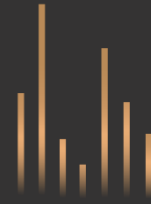




**NATIONAL  
SPORTS  
TRIBUNAL**



Case number: NST-E21-148532

## **Liddick v Gymnastics Australia and Sport Integrity Australia**

### **Determination**

#### **National Sports Tribunal General Division**

**sitting in the following composition:**

Panel Member/s      Mr. David Grace AM QC (Presiding Member)  
                                 Ms. Elisa Holmes  
                                 Ms. Rebecca Ogge

**in the arbitration between**

**Peggy Liddick** *(Applicant)*

Represented by Paul Hayes QC and Adrian Anderson, instructed by John McMullan, Solicitor

and

**Gymnastics Australia** *(Respondent)*

Represented by Rhys Harrison

and

**Sport Integrity Australia** *(Interested Party)*

Represented by Patrick Knowles, Barrister, instructed by Peta Rogers, Senior Lawyer

## PARTIES

1. The Applicant, Ms Peggy Liddick (“the Applicant”), is a coach and official in the sport of Gymnastics. Between 1997 and 2016, she was the National Coach for the Australian Women’s Artistic Gymnastics Team and was employed by Gymnastics Australia (“GA”), the Respondent. At the end of 2016, she stepped down as National Coach and from 2017 to 2020 she was the personal coach to elite National Team Members and Head Coach variously of club and State programs. Sport Integrity Australia (“SIA”) is an Interested Party in the proceedings.

## INTRODUCTION

2. The Applicant was the subject of a number of complaints by a former gymnast, Georgia Bonora (“the Complainant”), brought under Gymnastic Australia’s **Supplementary Policy for the Management of Complaints relating to conduct covered by the 20/21 Australian Human Rights Commission Review into Gymnastics in Australia** (“SCMP”). The SCMP establishes a procedure for dealing with Relevant Complaints made by an Eligible Complainant about Relevant Conduct that if proven would amount to a breach of a Relevant Policy. A complaint can only be a Relevant Complaint if it is made during the Specified Period.
3. The following definitions in the SCMP are relevant. Relevant Conduct is defined as being conduct towards an athlete amounting to misconduct, bullying, abuse, sexual harassment or assault. A Relevant Policy is defined as any policy that was in force at the time that the Relevant Conduct is alleged to have occurred. An Eligible Complainant is a person who has made a complaint during the Specified Period about the conduct of a natural person who is a current member of GA or who remains bound by any Relevant Policy and the conduct is Relevant Conduct and was experienced by the person at a time when they were an athlete (at any level) in Gymnastics in Australia.
4. The complaints made by the Complainant were made during the Specified Period. The procedure for relevant complaints is specified in the SCMP. The procedure was followed in relation to the complaints by the Complainant. The result of the process undertaken was that an external investigation was undertaken by SIA. SIA made findings that five

complaints against the Applicant were substantiated and that the Applicant's conduct breached GA's Member Protection Policies that were in force at relevant times. Misconduct, bullying and abuse occurring between 2006 and 2012 were the basis of the complaints. As a result of the findings of the SIA Investigation, GA proposed a Disciplinary Measure, as defined in the SCMP, comprising a 6 month suspension of technical membership of GA, of which 3 months was to be suspended pending completion of a 3 month reintegration period.

5. Pursuant to "Attachment C4: Supplementary Discipline By-Law", the Applicant elected to have the Disciplinary Dispute (as defined in the SCMP) heard in the General Division of the National Sports Tribunal ("NST"). The Applicant did not accept that she had breached any of the Relevant Policies and disputes that any of the complaints can be made out. Pursuant to the SCMP, SIA is entitled to appear as an Interested Party, and appeared by Counsel and lawyers in these proceedings. SIA, pursuant to the SCMP, took the lead in presenting GA's position.

## **NST JURISDICTION**

6. The Supplementary Discipline By-Law provides that the jurisdiction of the NST is engaged for Disciplinary Disputes. Disciplinary Disputes are brought before the General Division of the NST for Arbitration under Section 23 of the National Sports Tribunal Act, 2019 ("NST Act"). The dispute in this matter arises between a sporting body, GA, and the Applicant. The Applicant is a member of GA and is bound by its policies including the SCMP and the SCMP permits the dispute to be heard by the NST. Disciplinary Disputes brought before the General Division of the NST under the SCMP are "Disciplinary Disputes" for the purposes of Rule 7 of the National Sports Tribunal Rule, 2020 (Cth.)
7. The Applicant elected to have the Disciplinary Dispute determined by the NST.

## **FACTUAL BACKGROUND**

8. The Applicant's employment by GA was governed by fixed term Contracts of Employment. There are two such Contracts relevant to the complaints made by the Complainant. The first Contract was for the period from 1 November 2004 to 31 October 2008. The second

Contract was for the period 1 November 2008 to 31 October 2012. In each Contract, the Applicant's duties were set out in Schedule A (Job Description) and such other duties as GA may reasonably allocate to her from time to time. Each Contract provided that the Applicant performs her duties in a manner which furthered and protected the interests of GA. Further, the Applicant agreed, pursuant to each Contract, to comply with the terms of any Code of Conduct and/or Policy promulgated by GA, or adopted by GA, from time to time. The two Contracts were relevantly identical. The Member Protection Policies fell within the definition of a Relevant Policy under the SCMP. The relevant Member Protection Policies were Version 3, Version 4 and Version 5. Each of the Policies applied to the Applicant. Each Policy contained clauses which prohibited all forms of harassment, including the misconduct, bullying and abuse, the subject of the complaints.

9. On or about 24 September 2020, the Complainant made a formal complaint to GA regarding the Applicant's behaviour and coaching practices. The Complainant had been involved in the sport of gymnastics in Australia for over 20 years. She represented Australia at the 2006, 2007, 2009 and 2010 World Championships, the 2010 Commonwealth Games and the 2008 and 2012 Olympic Games. She complained that the Applicant had subjected her to "verbal and emotional abuse including but not limited to inappropriate language, shaming, poor coaching practices, ridicule, intimidation, humiliation, threatening behaviour and neglect". The specific allegations comprising her complaint were investigated by SIA who found five of the specific allegations to be substantiated and that the Applicant's conduct breached the relevant Member Protection Policies as in force from time to time. There was no dispute that if any of the allegations were found proved on the balance of probabilities (pursuant to Clause 7.6(a) of the SCMP) the Relevant Policy would have been breached, subject to the issue of whether any proceedings against the Applicant were "statute-barred" pursuant to Section 5(1) of the Limitation of Actions Act, 1958 (Victoria). (which will be discussed in detail below.)

10. The five allegations that were found to be substantiated by the SIA investigation were as follows:

- (a) **Allegation 2**

**In 2006 at a training camp of the Australian Institute of Sport (AIS) prior to**

the World Championships at Aarhus, Denmark, the Applicant said to the Complainant and other athletes that she would lock them in their room and feed them peas and carrots under the door.

(b) **Allegation 4**

In 2007 at a training session at the World Championships in Stuttgart, the Applicant harassed the Complainant by making an offensive and belittling remark about her in her presence. The remark in question was made in the context of a teammate falling from the beam apparatus during a training session at which the Applicant said words to the effect “If I’d wanted someone to fall of the beam, I’d put [Georgia] up there”.

(c) **Allegation 5**

In 2007 at the World Championships in Stuttgart, the Applicant bullied and ridiculed the Complainant about the result of the WAG team for the event.

(d) **Allegation 10**

During a training session at the 2012 London Olympics, the Applicant yelled and screamed insults at the Complainant for making a mistake.

(e) **Allegation 11**

During a team debrief following the competition at the 2012 London Olympic Games, the Applicant said to the Complainant and other WAG members that they were overweight and that this was the reason for their performance.

11. Three witnesses, namely the Complainant, Shona Morgan and Olivia Vivian gave evidence in support of Allegation 2. The Complainant, Ms Morgan and Chloe Gilliland gave evidence in support of Allegations 4 and 5. The Complainant gave evidence in support of Allegation 10 with limited further support being provided by Ms Gilliland. The Complainant and Ashleigh Brennan gave evidence in support of Allegation 11. All

witnesses called by SIA were gymnasts who were members of the Australian team or squad at the relevant event.

12. The Applicant gave evidence in her own defence and provided in addition a body of good character evidence and extensive evidence of her achievements in the sport as a coach. She also relied upon her statement dated 27 August 2021 and the statements of Stacey Umeh and Helen Colagiuri both dated 27 August 2021. Further she relied upon an email from Nikki Jaecocke and extracts from the interview conducted by SIA with Keren Faulkner. These latter named persons were persons attached to the team at a number of the relevant events.
13. By Grounds of Appeal dated 20 August 2021, the Applicant filed detailed Grounds of Appeal in relation to the findings made by SIA in respect of the five allegations and in respect of the determination of sanction. The SIA Investigation Report was not tendered in evidence. It was not appropriate for that Report to be considered. These proceedings are not an appeal against the findings of SIA. The proceedings amount to an election on the part of the Applicant to have her dispute determined by the NST ab initio. It is on this basis that the Panel conducted the hearing, and considered in detail the evidence and submissions thereon. Each party was given full opportunity to present its case and to rely upon evidence from witnesses and, where appropriate, relevant documents. There can be no doubt that all parties were fully aware of each allegation relied upon, which may have not necessarily been the case during the investigation phase.
14. While the Panel has considered all the facts, allegations, legal arguments and evidence submitted by the parties, the Panel refers in its Determination only to the submissions and evidence it considers necessary to explain its reasoning.

## **PROCEEDINGS BEFORE THE NST**

15. The Applicant filed her Application to the NST on 6 August 2021. By an Arbitration Agreement dated 19 August 2021, she agreed to have her matter arbitrated before the NST and filed Grounds of Appeal, as referred to above, on 20 August 2021. Those grounds outlined in detail what the Applicant disputed. GA and SIA, as discussed earlier, became parties to the Arbitration.

16. A Pre-Hearing Conference was held on 15 September 2021 at which procedural directions were given in relation to the filing and service of the original Notice of Formal Complaint made by the complainant and associated documentation. Specific directions were given in relation to the conduct of the hearing.
17. The hearing commenced on 20 September 2021. On that date the complainant gave evidence, was cross-examined and re-examined. On the same day Ms Morgan gave evidence and was cross-examined.
18. The hearing continued on 21 September 2021 when Ms Gilliland and Ms Vivian gave evidence and were cross-examined. The Applicant also gave evidence on that day and was cross-examined and re-examined.
19. Subject to certain objections, primarily on the basis of relevance, witness outlines of the Complainant, Ms Morgan and Ms Gilliland were tendered as were statements of the Applicant and Messrs. Vivian, Brennan, Umeh and Colagiuri and extracts from the SIA interview with Keren Faulkner, the Team Physiotherapist. Various other formal documents such as the policies, contracts and other relevant documentation were tendered throughout the course of the hearing.
20. The parties agreed on a joint tender bundle of documents to be considered by the Panel in its Determination and this bundle included the aforementioned documents together with other relevant documents touching on the factual issues in dispute.
21. At the conclusion of the hearing on 21 September 2021, the hearing was adjourned to 27 September 2021 for oral submissions.
22. The Panel received written submissions by the Applicant and SIA and heard oral submissions from the parties on 27 September 2021. At the conclusion of the hearing on that day, the Panel advised that its decision would be reserved.
23. On 7 October 2021, the Panel received, unsolicited, further written Submissions from the

Applicant in relation to a specific issue as to whether the proceedings were statute-barred as being contrary to the Limitation of Actions Act, 1958 (Victoria). On 14 October 2021, SIA provided to the Panel written Supplementary Submissions responding to the Applicant's Submissions dated 7 October 2021.

24. No objection was made at the outset of the hearing to the composition of the Panel and at the conclusion of the oral hearing the parties confirmed that their procedural rights had been fully respected. Furthermore, the acceptance by the Panel of further written Submissions after the conclusion of the hearing, and without any directions to that effect, reinforced that each of the parties had been given full and complete opportunity to be heard.

## **APPLICABLE RULES**

25. The relevant parts of the SCMP are set out in paragraphs 2 – 5 above. The NST clearly has jurisdiction to determine this matter and to issue a Determination. The relevant parts of the Member Protection Policies that were in force at the relevant times are set out in the Annexure to this Determination.
26. At paragraph 10 above, the five allegations made against the Applicant are set out. The relevant evidence in relation to each allegation will be set out below followed by a consideration of the submissions made by the parties in relation to the conclusions of fact that the Panel should reach. Prior to the consideration of these submissions, however, the Panel is required to resolve the issue as to whether the proceedings are effectively “statute-barred” by reason of the Limitation of Actions Act, 1958 (Vic.). (“the LIA Act”).

## **Limitation of Actions Act 1958 (Victoria)**

27. The Applicant contends that the proceedings brought by GA against her are statute-barred. The starting point for this contention is the relevant contract in existence at the time of each allegation. The Applicant asserts, and GA and SIA do not dispute, that the relevant contracts were entered into in the State of Victoria and that Victorian law applies thereto. At the relevant times that the contracts were entered into, GA was based in Victoria and the Applicant lived in Victoria.



28. The Panel accepts that the Member Protection Policies, referred to in paragraph 8 above, were incorporated by reference into the contracts entered into between the Applicant and GA. The relevant parts of those Policies are set out in paragraph 25 above.
29. Section 5(1) of the LIA Act prohibits any action founded on contract being brought against a person after the expiration of 6 years from the date on which the cause of action accrued. The Applicant submits that as the allegations relate to incidents that occurred in 2006, 2007 and 2012, the LIA Act prohibits any action against the Applicant which must be founded on the contract.
30. Section 3 of the LIA Act defines “action” as including any proceeding in a court of law. Section 28(1) of the LIA Act provides that the LIA Act shall apply to “arbitrations” in like manner as it applies to “actions”. Section 28(6) of the LIA Act provides that the section applies to an arbitration under Act of Parliament as well as (emphasis added) to an arbitration pursuant to an arbitration agreement. Section 3(1) defines “arbitration agreement” as having the same meaning as in the Commercial Arbitration Act, 2011 (Vic.). That Act is an Act of the Parliament of Victoria.
31. By reason of section 38 of the Interpretation of Legislation Act, 1985 (Vic.), the meaning of “Act” in section 28(6) of the LIA Act is an Act passed by the Parliament of Victoria, and “Parliament” means the Parliament of Victoria.
32. The National Sports Tribunal Act, 2019 (Cth.) is an Act of the Parliament of the Commonwealth of Australia. It is clear therefore that, pursuant to the provisions of section 28(6) of the LIA Act, this is not an arbitration pursuant to an Act of the Victorian Parliament. The question is, is it an arbitration pursuant to an arbitration agreement within the meaning of that sub-section. If it is, when did the cause of action (or right to arbitrate) accrue?
33. In ASADA v 34 Players & Another [2014] VSC 635, the Supreme Court of Victoria considered whether it was competent for ASADA to issue subpoenas pursuant to the Commercial Arbitration Act, 2011 (Vic.) (“the CA Act”) to compel the attendance of witnesses at a hearing of the AFL Tribunal convened to consider whether certain players and a support person at the Essendon Football Club violated the AFL Anti-Doping Code.

The Court considered the various definitions of “arbitration agreement”, “arbitration” and “domestic commercial arbitration” in the context of the CA Act. The Court had to consider whether the proceedings conducted by the AFL Tribunal were properly characterised as commercial arbitration proceedings. The Court found that they were not. After an examination of the contractual provisions existing between the players and the AFL, the Court found the proceedings were properly characterised as being a labour or employment dispute that involved disciplinary proceedings and possible consequent sanctions affecting employment.

34. An “arbitration agreement” is defined in section 7 of the CA Act as an agreement by the parties to submit to arbitration all or certain disputes which have arisen or which may arise between them in respect of a defined legal relationship, whether contractual or not. It is of note that in the contracts of employment entered into between the Applicant and GA, there was no clause containing an agreement by the parties to submit to arbitration all or certain disputes which may arise. Under the SCMP, a Breach Notice was served upon the Applicant which gave the Applicant the right to arbitrate the subject matter of the Disciplinary Dispute before the NST. That right had not arisen before the issue of the Breach Notice. The right to arbitrate, accepting that it may be equivalent to a cause of action (see County Roads Board v Herald & Weekly Times Limited [1963] VR 698 at 705) is the time of the service of the Breach Notice.
35. The Panel is satisfied that the reference to “an arbitration pursuant to an arbitration agreement” in section 28(6) of the LIA Act does not apply to this arbitration by reason of the fact that this is a labour or employment dispute and does not bear the hallmarks of an otherwise Commercial Agreement, as discussed in ASADA v 34 Players & Another, particularly at paragraphs [56] – [57]. If the Panel is wrong about that conclusion and the arbitration agreement between the parties in the proceedings before the NST fell within the definition of “an arbitration pursuant to an arbitration agreement” in section 28(6), by reason of the fact that the right to arbitrate (equivalent to a cause of action) arose at the time of the submission of the matter to arbitration consequent upon the service of the Breach Notice, the proceedings are not statute-barred. In other words, the cause of action (or right to arbitrate) did not variously arise in 2006, 2007 and 2012. It arose in 2021.
36. Accordingly, the Panel will now proceed to consider the merits of the five allegations made

against the Applicant.

## **THE RELEVANT EVIDENCE**

37. Each of the Allegations will be examined in turn. Issues of credibility, context, social mores relevant at the time, the applicable standard of proof and other relevant issues will be discussed upon consideration of the merits.

### **Allegation 2**

38. The Complainant alleges that, during the 2006 training camp at the Australian Institute of Sport ("AIS") prior to the World Championship, the Applicant said to her and other athletes "I will lock you in a room and feed you peas and carrots under the door".
39. The Complainant's evidence comprised her witness outline which was tendered as an exhibit, cross-examination and re-examination. She stated that she was registered as an athlete with GA from 1999 to 2017 and was a member of the Women's Artistic Gymnastics Squad between 2006 and 2012. During the period during which she was a Member of the National Squad, the Applicant was the head coach. Six weeks prior to the 2006 World Championships scheduled for Aarhus in Denmark, the Complainant attended a training camp at the AIS with the team. She was 16 years of age at the time. The Applicant was in charge of the team at the camp. She supervised the diet of those in attendance although there was also a nutritionist at the AIS.
40. The Complainant stated that the Applicant gave the team strict instructions in relation to what they should eat including telling them not to eat carbohydrates like rice, potatoes and pasta. She further stated that she recalled the Applicant saying words to the effect "make sure you eat well in the dining hall" and that "I'll lock you in your room and feed you peas and carrots under the door" if we ate more food than she thought we needed. She stated that her teammate Shona Morgan was present when this was said and that the comment about being fed peas and carrots stuck in their heads and they would quote it to each other often. She stated that the comment was said in a joking way but that it made her think about the power the Applicant had over them and that there could be consequences if they did not do as she said.

41. She stated that the Applicant made her feel self-conscious about her weight and would often make targeted comments about weight and physical appearance. For example, during stretching she would say “stretch your gluteus like some of you more maximus than minimus”. She stated that even though it was said in a humorous tone the words were pointed and made her feel self-conscious about her weight.
42. She stated that the AIS nutritionist would perform skin fold testing at training camps and they were also weighed once a week. The results were reported to the Applicant who had target measurements and weights for all athletes. The Applicant did not explain how the target weight for each team member was determined or how achieving the target weight would help performance. She stated that she was stressed that if she did not meet her target she would attract a negative comment or reaction from the Applicant and sometimes she saw the Applicant stare at team members in the dining hall; it felt that the Applicant was watching food intake very closely.
43. She recalled that during one AIS training camp, on the Applicant’s instructions, the team was restricted to eating dinner from the salad bar area and not permitted to eat dinner from the hot food area. She stated that during many overseas events, the WAG team did not eat meals in a public area like a dining hall or hotel restaurant, but instead had their meals served from the Applicant’s hotel room under her supervision. She recalled that during one championship, which she thought was the 2007 World Championships in Stuttgart, Germany, the team was served noodle soup from the Applicant’s room and that team members who were achieving the Applicant’s weight target were given more noodles in their soup than the team members who were not.
44. She stated that during some competitions they would be weighed every day which was contrasted with the fact that she did not regularly weigh herself and her personal coach did not take such measurements. She stated that she found the focus on weight and fat measurement stressful; it made her anxious and she became hyper-vigilant about who was watching her when she ate. She avoided being seen snacking or taking second helpings because she did not want to annoy or upset the Applicant because she was National Coach and she had influence over team selection.

45. She felt that the Applicant's focus on weight and diet adversely affected the team's performance. She stated that during her regular training she ate as much food as she thought was necessary in order to give her energy which was contrasted with what occurred at training camps and competitions where they ate much less food and fewer carbohydrates which had a huge effect on how they trained and competed. She recalled on at least one occasion complaining to the AIS nutritionist about what the Applicant would allow them to eat and that her personal coach John Hart would provide her and some other athletes with additional snacks, without telling the Applicant, because they were hungry.
46. In cross-examination, she stated that the Applicant made the "peas and carrots under the door" comment on multiple occasions but agreed that in her witness outline she only mentioned that it had occurred at the AIS training camp. She also agreed that the first time she had made the complaint was approximately 14 years after the event. When it was put to her that the Applicant denied having made that remark in the way in which it was claimed, she responded by saying that she did not believe the Applicant was telling the truth and that she had said those remarks multiple times throughout the years.
47. When it was put to her that she was making the allegation up, she denied doing so and re-iterated that it did happen and further that she remembered how the Applicant said it and how it made her feel. She denied being mistaken as to the exact words that the Applicant used. She agreed that she did not make a note of the comment at the time. She believes she would have told her coach John Hart about the comment throughout the years, and that she repeated the comment that the Applicant had made to a lot of people.
48. A different account of words used by the Applicant were put to her. It was put that Shona Morgan had said "I heard Ms Liddick say on one occasion words to the effect, 'I would lock a girl in her room and feed her peas and carrots under the door to get her where she needs to be.'" to which she replied she believed those words were quite similar. She did not accept that she had been mistaken and denied the proposition that she had never liked the Applicant. She stated that her request that the Applicant be suspended from gymnastics and that her Hall of Fame and Life Memberships be revoked as a consequence (which requests were made in her complaint made 24 September 2020) did not allow a conclusion that she couldn't stand the Applicant or was vindictive. Further,

she did not accept that she might be mistaken about what was said in terms of the “peas and carrot” remark because she loathed the Applicant and felt quite vindictive towards her.

49. She rejected the propositions that were put to her that because the statement was said in a joking way that there was no way it could be insulting, intimidating, humiliating, malicious, degrading or offensive and further she believed that it was said in a way of being a verbal threat or abuse. Whilst agreeing that she had made no complaint at all to the Applicant at any time whilst she was a member of the team, she denied that she was not at all troubled about what she could or couldn't eat.
50. Shona Morgan represented Australia in women's artistic gymnastics at one Olympic Games and three World Championships. Her personal coach for most of that period was John Hart. She was a Member of the Waverley Gymnastics Club with the Complainant. She retired in 2009/2010. In her Witness Outline, she stated that during the period when she was a Member of the Australian team, the Applicant was the head coach. She stated that during training camps and competitions the Applicant was in charge of athlete nutrition and diet and during championships and one training camp they were not allowed to eat meals from the dining hall, but were served food in controlled portions from the Applicant's room. She stated that they were also regularly weighed and had skin fold tests performed.
51. She stated that the Applicant would make comments to the athletes to emphasise her view that diet and maintaining ideal weight were very important and she heard her say on one occasion words to the effect “I would lock a girl in her room and feed her peas and carrots under the door to get her to where she needs to be”. She stated that the Applicant's focus on diet was different to that of John Hart who did not really tell her what she should and should not eat but that the Applicant's approach had an effect on her so that during training camps she would try to go to the dining hall early to get as much food as she could eat and as fast as she could because she was afraid if someone from the coaching team came in and saw what she was eating, they would not approve.
52. She felt that she could not go up and get a dessert or even a second helping if the Applicant was present and she recalled a conversation with the Applicant in around 2007 when she stated she wanted an apple and the Applicant told her “It's still sugar. It's still not good for you, like you shouldn't have apples”. She stated that during the 2007 World

Championships in Stuttgart they had both lunch and dinner served from the Applicant's room.

53. In cross-examination, she agreed that she could not pinpoint when the "peas and carrots" comment was made. She recalled that at the AIS they would have meetings and the Applicant would emphasise the importance of maintaining weight. She stated that she didn't believe the Applicant had done what she had indicated in her comment to an athlete in the past. She accepted it was an anecdote attributed to the Applicant but did not recall when she said it and agreed with the proposition she possibly might not have said it in meetings that she attended. She stated she could not recall a specific time when the words were said but she took it as meaning the lengths that the Applicant would be prepared to go to. She found it shocking and was too extreme and she didn't believe it.
54. She was upset by those words and did not recall the words being said in a joking or humorous manner. She accepted that it is possible people had different recollections but she did not believe the words were funny. She accepted that frank feedback was necessary at times including in relation to weight and they were given weight charts at training camps. She accepted that sometimes the truth hurts and that constructive criticism can sometimes sting but that if the statements were made professionally then constructive criticism would not sting. She accepted that gymnasts had a responsibility to have energy to train and compete but that her target weight was chosen for her.
55. Olivia Vivian was a Member of the team at the 2008 Beijing Olympic Games and has also represented Australia at the 2014 Commonwealth Games and the 2005, 2006 and 2014 World Championships. Her statement dated 10 September 2021 was tendered in evidence. In that statement, she stated that she has known the Complainant since 2004 having been on the WAG team together at a number of major events including the 2008 Beijing Olympics. She knew the Applicant because the Applicant was her National Coach for her entire elite career.
56. She attended the team training camp at the AIS prior to the 2006 World Championships. She recalls that the Complainant was present at the same camp. At the time, Ms Vivian was 17 years of age. She recalled the Applicant making a number of comments about nutrition and food to the team members at the training camp and she recalled one

comment where the Applicant mentioned “locking us in a room and feeding us peas and carrots”. She stated that she could not say for certain that it was an exact quote but she remembered “locking us in a room” and “feeding us peas and carrots”. She stated that there may have been other words in the middle of that quote. She further stated that that comment and other comments about food, and not only at this training camp, were normal. She stated that the fear around eating was normalised so the comment about “peas and carrots” didn’t impact her behaviours.

57. She stated that the power structure between her as an athlete and the Applicant as a head coach meant that she couldn’t speak up about those comments and that the Applicant and other coaches controlled team selection, controlled whether she could go to the World Championships or Olympics, so she wouldn’t say anything. She stated that she had to put up with those comments for fear of jeopardising her place in the team. Therefore, for a period of time which began much earlier than that training camp, the fear and lack of power was always there and that’s why it was normal to her and that’s why the comment about peas and carrots did not impact her behaviour.
58. In cross-examination, she accepted that Ms Morgan’s recollection of the words that were used in relation to the “peas and carrots” comment could be correct and that she may be recollecting an anecdote. She stated that it seemed to her it was a way in which the Applicant established power “sort of almost like putting the fear into what had to be done just for results”. She could not recall whether the comment was made in a joking way but she wouldn’t dispute the Complainant’s description to that effect.
59. The Applicant, in her witness statement dated 27 August 2021, denied that she had ever said to the Complainant or any other athlete “that I would lock them in a room and feed me peas and carrots under the door”. She stated that there was no need or circumstance in which she would ever make such a statement and that she always had the health and well-being of the gymnasts as the number one priority in all aspects of her coaching. She further stated that the food intake of every gymnasts was, at every camp and at every competition, the responsibility of the gymnasts themselves, their respective personal coaches, and the multiple nutrition specialists engaged from time to time by GA, and not the Applicant’s responsibility. She further stated that the recording of weight, skin folds, diet or any other related topic was always performed by others and reported to her as the



National Head Coach. Stacey Umeh, GA National Team Choreographer said in her statement that she was present at every camp from 2006 – 2016 but had no memory of this episode. Helen Colagiuri, GA Technical Director, also had no memory of any such episode.

60. In cross-examination the Applicant denied making the “peas and carrots” comment. She stated that she didn’t recall whether it was possible she said it as a joke. She clarified that she meant by the words “don’t recall”, that she “did not remember”.

#### **Allegation 4**

61. The Complainant alleges that in 2007 at a training session at the World Championships in Stuttgart, Germany, the Applicant harassed her by making an offensive and belittling remark about her in her presence.
62. The Complainant’s evidence comprised her witness outline which was tendered as an exhibit, cross-examination and re-examination. She stated that she represented Australia at the 2007 World Championships in Stuttgart, Germany at the age of 17 years old.
63. She stated that during a training session prior to the competition she approached the Applicant because she wanted to tell her that she had finished her training program. At the time, the Applicant was watching another gymnast Shona Morgan training on the beam apparatus. Other coaches and athletes were also present.
64. The Complainant stated that while she was standing next to the Applicant, Ms Morgan fell off the beam and the Applicant became annoyed and yelled out “*If I wanted someone to fall off the beam, I would have put Georgia up there*”.
65. She stated that she remembered feeling horrible about the comment but scared to say anything. She stated that the Applicant was the national coach and she did not want to jeopardise her selection.

66. She stated that she just stood next to the Applicant and eventually the Applicant turned to the Complainant and said "What?". She stated that she told the Applicant, "I have finished my program".
67. She stated that she could not recall whether the Applicant made any response. She stated that after the Applicant had made this comment, she remembered not wanting to compete because she didn't want another opportunity for the Applicant to berate her.
68. In cross examination, the Complainant agreed that she was a reserve in Stuttgart and that she did not actually compete.
69. She stated that her coach, John Hart, the Gymnastics Australia Manager, Lisa Gowthorp and physiotherapist, Keren Faulkner were present in Stuttgart and that Mr Hart and Ms Faulkner were present when Ms Morgan fell off the balance beam.
70. When it was put to her that she was mistaken as to what she thought she heard, she did not accept that she was mistaken. She also did not accept that after 14 years she might not have accurately recalled what was said. She agreed that she had not complained to anybody at the time including Ms Gowthorp and that she had not made a note of the comments. It was put to her that if she had felt upset or harassed or humiliated by the comments she could have gone to Ms Gowthorp and complained. She said that complaining to Ms Gowthorp "*wouldn't have achieved much.*" She stated that she had spoken to her teammates and to Ms Allen, the Head of Delegation.
71. The Complainant rejected the proposition she had taken the remark out of context and that if a remark had been made, it may have been, *'If you're going to fall off, I'll put Georgia up there'*, a positive remark to the effect of *'I'll put Georgia up there to show you how it's done'* given that the beam was one of her better apparatus. She agreed that the balance beam was her best apparatus later in her career, but did not accept the alternative explanation because she was a reserve in the team.
72. She did not accept that she had taken the remark in a negative light because she did

not like the Applicant. She also did not accept that there was another possible interpretation of similar words that may have been used. She disagreed that she had made the complaint because she was motivated to have the Applicant's life membership and hall of fame membership of Gymnastics Australia terminated.

73. She did not agree that the remark had been said in a podium session and stated that the remark had been said in a training session. She said that she had felt threatened by the remark. She did not agree that because she had not made an official complaint at the time, that she did not feel harassed, insulted or offended by what was said.
74. Ms Morgan provided a witness outline which was tendered in evidence. She stated that she and the Complainant were close friends. She recalled on one occasion, to the best of her recollection in 2007, when she was doing a training routine on the beam, the Applicant was observing her and she fell off the beam. She stated that when she fell off the beam, the Applicant said, "*If I wanted someone to fall, I would put Georgia up*". She stated that the Complainant was standing next to the Applicant at the time and that the comment was incredibly rude to her because she had just fallen, and to the Complainant. She stated that she kept training and did not personally comment. She wanted to do something or say something but she was too afraid to stand up to the Applicant.
75. In cross examination, Ms Morgan stated that she had been in the training hall when she had fallen off the beam. She stated that she had fallen off because she was crooked. She stated that she had spoken to the Complainant before she was interviewed by SIA and that she had discussed the allegation with the Complainant during the last 12 months. She accepted that some of the words alleged by the Complainant may not be exact but the context was correct. She did not agree that she was mistaken as to the words said and she did not accept that the Applicant could have said "*If you're going to fall, I'll put Georgia up there*". She accepted that the Complainant's best apparatus possibly could be the beam.
76. Chloe Gilliland was a member of the Australian team at the 2007 World Championships in Stuttgart, Germany. She was 17 years old at the time. She agreed that she had known the Complainant for around 20 years and that they were team

mates and friends.

77. Ms Gilliland tendered a witness outline in evidence. She stated that she could recall an occasion in Stuttgart when the team was training on the beam apparatus and several members were falling from the beam. She stated that the Applicant was becoming increasingly angry and was yelling loudly and swearing. She recalled that the Applicant described the performance using words like “fucking rubbish”. She stated that there were other people in the area at the time including judges who could have heard the Applicant. She recalled being petrified.
78. She stated that at one point when a member of the team fell from the beam (she did not recall who), the Applicant said loudly, *“If I wanted someone to fall off the beam, I’ll put Georgia up there.”* She stated that she recalled the comment because she did not understand why the Applicant picked on the Complainant. She stated that the Complainant was a consistent gymnast and it was more frequent for the Applicant to direct sarcastic comments to other members of the team including Ms Gilliland.
79. In cross examination, Ms Gilliland said it was not frequent to hear swearing in gyms. She confirmed that she could not remember who had fallen from the beam but she said that she can remember it happening in podium training. She agreed that there was no reason to recall the exact quote from 2007 and she conceded that the words she recalled may not be exactly what the Applicant had said.
80. Ms Gilliland accepted the proposition that it was possible that the Applicant had said *“if you’re going to fall off, I’ll put Georgia up there”*.
81. The Applicant, in her Witness Statement dated 27 August 2021, denied any statement to the effect of *“If I wanted someone to fall off the beam, I’d put [the Complainant] up there..”*. She stated that she had selected the Complainant for her stability and reliability on the balance beam apparatus and that the Complainant was one of Australia’s best gymnasts on the beam.
82. The Applicant stated that while she did not believe that she had made the comment,

she said it was unlikely that she would have ever suggested anything negative about the Complainant's ability on the beam and would rather have said something positive to the effect that if she wanted someone to stay on the beam, she would have pointed to the Complainant.

83. She stated that the Complainant was a reserve in 2007 and she did not believe that she would have made a comment in relation to a reserve team member.
84. She stated that Mr Hart was present at all of the Complainant's training sessions and that she had never received a complaint from Mr Hart about acting inappropriately towards the Complainant. Helen Colagiuri stated in her statement that she had no memory of this episode, and as there would have been many people present in the vicinity, it would have been seen by someone. No person raised this episode with her.
85. In cross examination, the Applicant said that she could not remember saying the comments but stated that it would be highly unlikely she would have said the exact words because the Complainant was a very good beam worker. She stated that if she had said any of the words that it would have been in a positive light.
86. She stated that the comments alleged were inappropriate and that she would not have said them.

### **Allegation 5**

87. The Complainant alleges that in 2007 at the World Championships in Stuttgart, Germany the Applicant bullied and ridiculed the Complainant about the result of the WAG team.
88. The Complainant's evidence comprised her witness outline which was tendered as an exhibit, cross-examination and re-examination. She stated that she was a reserve in the WAG team for Australia in Stuttgart so she did not ultimately compete in the competition. She was 17 years at the time and the Applicant was the National Head Coach.
89. The Complainant stated that immediately after the end of the competition, the team and

the coaches were awaiting the final results. The results were important because Australia needed to finish in the top twelve teams in order to qualify for the 2008 Olympic Games in Beijing. She stated that the team was worried that it might not qualify.

90. She stated that the Applicant was very annoyed by the performance and said to the team including the Complainant words to the effect of:

*“Do you like this? Do you like how this feels? Do you like sitting in this situation? Is this what you wanted?”*

*You know, my job is on the line here. I suppose I could always be a biology teacher. I was always good at science.”*

91. The Complainant described the Applicant’s tone as sarcastic, bitter, sharp, aggressive and condescending.

92. She stated that when the final results came in, the team had finished eleventh and had qualified for the Olympics. She states that later that evening, the Complainant had an informal meeting with some of the other members of the squad and some members including the Complainant were crying in the bedroom about the way the Applicant had behaved.

93. In cross examination, the Complainant agreed that she did not actually compete in Stuttgart. She agreed that the team performed well below expectation and there was a chance that it would not qualify for the 2008 Beijing Olympic Games.

94. When it was put to the Complainant that there was nothing bullying or intimidating about the words said by the Applicant, the Complainant stated that she believed there was. The Complainant did not accept that the Applicant as the national coach was challenging the team to consider and reflect upon a performance when the team had underperformed.

95. The Complainant agreed that she was not to blame for the fall in the team’s performance but added that she had had a role in the team and that she had to be ready at any second. She stated that if the words were not directed at her, she would not have been

asked to go to the team meeting. She stated that she felt harassed by the words and she rejected that the comments were really a call to arms by the Applicant to challenge the team to reflect upon the performance which was the role of a coach.

96. She agreed that she had never made a formal complaint in writing about the comments until 2020 but that she had spoken to Jane Allen, the Chief Executive Officer of GA, about it.
97. When it was suggested to the Complainant that some of the team members were crying because they were disappointed in their performance and would possibly miss the Beijing Olympics, the proposition was rejected by the Complainant.
98. Shona Morgan, an Australian gymnastics team mate of the Complainant's who competed at the 2007 World Championships in Stuttgart, tendered a witness outline in evidence. Ms Morgan was 17 years old in 2007.
99. Ms Morgan stated that she thought the team was ranked about 5<sup>th</sup> or 6<sup>th</sup> in the world going into the 2007 World Championships, however the team did not have a successful competition. She could recall being worried after the competition about whether the performance was good enough to qualify for the 2008 Beijing Olympic Games.
100. She stated that after the team had finished competing she remembered attending a meeting with the Applicant and the team in the Applicant's hotel room. She stated that she could not recall whether they had found out about the results of the other teams at that stage.
101. She stated that the Applicant said words to the effect of, "*Are you happy with this? This is not okay. This is not good enough*".
102. She stated that when the team had learned that they had done enough to qualify for the Olympics, the Applicant had said, "*You guys are fucking lucky*".
103. She stated that she also heard the Applicant say either at the meeting or later words to

the effect of *“I might lose my job for this performance. I could always just be a teacher”*.

104. She stated that she felt upset about the comments and felt like the Applicant was trying to make the team feel guilty about its performance and how it reflected badly on her as the coach.
105. In cross examination, Ms Morgan accepted that there was a possibility that the team might miss out on the Olympics, that she was disappointed with the performance and that the team had performed well below expectation, but she did not agree that the words could have been said by the Applicant to get the team to improve. She agreed that the Complainant could not have been responsible for the result as she was a reserve. She said that the Applicant had sworn at the team and agreed that she had heard swearing in gyms before.
106. Chloe Gilliland also competed at the 2007 World Championships in Stuttgart in the team. She was 17 years old at the time. She stated that the Applicant was disappointed with the team results at Stuttgart and the competition was important because the top teams would qualify for the 2008 Olympic Games.
107. She recalled that after the team had competed, but before all other teams had finished, the team had a meeting in the Applicant's room with Ms Allen.
108. She stated that the Applicant spoke to them angrily and she really *“ripped into us”*. She stated that the Applicant spoke loudly and with aggressive body language.
109. Ms Gilliland could not recall everything the Applicant had said at the time, but she did recall the words to the effect of:

*“This is terrible. This is all your fault. You have let the country down with your performance and you better hope that that we get a team through to Beijing, or it will be your fault.”*

110. She recalled that a few of the gymnasts were crying after the meeting.



111. In cross examination, Ms Gilliland agreed that it was possible that the team would not qualify for the Olympics and that it had performed below expectations, there was disappointment and crying and the team, coaches, physios and support staff had worked hard. She rejected the proposition put to her that an athlete was responsible for their own performance and maintained that the comments were directed to all in the room including the Complainant. She stated she had a recollection that the Applicant may have said the comment about being a biology teacher but conceded that she could not be sure and she had not included it in her witness statement. She said that the Applicant was more aggressive than assertive.
112. The Applicant, in her witness statement dated 27 August 2021 denied ever bullying or ridiculing the Complainant or any gymnast and then denied bullying or ridiculing the Complainant about the result of the team for the event. She also denied verbally or emotionally abusing the Complainant or any gymnast. Helen Colagiuri in her statement, stated that she had no memory of this episode.
113. The Applicant stated that the Complainant had never raised any complaints with her.
114. In cross examination, the Applicant agreed that waiting for the results in Stuttgart was stressful and that after the final results were in, she met with the team and said words to the effect, *Do you like sitting in this situation, is this what you wanted?*". She denied saying *"You let the country down.. you better hope that we get a team through to Beijing or it will be your fault"*. She denied saying that she could be a biology teacher but conceded that she had studied biology as part of her science degree.

### **Allegation 10**

115. The Complainant alleges that she was training on the beam when she made a mistake during a training session immediately prior to the 2012 Olympic Games in London. After falling from the beam, it was alleged that the Applicant approached the Complainant and screamed insults in her face. The Complainant stated in her Witness Outline that she was only about 30-50 centimetres away from the Applicant when the Applicant started yelling at her in a loud voice with an angry tone. She could not remember now all of the words

she said but it related to her making a mistake on the beam. The Applicant swore at her saying the word “fuck” or “fucking”.

116. The Complainant stated that at this point she was shaking because of the words used. She was upset and she felt like she was being bullied by the most powerful person in Gymnastics in Australia. She stated that she did not feel like she was in a position to speak back to her in the way she wanted to in order to ask for greater respect. She stated that she cannot clearly remember the words that were said.
- 117.. In cross-examination, the Complainant did not accept that she could be wrong about the incident. She agreed that she had made no complaint to anyone at the time but did so after the Olympics to a GA High Performance Manager, Adam Sachs. She agreed there was no reference in her Witness Outline to that complaint having been made. She stated that she had never heard anyone swearing in a gym before.
118. No other witness was called to give evidence in relation to this incident on behalf of SIA. SIA however relied upon the statement by Ms Gilliland in her Witness Outline where she recalled an occasion in Stuttgart when the team was training on the beam apparatus and several members of the team were falling from it. She observed that the Applicant was becoming increasingly angry and was yelling loudly and swearing and described the performance using words like “fucking rubbish”. She said those words even though other people were in the area at the time, including judges, who could have heard her and she recalled being petrified.
119. The Applicant in her statement and in her evidence maintained that the incident did not occur. She denied it and stated that she didn’t use that language. In her statement she stated that yelling was not her style and not something she does. She stated that she had never yelled, screamed or belittled or insulted an athlete in her life and that if she had yelled and screamed insults at a gymnast from making a mistake it would have been obvious and unacceptable to all the people around. She stated that no other gymnast has ever suggested that she yelled and screamed insults at them from making a mistake.

## **Allegation 11**

120. The Complainant alleges that during a team debrief following the competition of the 2012 London Olympic Games, the Applicant said to the Complainant and other team members that they were overweight and that this was the reason for their performance. In her Witness Outline the Complainant stated that at the debrief meeting the Applicant was not impressed by the team performance. The team was standing in front of her in a semi-circle and she pointed to some individual members of the team and said "You didn't meet your target weight, you didn't meet your target, you didn't meet your target weight". The Complainant was one of the team members that the Applicant pointed at and she stated that the Applicant also pointed to Emily Little and Ashleigh Brennan as not meeting their weight target and that further the Applicant said words to the effect that not making the target weight was causing the team to have poor results.
121. The Complainant stated that she felt angry, humiliated and upset by the Applicant's comments at the debrief and that all the team had been weighed regularly during the training camp and at the Olympics itself but that she had never been given any feedback that her weight was not meeting the target weight. After the debrief she raised the matter with Adam Sachs, the GA High Performance Manager at the time but did not recall anything happening as a result of her telling Mr Sachs what the Applicant had said.
122. In cross-examination the Complainant accepted that she did not meet the target weight assigned to her by the Applicant. She did not accept that that was one possible explanation for her having problems with her ankles and feet which she experienced at the time. She further did not accept that because of the cumulative effect and repetition of her training the effects of her not meeting her target weight was a factor in her having feet and ankle problems in London. She agreed that she had not made a complaint about the remarks made by the Applicant to team management. She stated that she had spoken to her coach Mr Hart about what the Applicant had said and she denied it was possible that she didn't say anything to Mr Hart. She denied that she was a little bit unusually sensitive because of the heightened sense of anxiety leading up to the competition.
123. The Complainant did not agree with the proposition that the Applicant had not discussed at the meeting her not meeting her target weight. Further, she did not agree that the Applicant at no time said anything that was in the nature of harassment or insulting or belittling or anything of that nature. She did not agree that the Applicant had always dealt

with her professionally. She stated that soon after the Olympic Games finished, in Australia, and had also spoken to Mr Sachs after the debrief meeting at the time about what was said. She believed that she made a written complaint to Mr Sachs about the reference to her not meeting her target weight but was unsure about whether GA had that document. She agreed that Mr Sachs was not giving evidence before the Panel.

124. Ms Brennan, in her statement, stated that she recalled during the debrief that the Applicant blamed their result partially on their skin folds and that because they didn't achieve their skin fold goals they weren't able to perform properly and that impacted their results. She believed that the Applicant putting the blame on skin folds meant that the team members were carrying too much weight and did not have enough fitness. She recalled the Applicant was specifically looking at each of them individually, pointing her finger at them and saying that they did not meet their skin fold targets. She found it extremely hurtful and unacceptable not just because of the sensitive nature of the topic and that it was done in front of others but because personally she did not feel it was correct and felt that her skin folds and weight were appropriate. In cross-examination, Ms Brennan stated that the Applicant referred to skin folds but didn't say that any athletes were overweight. Ms Faulkner in her interview, stated that the Applicant adopted a professional approach when discussing issues of body-mass with team members. In cross-examination, Ms Brennan acknowledged that skin fold measurements and optimal functional muscle mass were factors to be taken into account for the prevention of injury and enhancement performance.
125. The Applicant agreed that she would have spoken at team meetings and agreed that she would have handed team members their debrief of their training logs and their skin folds results. She stated in her statement that she did not believe she has ever said to the Complainant or any other gymnast "that they were overweight and this was the reason for their performance". In her statement, Ms Umeh said that she believed she was present at the debrief but had no memory of the Applicant using the word "overweight" at the meeting and that it was unlikely that the Applicant would refer to "weight" (as opposed to "skin folds").
126. In cross-examination, the Applicant denied telling the team members in their debrief meeting that they didn't meet their target weights and stated that she would not have said weights and that she would have said fitness goals or training goals. She agreed that it

was possible that she told them that they did not meet their skin fold targets. She stated that the cause of the poor performance would not have been the weights it would have been more that the team members did not perform their training which had an adverse effect on their performance and that both their training and skin folds were factors that were relevant to their performance.

127. The Applicant acknowledged in cross-examination that reference to skin folds was made because these were part of the fitness goals set for the London 2012 Olympic Games. Further, the email from the Applicant to Adam Sachs and to Ms Brennan's personal coach dated 30 July 2021 indicated that the Applicant had asked team members whether they had followed the National preparation plan for the past 16 weeks and whether they had met their fitness goals.

## **SIA SUBMISSIONS**

128. SIA submitted that pursuant to Clause 7.6(a) of the SCMP that the standard of proof required to establish a breach of a Relevant Policy is on the balance of probabilities (ie: more probable than not). SIA accepted that the Panel may properly have regard to the seriousness of an allegation made, the inherent unlikelihood of an occurrence of a given description or the gravity of the consequences flowing from a particular finding, in determining its findings. Reference was made to Briginshaw v Briginshaw (1938) 60 CLR 366 at 362 and Neat Holdings Pty. Ltd. v Karajan Holdings Pty. Ltd. (1992) 67 ALJR 170 at 171 – 172. It was submitted that satisfaction on the balance of probabilities requires actual persuasion – nothing more and nothing less. Reference was made to Seltsam Pty. Ltd. v McGuinness (2000) 49 NSWLR 262 at [136] and Rejefek v McElroy (1965) 112 CLR 521.
129. SIA accepted that by reason of the passage of time, relevant evidence may become unreliable or unavailable and this tends to cause forensic prejudice to a person in the position of the Applicant, and this may be taken into account in the assessment of the evidence. It was submitted however, that due to the passage of time, minor inconsistencies in evidence should not be regarded as critical and that the substance of the evidence on critical matters is what is important.

130. SIA emphasised that although the Member Protection Policies were in place at all relevant times, the SCMP was a special procedure arising alongside the Australian Human Rights Commission's Review into the sport and it was this Review and the process established that gave rise to the complaint by the Complainant. Further, it was stressed that the Complainant was a minor at the time of the events in 2006 and 2007 and a young adult in 2012 and the Applicant was the National Coach of the Australian team with influence over team selection and a high degree of control over the Complainant's career. It was submitted it was an obvious reason why the Complainant would have been reluctant to come forward earlier. It was further submitted that the Panel should have regard to the steps the Complainant did take to inform others including her family and officials with GA of the Applicant's conduct and the fact that her account is corroborated by other witnesses in respect of the five allegations.
131. SIA accepted that the Applicant's conduct should be considered by reference to the standards and mores of the relevant time, however, there was little work for that contention to do in the circumstances where the Applicant's conduct was to be assessed against the policies in place at the time, which policies themselves reflected the applicable standard of mores. Further, that the standards are not materially different, in any event, in 2021. It was pointed out that with the possible exceptions of Allegations 5 and 11, the Applicant did not concede the conduct occurred but sought to explain it as being acceptable according to the standards applicable at the time.
132. In relation to the good character evidence relied upon by the Applicant, SIA submitted that few of the references referred to the allegations and that most appeared to have been prepared for the specific purpose of the Applicant pursuing various awards or professional recognition. Further, the reliance upon words in praise of the Applicant attributed to the Complainant in a magazine interview published in 2008 should be tempered by the evidence that the content of the magazine article was drafted by the Applicant. SIA pointed to a letter written by the Applicant to a 15-year-old girl who had indicated that she did not wish to pursue a career as an elite gymnast, and it was submitted that letter reflected manipulative and controlling behaviour on the part of the Applicant contrary to the good character that she asserted. Further reliance by SIA was placed upon the Applicant's lack of compassion for a particular Gymnast and the focus upon her weight when it was clear that that Gymnast had anxiety related to her weight.

133. In relation to the evidence that was given by witnesses before the Panel, it was submitted that neither the credibility or the reliability of evidence of the witnesses called by SIA, including the Complainant, were seriously dented during cross-examination when the witnesses answered questions directly and made appropriate concessions. Further, the propositions put to the Complainant and Ms Gilliland that their evidence was motivated by animus towards the Applicant was not substantiated or particularised. Suggestions that the Complainant, who is now a coach, was attempting to poach gymnasts previously coached by the Applicant and that a number of those gymnasts had made complaints about the Complainant, were not substantiated by any evidence. Further, the suggestion that the complaint had been made at the behest of United Kingdom gymnasts and that the Complainant had communicated with Ms Morgan and Ms Gilliland about the substance of their evidence, were matters that were never put to the Complainant in cross-examination. Even upon the production by Ms Gilliland of a number of messages between herself and the Complainant, no application was made for further cross-examination of the Complainant or Ms Gilliland in relation to those messages.
134. It was submitted further that the Applicant was not an impressive witness and she frequently gave non-responsive answers and appeared reluctant to make proper concessions. The submissions in relation to what constituted the unsatisfactory evidence included her apparent inexplicable reluctance to concede that she held a position of power and the young gymnasts under her control were in a position of vulnerability; her obfuscation concerning her tertiary education in Biology, even when confronted with evidence from her own CV and social media postings; her conflicting evidence in relation to the importance of skin-fold testing and weight where she had originally stated in her witness statement she viewed those measurements as being critical and imperative, and when she had conceded in her interview with SIA that she had not regularly taken those measurements prior to coming to Australia and that ultimately she had ceased taking the measurements because it was a waste of time and did not mean anything – leading to her reaching the position in her evidence where she ultimately accepted the implausible proposition that she did not initially view the measurements as critical and imperative, then she did for a period, but now did not.
135. It was further submitted that the Applicant refused to accept some negative aspects of the culture of women's gymnastics and that the culture involved pressure on gymnasts to

achieve a certain body shape or appearance. Further, it was submitted that it was unsatisfactory that she continued to insist that her letter to the 15-year-old gymnast, referred to above, was appropriate.

136. In relation to the context in which the comments were made, SIA submitted that the Applicant had failed to be “fair, considerate and honest in all dealings with others” as required by the general Code of Behaviour contained in the relevant Member Protection Policies that the Applicant had to abide by. It was stressed that under the Applicant’s directions, weight and skin fold were regularly measured; the women gymnasts, but not their male teammates, were fed meals during some competitions from the Applicant’s hotel room; the team’s food intake was monitored and controlled and gymnasts felt pressure to achieve weight targets.
137. SIA rejected that any inference should be drawn against it for not calling relevant witnesses including Mr Hart and Ms Faulkner and submitted that either party could have called those witnesses, including by requesting the Panel to exercise its compulsory powers, and that no adverse inference should be drawn from SIA’s failure to call any witness.
138. In relation to the specific allegations the following submissions were made:

### **Allegation 2**

139. The evidence of the three witnesses (the Complainant, Ms Morgan and Ms Vivian) was strikingly similar and that indicates that it was highly likely that the statement was made. It did not matter whether the comment was directed at the gymnasts or at some hypothetical person because the substance was the same with the intent being to exert power over the gymnasts in relation to their diet and weight. The fact that the surrounding circumstances could not be remembered by the witnesses in detail should not impact upon the assessment of whether they would remember the substance of the comment as the impact of the comment upon them was clear. It was also submitted that it was inherently plausible that the Applicant would not recall a statement made in a misplaced attempt at humour, but that the witnesses who were impacted did remember it. In relation to the criticism of the Complainant that in her statement she had only mentioned the comment having been made on one occasion whereas in her evidence she said it had been made



on multiple occasions, it was pointed out that she had said in her SIA interview that the Applicant had lots of sayings that she would repeat and she thought that was one of them.

#### **Allegation 4**

140. It was submitted that three witnesses (the Complainant, Ms Morgan and Ms Gilliland) each have an independent recollection of the comment made by the Applicant after a gymnast fell from the beam during training and that all of them recall words to the effect “*if I wanted someone to fall off the beam, I would have put Georgia up there*”. It was pointed out that Ms Morgan’s evidence was clear and she recalled the particular skill she was performing on the beam when she fell. All three witnesses understood the comment to be derogatory towards the Complainant and there was no evidence to support the contention put to the witnesses in cross-examination that the words might have been to the effect “if you’re going to fall, I’ll put Georgia on the beam”.

#### **Allegation 5**

141. It was submitted that the Applicant did not deny saying “*Do you like this? Do you like how this feels? Do you like sitting in this situation? Is this what you wanted?*” after the competition in Stuttgart. Further, while the Applicant denied saying, “*You know, my job is on the line here. I suppose I could always be a biology teacher. I was always good at science,*” in cross examination, she agreed that her university education included courses in biology. It was submitted that it was plausible that the Applicant said the comments about becoming a biology teacher and that it was difficult to see how the Complainant could have had a faulty recollection of events.
142. It was submitted that the Complainant’s account of the event was directly supported by Ms Morgan and while Ms Gilliland’s evidence was different to the Complainant and Ms Morgan in respect to the actual words said by the Applicant, Ms Gilliland recalled that the words said were threatening.
143. It was submitted that the comments made by the Applicant went beyond a coach inviting athletes to reflect on their performance and although the team was likely to be upset with their performance, the Applicant’s words had also had an impact on them.

144. It was submitted that there is no requirement under the Member Protection Policy that the complainant be the victim of the harassment, abuse or other behaviour and it is not a relevant consideration that the Complainant was a reserve at the time. It was submitted that it is open to the Panel to find that the Complainant could still reasonably be intimidated by the statements made by the national coach of the team of which she aspired to be a member.

### **Allegation 10**

145. It was submitted that the fact that the Complainant did not recall the precise words spoken was unexceptional and to her credit as she has not sought to bolster her complaint by pretending to recall detail which she does not now recall. Further, her recollection of the Applicant saying “fuck” or “fucking” is consistent with the evidence of Ms Morgan and Ms Gilliland who recall the Applicant using similar language in different contexts.
146. It was submitted that this clearly breached the Member Protection Policy relevant at the time (Version 5 – January 2010) and particularly the general code of behaviour and the coaches’ Code of Ethics which required, respectively, a coach, inter alia, to refrain from any form of harassment of others and to refrain from verbal, physical or emotional abuse. It was submitted that the conduct of the Applicant was unwelcome and likely to cause the Complainant to feel offended, humiliated or intimidated. It was also a failure to be considerate in dealing with others, on the part of the Applicant. It was contended that yelling obscenities in close proximity to an athlete was a clear breach of the Policy.

### **Allegation 11**

147. It was submitted that the Applicant pointed at gymnasts who did not meet the weight target including the Complainant during the team debrief and blamed those gymnasts for the team results. It was submitted that the Complainant’s evidence was consistent with the general evidence of the Applicant’s focus on weight and skin folds and was substantially supported by the evidence of Ms Brennan. Although it was conceded that Ms Brennan referred to skin folds and not weight targets, it was submitted that it was

more probable that the reference was to weight targets as the Applicant confirmed in herevidence that weight, not skin folds, were measured during competition and that the Applicant would not have had a way of knowing whether the skin fold targets were metat the time of competition.

148. It was submitted that the Applicant's language was inappropriate given the nature of the subject matter in the public way in which the issue was addressed.
149. It was submitted that the comments made by the Applicant constituted harassment, verbal abuse and a failure to be fair and considerate in all dealings with others in breach of the Member Protection Policy relevant at the time (MPP Version 5) as it was contrary to the General Code of Behaviour and the Coaches' Code of Ethics.

#### **SUBMISSIONS FOR THE APPLICANT**

150. It was submitted on behalf of the Applicant that her evidence in respect of the substantive issues comprising each of the 5 Allegations remained consistent over the course of a probing and wide ranging cross-examination. Her inconsistency in evidence was said to be only relevant to two minor collateral issues (namely, when she over looked a small payment for one private appointment and in relation to the breadth of her undergraduate degree which included studying biology - even though she was not certified to teach biology and only physical education). It was submitted that the attack upon her in cross-examination in relation to the issue of monitoring skin folds was of the moment as there was now a modern trend to place less or no reliance on skin fold data but that at the relevant time (2006 – 2012), skin fold measurements were important in ensuring elite gymnasts trained and competed at the optimal level of lean muscle mass for reasons of safety and performance.
151. It was submitted that the attack in cross-examination on the Applicant for seeking data as to the weight of gymnasts she coached while the team was travelling overseas at International competitions, failed, because when athletes were tapering for these events they did not have the opportunity to gain muscle mass due to the reduction in their training load. It was submitted that it was important that the Applicant denied all 5 allegations brought against her and that they boil down to 5 isolated remarks made to

the Complainant between 9 and 15 years ago which are now said to amount to harassment within the meaning of the applicable Member Protection Policies. It was submitted that to expect the Applicant to prove she didn't make any of the remarks the Complainant alleges she made is to reverse the onus of proof and to prove a negative. Reliance was placed upon the good character evidence in weighing the credibility of her evidence and the unlikelihood of her breaching the relevant Policies. Further reliance was placed upon the statements of Stacey Umeh and Helen Colagiuri who were in a position to witness relevant episodes the subject of a number of the allegations, but had no memory of them occurring.

152. It was submitted that the Complainant was not a reliable witness because the complaints, relating to five separate remarks, were only made on 24 September 2020, and that over the course of the Applicant's entire Australian coaching career, the Complainant is the only person to have ever made a complaint against her. It was further submitted that the Complainant is motivated by an unexplained and visceral animosity towards the Applicant as exemplified by her refusal to allow her original complaint to be released to the Applicant and the fact that that original complaint contained a request to have the Applicant's GA Hall of Fame and Life Memberships revoked, and effectively to have the Applicant removed from the sport of Gymnastics in Australia.
153. It was further submitted that the Complainant, unlike Ms Morgan and Ms Gilliland, during cross-examination, refused to make even the smallest concession as to the precise words used by the Applicant more than 15 years ago in relation to the first, second and third allegations. It was further noted that the Complainant had originally denied speaking to Ms Morgan about the proceedings in circumstances when Ms Morgan had said that she had. Contradictions in the evidence between the Complainant and Ms Morgan (in relation to the first and second allegations) and in relation to Ms Gilliland (the second allegation) and Ms Brennan (the fifth allegation) were relied upon as indicating that little reliance could be placed upon the evidence of the Complainant.
154. In relation to the specific allegations, the following submissions were made:

## **Allegation 2**

155. It was submitted that no contemporaneous record of the encounter was made by the Complainant and she had no real reason to recall events of 14 years ago. Further, the Complainant's evidence was to the effect that the remark in relation to "peas and carrots" was made in a jovial fashion and that Ms Morgan's evidence was that the remark was an anecdote, was not a threat and she did not believe the anecdote. It was also stressed that Ms Morgan accepted during cross-examination, that the Applicant, when discussing issues relating to body mass (skin folds and weight) always did so in a professional manner. Ms Vivian agreed that Ms Morgan's version could have been what was said by the Applicant at the time.
156. Reliance was placed upon the fact that SIA had not called Mr John Hart, the Complainant's personal coach, who would have heard this remark at the time if it was said.
157. The Applicant denied making the remark and the team physiotherapist, Ms Keren Faulkner stated in her interview with SIA that she didn't hear the remark and had not heard anything similar. She further stated that she could not imagine the Applicant ever using that language and that the Applicant's approach to food was always linked to performance and health.
158. It was submitted that even if the Panel found that the remark had been made, it could not amount to harassment within the meaning of the relevant policy.

#### **Allegation 4**

159. It was submitted that the Applicant had denied using the words the Complainant alleged "*If I wanted someone to fall off the beam, I'd put Georgia up there*". The Complainant had not made any contemporaneous record of the alleged incidents from more than 14 years ago in 2007 and despite the Complainant asserting that others were present when the remarks were alleged to have been made, these witnesses were not called and Ms Gowthorp, the Team Manager, had made no mention of this incident in her report following Stuttgart.

160. It was submitted that the only witnesses to support the Complainant (Ms Morgan and Ms Gilliland) were close friends of the Complainant and that Ms Morgan had spoken with the Complainant about the exact alleged words prior to Ms Morgan finalising her statement which could explain the identical words referred to in each of the Witness Outlines. Ms Gilliland recalled the Complainant's name being used when an athlete had fallen from the beam in Stuttgart but agreed that the Applicant may have said words to the effect, "*If you're going to fall off, I'll put Georgia up there*". She had no recollection of the exact words.
161. It was submitted that if the Applicant had made any remark at the time, it seemed more likely that the Complainant would have said the words accepted by Ms Gilliland, "*If you're going to fall off, I'll put Georgia up there*", with the beam being one of the Complainant's best apparatus.

#### **Allegation 5**

162. The Applicant had accepted that she gave the team frank feedback in a meeting following the final competition in Stuttgart but she denied speaking to the team in an inappropriate manner. The Applicant had recalled that she was no more annoyed and disappointed than the girls about the performance at Stuttgart. Ms Gilliland acknowledged that team members were disappointed in their failure to meet their own and Gymnastic Australia's performance expectations at the event and at one point there was a possibility that the team might not qualify for the 2008 Beijing Olympic Games.
163. It was submitted that the remarks could only have been directed to those team members who had actually competed/performed, given that on any view, the comments were directed to the performances of team members. The Complainant had not competed in Stuttgart so the remarks could not have been directed at her.
164. It was submitted that remarks by the national coach asking questions of, or challenging, a team that did not perform at expectation, in a single incident, could not amount to harassment within the meaning of the Members Protection Policy of any athlete, let alone a reserve.

### **Allegation 10**

165. It was submitted that the allegation was embarrassing as there was no fair way for the Applicant to respond to it as the Complainant accepted she had no recollection of specifically what the Applicant said other than the use of the expletives. It was submitted that at its highest, the conduct of the Applicant amounted to her being irritated with the Complainant when she fell off a beam during practice, during a routine where the Complainant could not recall why she fell, could not recall the time of day when it happened, and further that the incident occurred more than 9 years ago. Further, it was submitted that because no other witnesses were called to support the allegation, based upon the lack of evidence there was no breach of the relevant Policy.

### **Allegation 11**

166. It was submitted that Ms Brennan did not fully support the Complainant's evidence. During cross-examination, Ms Brennan stated that the Applicant referred to skin folds and did not say that the athletes were "overweight" and that such evidence accorded with the evidence of Ms Morgan (who was not a Member of the 2012 Olympic Team) but who gave evidence to the effect that the Applicant was always professional when discussing body-mass issues, as was stated by Ms Faulkner. It was submitted that the contemporaneous account by the Applicant as recorded in the email sent by her to Mr Sachs and to Ms Brennan's personal coach dated 30 July 2012 in which she had asked team members whether they had followed the national preparation plan for the last 16 weeks and whether they had met their fitness goals, supported the Applicant's evidence. Further, Ms Brennan, Ms Morgan and Ms Gilliland all acknowledged in cross-examination that skin fold measurements and optimal functional muscle mass were factors to be taken into account in the prevention of injury and also enhancement of performance in the sport of gymnastics at the elite level.
167. It was further submitted that the Complainant made no reference to the Applicant raising these matters with the team in an untoward or agitated tone nor did she make any contemporaneous complaint to team management. Notwithstanding the fact that the Complainant states that she complained to Mr Sachs, no written complaint has been produced, nor was Mr Sachs called to give evidence. This was said to be highly relevant.

168. It was submitted that at its highest, the Applicant was debriefing team members in respect of important aspects of the preparation in endeavouring to understand and report back to GA why the team had under-performed and because there was no suggestion that the Applicant had behaved inappropriately in terms of the manner or tone in which the subject matter was addressed, and the fact that the words attributed to the Applicant, did not amount to harassment within the meaning of the relevant policy and there was no breach. It was emphasised that the Complainant's complaint appeared to be centred on the fact that the Applicant raised the issue of body mass rather than the manner in which she did so, and that given the importance of maintaining optimum level of functional mass or muscle mass in terms of both safety and performance in the sport of Gymnastics at the elite level, there could not be a breach of the Policy.

## **THE MERITS**

169. The Panel has considered carefully the evidence and the submissions made by the respective parties. The detailed summary in the preceding paragraphs reveal the extensive evidence and submissions that were made in this matter. The relevant Member Protection Policies clearly outline the responsibilities, obligations and standards of behaviour that are required to be met by anyone associated with the sport of Gymnastics in Australia including coaches. The refinement of these Policies over the years reflects the increased knowledge and experience gained by sporting administrators of the need to ensure standards of behaviour that meet society's expectations as to the protection of those involved in sport. It is clear, that in terms of the base considerations involved in an assessment of the conduct alleged against the Applicant in respect of each of these five allegations, that if the conduct is found to have occurred then there is a clear case to answer on the part of the Applicant as to whether that conduct, or any of it, breached the relevant Policies.

170. It could not be said that the standards and mores in existence between 2006 – 2012 in relation to acceptable standards of treatment of children and young adults in elite sport were any different then the standards of mores of 2021. In the Panel's opinion there are no nuances or other interpretations capable of being conveyed by the alleged words used which would produce any different result, in terms of assessing whether the relevant Policy has been breached, if the conduct occurred in 2006, 2007 and 2012 as



compared to whether it occurred in 2021.

171. In relation to issues of credibility the Panel accepts the Complainant as a credible witness and generally accepts her accounts of what she said occurred in respect of each of the five allegations. The Panel also accepts that each of Ms Morgan, Ms Gilliland, Ms Vivian and Ms Brennan were credible witnesses. The Panel does not accept that the credibility of the Complainant or of Ms Morgan was undermined by reason of their friendship and their contact with each other in relation to these proceedings. Indeed, certain differences in their respective accounts were relied upon by the Applicant in her defence of the allegations.
172. In relation to the Applicant, the Panel has reservations about her credibility. A significant issue, in the Panel's opinion, was the Applicant's reluctance to concede that she held a position of power over the young gymnasts under her control and that they were in a position of vulnerability. Her failure to acknowledge this was surprising. Generally, she made frequent non-responsive answers to questions and was overly defensive in her approach. Allowances have to be made, however, with the reality that these were serious allegations going towards her conduct and standing in the sport in which she had had an outstanding career. It would be only natural for a person in her position to be very upset with the allegations and, in answering questions, try to pre-empt what the cross-examiner was attempting to achieve. However, notwithstanding these considerations, the Panel regarded the Applicant as less than an impressive witness. The questioning in relation to her tertiary education in biology (which went to the issue as to whether she had mentioned "biology" in the context of Allegation 5) reflected a lack of candour on her part particularly when confronted with evidence from her own Curriculum Vitae and LinkedIn page. Further, her somewhat confusing evidence about the importance of taking skin fold and weight measurements and her acknowledged change in position in relation to that issue, was troubling evidence in terms of assessment of her credibility. The Panel does not make any judgment in relation to the appropriateness or otherwise of her letter to the 15 year old elite gymnast when she was imploring her to return to the sport, in the absence of further evidence in relation to the context or circumstances from the gymnast herself. The Applicant's evidence in respect of the emphasis on body shape as reflected in the need for the female gymnasts to wear leotards and to look their fittest in them, was of concern. Her refusal to concede that the culture at the time involved gymnasts striving to achieve a certain body shape or

appearance was also a matter of concern to the Panel. Where there was a direct conflict between the evidence of the Complainant and the Applicant, and where the Complainant's evidence was corroborated in whole or in part, the Panel is of the opinion that the Complainant's evidence should be accepted.

173. The Panel fully acknowledges the force of the good character evidence tendered on behalf of the Applicant. That evidence goes to her credibility and to the likelihood of her committing breaches of the relevant Policies. The Panel has given full weight to that evidence, however that evidence cannot be used to supplant clear evidence of a breach of a relevant policy if proof of such breach is clear and proved to the requisite standard.

## **Allegation 2**

174. The Panel is satisfied that the remarks attributed to the Applicant of gymnasts being “fed peas and carrots under a door” were made by her. The Complainant, Ms Morgan and Ms Vivian all gave evidence of that remark having been made by the Applicant, even accepting that there were slightly different versions of the remarks given in evidence and that, at least for some of them, it could have been anecdotal. What was clear was that each of these witnesses said that the remark emanated from the Applicant and was freely discussed amongst the gymnasts.
175. The question for the Panel is whether such remarks amounted to harassment and thereby a breach of the Member Protection Policy (Version 3) in existence at the time. Clause 3.6 of that Policy defines “harassment” as “unwelcome verbal or written comments, conduct, or gestures directed towards an individual or group of individuals that the harasser knows, or should reasonably be expected to know, is insulting, intimidating, humiliating, malicious, degrading or offensive”. The Complainant was clear in her evidence that she rejected the proposition that, given her acceptance that what was said had been in a joking way, that in no way could the statement be taken to have been humiliating, insulting, intimidating, malicious, degrading or offensive. She further gave positive evidence that she believed the statement was a verbal threat or abuse.
176. Notwithstanding the Applicant's denials of making the statement and the evidence of Messrs. Faulkner, Umeh and Colagiuri, the Panel is satisfied that the remarks were

made and that they constitute a breach of the relevant Policy. In so finding, the Panel has had proper regard to the seriousness of the allegations and the gravity of the consequences of such a finding together with the other considerations referred to in Briginshaw v Briginshaw (1938) 60 CLR 366 at 362. The Panel has also had regard to the principles enunciated in Neat Holdings Pty. Ltd. v Karajan Holdings Pty. Ltd. (1992) 67 ALJR 170 at 171 – 2.

177. Accordingly, the Panel finds that this allegation has been proved to the requisite standard and is upheld.

### **Allegations 4 and 5**

178. The Member Protection Policy relevant to Allegations 4 and 5 is Gymnastics Member Protection Policy July 2007 (Version 4) (“MPP Version 4”). It is convenient to consider these allegations together.
179. The Complainant was confident both in her interview with SIA and in cross-examination before the Panel as to the Applicant’s exact remarks during the training session in 2007 (Allegation 4) and to the effect of the words said in the meeting after competition (Allegation 5). It was the Complainant’s evidence that, aside from other athletes, the comments in Allegation 4 were made in the presence of other coaches and the comments in Allegation 5 were made in the presence of Ms Allen, the Head of Delegation.
180. There is no evidence before the Panel to directly support the Complainant’s allegations, particularly from “other coaches” and Ms Allen, save from Ms Morgan and Ms Gilliland.
181. It is accepted that Mr Hart was the Complainant’s long time personal coach and he was present at the Complainant’s training and competitions for many years. Therefore, it is likely that Mr Hart was present at the training session in Stuttgart and to have heard any comments made by the Applicant. Further, it is likely that the Complainant would have voiced complaints to Mr Hart having trusted and relied on him as her coach for several years.

182. Ms Gowthorp was not called by either party to provide evidence. It is plausible to expect that if complaints had been received by Ms Allen in Stuttgart from any athletes or Ms Allen was concerned about the way the Applicant had spoken to the athletes in the meeting, she would have reported those complaints to GA officials and particularly to Ms Gowthorp who would have likely to have included any complaints in her report.
183. The absence of evidence from Mr Hart, Ms Allen, Ms Gowthorp and Ms Faulkner creates a lacuna in the evidence. The Panel is unable to draw an inference whether the evidence from those witnesses would have supported or not supported the case against the Applicant.
184. The Complainant, Ms Morgan and Ms Gilliland were impressive witnesses, particularly Ms Morgan and Ms Gilliland who gave appropriate concessions at times with both witnesses conceding that their recollections may not be exact. The Complainant held firm that the Applicant had said the exact words in both Allegations 4 and 5 and she told the Panel that she had complained at the time to her teammates and Ms Allen.
185. The Complainant accepted that she did not raise the matters with the Applicant or with the Team Manager, Ms Gowthorp because "*it would not have achieved much*". There was no evidence before the Panel what the Complainant meant by this.
186. Ms Morgan said in cross examination that she had no reason to recall the Applicant's exact words from 2007 until early in 2021 when she was interviewed by SIA. She conceded that she and the Complainant had spoken often about their experiences and that she had spoken to the Complainant about these particular matters before her SIA interview. Ms Morgan told the Panel that Ms Rogers, solicitor for the Respondent had prepared her Witness Outline and that she had last spoken to the Complainant about the case "*weeks ago*". Ms Gilliland agreed Ms Rogers had also prepared her Witness Outline using the quoted words alleged by the Complainant.
187. In cross examination, the Applicant was a less than impressive witness. A number of the Applicant's answers relating to Allegations 4 and 5 were non responsive, "*can't remember...can't recall saying that...can't recall those exact words*".

188. While some answers were non-responsive, the Panel must consider the Applicant's answers in the context of her recalling comments and incidents from some 14 years ago. In relation to Allegation 4, the Applicant recalled that the Complainant was selected for her stability and reliability on the balance beam apparatus and that if anything was said about putting the Complainant on the beam, it "*was unlikely that I would have ever suggested anything negative about her ability on the beam, rather, I would have been more likely to say something positive, to the effect that if I wanted someone to stay on the beam, I would have pointed to [the Complainant] as an example*".
189. It is the Panel's conclusion that Allegation 4 was directed at Ms Morgan, but referenced the Complainant. It is not certain as to whether the reference to the Complainant was a positive one towards her as a reserve or as alleged.
190. In relation to Allegation 5, Ms Morgan recalled that the Applicant had said, "*are you happy with this? This is not okay, this is not good enough*". She tried to remember if the Applicant had blamed anything specific but she was not sure.
191. Ms Morgan further said that:
- i. The Applicant was "*just like talking to herself... I think that's the way she kind of got a lot of her information across, was to talk loudly while you were in, the room... She was just like, "Oh, I might lose my job for this", just like, "I could always be a teacher*".
  - ii. She could not recall whether the Applicant had made the comments in a group discussion but that it was supposed to be some kind of debrief and that the athletes were sitting around waiting in the room...either at that meeting... or later".
192. Ms Gilliland accepted in cross examination that some of the words which the Complainant attributed to the Applicant were used, but she could not recall the use of "*biology teacher*".

193. In her Witness Outline, Ms Gilliland recalled that the Applicant had “*ripped into us*” and said words to the effect of:

*“This is terrible. This is all your fault. You have let the country down with your performance and you better hope that we get a team through to Beijing, or it will be your fault”.*

194. Ms Gilliland recalled that the team had a meeting with the Applicant and Ms Allen and when Ms Allen asked the Applicant to leave the room, athletes raised issues about the problems within the team. Ms Gilliland could not recall specific issues raised by the athletes but she recalled that some athletes had said that the Applicant did not handle pressure well.

195. Ms Gilliland said that when the final results were known and the team finished eleventh and had qualified for the Olympics, some of the other team members met in a bedroom and cried because of the way “*Peggy behaved*”.

196. The Applicant’s evidence was:

- i. She agreed that there was a debrief with the athletes after every competition;
- ii. She did not deny saying, “Do you like this? Do you like how this feels? Do you like sitting in this situation? Is this what you wanted?” after the competition in Stuttgart.
- iii. She considered herself not to be in a position of power over the athletes as national coach but that she viewed her role as a leader. She said, “I always take my responsibility as a coach very seriously. I take my role as a leader of young athletes very seriously.”
- iv. She denied bullying, abusing and ridiculing the Complainant whatsoever, (and particularly denied ever bullying, ridiculing or abusing the Complainant about the Stuttgart result)

197. It is accepted that the team members were likely to be disappointed in their failure to meet their own and GA performance expectations at the event especially when at one

point there was a possibility that the team might not qualify for the 2008 Beijing Olympic Games.

198. The Panel accepts that the Applicant would likely have provided the team frank feedback in a team meeting following the final competition in Stuttgart as the national coach. It is accepted that the feedback would likely to have been hard to hear for the athletes.
199. It is not certain as to how the Applicant's remarks were made, whether or not they were said by the Applicant to herself or directed at individuals or a group. While the Applicant does not deny saying some of the comments about the team's performance, the Panel accepts that the remarks could only have been directed to the athletes who had actually competed and performed in Stuttgart.
200. The Panel further accepts that, there is no requirement under MPP Version 4 that the complainant be the victim of the harassment, abuse or other behaviour therefore the rules include the Complainant as a reserve.
201. MPP Version 4 provides, "*the basic rule is if someone else finds it harassing then it could be harassment...* and harassment is a type of behaviour that "*a reasonable person would recognise as being unwelcome and likely to cause the recipient to feel offended, humiliated or intimidated*".
202. Whether or not the words recalled by the Complainant were exactly what the Applicant had said, the Complainant gave evidence of how the comments made her feel and the Panel has considered this evidence. The Panel has also considered that the Complainant made no complaint about the Applicant for some 14 years.
203. There is no evidence before the Panel as to how the comments have impacted the Complainant. In cross examination, the Complainant did not accept the proposition that her life was now "*going swimmingly*". On her own evidence, however, the Complainant is the coach of a number of gymnasts in Melbourne who are likely to become elite or Australian gymnasts. The Panel considers the Complainant's achievements since 2007

both as an athlete and a coach, a demonstration of her success. There is no evidence of any adverse effects on her health and well-being or career in gymnastics arising from the allegations in 2007.

204. Another consideration for the Panel is whether the remarks in Allegations 4 and 5 can amount to harassment or abuse (including intimidating, offensive, belittling, threatening or bullying behaviour) as isolated remarks within the meaning defined in MPP Version 4.
205. MPP Version 4 provides that harassment (and bullying) can be a single event although it is most likely to be characterised as repeated behaviour. The Panel accepts that the remarks even if characterised as isolated remarks can amount to the alleged conduct.
206. While it is open to the Panel to find that the Complainant could have felt intimidated, harassed, belittled or ridiculed by the isolated remark alleged in Allegation 4, on the balance of probabilities there is no evidence before the Panel that this was the case.
207. Further, it is determined that the Applicant as the national coach asking questions or making comments about the performance of the team as alleged in Allegation 5 does not amount to harassment, abuse or ridicule within the meaning of MPP Version 4.
208. Accordingly, each Allegation cannot be upheld and will be dismissed.

### **Allegation 10**

209. The question is whether the remarks constitute a contravention of the General Code of Behaviour in the relevant Member Protection Policy 2010 (Version 5) ("MPP Version 5") by failing to be fair, considerate and honest in dealings with others and in failing to comply with the obligation to refrain from any form of harassment of others.
210. Clause 6.3 of the Policy provides, inter alia, that "harassment, discrimination and bullying" includes "any behaviour that is offensive, abusive, belittling, intimidating or threatening". Breaches include breaching the Codes of Behaviour in attachment B



(clause 8.1) and “discriminating against, harassing or bullying any person” (clause 8.4). “Abuse” is stated to be “a form of harassment and includes physical abuse, emotional abuse, sexual abuse, neglect, and abuse of power”. Examples include “bullying, humiliation, verbal abuse and insults” (see clause 10 definitions). “Harassment” includes “any type of behaviour that the other person does not want and that is offensive, abusive, belittling or threatening. The behaviour is unwelcome and a reasonable person would recognise it as being unwelcome and likely to cause the recipient to feel offended, humiliated or intimidated.”

211. As stated above, the Panel accepts the Complainant as a credible witness, and accepts her account of what occurred, insofar as she can now recall. Her willingness to accept that she did not recall the precise words used was one manifestation of her credibility. The Panel also accepts the evidence of Ms Morgan and Ms Gilliland that the Applicant had used similar language on other occasions.
212. The Panel also accepts that she was upset by the Applicant’s words and that she “felt like [she] was being bullied by the probably the most powerful person in gymnastics in Australia”.
213. The Panel cannot, however, be satisfied, without knowing the words said, that what was said amounted to a contravention of the MPP Version 5 provisions identified. The use of the expletives on their own do not amount to abuse or harassment, although they may make it more likely that what was said did amount to such conduct. Even accepting, as the Panel does, that the words were said in anger, applying the Briginshaw standard, the Panel cannot be satisfied on the balance of probabilities that the Applicant engaged in conduct which constituted “harassment”, “personal abuse” or verbal or emotional abuse. Nor can the Panel be satisfied to the requisite standard that the conduct was necessarily not fair, considerate or honest. There is an objective element to the tests (as set out above), and in the absence of knowing what was said the Panel is not in a position to find that any of the identified provisions of the policy were breached.
214. For this reason, the Panel is not satisfied this Allegation is upheld and the allegation will be dismissed.

## **Allegation 11**

215. Whilst the Complainant was cross-examined at length about whether or not she made a contemporaneous complaint, the Panel accepts the Complainant's evidence that she felt the way she described in her Witness Outline. In the circumstances described by the Complainant, in particular, that the Applicant was in a position of significant power in gymnastics in Australia, the Panel does not place particular weight on the absence of a contemporaneous formal complaint.
216. The Panel does not accept that the Complainant was motivated by being vindictive as was put to her in cross-examination, and nor does the Panel accept other theories proffered by the Applicant in respect of the motivation for pursuing the charges against her, including the suggested involvement of United Kingdom instigators to inspire the original complaint.
217. The Panel accepts that weight or at least skinfolds may have some impact on athletes' performance. Indeed, the Complainant accepted that in cross-examination.
218. The Panel accepts that the connection between skinfolds and weight is such that a reference to one is likely to have been taken by the athletes, including the Complainant, as a reference to the other. The Applicant herself accepted that "there would have been a target skinfold that corresponded with a weight".
219. The Panel accepts that the Applicant identified individual athletes during the course of the debrief meeting and stated that their weight, and/or their skinfolds, which the Applicant accepted were aligned with weight, were at least a reason why they underperformed at the 2012 Olympic Games.
220. The issue is whether identifying athletes in front of their teammates as either having excessive skinfolds, or being over their target weight, and attributing performance which fell below expectations to those issues, constituted a contravention of MPP Version 5.
221. The Panel accepts the Complainant's evidence about how she felt in the face of the

allegation. In particular, the Panel accepts that she felt “angry, humiliated and upset”. The Panel also accepts that Ms Brennan found the Applicant’s conduct to be “extremely hurtful and unacceptable”.

222. The Panel finds that such conduct was not “considerate” within the meaning of Attachment B1 of the Policy, and that it amounted to harassment in accordance with its definition in the Policy. In particular, it was behaviour that the Complainant did not want and was at least belittling, if not offensive. It was unwelcome, and a reasonable person would recognise it as being unwelcome and as likely to cause the athletes concerned to feel offended or humiliated. In making this determination the Panel takes into account the athletes’ age (the Complainant’s evidence was that she was 22 years old at the time and was the oldest member of the team), and the sensitivity and vulnerability of young women to issues concerning weight. That was so in 2012 as much as it is in 2021.
223. This is not a finding that weight or skinfolds are not relevant to sport and should never be addressed with athletes. It is a finding that the manner in which the Applicant addressed weight and/or skinfolds (and their inherent connection with weight) - in a public and personal way, and blaming the team’s poor performance at least in part on that issue – amounted to a contravention of the Policy.
224. Accordingly, the allegation is found proved and upheld.

## **PENALTY**

225. The Applicant has been found to have breached Version 3 of the Member Protection Policy of Gymnastics Australia in relation to Allegation 2 and Version 5 of the Member Protection Policy of Gymnastics Australia in relation to Allegation 11. Pursuant to the SCMP, Attachment C4: Supplementary Discipline Bylaw, Clause 7.6(c) if an alleged breach of a Relevant Policy has been proved, a Disciplinary Measure may be imposed by the Panel as it considers appropriate, consistent with the current GA Member Protection Policy and Child Safe Policy.
226. Pursuant to Clause 7.6(d), the Panel is required to consider the proposed Disciplinary Measure in the SIA Investigation Report (see paragraph 4 above), as well as any

submissions from GA, the Applicant and SIA.

227. Upon delivery of paragraphs 1 – 224 of this Determination to the parties, submissions as to the appropriate Disciplinary Measure were sought.
228. The current version of the MPP (Version 12) states, at Clauses 1.12, that the following factors are to be considered in imposing a Disciplinary Measure:
- (a) nature and seriousness of the breach;
  - (b) if a person knew or should have known that the behaviour was a breach;
  - (c) level of contrition;
  - (d) the effect of the proposed Disciplinary Measures on the person including any personal, professional or financial consequences;
  - (e) if there have been relevant prior warnings or disciplinary action;
  - (f) ability to enforce discipline if the person is a parent or a spectator (even if they are bound by the Policy); and
  - (g) any other mitigating circumstances.
229. As outlined in paragraph 4 above, as a result of the findings of the SIA Investigation, it was proposed that the Applicant receive a 6 month suspension of technical membership of GA, of which 3 months was to be suspending pending completion of a 3 month reintegration period. This proposal was predicated on the basis of the findings of the SIA Investigation that all 5 allegations were upheld.

### **SIA Submissions**

230. SIA accepts that the appropriate disciplinary measure should be less than the original proposal due to the finding that there were only two allegations upheld. SIA submits that the appropriate Disciplinary Measure is a 4 months' suspension of technical membership, of which 2 months should be served immediately and 2 months should be suspended pending completion of a 2 month reintegration period. It further submits that the conditions of the reintegration period ought to be set by GA as the governing body, but SIA submits

that it should extend to a written apology to the Complainant.

231. In relation to the factors to be considered, as set out in the current version of the MPP (see paragraph 228 above), SIA submits that:

- (a) the two established breaches were the most serious allegations as they related directly to how the Applicant handled issues of diet and weight, and are particularly serious given the obvious difficulties faced by young women in addressing issues of body image;
- (b) the Applicant has not demonstrated any contrition with reliance being placed by SIA on the Panel's findings (at paragraph 172 above) that the Applicant was reluctant to concede that she held a position of power, that aspects of her evidence lacked candour, that she refused to concede that there was a culture in gymnastics of striving to achieve a certain body shape or appearance – all of which were indicative of a lack of contrition and also a lack of insight by the Applicant in relation to her conduct;
- (c) a 4 month suspension of technical membership, half of which is to be suspended subject to the completion of a 2 month reintegration period, does not place an undue burden on the Applicant's ability to conduct her occupation;
- (d) the proposed Disciplinary Measure adequately reflects the fact that the Applicant was a senior member of GA in a position of power;
- (e) the Panel should consider the protective purpose of the disciplinary measures and take into account that the Applicant's conduct caused suffering and upset to the Complainant and other gymnasts and that a meaningful but appropriate sanction is required to protect against the risk the conduct will be repeated;
- (f) although the Applicant was subject to interim measures pending resolution of the Arbitration, she was not prevented from coaching or judging and she could coach under supervision; further that the evidence revealed that she did in fact perform some coaching duties and although she did lose some employment during the period the interim measures were in force, the evidence suggested that this was the consequence of Covid-19 related shutdowns and not because of the interim measures;

## GA Submissions

232. GA made separate submissions in relation to penalty. It emphasised that GA has a zero-tolerance approach to any form of child abuse and was committed to ensuring the sport of gymnastics is a safe and inclusive environment for children and young people;
233. In relation to the nature and seriousness of the breaches found by the Panel, GA submitted that in relation to Allegation 2, the Complainant was 16 years old and was at an age where developing a positive body image was critical; she was subjected to comments with little or no concern for the sensitivity or vulnerability of young women's issues concerning weight. Further, that the Applicant was in a position of both power and authority while threatening to physical restrict the Complainant from leaving a room and remove her autonomy in relation to making decisions about her food intake and nutrition. Reliance was also placed upon the fact that the Complainant gave evidence that the actions of the Applicant caused her to become anxious, distressed and hypervigilant and as such, there was a profound emotional impact on the Complainant.
234. In relation to Allegation 11, notwithstanding that the Complainant was an adult at that time, the pressure and disappointment conveyed by the Applicant was a form of manipulation that was entirely inappropriate for the well-being of any individual and further that the Complainant felt "angry, humiliated and upset" at the comments made by the Applicant, particularly due to the public and personal way the Applicant addressed issues or weight and skin-fold testing. This insensitivity was unwelcomed, untoward and made the Complainant feel intimidated.
235. GA submitted that significant detriment to the mental health and well-being of the Complainant occurred and both breaches were serious in nature. It was submitted that the emotional detriment that was caused by equating the Complainant's worth with her body composition was immeasurable and that it was implausible that the Applicant was not aware of the harm that would be caused. Further, breaches of this nature must be scrutinised with purpose and understanding, to appropriately consider the long-term effects of such conduct.
236. It was further submitted that the Panel should not rely on the Complainant's achievements

as an athlete and coach as evidence that the Complainant had not suffered any adverse effects on her mental health and well-being. Reliance was placed upon the experiences of famous gymnasts Simone Biles and Maddie Groves as recent examples where a highly successful individual gymnast had experienced degrees of abuse, harassment or bullying at a time in their careers which impacted upon their mental health and well-being, with it being further noted that the long-term effects of mental health are rarely seen in the public domain.

237. GA emphasised that the Applicant did not demonstrate any remorse for her actions and showed a lack of awareness as to how her conduct would have affected the Complainant and the gymnastics community more broadly through her behaviour whilst being in a senior position of authority.
238. GA submitted that emotional abuse and harassment has never been acceptable but the change that has occurred is that gymnasts, and athletes across all sports, have been empowered to call out historical cases of abuse and seek outcomes that are deserved. It was emphasised that at the time of the breaches the Applicant was a senior member of GA and held the highest coaching qualification attainable, namely “High Performance Coach”. It was also noted that at times the Applicant held honoured positions coaching Australian teams at Olympic and Commonwealth Games and World Championships.
239. GA emphasised that as a senior member of GA the Applicant was seen as a role model for athletes, aspiring coaches and members of the wider gymnastics community and that her actions and behaviours have influenced generations within the sport of gymnastics and directly contributed to the development of a culture of abuse and harassment that have been normalised as coaching practices.
240. GA emphasised that application of the principle of general deterrence is needed to demonstrate to the gymnastics community that this behaviour will not be tolerated. GA relied upon a prior decision by a GA Disciplinary Committee in 2013 where two coaches were suspended for 18 months (with 12 months suspended) on the condition that the coaches completed further training and provided a formal written apology, in respect of allegations relating to verbal, physical and emotional abuse. It also relied upon the fact that in April 2020, USA Gymnastics suspended a gymnastics coach for 8 years for failing

to provide a safe, positive and healthy environment with a culture of trust and empowerment and that in June 2021 a Netherlands gymnastics coach received a 1 year suspension based on a determination that he systematically ignored his athletes' injuries and verbally abused or intimidated them.

241. GA submitted that, given the role of the Applicant within the gymnastics community, any disciplinary measure must demonstrate that such behaviour will not be tolerated and in the absence of a significant sanction there is a real risk that such behaviour will not be recognised as serious misconduct by the Applicant or the community. GA recognised that the two allegations which had been substantiated should have significantly more weight applied to them based on their direct connection to emotional abuse and the impact the abuse has caused and that a diminished penalty would significantly undermine the community's expectations regarding child safety and set a dangerous precedent for future conduct to be treated less seriously. Further, a diminished penalty would also produce mistrust in the gymnastics and broader community at a time when GA was trying to re-establish a foundation where reporting investigations of child abuse is taken seriously.
242. In relation to specific penalties, GA submitted that the following penalties were appropriate:
- (a) 12 months suspension of technical membership of GA, 6 months of which is suspending pending completion of a 6 months reintegration (or probation) period which period would be served after the initial 6 months suspension had been served;
  - (b) during the 6 month period of suspension the Applicant be prohibited from coaching (active or mentoring) judging or education activities in any GA affiliated club, competition or event;
  - (c) the Applicant must issue a written apology to the Complainant which acknowledges that she engaged in unacceptable coaching behaviours, in particular the use of negative language, which was belittling, offensive and humiliating and the letter must be provided to GA prior to commencing the Applicant's 6 month reintegration period.
243. GA emphasised that the purpose of the reintegration period is to set out the behaviour



standards expected from the Applicant and to manage her return to the gymnastics environment in a manner that will not pose a risk or threat to other participants and that the process may include, but is not limited to, counselling, education, supervision and/or an assessment of coaching practices. Further, GA submitted that if the Applicant does not comply with the reintegration conditions within the 6 month period, the Applicant will be subject to a further 6 months suspension of technical membership, with reintegration requirements still needing to be completed prior to technical membership being reinstated.

244. GA also submitted that it be permitted to publish the sanctions arising from the Determination on its website. GA further submitted that the Panel should make the following recommendations:

- (a) an assessment be undertaken into the suitability of the Applicant's GA Life Membership;
- (b) that GA prohibit the Applicant from being selected for any future teams, camps or educational activities at a State or National level for a period of 5 years given that the conduct occurred whilst the Applicant was appointed as representative coach and in a position of authority.

### **Applicant's Submissions**

245. The Applicant noted that on 10 November 2020, GA imposed interim measures in relation to the Applicant including the condition that she was required to be fully supervised while conducting coaching/teaching activities in the sport of gymnastics, which was to remain in force until determination of the allegations (the "interim sanction"). This interim sanction was imposed without notice and without the Applicant having the opportunity to be heard concerning its form or effect with the practical effect being, including attendant publicity, to severely restrict the Applicant's capacity to earn her livelihood as a gymnastics coach. Subsequently, the Applicant voluntarily participated and fully cooperated in a lengthy interview conducted by SIA Investigators.

246. It was noted that on 11 May 2021, Gymnastics Victoria terminated the Applicant's appointment as a Judge/Official in the State team representing Victoria at the Australian

Gymnastics Championships after GA advised Gymnastics Victoria that the Applicant was under investigation by SIA.

247. It was submitted that despite Clause 4.3 of the GA Supplementary Policy requiring communication from SIA on the progress of its investigation and expected timelines, no response as to progress was received for more than 7 months. On 30 July 2021, the Applicant was informed that SIA had found substantiated 5 of the 11 allegations made against her by the Complainant. The Applicant emphasised that the suggested Disciplinary Measure, being 6 months' suspension of technical membership, of which 3 months was to be suspended pending completion of the 3 months reintegration period, was proposed without taking into account any mitigating factors to reduce the sanction imposed. Further, it was noted that in SIA's written submissions of 14 September 2021, SIA submitted that it may be appropriate to impose a lesser penalty if only some of the allegations were established.
248. In relation to the nature and seriousness of the breaches, reliance was placed upon the SIA's submissions dated 14 September 2021 to the effect that the breaches were not at the most serious end of the spectrum. In relation to the first breach, it was submitted that it was mitigatory that the Complainant accepted that what was said had been said in a joking way and that two of the witnesses conceded that the comment could have been anecdotal. It was further submitted that the Complainant went on to become a highly successful gymnast in subsequent international teams coached by the Applicant and others and there was no evidence that the comment caused any long-term adverse effects upon her.
249. In relation to the second breach, it was noted that the comment was made more than 9 years ago and was made about several team members and not just about the Complainant in circumstances where the team had performed below expectations at the 2012 Olympic Games. It was submitted that although not "considerate" and insensitive in its "public" nature, the comments made were bona fide intended to be in the nature of honest, straight-forward and corrective feedback about performance targets to elite athletes following the disappointing performance of the team. Further, reliance was placed upon the need for gymnasts to maintain an optimum body mass or weight to be competitive and also to be able to compete safely at the highest international level, and that this need is accepted

amongst high performance coaches and was not a matter of controversy. Further, it was submitted that the Complainant is now herself a coach of gymnasts in Melbourne who are likely to become elite or Australian gymnasts and there was no evidence the comment caused any long term adverse effects upon the Complainant.

250. It was submitted that two “one-line remarks” made by the Applicant to the Complainant between 9 and 15 years ago, of which the Applicant cannot now precisely recall (or the context in which they were made), could not on any reasonable view be considered to be serious in the overall range of behaviours which could be considered to be “harassment” in the context of a national coach conducting an elite program in the sport of gymnastics.
251. In relation to the personal, professional and financial consequences already suffered by the Applicant, it was submitted that the Applicant’s career as a gymnastics coach had been severely impacted since the imposition of the interim suspension on 10 November 2020 with the attendant publicity. She had been the subject of an interim suspension for more than 1 year and, that as her livelihood was that of a professional international gymnastics coach and judge, she has suffered devastating personal, professional and financial consequences. Further, she was sacked in a humiliating way from her role as a judge/official in the State team representing Victoria at the Australian Gymnastics Championships in May 2021 after GA advised Gymnastics Victoria that she was under investigation by SIA.

## **Consideration**

252. Clause 1.10 of the current version of the MPP (Version 12), provides that upon a finding of breach, one or more of the following forms of discipline may be imposed:
- (a) a direction that the individual makes a verbal and/or written apology;
  - (b) a written warning;
  - (c) a direction that the individual attend counselling or undergo training to address their behaviour;
  - (d) a withdrawal of any Award, placing, record, achievement bestowed in any tournament, activity or event held or sanctioned by GA;

- (e) a demotion or transfer of the individual to another location, role or activity;
- (f) a suspension of the individual's membership or participation or engagement in a role or activity;
- (g) a termination of the individual's membership, appointment or engagement;
- (h) in the case of a Technical Member, a direction that their accreditation be suspended for a period of time or permanently;
- (i) a fine; and/or
- (j) any other form of discipline that the GA CEO or the GA Discipline Committee considers appropriate.

253. It is clear from Clause 1.10 that the Panel is invested with a wide discretion in terms of penalty. The Panel has considered carefully the submissions made by the parties, detailed summaries of which are set out above. The Panel is of the opinion that general deterrence from the type of conduct the subject of the findings against the Applicant is a very important consideration and that any penalty imposed must reflect the application of this principle.

254. There can be no doubt that the comments made by the Applicant, the subject of Allegations 2 and 11, had a substantial adverse effect upon the Complainant. Amongst other effects, the comments made her feel self-conscious about her weight, caused her stress, made her feel angry, humiliated and upset. These findings by the Panel indicate that the Applicant's conduct revealed a lack of insight as to how her comments may have affected the Complainant. The effect on the Complainant was not trifling or insignificant. It must be clearly stated that someone in the position of the Applicant ought to have been aware of the difficulties faced by young female athletes in addressing issues of body image, diet and weight. The type of conduct engaged in by the Applicant cannot be tolerated. The fact that the Complainant may have experienced a successful international career as a gymnast and has gone on to become a coach herself does not lessen the seriousness of the findings as to the Applicant's conduct. Although it is always possible to envisage more serious circumstances that give rise to breaches of the MPP, the Panel regards the Applicant's breaches as being serious and that she should have known that her behaviour was a breach of the relevant MPP applicable at the time that each of the comments were made.

255. The Panel notes the Applicant's late expression of an apology to the Complainant for her comments and for the hurt and distress caused to the Complainant by them. Although late in the piece, this apology is evidence of a measure of contrition. It was open, however, to the Applicant to have made this apology at the hearing of this matter. This is not to take away or penalise the Applicant for contesting the allegations. It is to reflect the fact that the Applicant should not receive the benefit of an early expression of contrition.
256. The Panel accepts that the interim measures imposed upon the Applicant have had personal, professional and financial consequences upon her. The Panel accepts that the requirement for her to be supervised whilst coaching has presented practical difficulties in finding an appropriate supervisor. The consequences, however, were mitigated substantially, in the Panel's opinion, by the Covid-19 Pandemic restrictions imposed in the State of Victoria since 10 November 2020 which significantly impacted upon the ability of gymnasiums to remain open and, if open, to observe a restriction on activities and restrict close contact. Nevertheless, there can be no doubt the interim measures have caused significant detriment to the Applicant that has to be taken into account.
257. The Panel has considered carefully the substantial body of good character evidence presented by the Applicant. That evidence reveals the Applicant's exceptional achievements and record in the sports of gymnastics and the Panel accepts that the references reflect an outstanding career as a professional gymnastics coach. The Applicant submits that the findings made against her are out of character and are inconsistent with her performance as a coach over a 44 year period. The Panel considers that at face value the submission has some attraction. However, whilst the Applicant is to be given credit for her successful career, her evidence at the hearing showed a considerable lack of insight as to the vulnerability of young gymnasts under her control and as to the position of power that she held over them, and her failure to make concessions in this regard reflects a mindset that is in conflict with the application of the relevant MPP.
258. The completion by the Applicant of a course in Elite Athlete Wellbeing Management is a positive action on her part. It reflects an acknowledgment that the Applicant required education to assist in changing her mindset concerning her relationship and coaching practices in respect of gymnasts under her charge.

259. The Panel accepts that there is little likelihood that the Applicant will breach any relevant Policy in the future. The Panel finds that the findings made against the Applicant will have a salutary effect upon her.
260. The purpose of a MPP is reflected in Clause 1.2 of the current version (Version 12). The Policy “aims to maintain ethical and inform decision-making and responsible behaviours within our sport. It outlines our commitment to a person’s right to be treated with respect and dignity and to be safe and protected from abuse. This Policy informs everyone involved in our sport of his or her legal and ethical rights and responsibilities and the standards of behaviour that are required...” Consistent with that statement of purpose, in assessing the appropriate penalty for breaches of the MPP by a professional coach, the following principles ought to be applied (these principles being consistent with the approach by disciplinary tribunals throughout Australia in dealing with misconduct in professional occupations):
- (a) the need to protect the public against further misconduct;
  - (b) the need to protect the public through general deterrence of others from similar conduct;
  - (c) the need to protect the public and maintain confidence in the coaching and administration of the sport by reinforcing high professional standards even where there is no need to deter the person from repeating the conduct;
  - (d) whether the coach has knowingly breached the MPP;
  - (e) whether the incidents were isolated;
  - (f) the coach’s disciplinary history;
  - (g) the coach’s insight and remorse (or lack thereof);
  - (h) the coach’s personal circumstances at the time of the conduct and at the time of imposing a sanction, although the weight given to personal circumstances cannot override the fundamental obligation to provide appropriate protection of the public interest in the maintenance of proper standards of coaching practice and behaviour;
  - (i) other matters relevant to the coach’s fitness to coach, and aggravating or

mitigating factors, although, in general, mitigating factors carry considerably less significance because of the nature of the jurisdiction being protective and not punitive.

261. Pursuant to Clause 7 of Attachment C4: Supplementary Discipline By-Law to the SCMP, after completing an investigation and upon a finding that a breach of a Relevant Policy has occurred, SIA is required to recommend a Disciplinary Measure. Pursuant to this process, GA is required to adopt SIA's findings and recommendations as to any breach and Disciplinary Measure and thereafter serves a Breach Notice upon the person who has breached a Relevant Policy. If such a person does not respond to the Breach Notice, GA is required to make the breach finding and impose the Disciplinary Measure set out in the Breach Notice by default. The specific requirements as to the contents of the Breach Notice are set out in the By-Law.
  
262. As outlined in paragraph 4 above, the Breach Notice served upon the Applicant by GA included the proposed 6 months' suspension with 3 months to be suspended pending completion of a 3 month reintegration period. In the Panel's opinion, this sets the outer limit of what the penalty should be. Given that 2 out of the 5 allegations were found proven, in all fairness the penalty should be less than that proposed in the Breach Notice. This was effectively conceded by SIA, but not by GA. In the Panel's opinion, the recommendations proposed by GA to be made by the Panel concerning an assessment into the suitability of the continuation of the Applicant's GA life membership and prohibition from being selected for any future teams, camps or educational activities at a State or National level for a period of 5 years, are matters within the province of GA to undertake within the confines of its Constitution and By-Laws. The Panel is of the opinion that it is not appropriate for the Panel to make these recommendations, as its function is to impose Disciplinary Measures.
  
263. The Panel accepts GA's submission as to the terms of the written apology required to be written by the Applicant to the Complainant. As to the need for a re-integration period the Panel is of the opinion that this is not required given that the Applicant has completed the Certificate for in Elite Athlete Well-Being Management and, as a result of the findings made by this Panel, will be in no doubt as to her professional obligations, responsibilities and the proper coaching practices to be employed. The Applicant is an intelligent and

experienced coach and will have gained significant insight into proper coaching practices as a result of these proceedings. The Panel is confident that the Applicant now well understands the behavioural standards expected from her and that her return to the gymnastics environment will not pose a risk or threat to other participants.

264. The Panel finds, that after taking into account all relevant circumstances, the appropriate Disciplinary Measure is an aggregate penalty in respect of the 2 breaches of the relevant MPP of a period of 4 months' suspension of Technical Membership of GA to be wholly suspended for a period of 2 years. The Applicant should be cognisant of the fact that if there is to be a breach by her of a Relevant Policy within the next 2 years (regardless of when such breach is proved), she will be subject to 4 months' suspension of Technical Membership of GA together with any further penalty that may be imposed in respect of the further breach. The Panel imposes a further Disciplinary Measure requiring the Applicant, within 7 days hereof, to provide to GA, for GA to forward to the Complainant, a written apology which acknowledges that the Applicant engaged in unacceptable coaching behaviours, in particular the use of negative language, which was belittling, offensive and humiliating and caused great upset to the Complainant.

### **The National Sports Tribunal therefore determines:**

1. **That Peggy Liddick has breached Version 3 of Member Protection Policy of Gymnastics Australia in relation to Allegation 2, namely that:**

#### **Allegation 2**

**In 2006 at a training camp of the Australian Institute of Sport (AIS) prior to the World Championships at Aarhus, Denmark, Peggy Liddick said to Georgia Bonora and other athletes that she would lock them in their room and feed them peas and carrots under the door.**

2. **That Peggy Liddick has breached Version 5 of Member Protection Policy of Gymnastics Australia in relation to Allegation 11, namely that:**

#### **Allegation 11**



During a team debrief following the competition at the 2012 London Olympic Games, Peggy Liddick said to Georgia Bonora and other Women's Artistic Gymnastics team members that they were overweight and that this was the reason for their performance.

3. That Allegations 4, 5 and 10 are not upheld and are dismissed.
4. That Peggy Liddick's Technical Membership of GA be suspended for a period of 4 months, this being an aggregate penalty, such suspension to be wholly suspended for a period of 2 years subject to Peggy Liddick not breaching any relevant Policy within that period (whether such breach is found proved during or after the end of the 2 year period).
5. That within 7 days, Peggy Liddick provide to GA for transmission to the Complainant a written apology addressed to the Complainant which acknowledges that Peggy Liddick engaged in unacceptable coaching behaviours, in particular the use of negative language which was belittling, offensive and humiliating and caused great upset to the Complainant.



**David Grace AM QC**  
**Presiding Member**



**Elisa Holmes**  
**Tuesday 18 January, 2022**



**Rebecca Ogge**

## ANNEXURE

### Member Protection Policy (Undated) Version 3 – relevant to Allegation 2

#### Australian Gymnastic Federation Member Protection Policy

#### 1. POLICY STATEMENT

- 1.1 The Australian Gymnastic Federation Inc (**Federation**) is committed to providing a sport and work environment free of discrimination and harassment (sexual or otherwise), where individuals are treated with respect and dignity. The Federation will not tolerate discriminatory or harassment behaviour under any circumstances and will take disciplinary action against anyone who breaches this Policy.
- 1.2 The Federation is committed to ensuring that the safety, welfare and wellbeing of children are maintained at all times during their participation in activities run by the Federation and its member bodies. Accordingly, any person involved in the instruction, management or coaching of any member under the age of 18 years may be asked to undergo screening procedures including police and other probity checks.

#### 2. POLICY APPLICATION

- 2.1 This Policy applies to all members of the Federation, employees, officers, administrators, volunteers, coaches, judges, athletes and officials (**Members**).
- 2.2 This Policy applies equally to Members involved in each of the Federation's gymnastics disciplines, including Men's Artistic Gymnastics, Women's Artistic Gymnastics, Rhythmic Gymnastics, General Gymnastics, Sport Aerobics, Trampoline Sports and Sports Acrobatics.
- 2.3 This Policy applies to behaviour occurring both within and outside the course of the Federation's business, activities and events, when the behaviour involves Members and negatively affects relationships within the Federation's sport and work environment.

#### 3. POLICY COVERAGE

- 3.1 Discrimination and all forms of harassment are unlawful under federal, state and territory law. People engaging in such conduct can have legal action taken against them under these laws. In some cases, legal action can also be taken against the organisation for which they work or represent. For this reason, the Federation has a legal responsibility to ensure that discrimination or harassment does not occur in the course of any of the Federation's activities.
- 3.2 The law is always the minimum standard for behaviour within the Federation and therefore any criminal offence will be reported to the appropriate authorities.

#### *Discrimination*

- 3.3 It is unlawful to treat anyone unfairly on the basis of various attributes or personal characteristics in key areas of public life.
- 3.4 A Member must not treat a person less favourably than another person on the basis of an attribute (such as race, sex, age, marital status, sexuality, pregnancy or intellectual or physical impairment) than someone else without that attribute in the same or similar circumstances.
- 3.5 Indirect discrimination is also unlawful. This means that a Member cannot impose a requirement, condition or practice that is the same for everyone, but which has an unequal or disproportionate effect or result on particular groups. Unless this type of requirement is reasonable in all the circumstance it is likely to be indirect discrimination, even if there was never any intention to discriminate.

#### *Harassment*

- 3.6 Harassment can take many forms but can generally be defined as unwelcome verbal or written comments, conduct, or gestures directed toward an individual or group of individuals that the harasser knows, or should reasonably be expected to know, is insulting, intimidating, humiliating, malicious, degrading or offensive.
- 3.7 Sexual harassment is behaviour that has a sexual element, that is unwelcome and could reasonably be expected, in the circumstances in which it occurs, to offend, humiliate or intimidate the person or people at whom it is directed.
- 3.8 A Member must not engage in any form of harassment, including:
- written, verbal or physical abuse or threats;
  - unwelcome physical contact;
  - the display of offensive materials;
  - promises or threats in return for sexual favours;
  - unwelcome sexual comments, jokes or propositions;
  - homophobic comments or behaviours; or
  - jokes or comments directed at a person's body, looks, age, race, disability, sexuality, marital status or pregnancy.

### **Victimisation**

- 3.9 A Member must not subject any person to victimisation.
- 3.10 Victimisation means subjecting a person, or threatening to subject a person, to any detriment or unfair treatment because that person has or intends to pursue his or her right to make a complaint or support another person in making a complaint against another person.

### **Child Protection**

- 3.11 Members must not employ or engage a person (whether paid or unpaid) to coach or otherwise supervise a child under the age of 18 years without first:
- (a) requiring that person to disclose whether or not he or she has been convicted of a serious sex offence; and
  - (b) conducting a police or other appropriate probity check on that person.
- 3.12 A Member must notify the appropriate authorities (such as the Commission for Children and Young People) of:
- (a) any applicants for employment that the Member rejected as a result of risks identified through screening processes; and
  - (b) the name and other identifying details of any person against whom relevant disciplinary proceedings have been completed by the Member in relation to child abuse (sexual or otherwise) irrespective of the findings.

## **4. ROLES AND RESPONSIBILITIES**

- 4.1 This section specifies the roles and responsibilities of all Members. In some cases, particular classes of Members have the additional roles and responsibilities that are also specified below.

### **All Members**

- 4.2 A Member must:
- (a) comply with this Policy;
  - (b) make complaints about a breach of the Policy in accordance with the Federation's Complaints Handling Procedure;
  - (c) submit to the Complaints Handling Procedure if an allegation is made against that Member;
  - (d) not make any frivolous or vexatious claim that another person is in breach of this Policy; and
  - (e) conduct themselves in a proper manner so as not to bring that Member, the Federation or the sport generally into disrepute.

### **Coaches**

- 4.3 Coaches must:
- (a) comply with the Coaches' Code of Ethics (incorporated in the Technical Membership Handbook from time to time);
  - (b) understand and respect that as a coach he or she has considerable power and authority over athletes and should not abuse it;
  - (c) avoid intimate relationships with athletes; not exclude or treat less favourably any athlete from playing or coaching activities on the basis of an attribute or personal characteristic;
  - (d) always assume that there are lesbian, gay and bisexual people on teams, and among the coaching and support staff, even if they have chosen not to identify themselves, and make it clear that the coach will not tolerate any prejudice based on sexual orientation; and
  - (e) avoid focussing on an athlete's disability unless this is the only way that the coach can find out what adjustments the athlete requires.

## **5. COMPLAINT PROCEDURES AND DISCIPLINARY ACTION**

- 5.1 The Federation has developed a Complaints Handling Procedure and will deal with any complaints about breaches of this Policy promptly, seriously, sensitively and confidentially. The Federation recognises that natural justice is the minimum standard of fairness to be applied in the investigation and adjudication of a complaint.
- 5.2 Disciplinary action will be taken by the Federation against anyone who:
- (a) is found to be in breach of this Policy;
  - (b) victimises or retaliates against a person who has complained of a breach of this Policy; or
  - (c) is found to have made a frivolous or vexatious complaint.
- 5.3 The discipline will depend on the severity of the case and may involve any apology, counselling, suspension, dismissal or other form of action.

## 6. CONFIDENTIALITY AND REPORTING

6.1 The Federation's administration responsible for implementing this Policy will keep confidential the names and details relating to complaints, unless disclosure is:

- (a) necessary as part of the disciplinary or corrective process; or
- (b) required by law. Australian Gymnastic Federation

### COACHES' CODE OF ETHICS

As an accredited Australian Gymnastic Federation coach, I will:

#### ***Abide by the rules of the Federation as set forth in its constitution and by-laws.***

- follow procedures for enforcement of the Code of Ethics
- accept any judgements made
- use the established procedures for challenging a competitive result, contesting a team selection decision, complaining about the conduct of another member, or attempting to change policy of the Federation

#### ***Direct my observations and recommendations regarding all aspects of gymnastics to the appropriate persons for the betterment of the sport.***

- be constructive in my criticisms and direct comments and observations to the relevant individuals and organisations to avoid gossip innuendo and malicious comment
- respect the efforts of appointed and elected representatives of the Federation

#### ***Represent myself and my coaching status in an honest and professional manner, without bringing the coaching profession or the Federation into disrepute***

- use my accreditation status and Technical Membership of the AGF to represent my ability in an honest manner, not to gain unwarranted favours be professional in and accept responsibility for my actions
- extend professional courtesy to other coaches, athletes and their parents by keeping them informed in matters relevant to athlete's training programs
- abide by and respect the regulations governing sport and the organisation and individuals administering those regulations
- be a role model for my sport and my athletes

#### ***Exercise a standard of care consistent with my competence and obligations as a coach***

- show concern for the health, safety and welfare of athletes and colleagues
- coach within the limits of my competence as a coach
- follow AGF safety guidelines in respect of the duty of care owed to the athlete
- provide planned and sequential training programs based on the individual developmental needs of athletes
- modify the training program for injured athletes based on appropriate medical advice when required
- provide a safe environment for participants in training and competition

#### ***Provide a quality service to my athletes and to the sport***

- maintain or improve my current NCAS accreditation
- seek continual improvement through performance appraisal and ongoing coach education
- honour the responsibilities given to a coach by keeping all relevant qualifications up to date
- work to ensure my athletes' time spent with me is a positive experience

#### ***Promote and assist in the development of the coaching profession***

- assist others to develop good attitudes, skills and knowledge relating to the sport
- promote and assist in the education of other coaches

#### ***Put athletes' welfare first; making decisions based on the best interests of my athlete's' sporting, education and vocational careers***

- acknowledge the individual talents and potential of athletes
- maintain a balanced emphasis of sporting involvement within educational and career objectives

#### ***Show leadership, and support efforts to remove the abuse of drugs in sport***

- abide by the regulations of the relevant national and international sporting and government bodies
- respect the health and dignity of athletes to compete on the basis of their abilities; within the rules of the sport of gymnastics

#### ***Encourage, by example, the removal of any form of personal abuse or inappropriate discrimination***

- refrain from verbal, physical or emotional abuse
- refrain from any form of sexual harassment towards athletes and colleagues
- refrain from using the influence of a coaching position to encourage inappropriate intimacy between coach and athlete

- refrain from any discriminatory practices on the basis of race, religion, ethnic background, or special ability/disability of athletes
- be alert to any forms of abuse towards my athletes from other sources whilst they are in my care

**Ensure physical contact with athletes is appropriate and necessary for the athletes' skill development**

- ensure spotting methods and philosophy are consistent with established gymnastics principles
  - ensure spotting is used only to facilitate learning or safe performance
- Ethics

**It is imperative that all coaches wishing to become Technical Members of the Federation and registered with the Australian Coaching Council read and understand the Compliance procedures as detailed below. The procedures outlined below will be enforced by the Federation when dealing with potential breaches of the Coaches Code of Ethics.**

1. An Ethics Committee will be formed to review issues of AGF members' compliance with the Code. The composition and duties of the Committee shall be:
  - 1.1. Committee members shall be elected from the AGF Technical Membership for a two year term, unless the Committee member is no longer a Technical Member (in which case a new Committee member is elected)
  - 1.2. The Committee shall consist of five members, the President of the AGF will appoint one Committee member to act as a Chairman
  - 1.3. The Committee Chairman will receive complaints pertaining to the Code of Ethics
  - 1.4. The Committee will investigate and review complaints under the procedures established
  - 1.5. The Committee will recommend action to the AGF Board regarding complaints
2. Procedures for review of complaints will follow the processes as set forth, to insure that the rights of all parties to the complaint are protected. The prime concern is for the potential victims in these issues, and safeguarding the welfare of the public.
  - 2.1. Any person may file a complaint, verbally or in writing, to the Chairman of the Ethics Committee
  - 2.2. Any complaint, brought by a coach against another person, which is determined to be of a spurious or frivolous nature by the Committee will itself be considered as a breach of the Code, and action may be taken against the coach filing the original complaint.
  - 2.3. All parties will be informed by the Chairman that a complaint has been received. The coach named will be given an invitation to respond, in writing, within a reasonable time frame.
  - 2.4. The Committee will review all available written / oral information and may investigate any / all circumstances of the complaint. The Committee may choose to:
    - 2.4.1. Accept a written response and mediate an understanding between two or more parties involved in the complaint
    - 2.4.2. Schedule a full hearing where all parties to the complaint may address the Committee
    - 2.4.3. Recommend to the Board of the AGF that disciplinary action be taken
  - 2.5. The Board of the AGF will receive a recommendation from the Ethics Committee and make a decision on any disciplinary action to be taken. The Chairman of the Board will inform all parties, in writing, of the action taken.
  - 2.6. Any parties to the complaint may appeal disciplinary action. An appeal procedure will include:
    - 2.6.1. A written request to the President of the AGF to appeal the decision of the Board
    - 2.6.2. The appointment (made by the AGF National Executive / Coaching Director) of a three member Appeals Committee (made up of Level 2 or 3 accredited coaches who are not AGF Board members) to review the complaint and make a recommendation concerning the actions taken.
3. Upon the recommendation of the Ethics Committee, the Board of the AGF may impose any of the disciplinary actions, as follows:
  - 3.1. A letter to remind the coach of the accepted standards of conduct expected from AGF Coaches
  - 3.2. A letter of reprimand which becomes part of the coach's professional record and may have an influence on future coaching appointments or other recommendations made by the AGF Board
  - 3.3. A letter of reprimand (as above) with copies to the coach's employer, club and / or State Association
  - 3.4. Probation of AGF Technical Membership for a set period of time
  - 3.5. Suspension of AGF Technical Membership for a set period of time

In cases where civil or criminal law has been breached, the Ethics Committee may choose to consider the outcome of legal actions when making its decision on disciplinary action.

## Member Protection Policy (July 2007) Version 4 – relevant to Allegations 4 and 5

### 3. Who this Policy Applies To

This policy applies to the following, whether they are in a paid or unpaid/voluntary capacity:

- Individuals sitting on boards, committees and sub-committees;
- Employees and volunteers;
- Support personnel (e.g. managers, physiotherapists, psychologists, masseurs, sport trainers);
- Coaches and assistant coaches;
- Athletes and players;
- Officials and judges;
- Members, including life members;
- Association Members’;
- Affiliated clubs and associated organisations, club administrators and officers;
- Peak associations and the national body;
- Any other person or organisation that is a member of or affiliated to Gymnastics Australia;
- Parents, guardians, spectators and sponsors to the full extent that is possible.

This policy will continue to apply to a person even after they have stopped their association or employment with Gymnastics Australia if disciplinary action, relating to an allegation of child abuse against that person, has commenced.

### 4. Code of Conduct

Gymnastics Australia requires every individual and organisation bound by this policy to:

- 4.1 Be ethical, fair and honest in all their dealings with other people and Gymnastics Australia;
- 4.2 Treat all persons with respect and courtesy and have proper regard for their dignity, rights and obligations;
- 4.3 Always place the safety and welfare of children above other considerations;
- 4.4 Comply with Gymnastics Australia’s constitution, by-laws and policies including this Member Protection policy;
- 4.5 Operate within the rules and spirit of the sport;
- 4.6 Comply with all relevant Australian laws (Federal and State), particularly anti-discrimination and child protection laws;
- 4.7 Be responsible and accountable for their conduct; and
- 4.8 Abide by the relevant Role-Specific Codes of Conduct outlined in Part D of this policy.

### 5. Individual Responsibilities

Individuals bound by this policy are responsible for:

- 6.1 Making themselves aware of the policy and complying with the standards of conduct outlined in this policy;
- 6.2 Consenting to a national police check if the individual holds or applies for a role that involves direct and unsupervised contact with people under the age of 18 years
- 6.3 Complying with all other requirements of this policy;
- 6.4 Co-operating in providing a child abuse, harassment and discrimination free sporting environment;
- 6.5 Understanding the possible consequences of breaching this policy.

### 6. Policy Position Statements

#### 7.1 Child Protection Policy

Every person and organisation bound by this policy must always place the safety and welfare of children above all other considerations.

Gymnastics Australia acknowledges that our staff and volunteers provide a valuable contribution to the positive experiences of our juniors. Gymnastics Australia aims to ensure this continues and to protect the safety and welfare of its junior participants. Several measures will be used to achieve this such as:

- Prohibiting any form of abuse against children;
- Providing opportunities for our juniors to contribute to and provide feedback on our program development;
- Carefully selecting and screening people whose role requires them to have direct and unsupervised contact with children. (Screening procedures are outlined in Part B of this policy);
- Ensuring our codes of conduct, particularly for roles associated with junior sport, are promoted, enforced and reviewed;
- Providing procedures for raising concerns or complaints (our complaints procedure is outlined in Part C of this policy); and

- Providing education and/or information to those involved in our sport on child abuse and child protection.

Gymnastics Australia requires that any child who is abused or anyone who reasonably suspects that a child has been or is being abused by someone within our sport, to report it immediately to the police or relevant government agency and CEO. Descriptions of the sorts of activity which may be abuse are in the Dictionary at clause 11.

All allegations of child abuse will be dealt with promptly, seriously, sensitively and confidentially. A person will not be victimised for reporting an allegation of child abuse and the privacy of all persons concerned will be respected. Our procedures for handling allegations of child abuse are outlined in attachment C4 of this policy.

If anyone bound by this policy reasonably suspects that a child is being abused by his or her parent/s, they are advised to contact the relevant government department for youth, family and community services in their state/territory

## **7.2 Anti-Discrimination and Harassment Policy**

Gymnastics Australia aims to provide a sport environment where all those involved in its activities are treated with dignity and respect, and without harassment or discrimination.

Gymnastics Australia recognises that all those involved in its activities cannot enjoy themselves, perform to their best, or be effective or fully productive if they are being treated unfairly, discriminated against or harassed because of their sex, marital status, pregnancy, parental status, race, age, disability, homosexuality, sexuality, transgender, religion, political belief and/or industrial activity.

Gymnastics Australia prohibits all forms of harassment and discrimination not only because it is against the law, but because it is extremely distressing, offensive, humiliating and/or threatening and creates an uncomfortable and unpleasant environment.

Descriptions of some of the types of behaviour which could be regarded as harassment or discrimination are provided in the Dictionary at clause 11.

If any person feels they are being harassed or discriminated against by another person or organisation bound by this policy, please refer to GA's Grievance By-Law 3 outlined in attachment C2 of this policy.

This will explain what to do about the behaviour and how Gymnastics Australia will deal with the problem.

## **Complaints Procedures**

### **8.1 Complaints**

Gymnastics Australia aims to provide an easy to use, confidential and trustworthy procedure for complaints based on the principles of natural justice. Any person may report a complaint (complainant) about a person/s or organisation bound by this policy if they reasonably believe that a person/s or a sporting organisation has breached this policy. A complaint should be reported to the CEO.

A complaint may be reported as an informal or formal complaint. The complainant decides whether the complaint will be dealt with informally or formally unless the CEO considers that the complaint falls outside the parameters of this policy and would be better dealt with another way.

All complaints will be dealt with promptly, seriously, sensitively and confidentially as per C1 of this policy. If the complaint falls outside the parameters of the Complaints Procedure then the GA Grievance By-Law 3 outlined in C2 will be followed.

## **7. What is a Breach of this policy**

It is a breach of this policy for any person or organisation to which this policy applies, to have been found to have

- 9.1 Done anything contrary to this policy;
- 9.2 Breached the General Code of Conduct and Role-Specific Codes of Conduct;
- 9.3 Brought the sport and or Gymnastics Australia into disrepute;
- 9.4 Failed to follow Gymnastics Australia's policies and procedures for the protection, safety and welfare of children;
- 9.5 Appointed or continued to appoint a person to a role that involves working with children and young people contrary to this policy;
- 9.6 Discriminated against or harassed any person;
- 9.7 Victimised another person for reporting a complaint;
- 9.8 Engaged in a sexually inappropriate relationship with a person that the person supervises, or has influence, authority or power over;
- 9.9 Disclosed to any unauthorised person or organisation any Gymnastics Australia information that is of a private,

confidential or privileged nature;

9.10 Made a complaint they knew to be untrue, vexatious, malicious or improper;

9.11 Failed to comply with a penalty imposed after a finding that the individual or organisation has breached this policy;

9.12 Failed to comply with a direction given to the individual or organisation during the discipline process.

## 8. Forms of Discipline

If an individual or organisation to which this policy applies breaches this policy, one or more forms of discipline may be imposed pursuant to the Discipline and Appeals By-Law 4 in attachment C3 of this policy.

## 9. Dictionary

This Dictionary sets out the meaning of words used in this policy and its attachments without limiting the ordinary and natural meaning of the words. State/Territory specific definitions and more detail on some of the words in this dictionary can be sourced from the relevant State/Territory child protection commissions or equal opportunity and anti-discrimination commissions.

**Abuse** is a form of harassment and includes physical abuse, emotional abuse, sexual abuse, neglect, and abuse of power. Examples of abusive behaviour include bullying, humiliation, verbal abuse and insults.

**Child** means a person who is under the age of 18 years (see also definition of young person).

**Child abuse** relates to children at risk of harm (usually by adults, sometimes by other children) and often by those they know and trust. It can take many forms. Children may be harmed by both verbal and physical actions and by people failing to provide them with basic care. Child abuse may include:

- Physical abuse by hurting a child or a child's development (e.g. hitting, shaking or other physical harm; giving a child alcohol or drugs; giving bad nutritional advice; or training that exceeds the child's development or maturity).
- Sexual abuse by adults or other children where a child is encouraged or forced to watch or engage in sexual activity or where a child is subject to any other inappropriate conduct of a sexual nature (e.g. sexual intercourse, masturbation, oral sex, pornography including child pornography or inappropriate touching or conversations).
- Emotional abuse by ill-treating a child (e.g. humiliation, taunting, sarcasm, yelling, negative criticism, name calling, ignoring or placing unrealistic expectations on a child).
- Neglect (e.g. failing to give food, water, shelter or clothing or to protect a child from danger or foreseeable risk of harm or injury).

**Complaint** means a complaint made under clause 8.1 of this policy.

**Complainant** means the person making a complaint.

Unlawful harassment includes the above but is either sexual or targets a person because of their race, sex, pregnancy, marital status, sexuality or other characteristic (see characteristic list under discrimination).

Whether or not the behaviour is harassment is determined from the point of view of the person receiving the harassment. The basic rule is if someone else finds it harassing then it could be harassment. Harassment may be a single incident or repeated. It may be explicit or implicit, verbal or non-verbal.

**Member protection** is a term used by the Australian sport industry to describe the practices and procedures that protect members – both individual members such as athletes, coaches and officials, and the member organisations such as clubs, Association Members and Gymnastics Australia. Member protection involves:

- protecting those that are involved in sport activities from harassment, abuse, discrimination and other forms of inappropriate behaviour
- adopting appropriate measures to ensure the right people are involved in an organisation, particularly in relation to those involved with juniors, and
- providing education.

**Natural justice** incorporates the following principles:

- a person who is the subject of a complaint must be fully informed of the allegations against them
- a person who is the subject of a complaint must be given full opportunity to respond to the allegations and raise any matters in their own defence
- all parties need to be heard and all relevant submissions considered
- irrelevant matters should not be taken into account
- no person may judge their own case
- the decision maker/s must be unbiased, fair and just
- the penalties imposed must not outweigh the 'crime'



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**Attachment D1: GENERAL CODE OF BEHAVIOUR**

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As a member of Gymnastics Australia, a member association or an affiliated club or a person required to comply with Gymnastics Australia's Member Protection Policy, you must meet the following requirements in regard to your conduct during any activity held or sanctioned by Gymnastics Australia, a member association or an affiliated club and in any role you hold within Gymnastics Australia, a member association or an affiliated club:

1. Respect the rights, dignity and worth of others.
  2. Be fair, considerate and honest in all dealing with others.
  3. Be professional in, and accept responsibility for, your actions.
  4. Make a commitment to providing quality service.
  5. Be aware of, and maintain an uncompromising adherence to, Gymnastics Australia's standards, rules, regulations and policies.
  6. Operate within the rules of the sport including national and international guidelines which govern Gymnastics Australia, the member associations and the affiliated clubs.
  7. Do not use your involvement with Gymnastics Australia, a member association or an affiliated club to promote your own beliefs, behaviours or practices where these are inconsistent with those of Gymnastics Australia, a member association or an affiliated club.
  8. Demonstrate a high degree of individual responsibility especially when dealing with persons under 18 years of age, as your words and actions are an example.
  9. Avoid unaccompanied and unobserved activities with persons under 18 years of age, wherever possible.
  10. Refrain from any form of harassment of others.
  11. Refrain from any behaviour that may bring Gymnastics Australia, a member association or an affiliated club into disrepute.
  12. Provide a safe environment for the conduct of the activity.
  13. Show concern and caution towards others who may be sick or injured.
  14. Be a positive role model.
15. Understand the repercussions if you breach, or are aware of any breaches of, this code of behaviour.

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**Attachment D2: COACHES' CODE OF ETHICS**

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In addition to Gymnastics Australia's General Code of Behaviour, you must meet the following requirements in regard to your conduct during any activity held or sanctioned by Gymnastics Australia, a member association or an affiliated club and in your role as a coach appointed by Gymnastics Australia, a member association or an affiliated club:

**Abide by the rules of Gymnastics Australia as set forth in its constitution and by-laws.**

- follow procedures for enforcement of the Code of Ethics
- accept any judgments made
- use the established procedures for challenging a competitive result, contesting a team selection decision, complaining about the conduct of another member, or attempting to change policy of Gymnastics Australia

**Direct your observations and recommendations regarding all aspects of gymnastics to the appropriate persons for the betterment of the sport.**

- be constructive with criticisms and direct comments and observations to the relevant individuals and organisations, to avoid gossip innuendo and malicious comment
- respect the efforts of appointed and elected representatives of Gymnastics Australia

**Represent yourself and your coaching status in an honest and professional manner, without bringing the coaching profession or Gymnastics Australia into disrepute**

- use your accreditation status and Technical Membership of GA to represent your ability in an honest manner, not to gain unwarranted favours

- be professional in and accept responsibility for your actions
- extend professional courtesy to other coaches, athletes and their parents by keeping them informed in matters relevant to athlete's training programs
- abide by and respect the regulations governing sport and the organisation and individuals administering those regulations
- be a role model for your sport and the athletes
- respect the rights, dignity and worth of every human being within the conduct of your involvement in gymnastics

**Exercise a standard of care consistent with your competence and obligations as a coach**

- show concern for the health, safety and welfare of athletes and colleagues
- coach within the limits of your competence as a coach
- follow GA safety guidelines in respect of the duty of care owed to the athlete
- provide planned and sequential training programs based on the individual developmental needs of athletes
- modify the training program for injured athletes based on appropriate medical advice when required
- provide a safe environment for participants in training and competition

**Encourage, by example, the removal of any form of personal abuse or inappropriate discrimination**

- refrain from verbal, physical or emotional abuse
- refrain from any form of sexual harassment towards athletes and colleagues
- refrain from using the influence of a coaching position to encourage inappropriate intimacy between coach and athlete
- refrain from any discriminatory practices on the basis of race, religion, ethnic background, or special ability/disability of athletes
- be alert to any forms of abuse towards your athletes from other sources whilst they are in your care

## **Member Protection Policy – (January 2010) – Version 5 – relevant to Allegations 10 and 11**

### **3. Who this Policy Applies To**

This policy applies to the following people, whether they are in a paid or unpaid/voluntary capacity:

- 3.1 Persons appointed or elected to boards, committees and sub-committees;
- 3.2 Employees of GA and volunteers;
- 3.3 Members of the National Gymsport Commissions;
- 3.4 Support personnel appointed or elected to teams and squads (e.g. managers, physiotherapists, psychologists, masseurs, sport trainers);
- 3.5 Coaches and assistant coaches;
- 3.6 athletes;
- 3.7 Judges and other officials involved in the regulation of the sport;
- 3.8 Members, including life members;
- 3.9 Athletes, coaches, officials and other personnel participating in events and activities, including camps and training sessions, held or sanctioned by GA;
- 3.10 Any other person including spectators, parents/guardians and sponsors, who or which agrees in writing (whether on a ticket, entry form or otherwise) to be bound by this policy;

This policy also applies to the following associations:

- 3.12 Association Members (State Associations);
- 3.13 Affiliated clubs

Association members are required to adopt and implement this policy and to provide proof to GA of the approval of the policy by the relevant board in accordance with its constitution. Association Members must also undertake to ensure that affiliated Clubs and individual Members are bound by this policy and are made aware of this policy and what it says.

This policy will continue to apply to a person, even after they have stopped their association or employment with GA, if disciplinary action against that person has commenced.

#### **4. Responsibilities of the Organisation**

Gymnastics Australia, Association Members and affiliated clubs must:

- 4.1 Adopt, implement and comply with this policy;
- 4.2 Make such amendments to their Constitution, Rules or Policies necessary for this policy to be enforceable;
- 4.3 Publish, distribute and promote this policy and the consequences of breaches;
- 4.4 Promote and model appropriate standards of behaviour at all times;
- 4.5 Promptly deal with any breaches or complaints made under this policy in a sensitive, fair, timely and confidential manner;
- 4.6 Apply this policy consistently;
- 4.7 Recognise and enforce any penalty imposed under this policy;
- 4.8 Ensure that a copy of this policy is available or accessible to the persons and associations to whom this policy applies;
- 4.9 Use appropriately trained people to receive and manage complaints and allegations (Member Protection Information Officers (MPIOs));
- 4.10 Monitor and review this policy at least annually.

#### **5. Individual Responsibilities**

Individuals bound by this policy are responsible for:

- Making themselves aware of the policy and complying with its standards of behaviour;
- 5.2 Complying with our screening requirements and any state/territory Working with Children checks;
  - 5.3 Placing the safety and welfare of children above other considerations;
  - 5.4 Being accountable for their behaviour;
  - 5.5 Following the procedures outlined in this policy if they wish to make a complaint or report a concern about possible child abuse, discrimination, harassment or other inappropriate behaviour; and
  - 5.6 Complying with any decisions and/or disciplinary measures imposed under this policy.

#### **6. Position Statements**

##### **6.1 Child Protection**

GA acknowledges that our staff, members and volunteers provide a valuable contribution to the positive experiences of children involved in our sport. GA aims to continue this and to take measures to protect the safety and welfare of children participating in our sport by:

- Prohibiting any form of abuse against children;
- Ensuring people have completed a satisfactory Working with Children Check where the relevant state/territory law requires this [*state/territory requirements are summarised in Part C of this policy*];
- Carefully selecting and screening people over the age of 16 years who work, coach or have regular unsupervised contact with children;
- Promoting and enforcing our codes of behaviour, particularly for roles associated with juniors;
- Responding to all reports and complaints of abuse promptly, seriously and confidentially;
- Making information about child protection available, particularly for roles associated with children;
- Adopting practices that reduce risks and provide the greatest opportunity of having a child safe environment.

Anyone who reasonably suspects that a child has been or is being abused by someone within our sport, is to report it immediately to the police or relevant government agency and the CEO of GA. Descriptions of the sorts of activity which may be abuse are in the Dictionary at clause 10. If anyone suspects that a child is being abused by his or her parent/s, they are advised to contact the relevant government department for youth, family and community services in their state/territory.

A person will not be victimised for reporting possible child abuse and the privacy of all persons concerned will be respected. Our procedures for handling allegations of child abuse are outlined in attachment D4.

##### **6.2 Anti-Discrimination and Harassment**

GA opposes all forms of harassment, discrimination and bullying. This includes treating or proposing to treat someone less favourably because of a particular characteristic; imposing or intending to impose an unreasonable requirement, condition or practice which has an unequal or disproportionate effect on people with a particular characteristic; or any behaviour that is offensive, abusive, belittling, intimidating or threatening – whether this is face-to-face, indirectly or via communication technologies such as mobile phone and computers. Some forms of

harassment, discrimination and bullying, based on personal characteristics such as those listed in the Dictionary at [clause 10], are against the law.

If any person feels they are being harassed or discriminated against by another person or organisation bound by this policy, please refer to GA's Grievance By-Law 3. This will explain what to do about the behaviour and how GA will deal with the problem.

### **What is a Breach of this policy**

It is a breach of this policy for any person or organisation to which this policy applies, to do anything contrary to this policy, including but not limited to:

- 8.1 Breaching the Codes of Behaviour (attachment B to this policy);
- 8.2 Bringing the sport GA into disrepute, or acting in a manner likely to bring the sport and GA into disrepute;
- 8.3 Failing to GA policies (including this policy) and procedures for the protection, safety and welfare of children;
- 8.4 Discriminating against, harassing or bullying (including cyber bullying) any person;
- 8.5 Victimising another person for reporting a complaint;
- 8.6 Engaging in a sexually inappropriate relationship with a person that they supervise, or have influence, authority or power over; verbally or physically assaulting another person, intimidating another person or creating a hostile environment within the sport;
- 8.7 Disclosing to any unauthorised person or organisation any GA information that is of a private, confidential or privileged nature;
- 8.8 Making a complaint they **knew** to be untrue, vexatious, malicious or improper;
- 8.9 Failing to comply with a penalty imposed after a finding that the individual or organisation has breached this policy; or
- 8.10 Failing to comply with a direction given to the individual or organisation during the discipline process.

## **9. Disciplinary Measures**

If an individual or organisation to which this policy applies breaches this policy, one or more forms of discipline may be imposed pursuant to the Discipline and Appeals By-Law 4 in attachment D3 of this policy. Any disciplinary measure imposed under this policy must:

- Be applied consistent with any contractual and employment rules and requirements;
- Be fair and reasonable;
- Be based on the evidence and information presented and the seriousness of the breach; and
- Be determined in accordance with our Constitution, By Laws, this policy and/or Rules of the sport.

### **9.1 Individual**

Subject to contractual and employment requirements, if a finding is made by the GA Discipline Committee that an individual has breached this policy, one or more of the following forms of discipline may be imposed:

- 9.1.1 A direction that the individual make a verbal and/or written apology;
- 9.1.2 A written warning;
- 9.1.3 A direction that the individual attend counselling to address their behaviour;
- 9.1.4 A withdrawal of any awards, placings, records, achievements bestowed in any tournaments, activities or events held or sanctioned by GA,
- 9.1.5 A demotion or transfer of the individual to another location, role or activity;
- 9.1.6 A suspension of the individual's membership or participation or engagement in a role or activity;
- 9.1.7 Termination of the individual's membership, appointment or engagement;
- 9.1.8 A recommendation that the GA terminate the individual's membership, appointment or engagement;
- 9.1.9 In the case of a coach or official, a direction that the relevant organisation de-register the accreditation of the coach or official for a period of time or permanently;
- 9.1.10 A fine;
- 9.1.11 Any other form of discipline that the CEO considers appropriate.

### **9.2 Factors to consider**

The form of discipline to be imposed on an individual or organisation will depend on factors such as: Nature and seriousness of the breach;

- If the person knew or should have known that the behaviour was a breach;
- Level of contrition;
- The effect of the proposed disciplinary measures on the person including any personal, professional or financial consequences;
- If there have been relevant prior warnings or disciplinary action;
- Ability to enforce discipline if the person is a parent or spectator (even if they are bound by the policy); and/or
- Any other mitigating circumstances.

## 10. Dictionary

This Dictionary sets out the meaning of words used in this policy and its attachments without limiting the ordinary and natural meaning of the words. State/Territory specific definitions and more detail on some of the words in this dictionary can be sourced from the relevant State/Territory child protection commissions or equal opportunity and anti-discrimination commissions.

**Abuse** is a form of harassment and includes physical abuse, emotional abuse, sexual abuse, neglect, and abuse of power. Examples of abusive behaviour include bullying, humiliation, verbal abuse and insults.

**Child** means a person who is under the age of 18 years

**Child abuse** involves conduct which puts children at risk of harm (usually by adults, sometimes by other children) and often by those they know and trust. It can take many forms, including verbal and physical actions and by people failing to provide them with basic care. Child abuse may include:

- Physical abuse by hurting a child or a child's development (e.g. hitting, shaking or other physical harm; giving a child alcohol or drugs; or training that exceeds the child's development or maturity).
- Sexual abuse by adults or other children where a child is encouraged or forced to watch or engage in sexual activity or where a child is subject to any other inappropriate conduct of a sexual nature (e.g. sexual intercourse, masturbation, oral sex, pornography including child pornography or inappropriate touching or conversations).
- Emotional abuse by ill-treating a child (e.g. humiliation, taunting, sarcasm, yelling, negative criticism, name calling, ignoring or placing unrealistic expectations on a child). Neglect (e.g. failing to give food, water, shelter or clothing or to protect a child from danger or foreseeable risk of harm or injury).

**Complaint** means a complaint made under clause 7.1

**Complainant** means a person making a complaint.

**Complaint Handler/Manager** means a person appointed under this policy to investigate a Complaint

**Harassment** is any type of behaviour that the other person does not want and that is offensive, abusive, belittling or threatening. The behaviour is unwelcome and a reasonable person would recognise it as being unwelcome and likely to cause the recipient to feel offended, humiliated or intimidated.

Unlawful harassment is sexual or targets a person because of their race, sex, pregnancy, marital status, sexual orientation or some other characteristic (see characteristic list under discrimination).

It does not matter whether the harassment was intended: the focus is on the impact of the behaviour. The basic rule is if someone else finds it harassing then it could be harassment. Harassment may be a single incident but is usually repeated. It may be explicit or implicit, verbal or non-verbal.

Discrimination and harassment are not permitted in employment (including volunteer and unpaid employment); when providing sporting goods and services including access to sporting facilities; when providing education and accommodation; the selection or otherwise of any person for competition or a team (domestic or international); the entry or otherwise of any player or other person to any competition and the obtaining or retaining membership of clubs and organisations (including the rights and privileges of membership).

**Natural justice (also referred to as procedural fairness)** incorporates the following principles:

- both the Complainant and the Respondent must know the full details of what is being said against them and have the opportunity to respond;
- all relevant submissions must be considered;
- no person may judge their own case;
- the decision maker/s must be unbiased, fair and just;
- the penalties imposed must be fair.

**This policy** means this Member Protection Policy.

**Respondent** means the person who is being complained about.

**Role-specific codes of conduct (or behaviour)** means standards of conduct required of certain roles (e.g. coaches).

#### **Attachment B1: GENERAL CODE OF BEHAVIOUR**

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As a member of Gymnastics Australia, a member association or an affiliated club or a person required to comply with Gymnastics Australia's Member Protection Policy, you must meet the following requirements in regard to your conduct during any activity held or sanctioned by Gymnastics Australia, a member association or an affiliated club and in any role you hold within Gymnastics Australia, a member association or an affiliated club:

1. Respect the rights, dignity and worth of others.
2. Be fair, considerate and honest in all dealing with others.
3. Be professional in, and accept responsibility for, your actions.
4. Make a commitment to providing quality service.
5. Be aware of, and maintain an uncompromising adherence to, Gymnastics Australia's standards, rules, regulations and policies.
6. Operate within the rules of the sport including national and international guidelines which govern Gymnastics Australia, the member associations and the affiliated clubs.
7. Do not use your involvement with Gymnastics Australia, a member association or an affiliated club to promote your own beliefs, behaviours or practices where these are inconsistent with those of Gymnastics Australia, a member association or an affiliated club.
8. Demonstrate a high degree of individual responsibility especially when dealing with persons under 18 years of age, as your words and actions are an example.
9. Avoid unaccompanied and unobserved activities with persons under 18 years of age, wherever possible.
10. Refrain from any form of harassment of others.
11. Refrain from any behaviour that may bring Gymnastics Australia, a member association or an affiliated club into disrepute.
12. Provide a safe environment for the conduct of the activity.
13. Show concern and caution towards others who may be sick or injured.
14. Be a positive role model.
15. Understand the repercussions if you breach, or are aware of any breaches of, this code of behaviour.

#### **Attachment B2: COACHES' CODE OF ETHICS**

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In addition to Gymnastics Australia's General Code of Behaviour, you must meet the following requirements in regard to your conduct during any activity held or sanctioned by Gymnastics Australia, a member association or an affiliated club and in your role as a coach appointed by Gymnastics Australia, a member association or an affiliated club:

**Abide by the rules of Gymnastics Australia as set forth in its constitution and by-laws.** follow procedures for enforcement of the Code of Ethics

- accept any judgments made
- use the established procedures for challenging a competitive result, contesting a team selection decision, complaining about the conduct of another member, or attempting to change policy of Gymnastics Australia

**Direct your observations and recommendations regarding all aspects of gymnastics to the appropriate persons for the betterment of the sport.**

- be constructive with criticisms and direct comments and observations to the relevant individuals and organisations, to avoid gossip innuendo and malicious comment
- respect the efforts of appointed and elected representatives of Gymnastics Australia

**Represent yourself and your coaching status in an honest and professional manner, without bringing the coaching profession or Gymnastics Australia into disrepute**

- use your accreditation status and Technical Membership of GA to represent your ability in an honest manner, not to gain unwarranted favours
- be professional in and accept responsibility for your actions
- extend professional courtesy to other coaches, athletes and their parents by keeping them informed in matters relevant to athlete's training programs
- abide by and respect the regulations governing sport and the organisation and individuals administering those regulations
- be a role model for your sport and the athletes
- respect the rights, dignity and worth of every human being within the conduct of your involvement in gymnastics

**Exercise a standard of care consistent with your competence and obligations as a coach**

show concern for the health, safety and welfare of athletes and colleagues

- coach within the limits of your competence as a coach
- follow GA safety guidelines in respect of the duty of care owed to the athlete
- provide planned and sequential training programs based on the individual developmental needs of athletes
- modify the training program for injured athletes based on appropriate medical advice when required
- provide a safe environment for participants in training and competition

**Provide a quality service to your athletes and to the sport**

- maintain or improve your current NCAS accreditation
- seek continual improvement through performance appraisal and ongoing coach education
- honour the responsibilities given to a coach by keeping all relevant qualifications up to date
- work to ensure your athletes' time spent with you is a positive experience

**Put athletes' welfare first; making decisions based on the best interests of your athlete's sporting, education and vocational careers**

- acknowledge the individual talents and potential of athletes
- maintain a balanced emphasis of sporting involvement within educational and career objectives

**Encourage, by example, the removal of any form of personal abuse or inappropriate discrimination**

- refrain from verbal, physical or emotional abuse
- refrain from any form of sexual harassment towards athletes and colleagues
- refrain from using the influence of a coaching position to encourage inappropriate intimacy between coach and athlete
- refrain from any discriminatory practices on the basis of race, religion, ethnic background, or special ability/disability of athletes
- be alert to any forms of abuse towards your athletes from other sources whilst they are in your care