through the NBSSCM.

4. What are the fundamental principles of the Rules of Natural Justice and Procedural Fairness, and why are they important for managing a dispute?

The Rules of Natural Justice and Procedural Fairness **must** be observed throughout the complaint management process. These include the right to be heard (i.e., the chance to present one's case, submit evidence and arguments, and to know and respond to allegations made by other parties) and the right to an objective and impartial dispute resolution process (i.e., the decision is made by independent individuals, free from conflict of interest, and having considered all the evidence presented).

5. Why are Dispute Resolution policies and procedures important for the membership?

Sport NB and the Department of Tourism, Heritage and Culture (Sport and Recreation Branch) believe that all individuals should be proactive in fostering safe and positive sport in New Brunswick. Dispute Resolution Programs help guide an organization and parties involved in a dispute to fair resolution.

Increasing strong governance and education/awareness of safe sport related resources make sport more welcoming to all involved.

It is widely recognized that, when disputes arise, they can negatively impact the sport system, absorbing time, volunteer/staff resources, money, and energy that could otherwise be invested to increase development, opportunity, and participation in sport across the province. In addition, there has been a major push nationally to make our sport system in this country as safe and positive as possible. To this end, the New Brunswick Safe Sport Complaint Mechanism (NBSSCM) was established to provide efficient and fair handling of disputes.

6. Who developed the New Brunswick Safe Sport Complaint Mechanism (NBSSCM)?

The initial development of the NBSSCM involved a workgroup comprised of Sport NB, Department of Tourism, Heritage and Culture (Sport and Recreation Branch) representatives, a local lawyer and mediation/arbitration experts. Further developments and enhancements of the program were introduced by stakeholders such as ITP Sport, and Sport Law.

7. Who are the mediators/arbitrators who are a part of this program?

All mediators and arbitrators who are part of this program are coordinated and maintained through the initial workgroup members (Sport NB, Sport and Recreation Branch and local experts), and work directly with the parties involved in a complaint process. These individuals are professionally trained mediators/arbitrators (outside of the sport delivery system) and can provide services in both official languages upon request. The list of mediators and arbitrators is held confidentially with Sport New Brunswick in order to aid in independence; this information will therefore not be shared publicly.

8. What is the cost to access the New Brunswick Safe Sport Complaint Mechanism?

Strict guidelines and policies governing the NBSSCM have been developed to determine which disputes fall within the jurisdiction of this program, and to ensure that all warranted complaints are dealt with independently and without bias. This program has been made financially viable as a result of the support funding received from the Department of Tourism Heritage and Culture (Sport and Recreation Branch), and is offered at no cost to eligible members.

9. Who can access the New Brunswick Safe Sport Dispute Resolution Program?

Provincial Sport Organizations (PSO) and Multi-Sport Organizations (MSO) that are Members of Sport NB are eligible to participate in the NBSSCM. This includes any clubs affiliated with a NSO who do not have an operating PSO in NB. It is recognized that any participant involved with a PSO/MSO has the right to have their allegation(s) of maltreatment, as defined in the UCCMS, dealt with impartially, fairly, timely, equitably, transparently, and with respect.

Associate Members may be eligible to participate in the NBSSCM if they have signed an agreement with Sport NB and have adopted the required policies. This aspect of the program is currently under development.

10. What should I do if our organization receives a complaint?

All PSOs/MSOs should have internal policies that will help guide them through the complaints management process upon receipt of a dispute. These policies may include the option of utilizing this program as an independent third-party complaint mechanism, subject to other eligibility requirements as outlined in the [Program Guidelines](#). Regular PSO/MSO communication to their members should make them aware that this program exists and is an option for complainants to access, if applicable.

If a complaint is received alleging (or is suspected of) maltreatment as defined by the UCCMS, it is strongly encouraged for the PSO/MSO to direct the complaint to the NBSSCM for processing.

If a complaint is received alleging a PSOs/MSOs failure to comply with their constitution/by-laws or policies, all efforts should be made to resolve the matter in accordance with their internal processes.

11. Is this program an appeal process?

This program includes an appeal pathway component to manage two types of appeals (subject to grounds for appeal):

1. Final decisions of a PSO/MSO alleging that it failed to follow their constitution/by-laws or policies
2. Final arbitral decisions made by a Mediator/Arbitrator appointed under the NBSSCM

This program does not consider appeals based on merit alone and does not consider those that fall outside the jurisdiction of the NBSSCM itself. The NBSSCM appeal pathway aims to provide Participants with a fair and expedient appeal process that aligns with the requirements of the [Program Guidelines](#).

12. Where does the mediation/arbitration take place?

A mediation session or arbitration hearing can be held in person, by videoconference, by conference-call, or any combination of these formats. The format of the hearing is decided upon by the Mediator/Arbitrator assigned to the case and consent of the parties involved.

13. What happens after an agreement has been signed or an arbitration decision has been rendered?

After hearing the matter, the Mediator/Arbitrator will determine whether an infraction has occurred and, if so, the sanctions to be imposed. This decision is **final** and **binding** and is subject to appeal only under the terms of the Appeal section of the [Dispute Resolution Policies](#). This decision will also come into effect as of the date on which it is rendered, unless decided upon otherwise by the Mediator/Arbitrator, and will apply automatically to the Respondent involved in the complaint.

PSOs/MSOs with whom the Participant belongs will then be notified by email of decisions/sanctions imposed under the policy. It is the responsibility of the PSO/MSO to comply with any decisions/sanctions decided upon through this process.

14. What happens if a party fails to comply with the agreement or decision?

If a party fails to comply with an agreement or decision, the injured party may refer to the court system to confirm (ratify) the agreement. When the court ratifies the agreement/decision, it becomes enforceable, just as if it had been handed down by the court itself. In short, the injured party can go through the court system to make the offending party comply with the agreement or decision. It is in organizations' best interest to resolve disputes fully to reach a resolution and avoid being involved in litigation.