

Case number: NST-E25-113865

Case Title: Mark Ladbrook v Australian Athletics

Determination

National Sports Tribunal General Division

sitting in the following composition:

NST Member: Dr June Smith

in the arbitration between

Mark Ladbrook

Applicant

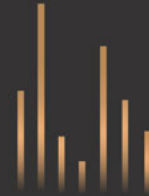
Self-represented

And

Australian Athletics

Respondent

Represented by Mr Scott Traeger and Mr Patrick Sexton, Legal Representatives, Ms Briar Sefo
Australian Athletics General Manager - Integrity

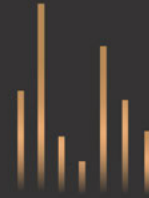


PARTIES

1. The Applicant, Mr Mark Ladbrook (the **Applicant**) is an accredited coach of Australian track and field athletes and a former athlete. The Applicant represented Australia at the 1996 Olympics in the 400m and the 4×400m. The Applicant operates a business called Athletic4Life (the **squad**) and he has coached both amateur and professional athletes for over 27 years. The Applicant was represented by McGirr and Associates at the commencement of the proceedings but has been self-represented since October 2025.
2. The Respondent, Australian Athletics (formerly known as Athletics Australia) (the **Respondent**) is the National Sporting Organisation (**NSO**) responsible for administering, developing and advancing the sport of athletics in Australia. The NSO is represented by Mr Scott Traeger, Legal Representative of Lander and Rodgers, Mr Patrick Sexton Legal Representative of Lander and Rodgers and Ms Briar Sefo, General Manager – Integrity, Australian Athletics.

THE ARBITRATION CONCERNS THE OUTCOME OF DISCIPLINARY PROCEEDINGS

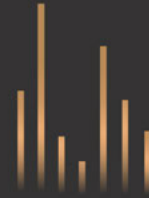
3. The Applicant commenced proceedings in the National Sports Tribunal (the **NST**) about a decision of the Respondent that the Applicant had breached the 2019 Athletics Australia Code of Conduct (the **Code**) when acting as an accredited coach (the **Arbitration**).
4. The decision substantiated or partially substantiated four breaches of the Code against the Applicant on 13 February 2025.
5. On 20 November 2024, the Applicant received a Formal Complaint from the Respondent, raised by one of the Applicant's squad athletes, the Complainant. The Formal Complaint set out the allegations, namely that:
 - a. the Applicant instigated and conducted conversations in person or online that were inappropriate and intrusive, and of a sexual nature (**Complaint 1**);
 - b. the Applicant curated a highly sexualised environment for his athletics training group (the **squad**) (**Complaint 2**);
 - c. the Applicant sexually harassed the Complainant during a training session (**Complaint 3**);
 - d. the Applicant made negative comments about the weight and appearance of his athletes (**Complaint 4**); and
 - e. the Applicant encouraged the Complainant to not address negative aspects of his athlete training group with others, at a meeting between the Applicant and Complainant, after the Complainant decided to move athlete training groups (**Complaint 5**).
6. On 13 February 2025, the Respondent formally communicated its findings that the Applicant had engaged in breaches of the Code; summarised as follows:
 - a. Complaint 1 – Substantiated – Breaches of Articles II(b)(d)(X)(h) of the Code;
 - b. Complaint 2 – Substantiated – Breaches of Articles II(b)(d) of the Code;
 - c. Complaint 3 – Partially Substantiated – Breaches of Articles II(b)(d)(h) of the Code;
 - d. Complaint 4 – Substantiated – Breaches of Articles II(j)(s) of the Code, and Article V



- Accredited Coaches; and
- e. Complaint 5 – Not Substantiated.
7. Under clauses 8.06 and 8.08 of the Code, the sanction for the breaches was the immediate permanent revocation of the Applicant’s Australian Athletics Coaching Accreditation on 13 February 2025, together with strong recommendations that the Applicant:
- does not engage with the Complainant;
 - familiarise himself with the Australian Athletics Disordered Eating Guidelines; and
 - undertake education on the topics of power imbalance, professional boundaries, respectful behaviours and/or psychological safety.
8. The Respondent reserved the right to publish the outcome of the Formal Complaint, which did not occur.

FACTUAL BACKGROUND

9. The Applicant has coached athletes for over 27 years in schools, clubs, universities and elite environments. He holds vocational and tertiary training qualifications in massage therapy, strength and conditioning, a Bachelor of Applied Science (Sports Coaching) and a Level 4 coaching certificate from Australian Athletics.
10. In about 2018, the Applicant relocated to the Gold Coast. In 2019, the Applicant was employed by Somerset College as Head Coach Athletics. [REDACTED]
11. In about 2018, athletes such as Witness A and Witness V, both witnesses in these proceedings, began to join the Applicant’s squad.
12. The Applicant established a gymnasium at his Bonogin property for strength and conditioning training of the squad. It is not disputed that the gymnasium had a whiteboard.
13. The squad was mixed gender and included both senior and junior athletes. Eleven of the witnesses called by either the Respondent or the Applicant in the Arbitration, are or were squad members.
14. The relevant alleged conduct is said to have occurred between 2019 and 2023.
15. At least four of the female athletes were under 18 at the time of the alleged conduct. They fall within the Young Persons and Children Guidelines in the Code. The other female athletes who gave evidence for the Respondent were aged between 18 and 25 in 2023.
16. Several members of the squad were members of a Facebook Messenger group chat called “EliteA4L Squad”, including a number of the female witnesses. The communications within the group chat feature prominently in the allegations. The group chat was established by the Applicant.

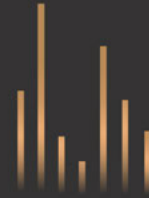


NST JURISDICTION

17. On 18 March 2025, the Applicant sought an arbitration in this matter from the NST, seeking that the revocation of the Applicant's Australian Athletics coaching accreditation be set aside and if so, that the Respondent publish the NST Member's decision to do so.
18. The NST has jurisdiction under section 23 of the *National Sports Tribunal Act 2019* (the **NST Act**) to determine this dispute via the mutual agreement of the parties.
19. By way of an Arbitration Agreement dated 3 April 2025, the Applicant and the Respondent acknowledged and agreed that the NST's jurisdiction is engaged until resolution of the dispute. An arbitration requires the NST Member to read and listen to arguments and evidence from the parties and make a decision that is binding and enforceable.
20. Clause 10.2 of the Arbitration Agreement provides that this arbitration is governed by the *NST Act*, the *National Sports Tribunal Rule 2020*, (the **NST Legislation**), and the *National Sports Tribunal (Practice and Procedure) Determination 2024* (the **NST Determination**).
21. Clause 10.3 of the Arbitration Agreement provides that this Arbitration is conducted, where appropriate, in accordance with the Code.

PROCEEDINGS BEFORE THE NST

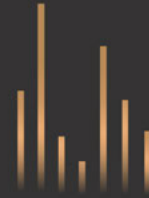
22. The parties agreed for the NST to conduct the Arbitration as a De Novo hearing of the formal complaint (as amended) and determine applicable sanctions under the Code (if any). This means that the issue to be determined is not whether the appealed decision was justifiable, but whether the Applicant has committed breaches of the Code (see *Arbitration CAS 2015/A/4059 World Anti Doping Agency (WADA) v Thomas Bellchambers et al, Australian Football League (AFL) & Australian Sports Anti-Doping Authority (ASADA)*, award of 11 January 2016).
23. I was not bound by the rules of evidence in conducting the Arbitration but have acted in accordance with the rules of procedural fairness. All materials received have been exchanged with the parties. The parties in turn have had the opportunity to be heard, both in oral and written submissions, to present and reply to witness statements including by oral cross examination, and have received adequate notice of the issues to be determined. I have also balanced costs and expedition of the proceedings in issuing Directions under the NST Determination to the parties and in hearing the matter, as far as practicable, given the number of allegations and witnesses in the proceedings and the gravity and seriousness of the allegations made.
24. I have informed myself on matters in the Arbitration, in a manner I thought appropriate in accordance with the NST Legislation. This included the appointment of two Independent Experts under section 34 of the NST Determination, to advise and report on the requisite standards of conduct expected under the Code of an accredited athletics coach and their application to the disputed conduct. Those experts were Mr Bill Davoren, Director Australian Institute of Sport (AIS) High Performance Coach Development and Ms Nikki Jeacocke, Senior Sports Dietician and the National Disordered Eating Initiative Lead AIS Performance. I acknowledge the significant benefit received from the reports of the Independent Experts and their oral evidence.



25. A list of witnesses and a list of the submissions provided by the parties [REDACTED]
26. As the NST Member, I conducted four pre-hearing conferences which occurred on 16 June 2025, 4 July 2025, 8 September 2025 and 13 October 2025. The pre-hearing conferences considered an application for the production of documents, confirmed a list of witnesses for each party, the provision of sworn statements by witnesses, and timetables for the provision of evidence and appearance of witnesses for cross examination.
27. No party objected to the procedure adopted for the purposes of the Arbitration.
28. Throughout the course of the Arbitration, I was referred to a number of authorities in support of the parties' submissions. Those authorities have been reviewed and are referred to where relevant in this Determination.
29. The Respondent has the burden of proof to demonstrate that the alleged breaches of the Code have been established and to lead and produce the evidence to support that case. This is consistent with section 55 of the NST Determination. This clause also provides that where the constituent documents of the relevant sporting body, or the Arbitration Agreement between the parties to a dispute, do not set out a standard of proof, the applicable standard of proof for this proceeding is to be on the balance of probabilities.
30. The hearing of oral evidence on cross examination was conducted across 27 October 2025, 28 October 2025 and 22 January 2026. This gave the parties an opportunity to cross examine witnesses on the written statements they had made in these proceedings. Given the nature and sensitivity of the allegations, cross examination was conducted in accordance with NST trauma informed practice.
31. While I have considered all the facts, allegations, legal arguments and evidence submitted by the parties in the present proceedings, I refer in this Determination only to the submissions and evidence that I consider necessary to explain my reasoning.

ALLEGED BREACHES OF THE CODE TO BE CONSIDERED

33. This Arbitration involved serious and sensitive allegations of misconduct by an accredited athletics coach. This conduct was experienced by some female members of his training squad and participants within the broader athletics community. In total, the Arbitration involved the assessment of five substantive alleged breaches of the Code. The 25 particulars relied on by the Respondent referred to 41 separate incidents involving 7 female members of the squad, and 3 other female participants. The NST Member received evidence from 26 witnesses in total, in addition to the Independent Experts. The NST Member received sworn statements and/or character evidence from 24 of these witnesses.
34. There were five substantive allegations that form the basis of the Respondent's case.
35. The allegations raised by the Respondent to be determined in the Arbitration are summarised as follows:
 - a. Allegation 1 - The Applicant instigated and conducted conversations in-person or online that were inappropriate and intrusive because they were sexual in nature;



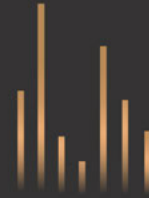
- b. Allegation 2 - the Applicant:
 - i. curated; or alternatively
 - ii. permitted, the development of a sexualised environment in his training group, Athletics4Life (the squad);
 - c. Allegation 3 - the Applicant engaged in conduct that constituted sexual harassment pursuant to the Code;
 - d. Allegation 4 - the Applicant made negative comments regarding the weight and appearance of athletes; and
 - e. Allegation 5 - the Applicant failed to respect boundaries in the athlete/coach relationship and placed athletes in inappropriate one on one situations with him.
36. The alleged breaches of the Code were amended by the Respondent during its original investigation due to additional information adduced. Allegation 3 was amended to include conduct towards other female members of the squad, including the Complainant. Allegation 5 arises from conduct originally alleged under Allegation 2. It was essentially separated into two parts for determination. These amended allegations were included in the Respondent's extended Breach Notice of 16 January 2025 to the Applicant.
37. The Applicant has not objected to the amendment of the alleged breaches. There are no new allegations that were not already put to the Applicant as part of the original investigation. For the purposes of bringing certainty and finality to the matters between the parties, the Arbitration has proceeded on this basis.
38. In his submissions to the NST Member, the Applicant has broadly denied that he has engaged in conduct that breached the Code's obligations.

THE PARTIES HAVE SUBMITTED WRITTEN AND ORAL EVIDENCE TO THE ARBITRATION

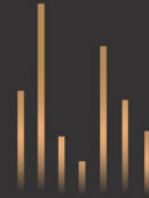
39. The evidence submitted to the NST Member by the parties formed part of the Court Book. A list of the submissions and list of witnesses presented by both parties is [REDACTED]

THIS ARBITRATION HAS BEEN GUIDED BY THE CODE'S RULES AND DEFINITIONS

40. The Code outlines the standards of behaviour expected of all participants engaged in the sport of athletics as well as providing Guidelines to Safeguard Children and Young People. Article 1 of the Code states that it is the responsibility of all Participants to observe and formally acknowledge their commitment to the Code.
41. The Applicant as an accredited coach under the Code is defined as a "participant". He also meets the definition of a person in a "position of authority". In these circumstances Article X of the Code applies to him, which includes:
- a. Standards of conduct expected of participants;



- b. Guidelines on safeguarding children and young people; and
 - c. Failure to observe Code obligations may be misconduct and result in disciplinary action.
42. A **participant** for the purposes of the Code is defined under Article XI as anyone who participates in and or attends an event, activity, programme of Australian Athletics or its affiliates. Participants include coaches, officials, volunteers, staff, and management of the board. This means many of the witnesses are also deemed to be participants for the purposes of the Code.
43. Article VII, at paragraph 7.02 of the Code, states that any Accredited Coach or Official involved in conduct which breaches the Code may be subject to disciplinary action which may include termination of their accreditation.
44. Under Paragraph 8.06 of the Code, the Respondent's Manager may deal with a breach of the Code by, among other things, taking disciplinary action and cancelling an Australian Athletics Accredited Coach's accreditation, which occurred in this case. Paragraph 8.07 of the Code states that before taking action under its paragraph 8.06, the Applicant must be provided with a written notice of the alleged breach of the Code and be given 14 days to respond to the allegations, which also occurred.
45. The Code also contains a set of Guiding Principles in Article II, including a number that are relevant to these proceedings and that have been relied on by the Respondent. The Code states that these principles are central to the Code and should be adhered to by all participants at all times. The relevant principles for this Arbitration, as they appear in the Code, are:
- (b) *Respect the rights, dignity and worth of others;*
 - (c) *Act with honesty and integrity;*
 - (d) *Maintain high levels of professionalism;*
 - (e) *Treat others in a fair, ethical and considerate way;*
 - (f) *Be professional and accept responsibility for their actions;*
 - (g) *Understand and maintain compliance with AA and MA standards, rules, regulations and policies;*
 - (h) *Respect the law and act in accordance with it;*
 - (i) *Operate within the rules and spirit of the sport of athletics;*
 - (j) *Ensure the safety and welfare of all participants;*
 - (l) *Demonstrate a high degree of care and responsibility when dealing with persons under 18 years of age and abide by the Respondent's Child Safe Sport Commitment*
 - (m) *Refrain from any behaviour that may bring the sport of athletics into disrepute;*
 - (n) *Act as positive role models in the community;*
 - (o) *Maintain the required standard of accreditation and professional competencies, as applicable to your role;*



- (s) *Exercise careful professional judgement regarding physical contact with any Participant and ensure it is appropriate to the situation, such as being necessary for the person's skill development; and*
- (x) *Conduct yourself appropriately when using Social Networking in accordance with Article IV of the Code.*

48. Paragraph 4.02 of Article IV of the Code states that:

“all Participants must conduct themselves appropriately when using social networking, including individual personal profiles and using social networking as an electronic means of engaging with others through private messaging (WhatsApp and other electronic messaging platforms and forums)”.

49. In accordance with paragraph 4.03 of the Code, the material must not contain information which:

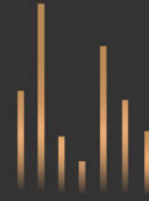
- (a) *Has the potential to be offensive, aggressive, defamatory, threatening, discriminatory, obscene, profane, harassing, embarrassing, intimidating, sexually explicit, bullying, hateful, racist, sexist or otherwise inappropriate;*
- (b) *Is inaccurate, misleading or fraudulent;*
- (c) *Is in breach of the Code;*
- (d) *Is in breach of laws, court orders, undertakings or contracts;*
- (e) *Breaches the privacy or confidentiality of others; or*
- (f) *Has the potential to derogate from or negatively affect the image, goodwill, name or reputation of Athletics Australia, its Member Associations, stakeholders, Participants or the sport of Athletics.*

50. Use of social networking by adults must be in accordance with the Code for dealing with Children and Young people, including refraining from private messaging, ensuring a parent or guardian is copied into any communication, and limiting communication to required athletics association activity messaging, amongst others.

51. The Respondent's Disordered Eating Guidelines and Athletics Body Composition Guidelines 2021 (the **Guidelines**) are also relevant to the Member's assessment of some alleged Code breaches in this matter. The Guidelines apply to all athletes in Australian Athletics programmes to ensure optimal nutrition and positive body image, together with appropriate assessment of body composition.

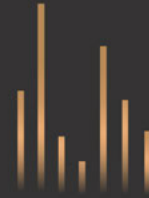
THE APPLICANT HAS RECEIVED PROCEDURAL FAIRNESS

52. The Applicant has raised concerns throughout these proceedings about whether he was accorded procedural fairness in the Respondent's original investigation and in this Arbitration. The Respondent says the original investigation was not flawed and that any criticisms of the original investigation are remedied by having this Arbitration proceed as a hearing De Novo. The



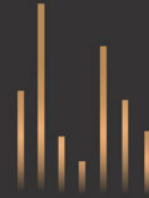
Respondent says the reason it agreed to participate in this Arbitration, is because it gives all parties the opportunity to have the matter heard by an independent decision maker.

53. I consider it is important at the outset to address some of the Applicant's specific concerns. I note that other procedural matters, including access to additional information from the Respondent and variations to procedure that were made to assist a self-represented Applicant, were dealt with during the Arbitration. I have done this, so the Applicant understands he has been heard on these matters.
54. Procedural fairness has a number of elements including the opportunity to be heard and present evidence before a decision is made which may affect that person's rights. A further component of a fair hearing is that the person whose interests will be affected is to be notified of the charge or allegation so that they can understand the nature of it and prepare a response. The bias rule is also a component of procedural fairness requiring decision makers to be impartial and free from bias, both actual and perceived.
55. The first of the Applicant's concerns is his strongly held view, as outlined in his undated written summary for submission and closing statement of 8 December 2025, that the allegations against him have been lodged by a small group of disaffected former athletes who have concocted complaints about his conduct and have colluded to bring, or pursue, complaints that lack merit, and/or that their evidence is contaminated due to the way in which the Respondent undertook its disciplinary proceedings.
56. In support of this submission the Applicant maintains many of the witnesses did not raise concerns about his conduct at the time and have only lodged complaints after leaving his squad.
57. The Respondent's previous lawyers at paragraph 20 of submissions seeking additional production of documents dated 6 September 2025, submitted that the possibility of contamination, concoction or collusion between witnesses, were matters which fall to be assessed by the Member when determining witness credibility and reliability. The Arbitration has proceeded on this basis.
58. Many of the witnesses know each other, have worked with each other, have been on the same squads or teams and/or have a number of years in the athletics community. The evidence indicates that some of the female members of the squad shared contemporaneous versions of their experiences with each other, they say because they felt unsafe raising with the Applicant and became surprised that each of them had experienced similar patterns of behaviour. I accept their perceptions may have contributed to delays in coming forward.
59. The fact that people have had similar experiences or engaged in this way is not however evidence of contamination, concoction or collusion.
60. I am satisfied having observed the witnesses who gave evidence in the Arbitration and having read their statements that they have given authentic individual accounts of their experiences of the Applicant's conduct and the incidents in question. Many accounts are different, taking place at different times and occasions. Many of the witnesses had very different experiences of the time on the squad or of the Applicant's behaviour. While some phrases such as "*highly sexualised*

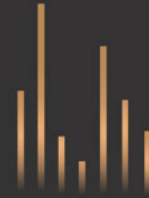


culture” have been used consistently, they have been used by witnesses for both parties. There are also patterns of behaviour and conduct which have been experienced by many of the witnesses, that have come to light over time.

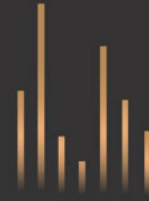
61. The Applicant has also submitted that previous complaints brought against him by some of the witnesses had been finalised by the Respondent and cannot be re-opened as part of the Respondent’s disciplinary proceedings.
62. In her statement and oral evidence on cross examination, Ms Sefo explained the two female athletes, Witness F and Witness J previously lodged complaints at separate times, that were closed without findings by the Respondent on the basis the athletes wished to remain anonymous to the Applicant. This was made clear to the Applicant in correspondence from the Respondent of 18 May 2023.
63. The purpose of the January 2025 letter was to advise the Applicant of the allegations contained in the complaint made by the Complainant and the next steps in the complaints process. It explains that the previous complaints did not progress to findings because the athletes preferred to stay anonymous at that time or did not wish to proceed. The letter confirms that the Respondent is proceeding with a new complaint, which essentially brought together in one investigation, all allegations made previously.
64. These allegations formed part of the amended allegations put to the Applicant on 16 January 2025.
65. Some of the female athletes have described their experience when speaking up about the Applicant’s behaviour historically and this is discussed in more detail later in the Determination. They say they did speak up about some of the behaviour only to be shut down, belittled or bullied when they did so.
66. The fact that complainants and witnesses have chosen this time to come forward or restate previous allegations which have not been the subject of specific historical findings due to an unwillingness to disclose their identity, does not of itself in my view prevent the Respondent from investigating the allegations in full at a subsequent date. It does not detract from the genuineness of the athletes’ experience, nor the potential merits of the allegations.
67. There were no findings made in relation to the allegations. The Applicant provides no supporting evidence in support of the submissions. There does not appear to be any timelines in the Code or in the investigations process that exclude complaints on the basis they are out of time. The alleged incidents are also not so old that the Applicant has been prejudiced by a lack of documentary or contemporaneous evidence or a failure of witnesses to recall events. The Applicant has also been on notice about these allegations for a number of years. The Applicant was given sufficient notice of these allegations at the time of the third complaint and had opportunity to make submissions and be heard in relation to them.
68. While I accept that stale allegations, or allegations already the subject of findings, should not be re-opened, that is not the case here.



69. The Applicant also submits that the allegations made about his conduct towards Witness B [REDACTED] [REDACTED] was resolved [REDACTED] and was the subject of a confidentiality agreement. He says it was unfair that the Respondent did not adduce evidence from [REDACTED] about these matters during the course of its investigation.
70. The Respondent was asked by the NST Member to make reasonable attempts to confirm the status of the [REDACTED] investigations during the course of the Arbitration. The Respondent was unsuccessful in these attempts.
71. The evidence indicates the matters raised by Witness B about the Applicant, which involved allegations of sexual harassment and inappropriate behaviour, were resolved [REDACTED] [REDACTED]. I note however, the Applicant has provided no documentary evidence to support his assertions that these allegations cannot form part of separate disciplinary proceedings brought by the Respondent. Witness B categorically denied when asked on cross examination that they were subject to a confidentiality deed or non-disclosure clause or that there was any reason they could not report the allegations to a Disciplinary Body.
72. The Respondent has the onus to present evidence in support of its case and to demonstrate that the allegations made fall within the scope of the Code and this Arbitration. It concedes it has only reviewed the allegations made by Witness B as evidence of prior acts of sexual harassment and inappropriate sexual communications with women by the Applicant. It says Witness B has given a statement on that basis only. The Arbitration has proceeded on that basis.
73. The Applicant submits he was given an insufficient extension of time to respond to the additional material provided by the Respondent during its investigation in January 2025. The Applicant says he sought an adjournment of one month to seek legal advice and respond, which was denied.
74. In her evidence before the Arbitration, Ms Sefo stated that the Respondent had originally provided a period of 11 days for the Applicant to respond. Upon receiving the Applicant's request, she granted a further extension of 14 days for response. I note that this accords with the timelines outlined in the Code.
75. While the Applicant did not receive the one-month extension he sought, an extension of time was granted by the Respondent taking into account a range of factors outlined at page 65 of Ms Sefo's witness statement, including that the Applicant had previously requested extensions of time and not used them.
76. The Applicant further says he was not accorded procedural fairness as he was not given an opportunity to make submissions on sanction and was not provided with written reasons for the sanction to permanently revoke his accreditation imposed by the Respondent. He says the disclosure of the sanction to his employer very shortly after also caused him significant harm. The Applicant further alleges Ms Sefo made remarks during these calls that the police should have been involved in the investigation and that the Respondent's staff described his conduct as "*paedophilia*".



77. In her written statement and on cross examination, Ms Sefo denied making these comments to third parties or describing the Applicant's conduct in this way. On balance, I accept her evidence in the absence of any direct evidence from the Applicant corroborating that the statements were made and to whom.
78. The letter from the Respondent to the Applicant of 13 February 2025, advised of the outcome of the complaint process and sanction imposed. Ms Sefo gave evidence the Respondent did not seek additional submissions from the Applicant prior to assessing sanction given the evidence that had been provided by the Applicant during the investigation.
79. In her statement dated 19 November 2025, she states the Respondent took into account mitigating factors in imposing the sanction. This included evidence from four athletes providing statements in support of the Applicant's position outlining his good character and their positive experiences on the squad and repeated mentions that other athletes may have contributed to the squad's culture and the Applicant's behaviour through their conduct.
80. I consider there were some procedural irregularities in the way the Respondent conducted the original investigation. The disclosure of the outcome and sanction to third parties for example seems to me premature and ill-advised and may not have given full consideration to the possible impact on the Applicant or the implications of any appeal rights. But I consider that disclosure was inevitable. At some stage the Respondent or Applicant would have had to disclose the loss of his accreditation to his employer. This does not amount to procedural unfairness.
81. On balance, the evidence suggests the Applicant was on notice of all allegations against him, had sufficient opportunity to present his case on those allegations and be heard. The evidence was taken into account when reaching sanction, including mitigating factors. The Respondent has demonstrated that it took into account relevant factors, open to it in exercising discretion on sanction including the Sports Integrity Australia Penalty Guidelines (**SIA Guidelines**).
82. The Applicant submits that the Respondent engaged in bias during the course of its investigation. In support of this argument, he says that witness statements taken during the Respondent's original investigation were summarised, reworded or represented in ways that did not reflect the witnesses' actual words and that objections to inaccuracies were eventually corrected long after initial submissions.
83. Ms Sefo addressed this submission in her statement and on cross examination. I accept her evidence that draft copies of the interview statements were given to witnesses who had opportunity and in fact did, request amendments. Witness A and Witness V also confirmed in their cross examination that this occurred after they raised the need for amendment with her.
84. I am satisfied on balance that the interview statements reflected the evidence given by the witnesses who were given opportunity, and in fact did, make changes to their statements during the investigation.
85. The Applicant has also made submissions that he has been at procedural disadvantage in the Arbitration since his lawyers withdrew from the proceedings. He submits his lack of legal training



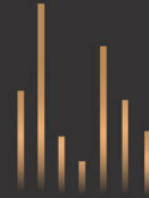
means he is at a significant disadvantage to fully represent himself, compounded by his financial and emotional circumstances.

86. As a result of these submissions, I made a number of adjustments to ensure an accessible process and the Applicant's full participation. This included providing the Applicant with sufficient time to prepare submissions, engaging in trauma informed practise by requesting that both parties provide written questions for cross examination prior to hearing dates. These written questions were then asked of witnesses by the Arbitrator. This ensured both witness safety and that the Applicant did not have to listen to evidence and consider questions he may want to ask in cross examination at the same time, taking into account his lack of legal training. The Applicant was given additional opportunity at each hearing to ask any additional questions of witnesses or other submissions he would like to put. The Applicant was also provided with a significant extension of time following the death of a family member to prepare for the final day of hearing, which was adjourned for this purpose.
87. The Applicant raised concerns in his statement of 6 November 2025 about what he described as a serious breach of confidentiality "by an individual associated with the hearing". The unnamed person had purportedly contacted a school where the Applicant was employed about the arbitration. As a direct result the Applicant says he has lost that position.
88. The Applicant has provided no direct evidence of which employer was contacted, when they were contacted, by whom they were contacted, what was said or how the employer directly linked the termination of employment to the contact, without additional investigation.
89. Nevertheless, the NST Member treated this matter very seriously and took steps to remind both parties of the confidentiality obligations of all witnesses.

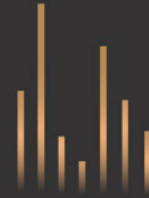
THE TRIBUNAL HAS CONSIDERED THE EVIDENCE

Alleged Code Breach 1 - The Applicant instigated and conducted conversations in person or online that were inappropriate and intrusive because they were sexual in nature

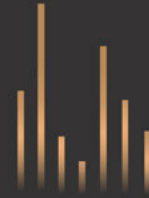
90. The alleged breaches of the Code submitted by the Respondent under Allegation 1 are based on a number of particulars. Some of these particulars are also relied on to support additional breaches of the Code under Allegations 2 and 3. These particulars include that the Applicant:
 - a. around December 2022 following a squad secret santa process, used a pseudonym Gary Patterson to send a close-up image of a male in tight fitting briefs with a photo of a rooster on the front crotch area and a text "*world's greatest*", to the Facebook Messenger group chat Elite4L Squad. This implied or conveyed the phrase "*world's greatest cock*".
 - b. showed the Complainant an inappropriate photo of himself wearing white underwear, while critiquing his physique and his desire to get his abs back.
 - c. sent a message to Witness B stating, "*You are the BOSS, so I like being bossed by my BOSS*" and "*make sure you're wearing those shorts again.*" exhibited at page 248 of the Court Book.



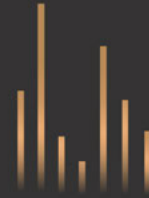
- d. placed a note on Witness B's car windscreen stating, "*SUPER HOT MUM!*" (page 247 of the Court Book).
 - e. made inappropriate comments to female athletes about their appearance and attire, including to the Complainant "*Jesus Christ [REDACTED], what are you doing to me wearing those shorts*" and that he would like to see them train in leather pants and offered massages to female athletes after previously making sexual comments.
 - f. sent inappropriate social media messages to Witness J of a sexual nature, including:
 - i. "*your voice is so Husky, I like it*" This message appears with an emoji and is exhibited at page 279 of Court Book;
 - ii. attaching a close-up photograph of a female in a brief orange bikini lying on a beach towel, stating "*I thought this was you*" and accompanied by an inappropriate emoji (at page 281 of the Court Book); and
 - g. sent a sexualised text message to Witness I asking "*what are you rubbing*" at page 263 of the Court Book, in response to a spelling error sent in a text message from Witness I.
91. The Respondent says generally that the Applicant used sexual innuendo, inappropriate imaging and comments in his communications with his squad and other female participants, in breach of the Code's obligations:
- i. Article II(b) to respect the rights, dignity and worth of others;
 - ii. Article II(d) maintain high levels of professionalism;
 - iii. Article II(x) conduct yourself appropriately when using social networking in accordance with article IV of the Code; and
 - iv. Article II(h) respect the law and act in accordance with it.
92. Allegations c) and d) about the interactions the Applicant had with Witness B, are purely put by the Respondent to show a pattern of inappropriate behaviour over time with female participants. They do not form part of the conduct on which Code breaches are alleged.
93. The Applicant admits he engaged in some of this alleged conduct in his submissions. He denies however he has breached the Code's obligations in doing so. He says the context in which the messages, images and comments were sent, has been misinterpreted by the Respondent and the witnesses. In submissions filed on his behalf dated 6 September 2025:
- a. at paragraphs 30 and 31, he accepts he sent the image to the squad Facebook chat group using the pseudonym Gary Patterson, but it was part of a collegial and friendly secret santa gift exchange where he had been gifted a pair of underwear by a member of the squad. He says the image is not of him or the underwear he received;
 - b. at paragraph 35 and 36 of those submissions, he denies he showed the Complainant a photo of himself in white underwear, but he accepts that on occasion he would make comments about his own physique to his athletes;
 - c. he admits at paragraph 38 that he left a note on the windscreen of Witness B's car and that he sent the text message to them later that evening but says he did so because they had



- been upset and downtrodden for personal reasons so had attempted to cheer them up. He did not intend for the messages to be interpreted differently;
- d. at paragraphs 41 to 44 of that submission, he observes that he held an inferior title to Witness B at [REDACTED] despite being more credentialed and older, and that this had fractured his tenure at [REDACTED];
 - e. while he admits sending text messages to Witness B, he says the words about them being “*the boss*” were designed to be humorous given the “unusual hierarchy at [REDACTED] and pertained to particular events on the day”;
 - f. he admits he made the comments to The Complainant about their running shorts but did so to encourage them to perform at their best, as they considered wearing the shorts part of their routine superstition;
 - g. he admits at paragraph 45.3 of the submission that he offered massages to members of his squad because he was qualified to do so, they were short of money, and he never touched any body part except their “*calves or shins*”;
 - h. he admits he sent the “*husky voice*” social media messages as described to Witness J. To quote the Applicant he did so “*because Witness J had been unwell and ‘presented with symptomatology including having a husky voice and that it sounded to him as though their condition had improved so that they would be able to return to training’*”;
 - i. he admits at paragraph 48 that he sent the message to Witness J “I thought this was you” with the close-up photo of a bronzed female in a very small orange bikini lying on a beach towel, together with the emojis as described. He says this was an attempt to assuage their concerns about their body image and “*to suggest that Witness J’s athletic physique did not warrant their own hypercritical self-depreciation*”; and
 - j. he admits he sent the text message to Witness I but denies the imputation that the phrase “*what are you rubbing?*” had a sexual connotation.
94. The allegations made about the Applicant’s conduct with Witness B are led by the Respondent to demonstrate patterns of behaviour over time with women and not for the purposes of assessing whether the Applicant has breached the Code as a result of this conduct.
95. Prima facie however, the Applicant’s conduct with Witness B contains all the hallmark elements of sexual harassment as defined under the Code and at law. Witness B’s evidence is that each action was unwelcome, uninvited, and unwanted. While I have not made findings on whether the Code was breached as a result of this conduct, I accept they illustrate a previous pattern of engaging in inappropriate behaviour of a sexual nature with a [REDACTED] participant, which could reasonably be anticipated to have made [REDACTED] feel humiliated, intimidated or offended. This represents a thread which links this conduct to the probability that other incidents of a similar nature, may have occurred at a later time. There is certainly a pattern between the Applicant’s conduct described by Witness B and the conduct described by other witnesses.
96. The Applicant has regularly maintained his behaviour was taken out of context, wasn’t meant the way it was experienced, was meant to cheer athletes up or was supposed to be a joke. I consider these justifications fall well short of the standards outlined in the Code of a coach acting professionally or respecting the rights, dignity and worth of others.

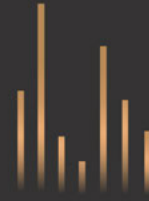


97. It also demonstrates a lack of understanding about what constitutes sexual harassment or sexualised conduct under the Code and at law, which does not focus on the Applicant's intentions but the experience of the other person.
98. The Code describes sexual harassment as unwanted, unwelcome or uninvited behaviour of a sexual nature which could reasonably be anticipated to make a person feel humiliated, intimidated, or offended. It can include verbal comments, inappropriate touching, jokes, suggestive comments, displays of offensive material, leering, unwelcome advances, displaying explicit material or other behaviour that creates a hostile environment.
99. My observation of the Applicant during the Arbitration is that he demonstrates little insight or empathy into the harm and impact he has caused by his comments and conduct, whether intended or not.
100. The particulars relied on by the Respondent have been corroborated by other witnesses who either experienced similar conduct or were contemporaneously told by athletes of their discomfort with the way in which the Applicant was conducting himself.
101. While I have taken into account that the Complainant was not the subject of cross examination due to illness, their statements to both the original investigation and the Arbitration have been consistent. Their description of the impact on them of the comments made by the Applicant and his conduct are credible. The Complainant describes that they were so uncomfortable and embarrassed at times by the conduct that they would look in their bag for alternative clothing to cover up, to feel safe and make the objectification stop. This for example sounds consistent with the type of behaviour a young person would engage in in the circumstances described. It is also similar to the way other witnesses say they reacted to the Applicant's conduct.
102. Despite the fact that they were not cross examined, I am satisfied the comments made to this witness insinuate a physical closeness and familiarity which would reasonably have made the Complainant feel unsafe. The comments made to the Complainant also fail to take into account the very real power and age imbalance between them and the Applicant as an older male coach.
103. The photograph sent to Witness J by the Applicant on social media is confronting, when considering the nature of a coach/athlete relationship, the Applicant's leadership role as Witness J's coach, the power imbalance in that relationship and the age gap between the Applicant and Witness J. This is because of the angle at which the photo is shot, the very small bikini on the female in the photo and her pose. In my view, the content could reasonably be described as a sexualised image and was inappropriately sent to them.
104. I further consider a person acting reasonably would find the sending of that photograph inappropriate and constituted sexual harassment. Witness J's evidence is the photo was unwanted, unwelcome and uninvited and could reasonably be anticipated to make a person feel humiliated, intimidated or offended.
105. I do not accept the Applicant's justification for sending this photograph. I consider that there were many more appropriate ways an accredited coach acting reasonably could have achieved the outcome he says he sought.
106. I have not sought to discuss all the alleged incidents relied on by the Respondent in the Determination, only those which to me are the most serious. They have however been assessed



by me and considered in my assessment of the Applicant's conduct. When coupled with the documented images and social media messages in evidence, I am satisfied that the communications outlined in paragraph 90 a), b), e), f) and g) in particular were inappropriate, intrusive and sexual in nature.

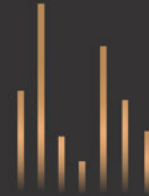
107. I am also satisfied the conduct described in paragraph 90 e), f) and g) constitutes sexual harassment against the Complainant, Witness J and Witness I, as defined in the Code and under the *Sex Discrimination Act 1984* (Cth). These incidents are also relied on by the Respondent under Allegation 3.
108. I am therefore comfortably satisfied the Applicant:
- a. sent an inappropriate image of a male in tight fitting briefs around December 2022, using the pseudonym Gary Patterson, to the Elite Capital A4L squad group;
 - b. made inappropriate comments to female athletes about their appearance and attire, including comments about the Complainant's pink racing shorts using the phrase "*Jesus Christ [REDACTED], what are you doing to me wearing those shorts*";
 - c. sent inappropriate social media messages to Witness J on 13 October 2020 stating "*your voice is so Husky... I like it*" with an emoji;
 - d. sent a sexualised text message to Witness I stating, "*what are you rubbing?*" With a wide-eyed emoji; and
 - e. sent a message to Witness J attaching an inappropriate photograph with a close up of a female in a brief bikini with the comment "*I thought this was you*" with a wide-eyed emoji and a smiley emoji.
109. I find that the Applicant has breached Code obligations in relation to this conduct as follows:
- a. Article II (b) - failure to respect the rights, dignity and worth of others with inappropriate sexualised comments in photographs sent to athletes;
 - b. Article II (d) – failure to maintain high levels of professionalism engaging in this behaviour;
 - c. Article II (h) – failure to respect the law and act in accordance with it by engaging in conduct that constitutes sexual harassment of three female athletes; and
 - d. Article II (x) - failure to conduct himself appropriately when using social networking in accordance with Article IV of this Code.
110. The Applicant has sought to portray the impact of these incidents as concocted and disingenuous. He also says these issues were not raised with him at the time by any of the witnesses and are unreliable. I do not accept that assertion for the reasons outlined above and the Applicant's own admissions.
111. I accept the evidence of Mr Davoren in support of my findings. In his report at page 3, he says best practice for high performance coaching in the use of social media includes content around logistics, training and potential performance data exchange or feedback related to a session or performance. This may include expressing "like" related symbols related to athlete results and performance by



- a. commenting on athlete appearance, clothing, social behaviour would not be considered best practice and potentially creates opportunities for confusion;
- b. any sexual reference or innuendo would be deemed highly inappropriate and clearly outside what is considered appropriate for a functioning athlete coach relationship;
- c. the Respondent's Member Protection Policy is clear that social media activity must not contain information which has the potential to be offensive, threatening, discriminatory, obscene, profane, harassing, embarrassing, intimidating, sexually explicit, bullying, hateful, racist, sexist or otherwise inappropriate; and
- d. there are sufficient information and education for high performance coaches to be aware that the behaviour outlined above would be both inappropriate and dangerous and a gross misconduct.

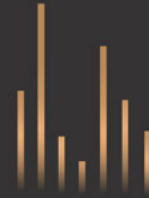
Alleged Breach 2 - the Applicant (i) curated; or alternatively (ii) permitted the development of a sexualised environment in his training group, Athletics4Life (the squad)

113. The Respondent relies on conduct under Allegation 1 in support of its case under Allegation 2, namely the image sent by the Applicant to the squad group chat, the inappropriate photograph of the Applicant wearing underwear shown to the Complainant, the inappropriate comments made to female athletes in respect of their appearance and attire, the inappropriate social messages to Witness J and the sexualised text message to Witness I.
114. The Respondent also relies on a number of additional particulars:
 - a. the Applicant's behaviour towards the Complainant and Witness F at an awards night at [REDACTED];
 - b. the Applicant consistently not wearing a shirt during his engagement with participants;
 - c. inappropriate physical contact with a female student; and
 - d. inappropriate Instagram posts by the Applicant. This comprised of photographs of female athletes running, taken from angles showing the buttocks. The social media posts contained caption "*life is peachy*" and "*practise what you peach*".
115. My findings under Allegation 1 have been taken into account by me in my assessment of Code breaches under Allegation 2.
116. The Applicant denies each particular and that his conduct breached the Code's obligations.
117. The terms "curated" and "permitted" are not defined in the documentation provided to the Arbitration. Accordingly, I have given those terms their ordinary meaning from the Oxford English Dictionary in the context of these proceedings:
 - a. curated – to collect, thoughtfully organise and look after something; and
 - b. permitted – allowed, authorised, accepted, sanctioned or gave consent.
118. There was broad agreement between the witnesses for both parties that the squad had a culture that was toxic and underpinned by a highly sexualised environment. The environment was also described as toxic, with allegations of favouritism and bullying of athletes by other athletes. There



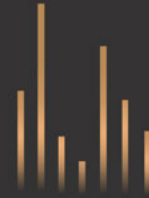
was disagreement however about who was responsible for that environment and whether the Applicant played a role in curating or permitting that culture.

119. Character witnesses for the Applicant such as Witness A and Witness V provided written statements to the NST Member, were cross examined and gave statements to the Respondent's original investigation.
120. According to their statement, Witness A has been an athlete in the Applicant's squad since about 2018. They gave evidence that the squad environment became much more sexualised with explicit details of relationships and sexual innuendo becoming more frequent over time. They do not recall the Applicant being involved in these conversations. When they happened in their presence, Witness A says the Applicant "*would deliberately exclude himself*", such as when explicit videos and photographs were being shown by others (at paragraph 19 and 20 of his statement).
121. Witness W says in their statement that they felt the environment felt vaguely sexualised, but it was athlete driven and not from the Applicant. There was often drama between the athletes related to sex and relationships and too much focus on appearance over performance (page 166). They recount at page 167 that several athletes left the squad because the environment caused by one [REDACTED] athlete was so unpleasant.
122. Witness M at page 170 in their interview of 1 April 2025 with the Respondent, says they joined the squad in April 2021 for approximately 8 months, but described the squad culture as very toxic. They say they gave advice to the Applicant when they left the squad about addressing bullying and drama, providing leadership, needing to be more professional, have better control of athlete behaviour and pull people into line. They noted the Applicant often talked down to athletes, seemed in their opinion to lack emotional intelligence and was very egotistical. They assisted Witness R leave the squad because "*Mark had all his eggs in the Complainant basket, and this was at the detriment of Witness R*".
123. The Applicant blames the squad's culture and highly sexualised environment on the behaviour of some female athletes. Witness A too at paragraph 28 of their statement says the sexual dynamic in the squad "*toned down*" very quickly when some members left the squad. This is supported by Witness S.
124. There is evidence which is not denied by some of the female athletes that they engaged in behaviour from flashing male athletes, excessive drinking and skinny dipping at squad events. I accept this behaviour caused real tension and disruption in the squad. One female athlete justified her behaviour as simply the behaviour of a young woman doing what young women do.
125. However, this Arbitration is about the Applicant's behaviour, his leadership of his squad and whether he met the obligations and standards expected of an accredited coach under the Code.
126. I have already found under Allegation 1 that the Applicant instigated and conducted inappropriate and intrusive conversations in person and online that were sexual in nature and that he engaged in sexual harassment of the Complainant, Witness I and Witness J. This is conduct that in my assessment contributed to the highly sexualised environment within the squad.
127. In his reports to the Arbitration, which is uncontroverted, Mr Davoren describes high performance coaching as a complex, demanding and difficult profession. He explained that the primary responsibility is to create an environment so a group of individuals can maximise their performance

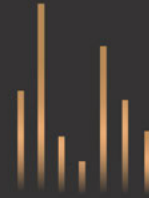


potential and develop holistically as people. The culture of a squad should be safe, respectful and focused on the development of the athlete. The task of leading a squad of athletes would include leadership and culture building creating a high-performance environment that fosters trust, accountability, and resilience. It would also be expected that an accredited coach model integrity, inclusivity, and respect as well as emphasising an athlete centred approach. Coaches are expected to assume responsibility for their work and their role. This includes promoting a culture where every athlete feels valued respected and heard.

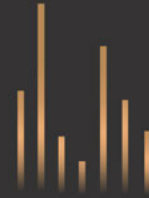
128. Mr Davoren also gave evidence that contemporary best practise in high performance athletics coaching requires the maintenance of professional communications free from sexualised content.
129. I have considered the additional incidents the Respondent relies on under Allegation 2, against Mr Davoren's evidence of the standard expected of an accredited coach in leadership of a squad and its culture.
130. Witness A for example recalled the secret santa incident during their evidence, which preceded the Applicant's post of the underwear described in paragraph 93 a) of this Determination. Witness A said that during this squad event with mixed gender participation, "*someone received an inflatable sex doll*" given by a male squad member as a Kris Kringle present. Witness A says the Applicant became uncomfortable when he saw the doll and removed himself from the room having said that the gift was "*inappropriate*". This was apparently just before oral sex acts were simulated on the doll by female squad members.
131. The Applicant in his evidence admits he walked out of the room at this time. He did not try to stop the conduct, he only later removed the doll from the room, he did not set boundaries for behaviour, call the behaviour out or call an end to the event. The culture in that mixed gender room of young adults at that time was not safe or respectful, nor was anyone held accountable for their actions. His next act is to send the Instagram post of a male in underwear to the squad thereby contributing to the culture he says was the fault of others. I consider the Applicant has not met the standards that would be expected of an accredited coach, as described by Mr Davoren. He has at a minimum permitted a highly sexualised environment in the context of that incident.
132. In support of its case under Allegation 2, the Respondent relies on an incident when the Complainant was driven home intoxicated from an awards night event at [REDACTED] in September 2022. This is described in Witness A's statement in some detail.
133. I accept Witness A's evidence that the Applicant assisted the Complainant into Witness A's car and took action with others to prevent Witness F and the Complainant from being hurt due to their intoxicated state. Witness A and Witness V have clear and consistent recollection of the events of that night. The Complainant says their recollection is clouded because of their intoxicated state.
134. The Complainant says the Applicant was overly tactile towards them and Witness F and took advantage of their intoxication. This is not supported by the evidence of Witness A or Witness F. They say it was necessary physically to get Witness F and the Complainant into a car and to a safe place as they were placing themselves in danger in their intoxicated state.
135. The Complainant also says the Applicant stated words to the effect that the Complainant got him into trouble with his wife as their makeup transferred to his shirt when he assisted them into the



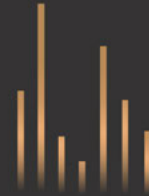
- car. This made the Complainant feel uncomfortable. The implication once more being they had been physically close.
136. The Applicant denies he made the comment and says he simply tried with other squad members to ensure the female athletes were returned home safely.
 137. The Complainant was not subject to cross examination and unlike other incidents, there is no direct corroborating evidence that the Applicant made the alleged comments. While the words are consistent with the types of comments made previously by the Applicant, that is not sufficient for me to be comfortably satisfied the comments were actually made. Accordingly, I make no finding in relation to this incident.
 138. The Applicant admits that he may have on occasion not worn a shirt during training sessions as coach of the squad, particularly when the weather was hot and humid. The Respondent says this behaviour added to the sexualised environment within the squad and was inappropriate for an accredited coach.
 139. Mr Davoren at page 3 of his supplementary report directly addresses this allegation. I accept his evidence that changing standards and expectations around coaching behaviour and practice, means that is not acceptable practise from a safeguarding perspective, for a coach to be shirtless while on track or in the gym coaching in mixed age mixed gender settings.
 140. The Respondent further relies on an allegation that the applicant engaged in inappropriate conduct with [REDACTED] while they were doing a set of chin ups. The student was said to be under the age of 18 at the time of the incident. It is alleged by the Respondent that the Applicant touched their buttocks during the set under the pretext that he was assisting them.
 141. The Applicant strenuously denies he engaged in that physical conduct.
 142. The Respondent has not presented evidence to the standard of proof required in relation to this particular incident. In the absence of any direct evidence from [REDACTED] in relation to this allegation and given the serious nature of it, I cannot be comfortably satisfied that this allegation is made out.
 143. The final incident relied on by the Respondent in relation to Allegation 2 concerns the posting on Instagram of photographs by the Applicant depicting the buttocks of two female athletes. The photos were accompanied by captions stating “*practice what you peach*” with a Peach emoji and “*life is peachy*” with a Peach emoji. The Respondent submits that both posts were clearly intended to highlight the buttocks of the two female athletes depicted and therefore constituted inappropriate and sexualised behaviour by the coach.
 144. The Applicant says at paragraph 56 of his submissions of 6 September 2025 that he cannot be certain as to whether he indeed posted the photos. In that submission he says he was goaded by the female athletes in his squad to post the quotes with a screenshot taken 18 months beforehand. However, given other athletes had access to the squad Instagram username and password, he is not certain whether he in fact posted the images.
 145. The Applicant has further given evidence that the second image does not disclose any sinister motivation. It is simply a side on shot of the athletes depicted to display form, style, by mechanics alongside other technical information. He maintains the “*girls*” came up with the quote which to



- him was a light-hearted, funny statement. He says the girls thought it was funny and requested that he post the quote. He says it is ridiculous that 18 months later offence is claimed.
146. The female athletes who gave evidence before the Arbitration say that there was a pattern to the Applicants behaviour, including with the posting of this material, that was inappropriate and sexual in nature and that curated or permitted a highly sexualised culture within the squad.
 147. The posting of the photographs in isolation may not of themselves have cultivated a highly sexualised environment within the squad. But they are further evidence that the Applicant engaged in conduct on numerous occasions that contributed to an inappropriate culture within the squad.
 148. The evidence indicates a lack of appreciation by the Applicant for his role as a leader and coach of the squad. This includes his obligations under the Code to maintain high levels of professionalism, accept responsibility for his actions, understand and maintain compliance with Australian Athletics and Member Associations standards rules regulations and policies, and ensure the safety and wellbeing of all participants.
 149. At times the evidence suggests that the Applicant acted as a bystander to inappropriate behaviour, walked away when inappropriate behaviour was exhibited by squad members, contributed to or participated in a culture that encouraged sexualised behaviour. He does not appear to have set requisite boundaries for the behaviour of his squad members, encourage behaviour that would ensure the safety of all squad members, or acted as a positive role model. These are all attributes of an accredited coach described by Mr Davoren.
 150. Witness statements have supported the Respondent's submission that the highly sexualised environment for the training group caused discomfort to some athletes in the squad who took measures to feel safer and less exposed, such as not training in a crop top, wearing longer shorts or shorts instead of briefs, being mindful of stretching in certain circumstances.
 151. When seen in isolation, the photos and communications described under Allegation 1 and at times under Allegation 2, may not of themselves be sufficient evidence that the Applicant curated or permitted a sexualised culture within the squad. Together however they form a different picture.
 152. What is also compelling is the number of squad members who all agree the culture within the squad for a long time, was toxic and highly sexualised. I am comfortably satisfied that at a minimum the Applicant permitted this environment and did not adequately lead the squad, role model appropriate behaviour, develop an appropriate culture. Rather, he sought to transfer accountability to others.
 153. I have read many pages of SMS messaging between the Applicant and his athletes for the purposes of these proceedings. The tone and content of many of those exchanges is appropriate and centred on athlete performance.
 154. The toxic nature of the squad culture however can also be viewed through SMS messages between the Applicant and some of these athletes when things were not going well. Some of these athletes have also given evidence that they tried to call out the Applicant's behaviour from time to time, but were belittled, shut down or abused.
 155. There is some evidence of this at page 134 of the Court Book. It contains a series of disrespectful text messages between Witness J and the Applicant. They illustrate the way in which the Applicant



- was communicating during a time when the Applicant was frustrated with Witness J's training performance:
- a. *simple question? You're wanting my time. I'm getting over this. So you don't do the session because you don't turn up? Just say so! Are you 5 years old. I never said [REDACTED] had clients;*
 - b. *I've written it 10 times. Whatever. Every other athlete in the squad can turn up and train at our regular slots. What's wrong with you?; and*
 - c. *Witness J, just sort yourself out, run your nationals and then figure out what you're doing. I've got several new athletes starting after nationals and I don't want your drama. It's killing my squad culture. You genuinely do not think about anybody else but yourself.*
156. Witness J, Witness F and Witness I reported that the Applicant became aggressive and intimidating when they spoke up about his behaviour. Witness F gave evidence that when they told the Applicant they were leaving his squad, he replied "You're never going to make a senior team again". They experienced that as a threat.
157. The Complainant in their statement felt they could not be honest about their reasons for leaving the squad because they were nervous the Applicant would contact them again. Given their discomfort in the training environment and the way they felt his conduct impacted them, they said their departure from the training group was because of a foot injury and a desire to stop running altogether.
158. In conversations with Witness J's parents outlined at page 134 of the Court Book the Applicant explains what he saw as a lack of respect for his coaching. He says, "lies and deceit and inappropriate behaviour from an athlete will always be exposed". "I'm very comfortable with my coaching philosophy and have if anything given Witness J too much of my energy when it wasn't deserved", "the only person who has damaged their mental health is themselves with their deceit and lack of commitment and discipline."
159. In another SMS messages to Witness F, the Applicant says, "you are either deaf or stupid and if you keep up this behaviour you will have no friends". The Applicant says he sent these messages due to Witness F's regular drinking and following multiple discussions about this. He says the comment reflects his frustration at Witness F ignoring or arguing with his continued efforts to curb this behaviour.
160. The Applicant's evidence is he was also concerned about Witness F's long-term bullying of Witness L when he made the comments, who he says was deeply affected by the behaviour and which led to them seeking psychologist support and medication. He maintains there is no support for coaches with how to deal with or manage such situations and it had a serious and detrimental effect on his personal life, mental health and coaching of other athletes.
161. When coupled with the documented images and social media messages in evidence, I am satisfied that the communications outlined in paragraph 90 a), b), e), f) and g) were however inappropriate, intrusive and sexual in nature. I am also satisfied the conduct described in paragraph 90 e), f) and g) constitutes sexual harassment against the Complainant, Witness J and Witness I, as defined in the Code. These incidents are also relied on by the Respondent under Allegation 3.
162. I accept that a number of individuals in the squad may have contributed to the toxic and dysfunctional culture described by others. There is evidence of inappropriate behaviour by athletes. I am also comfortably satisfied that the Applicant did not meet the requisite standards of an



accredited coach in the role he played in permitting, and contributing, to that environment. On the balance of probabilities, I am satisfied that the Applicant, at a minimum, permitted the development of a sexualised and toxic environment in the squad that did not ensure the safety and welfare of athletes by:

- a. sending inappropriate social messaging posts and photographs to athletes that were sexual in nature;
- b. making inappropriate comments to female athletes in respect of their appearance and attire;
- c. engaging in conduct that constituted sexual harassment of female athletes;
- d. failing to ensure he was appropriately attired during training sessions at all times;
- e. failing to engage in appropriate leadership of the squad and role modelling appropriate behaviour together with calling out inappropriate behaviour; and
- f. engaging in belittling, bullying and derogatory online conversations with Witness J.

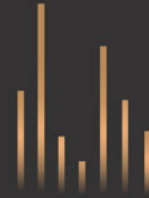
163. Taking into account the incidents found proven under Allegation 1 with my findings under Allegation 2, I am satisfied that the Applicant's conduct constitutes the following breaches of the Code of Conduct:

- a. Article II(b) respect the rights, dignity and worth of others, in that the Applicant engaged in inappropriate conduct of a sexualised nature, did not role model appropriate behaviour or call out inappropriate behaviour of squad members when that occurred and engaged in belittling, bullying and derogatory online conversations with younger athletes;
- b. Article II(d) maintain high levels of professionalism in that the Applicant's conduct in permitting a sexualised and toxic environment in the squad, fell short of the professional standards expected of an accredited coach;
- c. Article II(j) to ensure the safety and welfare of all participants that the Applicant's conduct in permitting a sexualised and toxic environment did not ensure the safety and welfare of the relevant athletes in the squad; and
- d. Article II (x) the Applicant did not conduct himself appropriately when using social networking in accordance with Article IV of the Code.

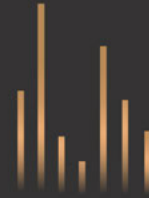
Alleged Breach 3 - the Applicant engaged in conduct that constituted sexual harassment pursuant to the Code

164. The particulars relied on by the Respondent in Allegation 3 include those allegations outlined in support of sexual harassment claims under Allegation 1 and 2. I have already made findings that the Applicant engaged in conduct that constituted sexual harassment of the Complainant, Witness I and Witness J, which have been taken into account under Allegation 1.

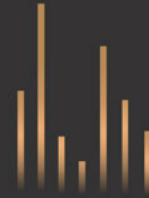
165. For the purposes of Allegation 3 and for clarity however I am comfortably satisfied that the conduct described in paragraph 90 e), f), and g) above, constitutes sexual harassment by the Applicant against the Complainant, Witness J, and Witness I. This misconduct meets the definition of sexual harassment in the Code and under the *Sex Discrimination Act 1984* (Cth). I am persuaded that it represented unwelcome, unwanted or uninvited behaviour of a sexual nature which could have reasonably been anticipated to make a person feel humiliated, intimidated or offended.



166. This conduct included the Applicant's verbal comments, jokes, suggestive comments, displays of offensive material, leering, unwelcome advances and displaying explicit material, all of which created a hostile environment for some of the female athletes within the squad.
167. Under Allegation 3, the Respondent relies on two additional allegations, namely that the Applicant engaged in sexual harassment when he:
- a. made an objectifying and sexualised comment about Witness I to Witness I's partner around late 2022 at a competition. It is alleged the Applicant said "*If I were your age, I would be into that too*" or words to that effect (see Witness I's statement to the original investigation at page 148 of the Court Book); and
 - b. described to Witness F that their friends who attended one of their training sessions on Applicant's invitation, said they had a "*nice ass*".
168. The Respondent says that each of the incidents that it refers to under allegation to are also capable of amounting to sexual harassment under the Code.
169. The Applicant strongly denies that he made the comments to Witness I's partner, or to Witness F, as claimed under Allegation 3.
170. In relation to the Witness I incident, the Applicant has submitted that the Respondent's claim lacks precision as to timing and place and relies on second hand hearsay evidence that cannot be properly tested.
171. In relation to the Witness F incident, the Applicant says the Respondent relies on a witness statement of Witness O, where they recount a conversation in August 2022 with Witness F about the alleged statement, but in circumstances where Witness F's statement to the original investigation does not mention the incident.
172. Claims of sexual harassment are serious in nature. The Respondent has the onus to present cogent evidence that the incidents occurred as claimed and that the Applicant has breached his obligations under the Code as a result.
173. In their evidence to the Arbitration Witness I said they had a very good coaching relationship with the Applicant at the start of their time in the squad in 2021. They say over time however that the conduct and behaviour within the squad became toxic and controlling towards athletes.
174. Witness I gave evidence that their partner reported the alleged comment to them sometime after the competition where it occurred. The words they recounted are as recorded in the particulars. They maintain the Applicant told their partner something along the lines of "*if I was your age I'd be into that as well*". Witness I believed their partner did not want to tell them at the time the statement was made because of their concern it would make them uncomfortable and that it might change their relationship with the Applicant.
175. The Respondent has led no additional contemporaneous evidence that the comment was made and did not call Witness I's partner. While the comment shares a pattern with other comments made to female athletes by the Applicant, given the Applicant strongly denies the statement, I cannot be comfortably satisfied on the evidence presented that the comment was made, what was said, when it was made and whether it was relayed as conveyed. The evidence led in this regard is imprecise.



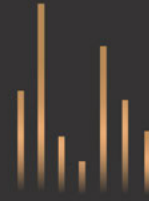
176. I consider the Respondent has not met the requisite standard of proof required in relation to this matter. There is insufficient evidence to be satisfied the Applicant has engaged in conduct that constitutes sexual harassment against Witness I in this instance or that a breach of the Code has occurred.
177. The Respondent relies on the statement of Witness O as contemporaneous evidence that the Applicant made the alleged comment to Witness F.
178. Witness O describes themselves as a close friend of Witness F. Witness O was not a member of the squad but was a participant under the Code. In their statement of 23 July 2025 (page 295 of the Court Book) they describe at paragraph 15, a telephone conversation they had with Witness F in or around August 2022, shortly after the 2022 Commonwealth Games. During that conversation, Witness F told Witness O the Applicant had said words to the effect that *“my friends think you have a nice ass”*.
179. Witness O gave evidence that the context for the comment was a training session where the Applicant had brought a number of his friends to watch. Witness O explained their reaction to that comment was shock that a coach would say that sort of thing to one of the athletes they coached. They gave evidence that they advised Witness F that those types of comments were not ok. Witness O also expressed shock that the Applicant would put athletes in a situation where *“random people”* were closely watching at a private training session. Witness O expressed the view that coaches were meant to protect their athletes and not to put them in situations that would make them feel uncomfortable or objectified.
180. Witness F’s evidence to the Arbitration represented a consistent picture. They confirmed that the Applicant brought a friend to their training session. The Applicant and friend would sit in the grandstand watching them train completely unannounced. They explained they felt uncomfortable with the situation. They believed the Applicant’s intention was to set them up with one friend who was in their 40s and substantially older. Witness F described this as *“weird”*. They gave evidence the Applicant said his friend thought they were attractive.
176. If a charge is to be upheld against the Applicant related to this allegation, I must conclude on the balance of probabilities based on the evidence presented, that the Respondent made the comment to Witness F in the circumstances described. That is, it is more likely than not to have happened. Given this is an allegation of sexual harassment, a heightened examination should be applied (see *UK Athletics Ltd & England Athletics v Graham McMullen*, at page 5).
177. There is some imprecision in how this allegation is put by the Respondent as well as a lack of evidence in support. The particulars use the term *“friends”*, Witness F in their evidence talks about a friend. There is no date given as to when the comment was made or whether that was all that was said. There is no mention of how quickly after the comment was made, Witness F spoke to Witness O. This lack of precision seems odd given Witness F says the Applicant was also trying to arrange a relationship between his friend and them, without their consent. Yet this does not form part of the particulars.
178. I accept this type of comment is consistent with other inappropriate behaviour by the Applicant described by many witnesses and would constitute inappropriate behaviour by an accredited coach if made. In all of the circumstances however, given the Applicant strongly denies making the



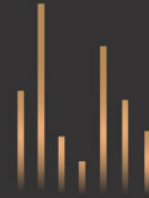
comment and given the imprecision in the Respondent's evidence and particulars, I consider the Respondent has not met the requisite standard of proof required in relation to this matter. There is insufficient evidence to be satisfied the Applicant has engaged in conduct that constitutes sexual harassment against Witness F in this instance or that a breach of the Code has occurred.

Alleged Breach 4 - the Applicant made negative comments regarding the weight and appearance of athletes

179. The Respondent alleges that the Applicant engaged in behaviour and conduct that subjected athletes to continual and relentless negative comments regarding their weight and appearance and engaging in coaching methods inconsistent with the Code's obligations.
180. The allegations are that the Applicant:
- a. made inappropriate comments to the Complainant about their [REDACTED];
 - b. made inappropriate comments to Witness F to drink water if hungry and showed photographs to them, circling where he felt they needed to lose weight;
 - c. measured Witness J's ankle circumference with his fingers remarking he was pleased they did not have cankles, touched and pinched their abdomen ribs and belly to point out where they needed to lose weight and made inappropriate comments on social media about Witness J's weight;
 - d. vilified Witness I for eating at restaurants and cafes, linking that to their performance;
 - e. compared Witness R's body to Witness F's describing Witness F's physique and "advanced" and Witness R's as more akin to a "guinea pig";
 - f. sent text messages making comparisons between Witness R's body and the bodies of other athletes;
 - g. placed excessive focus on Witness J, Witness F and Witness C's weight asking for photos of what they ate, criticising meal choices, measuring the circumference of Witness C's ankles and pinching and grabbing their stomach, back and sides saying words to the effect, "this is why you are not performing well";
 - h. making disrespectful comments about athletes from other squads including fat shaming; and
 - i. systematically recording the names and weights of every athlete in the squad on a whiteboard prominently displayed in the gym (see page 136 of the Court Book).
181. The Applicant denies all allegations. He says he has never called an athlete fat or pressured them to lose weight.
182. In his written submissions however the Applicant:
- a. admits at paragraph 66, he may have said words to the effect of 'if you are hungry drink water' to Witness F, which was not exclusively said to them and was used as a way to ensure athletes were at peak physical appearance for performance and competition.;
 - b. noted that Witness J was not at their peak physical condition upon return from a holiday "which was to be expected" (paragraph 70);

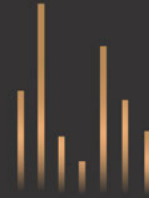


- c. does not deny that he may have commented on Witness I's diet but "*not constantly and not with the intention to vilify her*". As a coach the Applicant says he "*was both qualified and experienced in giving advice about appropriate dietary intake for peak athletic condition. He maintains he did this in a suitable manner and not with the intention to fat shame*" (paragraph 71);
 - d. denies commenting that Witness R's body composition was akin to a guinea pig, but (paragraph 72) submits that comparison between athlete physiques is not redolent of fat shaming and is a method of identifying technical deficiencies in form or even being able to compare one's own improvements over time; and
 - e. does not deny that there was a whiteboard in the gym but says it was the athletes who would mark and amend their own weight (paragraph 76). The Applicant says he never wrote bodyweights on the whiteboard or instructed athletes to do so.
183. The Complainant states that when they were [REDACTED], they were prone to [REDACTED]. When the [REDACTED] subsided, they allege the Applicant would comment on this by saying "*I see your belly is gone, [REDACTED]*". This type of explicit observation made the complainant feel uncomfortable because they perceived they were being judged for their size as [REDACTED] was not a normal topic of conversation in an athlete/coach relationship. This type of conduct is inconsistent with the Respondent's guidelines that [REDACTED] are important and that positive language should be used to ensure a safe culture focussed on wellbeing.
184. There are also numerous photos in evidence documenting the squad athletes training, many with circles and other symbols written on them, which support a conclusion that body composition and appearance were important to the Applicant and his coaching.
185. Negative comments about the weight and appearance of athletes have been a common theme from many witnesses, as has the perception the athletes needed to lose weight in order to enhance performance.
186. This perception was strengthened by many different examples described in this Determination, including one where the Applicant is said to have grabbed a male athlete by his side and said, "*this is all fat, it all needs to go*". Another concerns the much-used phrase attributed to the Applicant, that every kilo of body fat costs 0.1 of a second in their times.
187. Unfortunately, comments made by the Applicant about appearance and weight and their link to performance, together with physical symbols of that focus like the white board, appears to have encouraged a culture of prioritising appearance and weight over wellbeing, with athletes within the squad, whether intended by the Applicant or not.
188. By contrast, Witness A in their December 2024 interview said the Applicant's only focus was on improvement in performance. They described other eminent Australian coaches that they have heard referencing a scientific link between weight and performance, not in a fat shaming context, but purely performance focussed. Witness S also at page 164 of the Court Book says they only ever had one conversation with the Applicant about diet or nutrition, and it was in a joking way.
189. Witness W says they specifically sought the Applicant out as a coach because they had previously suffered from eating disorders. They say they never heard the Applicant make fat shaming comments, but that some of the female athletes would often stand in front of a mirror talking about

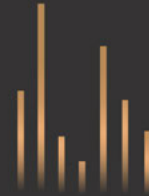


their bodies in a negative way and saying that they needed to lose weight. They say the Applicant always encouraged good nutrition to them rather than excluding food.

190. It is also the case that two things can be true at the one time. That some athletes were not as affected by the Applicant's training methods, does not mean others had the same experience.
191. Witness R's evidence on these matters during the Arbitration, was compelling. I found them to be an honest, credible and brave witness. Witness R was supported by their mother. They described an environment where they did not feel seen or heard by the Applicant and was constantly told they were wrong, not performing, and compared to other athletes whose physique was described as "advanced" when negatively compared to theirs which was more like a "guinea pig".
192. Their evidence was that this made them feel upset and that they were not where the other [REDACTED] in the squad were at in terms of their body. This had a negative impact on the view they had of their own body. Witness R also confirmed that the applicant used to send them inappropriate and creepy messages on social media and text messages which usually included the use of emojis. They described suffering from panic attacks, anxiety and a lack of self-confidence due to inappropriate and hurtful actions towards them by the Applicant, largely centred around their body composition and weight.
193. This has impacted Witness R's mental and physical health, and they have engaged in disordered eating. Their training and competitions were negatively affected to the point where their parents pulled them out of the squad. The Applicant's demeanour during this latter conversation was said to be dismissive of Witness R's concerns and blamed them for their negative experience.
194. Witness I in their evidence said the Applicant's focus was often on their appearance and their eating habits. They were encouraged by him not to go to cafes and restaurants which they say felt like taking away positive elements of their life in circumstances where they felt they were a hardworking athlete.
195. Witness F gave evidence the Applicant told them on a number of occasions that they were fat, reinforcing a negative view of their appearance and leading to disordered eating.
196. The NST Member instructed two independent experts to provide a report on the standards of conduct expected of professional coaches in Australian athletics. This included good coaching practice about health and nutrition and the implementation and application of the disordered eating guidelines.
197. Both experts discussed the significant ramification on athlete's health, both mental and physical, and performance, if the health and well-being of athletes was not prioritised. Both rejected that linking body weight and performance times was best practice. Mr Davoren described it as antiquated behaviour.
198. I accept Ms Jeacocke's uncontroverted expert evidence on the following matters:
 - a. squad environment and culture play a significant role in the health and wellbeing of athletes;
 - b. results of weight and body composition of athletes should not be displayed in a public area, such as a white board. This is inconsistent with the Respondent's body composition guidelines;
 - c. results should be discussed confidentially and separately with each athlete;



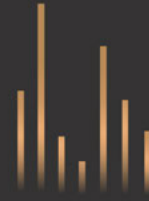
- d. any measurement of body composition or skin fold testing should be completed by an appropriately qualified person;
 - e. the industry standard is to not compare athlete physiques; and
 - f. early identification and professional prevention of disordered eating is essential.
199. Mr Davoren gave evidence that accredited coaches should create a safe environment and avoid harmful practices that used humiliation or fear as motivation. Processes and practises are key as is the language and behaviour used to create safety. Coaches should not be involved in treatment but should be aware of how they can support an athlete who is receiving treatment.
200. The evidence indicates the Applicant's squad had a cluster of female athletes who were diagnosed with disordered eating. Ms Jeacocke agreed on cross examination that this was unusual.
201. Witness T is the [REDACTED]. They gave persuasive evidence about their interactions with the Applicant in [REDACTED] some of his female athletes. In their witness statement, they described one athlete they saw [REDACTED], another had a history of disordered eating. The athlete did not want to change to a more healthy eating regimen because of the Applicant's potential response.
202. In their engagement with the Applicant, Witness T gave evidence that their comments about one athlete were very inappropriate when they were already "very, very lean". They believe the Applicant told his athletes not to listen to or accept advice from dieticians or other support services.
203. In response, the Applicant said Witness T acted inappropriately by not contacting him or speaking to him about their concerns about Witness F's physical appearance and disordered eating.
204. I am comfortably satisfied on the evidence that the Applicant has engaged in conduct that adversely focussed on the weight and appearance of his athletes as part of his coaching regime at the expense of wellbeing. I am also satisfied he made negative and humiliating comments about their weight and appearance to the Complainant, Witness R, Witness I, Witness F and Witness J, as described in the particulars. His conduct included derogatory and belittling behaviour including name calling and shaming. This led to significant impact and poor health outcomes including contributing to disordered eating behaviour, emotional and mental health impacts for some female athletes.
205. I accept the evidence of Mr Davoren, Ms Jeacocke and Witness T that this conduct is inconsistent with the standards expected of an accredited coach and in some respects the Applicant's coaching regime was antiquated,
206. I find that the conduct of the Applicant amounts to a breach of the following Code obligations:
- a. Article 2(b) - the Applicant did not respect the rights, dignity and worth of athletes by making negative comments about their bodies, engaged in inappropriate body composition and skin fold testing, made negative comments about eating habits and adversely compared athlete's bodies to other athletes;
 - b. Article 2(d) - the Applicant did not maintain high levels of professionalism when he engaged in conduct that was inconsistent with the Respondent's guidelines for accredited coaches. This conduct contributed to some of his athletes becoming negatively obsessed with their weight and disordered eating;



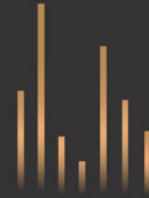
- c. Article 2 (j) - the Applicant did not ensure the safety and welfare of all participants in relation to their physical and mental health;
 - d. Article 2(e) - the Applicant did not treat athletes in a fair, ethical and considerate way where he focused on body weight and appearance in circumstances where some athletes were already extremely lean and or suffering disordered eating;
 - e. Article 2(g) - the Applicant did not comply with the Respondent's Disordered Eating Guidelines or Body Composition Assessment Guidelines in his coaching; and
 - f. Clause 9.02(b) of Article IX of the Code - in that the Applicant's conduct towards Witness J when they were [REDACTED] was derogatory and belittling.
207. I make no finding about Witness C's statement and the allegations raised in relation to the Applicant's conduct towards them. Witness C did not appear for cross-examination, and the Applicant strongly asserts Witness C was not a member of his squad.

Alleged Breach 5 - the Applicant failed to respect boundaries in the athlete/coach relationship and placed athletes in inappropriate one on one situations with him.

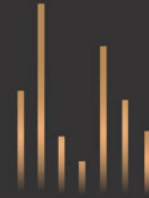
208. The Respondent relies on four incidents in support of Allegation 5:
- a. inappropriate conduct with Witness L ([REDACTED]) when he travelled and dined alone with them in Sydney, staying together in an apartment, during a trip to the 2021 National Athletics Championships;
 - b. an attempt to organise and share accommodation with [REDACTED] during the 2022 Melbourne Track Classic;
 - c. inviting Witness J to attend a group recovery session at Nobby Beach; and
 - d. invites to Witness C to group gym or beach sessions to discover they were one on one.
209. The Applicant does not deny he accompanied Witness L to the Australian National Championships in 2022 but says he did so with their mother's consent and strongly denies the influence that he engaged in inappropriate conduct in travelling with Witness L and sharing a room with them.
210. I accept Witness L's statement, which was not the subject of cross examination, that at the time of the Championships, their mother gave consent to the Applicant accompanying Witness L to the Sydney competition due to a personal medical emergency. Witness L describes that while they shared an apartment with the Applicant, they had a separate bedroom and bathroom and friends who stayed with them over different nights.
211. Witness L admits to mistakenly uploading a photograph taken by a waiter at dinner with the Applicant, to the Applicant's Instagram account with the caption "Date Night" and a smiley emoji. Witness L was attempting to send the message to their boyfriend instead. At paragraph 31 of their statement, they say that the Applicant immediately removed the post when he realised what had happened.
212. Witness L was [REDACTED] at the time and the photo of the dinner, when posted with the caption on the Applicant's Instagram page, caused significant disquiet and gossip mongering in their athletics community.



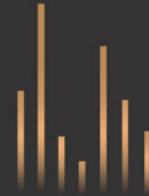
213. Paragraph 10.07 of the Code relates to overnight stays and sleeping arrangements for [REDACTED]. While the Applicant complied with the requirement to have the mother's consent to the travel and accommodation arrangements, no evidence has been presented that they sought authorisation of the appropriate Australian Athletics member association to undertake the travel. This constitutes a breach of this obligation.
214. On page 3 of his supplementary report, Mr Davoren says, given the degree of education and knowledge available to coaches, these types of practices would be understood and recognised to be both dangerous to the athlete and coach. He recommends, that there should be separate sleeping arrangements for [REDACTED], but where practically possible it would be safer for coaches not to share with the opposite sex. I accept this evidence.
215. In my view, a coach acting professionally, should have ensured full compliance with the Code's obligations on these very sensitive matters. That the Applicant had already been the subject of allegations about his conduct towards Witness B and rumours about his favouritism towards Witness L, his failure to do so shows extremely poor professional judgment.
216. The Applicant strongly denies the allegation concerning [REDACTED] as described in the particulars. He says he did not organise accommodation for them to attend the meet and was surprised when the two athletes showed up at the room. He has provided a receipt for the hotel booking with a bank statement showing he booked and paid for a single bedroom for one adult for Thursday 17 March 2022 to Saturday 19 March 2022 for \$365.
217. The Applicant says Witness F told [REDACTED] they could stay with them at the Australian Athletics funded Hotel, but this was not allowed. He claims they turned up unannounced at his hotel and asked if [REDACTED] could stay. The Applicant claimed he would prefer that they didn't as the accommodation had one bed. He admits he offered a small couch in the room, if they were desperate and had nowhere else to stay, which was not accepted.
218. This contrasts with Witness F and Witness O's evidence. Witness F is adamant the Applicant offered to, and did book shared two-bedroom accommodation for [REDACTED] so they could attend the meet, that [REDACTED] checked into the accommodation noticing it was a one-bedroom apartment, that after dinner they went back to the accommodation to find the Applicant shirtless on the bed. Witness F said the Applicant was surprised to see them and asked what they were doing there? Witness F says the Applicant told [REDACTED] they were welcome "*just don't tell my wife*".
219. When asked how they entered the room if the Applicant was on the bed, Witness F explained that [REDACTED] had a key due to their previous check in. Witness F rejects the Applicant's evidence that it was inappropriate for [REDACTED] to stay in that room.
220. Witness O's evidence is contemporaneous but simply recounts the conversation they had with Witness F following the incident and asking if [REDACTED] could stay with them as emergency accommodation, which was agreed. Witness O however was not present at the hotel and does not have firsthand knowledge of the event or arrangements alleged to have been made, only what they were told by Witness F.
221. [REDACTED] did not make a statement to the Arbitration, nor were they a member of the squad.
222. The Respondent has the onus to demonstrate on the balance of probabilities that the conduct occurred and constitutes a breach of the Code.



223. On balance, taking into account the Applicant's receipt for the room shows it was booked for one person, I am not comfortably satisfied the Respondent has demonstrated to the requisite standard that the Applicant organised accommodation for [REDACTED] prior to the meet and that the arrangement was confirmed.
224. I accept the Applicant's admission however that he offered to share accommodation with [REDACTED] given the situation and that this was not accepted. I cannot be satisfied the Applicant made the comments about telling his wife. I find on balance that the offer to share the accommodation was not an attempt to deliberately curate a one-on-one interaction with [REDACTED], but showed poor professional judgement as described by Mr Davoren above and constitutes a breach of Article II (d) to maintain high levels of professionalism.
225. The Applicant is also accused of deliberately creating situations where female athletes were invited to spend time alone with the Applicant under the pretext of attending group training sessions.
226. The Applicant does not deny conducting recovery sessions at beaches. However, he maintains he would invite groups members to the swimming sessions, not individuals. He submits these sessions were not mandatory and male group members in particular would avoid sessions where Witness J indicated they would be attending. He says there is nothing in Witness C's assertions of "*frequent invitations to one-on-one sessions.*"
227. Witness C did not attend for cross examination, despite being called. The Applicant did not receive an opportunity to test their evidence. He also strongly asserts Witness C was not a member of his training squad. In all of the circumstances I have not taken their evidence into account when reaching my findings.
228. Witness J gave evidence that in or around September 2019, they accepted the Applicant's invitation to a group recovery session at Nobby's Beach but discovered it was just them. They describe an uncomfortable situation where the Applicant wanted to walk, swim and lay on the beach and they had to make excuses to leave. Witness J claims they checked with other athletes later, but none knew of the recovery session.
229. I find the Applicant's evidence about the incident with Witness J to be insightful. He admits he knew it was unlikely male squad members would attend group sessions if Witness J did. He must have reasonably known therefore that if they attended, there was a possibility of a one-on one session. It seems inconsistent with professional coaching practice that an accredited coach would not make other suitable arrangements for recovery for Witness J, in circumstances where he must have sensed their discomfort. He seems not to have taken into account the power imbalance between an older male coach and a young [REDACTED] athlete when making these decisions.
230. Mr Davoren's evidence is that in healthy and respectful coaching environments, one-on-one sessions like this might occur. But this is not the environment in this squad. Mr Davoren suggests the practice should be undertaken with the athlete's permission, which was not sought in this case. He advised that coaches should think about the appropriateness of this action and the potential risk of misunderstanding, which did not occur.
231. On the balance of probabilities, I am comfortably satisfied that the applicant failed to meet the appropriate standards of behaviour expected of an accredited coach and demonstrated poor professional judgement in his engagement with [REDACTED] athletes [REDACTED] when he:



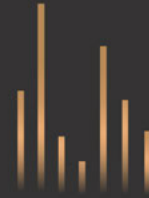
- a. failed to ensure full compliance with all obligations concerning the overnight stay and sleeping arrangements for Witness L at the Australian national championships in 2021, when he travelled and dined alone with them without requisite permission of relevant bodies.
 - b. invited Witness J to attend and then stay at a one-on-one recovery search session on a beach without their permission or other adult presents and in circumstances where they felt unsafe.
232. I find that the applicant breached the following Code obligations as a result of this conduct:
- a. Paragraph 10.07 – failure to comply with relevant obligations concerning Witness L’s overnight stay and sleeping arrangements at the 2021 Australian National Championships;
 - b. Article 2(d) – the Applicant failed to maintain high levels of professionalism, in inviting a young [REDACTED] athlete to recovery sessions on the beach in circumstances where he knew or reasonably to have known that it was likely only the [REDACTED] athlete would attend and he had not sought their consent to stay;
 - c. Article 2 (j) – the Applicant failed to ensure the safety and welfare of Witness J in not considering the appropriateness of his actions when realising they were the only individual attending the recovery session and the potential risk of misunderstanding. Further he should have sought their consent to continuing with the recovery session which they did not do. This conduct made the athlete feel uncomfortable and unsafe; and
 - d. Article 2(e) – the Applicant did not treat Witness J in a fair, ethical and considerate way, in failing to vary the nature and location of their recovery sessions in all of the circumstances.
233. I am not comfortably satisfied that the applicant inappropriately organised single bedroom accommodation for [REDACTED] to share with him during the 2022 Melbourne Track Classic.
234. I am further not persuaded that the Respondent is discharged its burden of proof concerning the allegations it has made in relation to Witness C.



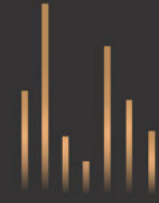
THE FINDINGS OF THIS ARBITRATION ARE SUMMARISED AS FOLLOWS

235. Article XI of the Code states that any person involved in conduct which is inconsistent with the behaviours set out in this Code may be in breach of this Code.
236. In summary and for reasons outlined above, I am comfortably satisfied the Applicant has engaged in conduct that has breached the following Code obligations.

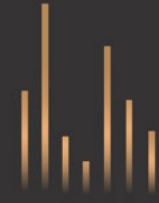
No.	Allegation	Finding	Relevant Code breaches substantiated
1.	The Applicant instigated and conducted conversations in person or online that were inappropriate and intrusive because they were sexual in nature.	Substantiated	<p>I am comfortably satisfied the Applicant has breached the obligations expected of an accredited coach acting professionally, when he engaged in inappropriate and intrusive conversations, in person and online that was sexual in nature, including:</p> <ol style="list-style-type: none"> a. sending an inappropriate image of a male in tight fitting briefs around December 2022, using the pseudonym Gary Patterson, to the elite A4L squad group b. making inappropriate comments to female athletes about their appearance and attire including comments about the Complainant's racing shorts and the phrase "Jesus Christ [REDACTED], what are you doing to me wearing those shorts" or words to that effect c. sending inappropriate social media messages to Witness J on 13 October 2020 stating "Your voice is so Husky... I like it" with an emoji d. sending a sexualised text message to Witness I stating, "what are you rubbing?" with a wide eye emoji e. sending an inappropriate message to Witness J attaching a photograph with a close up of a female in a brief bikini with the comment "I thought this was you" with a wide-eyed emoji and a smiley emoji. <p>I am also satisfied the conduct described in paragraph 90 e), f) and g) constitutes sexual harassment against the Complainant, Witness J and Witness I, as defined in the Code and under the <i>Sex Discrimination Act 1984</i> (Cth), addressed under Allegation 3.</p> <p>I find that this conduct constitutes alleged breaches of the Code including:</p> <ol style="list-style-type: none"> a. Article II(b) – failure to respect the rights, dignity and worth of others with inappropriate



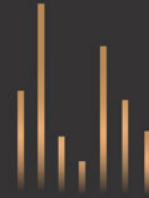
			<p>sexualised comments and photographs sent to athletes</p> <p>b. Article II (d) – failure to maintain high levels of professionalism in accredited coaching in engaging in this behaviour</p> <p>c. Article II (x) – failure to conduct himself appropriately when using social networking in accordance with Article IV of the Code</p> <p>d. Article II (h) – failure to respect the law and act in accordance with it, by engaging in sexual harassment of three female athletes.</p> <p>I am satisfied that the communications outlined in paragraph 90 a), b), e), f), and g) in particular were inappropriate, intrusive and sexual in nature.</p>
2	The Applicant (i) curated; or alternatively (ii) permitted the development of a sexualised environment in his training group, Athletics4Life.	Substantiated	<p>On the balance of probabilities, I am comfortably satisfied that the Applicant, at a minimum, permitted the development of a sexualised environment in the squad that did not ensure the safety and welfare of athletes by:</p> <p>a. sending inappropriate social messaging posts and photographs to athletes that were sexual in nature.</p> <p>b. making inappropriate comments to female athletes in respect of their appearance and attire</p> <p>c. engaging in conduct that constituted sexual harassment of female athletes</p> <p>d. failing to ensure he was appropriately attired during training sessions at all times</p> <p>e. failing to engage in appropriate leadership of the squad and role model appropriate behaviour while calling out inappropriate behaviour</p> <p>f. engaging in belittling, bullying and derogatory behaviour in online conversations with Witness J</p> <p>Taking into account the incidents found proven under Allegation 1 with my findings under Allegation 2, I am satisfied that the Applicant's conduct constitutes the following breaches of the Code of Conduct:</p> <p>a. Article II(b) – failure to respect the rights, dignity and worth of others, in that the Applicant engaged in conduct of a sexualised nature, did not role model appropriate behaviour or call out inappropriate behaviour when that occurred.</p> <p>b. Article II(d) – failure to maintain high levels of professionalism in that the Applicant's conduct</p>



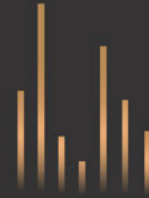
			<p>in permitting a sexualised and toxic environment in the squad, fell short of the professional standards expected of an accredited coach.</p> <p>c. Article II(j) – failure to ensure the safety and welfare of all participants in permitting a sexualised and toxic environment which did not ensure the safety and welfare of the relevant athletes in the squad.</p> <p>d. Article II (x)- the Applicant did not conduct himself appropriately when using social networking in accordance with Article IV of the Code.</p>
3	The Applicant engaged in conduct that constituted sexual harassment pursuant to the Code.	Partially substantiated	<p>I am comfortably satisfied that the conduct described in paragraph 90 e), f) and g) constitutes sexual harassment by the Applicant against the Complainant, Witness J and Witness I, for the purposes of this allegation. The conduct is referred to under breaches of the Code substantiated under Allegation 1. This misconduct meets the definition of sexual harassment in the Code and under the <i>Sex Discrimination Act 1984 (Cth)</i>, namely unwelcome, unwanted or uninvited behaviour of a sexual nature which could have reasonably been anticipated to make a person feel humiliated, intimidated or offended.</p> <p>This conduct included the Applicant’s verbal comments, jokes, suggestive comments, displays of offensive material, leering, unwelcome advances and displaying explicit material that created a hostile environment for some of the female athletes within the squad.</p> <p>In relation to the further allegations of sexual harassment made by the Respondent, I consider the Respondent has not met the requisite standard of proof required. There is insufficient evidence to be satisfied the Applicant engaged in conduct that constitutes further sexual harassment against Witness I in the instance described or that a breach of the Code has occurred.</p> <p>There is also insufficient evidence to be satisfied the Applicant has engaged in conduct that constituted sexual harassment against Witness F in the instance described or that a breach of the Code has occurred.</p>



4	The Applicant made negative comments regarding the weight and appearance of athletes.	Substantiated	<p>I am comfortably satisfied the Applicant engaged in conduct which adversely focussed on the weight and appearance of his athletes over wellbeing, as part of his coaching regime. His conduct also included derogatory and belittling behaviour towards some of the female athletes including name calling and shaming behaviour. This led to significant impact and poor health outcomes including contributing to disordered eating behaviour, emotional and mental health impacts for some female athletes.</p> <p>I find that the conduct of the Applicant amounts to a breach of the following Code obligations:</p> <ul style="list-style-type: none"> a. Article 2(b)- the Applicant did not respect the rights, dignity and worth of athletes by making negative comments about their bodies, engaged in inappropriate body composition and skin fold testing, made negative comments about eating habits and adversely comparing athlete's bodies to other athletes. b. Article 2(d) -the Applicant did not maintain high levels of professionalism when he engaged in conduct that was inconsistent with the Respondent's guidelines for accredited coaches. Further, when he contributed to some of his athletes becoming negatively obsessed with their weight, thus contributing to disordered eating. c. Article 2 (j) - the Applicant did not ensure the safety and welfare of all participants in relation to their physical and mental health. d. Article 2(e) - the Applicant did not treat athletes in a fair, ethical and considerate way where he focused on body weight and appearance in circumstances where some athletes were already extremely lean and or suffering disordered eating. e. Article 2(g) – the Applicant did not comply with the Respondent's Disordered Eating Guidelines or Body Composition Assessment Guidelines in his coaching. f. Clause 9.02(b) of Article IX of the Code - in that the Applicant's conduct towards Witness J was derogatory and belittling.
5	The Applicant failed to respect boundaries in the athlete/coach relationship and placed athletes in	Partially Substantiated	<p>On the balance of probabilities, I am comfortably satisfied that the Applicant failed to meet the appropriate standards of behaviour expected of an accredited coach and demonstrated poor</p>

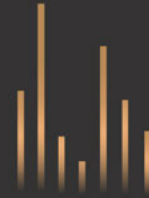


	<p>inappropriate one on one situations with him</p>		<p>professional judgement in his engagement with female athletes under 18 years, when he:</p> <ol style="list-style-type: none"> a. failed to ensure he had fully complied with all obligations concerning the overnight stay and sleeping arrangements for Witness L at the Australian National Championships in 2021, when he travelled and dined alone with them. b. invited Witness J to attend and then stay at one-on-one recovery sessions on the beach without their permission or other adult presence. <p>I find that the Applicant has breached the following Code obligations as a result of this conduct:</p> <ol style="list-style-type: none"> a. Paragraph 10.07 of the Code – failure to comply with relevant obligations concerning Witness L’s overnight stay and sleeping arrangements at the 2021 Australian National Championships. b. Article 2(d) - the Applicant failed to maintain high levels of professionalism, in inviting a young [REDACTED] athlete to recovery sessions in circumstances where he knew or ought reasonably to have known that it was likely only the young [REDACTED] athlete would attend and that he had not sought their consent to stay. c. Article 2 (j) - the Applicant failed to ensure the safety and welfare of Witness J in not considering the appropriateness of his actions when realising they were the only individuals attending the recovery session and the potential risk of misunderstanding. Further he should have sought their consent to continuing with the recovery session which he did not do. This conduct made the athlete feel uncomfortable and unsafe. d. Article 2(e) – the Applicant did not treat Witness J in a fair, ethical and considerate way, in failing to vary the nature and location of their recovery sessions in all the circumstances. <p>I am not comfortably satisfied that the Applicant inappropriately organised single bedroom accommodation for [REDACTED] to share with him during the 2022 Melbourne Track Classic.</p> <p>I am further not comfortably satisfied that the Respondent has discharged its burden of proof concerning allegations in relation to Witness C.</p>
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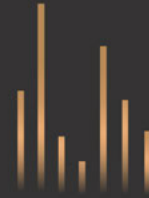


SANCTION

237. Having regard to the nature of the relevant conduct, and in the circumstances of the case, it is fair and reasonable to impose a sanction in relation to all five allegations.
238. The original sanction imposed by the Respondent on the Applicant for the breaches of the Code identified in its preliminary investigation was permanent cancellation of the Applicant's coaching accreditation. Where the Respondent has imposed a sanction and where that sanction is challenged before the NST, the NST Member is entitled to deal afresh with the question of sanction, which may or may not accord with the original sanction imposed by the Respondent.
239. The findings of Code breaches in this proceeding are numerous but there were some alleged breaches of the Code put forward by the Respondent which were also not substantiated. I did not find for example that the Applicant had engaged in further acts of sexual harassment against two [REDACTED] athletes under charge 3. Further I did not find that the Applicant engaged in serious misconduct as alleged under Charge 5 in relation to Witness L or [REDACTED]. There are also no findings made in relation to Witness C.
240. In total however, there are still 19 separate breaches of the Code found across the five categories of alleged breaches.
241. The findings are that the Applicant engaged in serious and repeated breaches of the Code across multiple categories of misconduct over several years, including sending sexualised content and engaging in sexualised conversations, sexual harassment of [REDACTED] participants, permitting a toxic and sexualised environment within his training squad, making negative comments about the appearance and bodies of athletes and failure to respect professional boundaries between a coach and athletes. This misconduct involved numerous [REDACTED] athletes under his supervision over a period of years, as outlined in the table at paragraph 236.
242. Under the Arbitration Agreement, the parties were invited to provide further submissions on any applicable sanction that may apply in relation to the findings that Code breaches had occurred.
243. In its submissions on sanctions dated 19 February 2026, the Respondent argues the NST Member should cancel the Applicant's AA coaching accreditation with any future application for reaccreditation to be assessed by the Respondent at its absolute discretion.
244. In the alternative, the Respondent submits that if the NST Member forms the view it is necessary or appropriate to impose a fixed, rather than an indefinite suspension of accreditation, then the following combination of sanctions would in those circumstances be appropriate:
- a. the suspension of the Applicant's AA accreditation for a period of four years;
 - b. prior to applying for reaccreditation, the Applicant must, within a 12-month period;
 - i. have undertaken and satisfactorily completed training and education programmes, including training conducted by Sports Integrity Australia on the national integrity framework and safeguarding children and young people in sport induction, the Australian Human Rights Commission on drivers and risk factors for relevant unlawful behaviours and unlawful behaviours covered under the positive duty, the Australian Institute of Sport /Australian Athletics' Disordered Eating and Eating Disorders in Sport and training conducted by Play by the Rules on Harassment and Discrimination; and



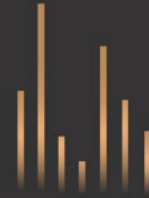
- c. satisfactorily completed a return to sport interview with the Respondent's General Manager of Integrity, demonstrating that the Applicant is to the Respondent's reasonable satisfaction, aware of and intending to embody, the behaviours expected of a high-performance AA accredited coach.
240. The Respondent says that given the frequency and number of breaches found against the Applicant, the period over which they occurred and the significant impact on the [REDACTED] athletes, that the cancellation of the Applicant's accreditation is the only form of sanction that is sufficient.
241. The Respondent does not seek individual penalties for each offence and says that a fair or proportionate outcome would not be achieved by allocating a penalty to each breach and adding them together. Rather, the Respondent submits the appropriate course of action is to consider the totality of the proven breaches and to then impose a single sanction or set of sanctions that achieves the aims of general and specific deterrence and which ensures that [REDACTED] athletes who might otherwise seek to engage the applicant as their running coach are appropriately protected from harm.
242. The Applicant in his submission of 19 February 2026, says that if sanctions are to be imposed, a one-year suspension, together with completion of any re-education or professional development courses as directed by the Respondent would be fair, reasonable and proportionate. He has not articulated the nature of type of the training to be undertaken.
243. The Applicant makes no submissions in relation to how the NST Member should arrive at a one-year suspension, not when it should apply from. He has also not referred the NST Member to any materials or precedent that the Tribunal should take into account in determining how to assess sanction.
244. He has provided the NST Member with statements from a number of character witnesses, some of whom were squad members, previous or current athletes or parents of athletes or colleagues and peers. These statements have been considered and are referred to in more detail below.
245. I consider it is appropriate in all the circumstances to consider the application of one sanction only to the circumstances of the case. I have formed this view, taking into account the interconnecting nature of the parties, conduct and events that were the subject of these proceedings. I am not persuaded it is efficient, fair or appropriate to consider the 19 Code breaches separately for the purposes of sanction. This is not a case of isolated behaviour. Taken together, the breaches of the Code constitute a systemic and prolonged failure in the duty of care a professional coach owed squad members and the sport. The breaches should therefore be assessed holistically.
246. The use of concurrent and/or cumulative penalty assessment across 19 breaches (or even the five Alleged breach categories) seems unlikely to result in a fair, reasonable or proportionate outcome. Indeed, it may bring about an artificial penalty which does not meet the aims of the framework. In reaching this view I have had regard to the obligation to ensure any sanction imposed is proportionate, the practice and previous decisions of the NST and the matter of *UK Athletics Limited and England Athletics and Graham McMullen, 25 July 2023*, referred to me by the Respondent.
247. In assessing sanction, I have taken into account the Sports Integrity Australia Penalty Guidelines (SIA Guidelines) and the corresponding Case Categorisation model. This is a model that has been



previously applied by members of the NST to guide the assessment of sanction in other matters (see for example NST – E23-375291).

248. Broadly speaking the imposition of sanction under the framework has three aims:
- a. to protect an individual from harm including injury, emotional harm, loss or damage, embarrassment, distress and humiliation;
 - b. protecting the integrity of the sport; and
 - c. sending a clear message that the conduct in question was unacceptable.
249. Clauses 9.4a) and 9.4b) of the SIA Guidance relate to the imposition of sanctions. It provides that when deciding on an appropriate sanction the following matters, among other things, should be considered:
- a. the seriousness of the behaviour;
 - b. whether it was a one-off incident or part of an overall pattern of behaviour; and
 - c. the potential impact on public confidence in the integrity of the sport.
250. The SIA Guidance¹ provides for objectivity, consistency and transparency in evaluating allegations of misconduct under the Code and determining the appropriate Assessment process under the National Integrity Framework. The decision and process of how to progress alleged breaches of the national integrity framework comprises of three main components:
- a. case categorisation;
 - b. aggravating and mitigating circumstances; and
 - c. sanctions and related measures.
251. The Applicant has made no submissions in relation to the categorisation of the breaches.
252. The Respondent submits that one limitation of the Guidance is that it assumes offences related to a singular event, which has not occurred in this instance. I have taken this into account in my assessment.
253. I accept the Respondent's submission that this is not a case of Category 1 behaviour, which involves minor allegations of prohibited conduct such as mistake or misunderstanding.
254. The Respondent submits that the majority of the breaches, would, if viewed in isolation, be classified as Category 2 breaches, but more severe category 2 breaches can in some circumstances may be more appropriately classified as Category 3.
255. Page 5 of the SIA Guidance refers to "Category 2" matters. It states relevantly as follows:

¹ A copy of this document appears on [this page](#) of SIA's website.



■ CATEGORY 2: AMBER – MEDIUM

Category 2 (Amber) matters allege Prohibited Conduct violations, and may involve the risk of moderate or reasonable harm, or repeated, more severe or more complex **Category 1** allegations.

Category 2 matters may also allege more severe prohibited conduct violations, or complicating factors, having regard to frequency, intensity, number of reported incidents or complaints received, or where the circumstances indicate a reasonable possibility for escalation (and may require referral to law enforcement).

The presence of any **complicating factors** may escalate a matter to a more severe Category. Complicating factors include a real risk of harm, criminality, aggravating factors (as set out in *Aggravating and Mitigating Circumstances*), an uncooperative Respondent or risk to the sport.

256. Page 6 refers to “Category 3” matters. It states relevantly as follows:

■ CATEGORY 3: RED – HIGH

Category 3 (Red) matters may involve criminal behaviour and /or immediate risk of harm, and includes child abuse, sexual abuse and includes sexual misconduct, as well as serious assault, doping and corruption.

Category 3 matters may include more severe **Category 1** or **2** allegations where there is the presence of significant complications.

Whether a matter is more severe is determined on the specific circumstances, including the frequency, intensity, number of reported incidents or complaints received.

The presence of any **complicating factors** may escalate a matter to a more severe Category. Complicating factors include a real risk of harm, criminality, **aggravating** factors (as set out in *Aggravating and Mitigating Circumstances*), an uncooperative Respondent or risk to the sport.

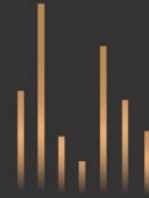
Category 3 matters must be reported to law enforcement /child protection, as mandated. Restrictive measures or provisional safety plans may be imposed as appropriate.

257. Category 2 complaints therefore may escalate a matter to the more severe Category 3 if there are complicating factors. Those that are relevant to the consideration of sanction in this case include a real risk of harm, aggravating factors, or risk to the sport, such as its reputation or its integrity.

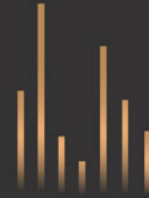
258. Page 7 of the SIA Guidance states that the relative level of aggravating and mitigating circumstances may impact on the ultimate categorisation of a matter, as well as the appropriate sanction. It sets out a list of aggravating circumstances, as follows:

Aggravating circumstances include consideration of:

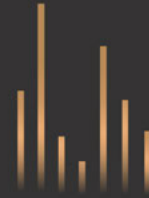
- The presence of criminality, including sexual abuse.
- Actual or threatened use of violence.
- Breach was committed in the presence of a child under 18 years of age.
- Victim’s vulnerability, for example, because the victim was very young or very old or had a disability, or because of the geographical isolation of the victim.
- Behaviour that is malicious, or targets vulnerable people.
- Behaviour that is coordinated or operating as part of a group.
- Behaviour that targets multiple parties or results in multiple victims.
- Breach motivated by race, religion, ethnicity, nationality, sexual identity, disability, gender.
- Gratuitous cruelty.
- Injury, emotional harm, loss or damage was substantial, including the level of embarrassment, distress or humiliation by the victim.
- Previously similar conduct or related breaches, previous sanctions.
- Failure to comply with provisional action.
- Breach whilst on probation or a sanction.
- Ongoing and sustained offending over a period of time.
- Abuse of position of power or trust.
- Attempting or disposing of evidence.
- Lack of cooperation.
- The breach was premeditated (rather than spur of the moment).
- The Respondent has previously undertaken education in relation to the particular type of conduct.



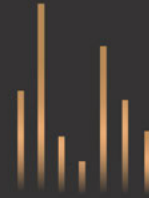
259. The Respondent says that many of these aggravating circumstances are also present in this case, namely:
- a. instances of the Applicant's conduct occurred in the presence of a person under the age of 18;
 - b. the Applicant's conduct targeted multiple parties;
 - c. the Applicant's conduct was ongoing and occurred over a sustained period; and
 - d. by way of his conduct the Applicant abused his position of power and trust with respect to the squad.
260. I accept that submission and add an additional aggravating factor that in my view was apparent from the evidence. Namely that the injury, emotional harm, loss or damage suffered by some of the participants was substantial, including their level of embarrassment, distress and humiliation.
261. Page 8 of the SIA Guidance sets out a list of mitigating circumstances to be taken into account. The Respondent submits that the only relevant mitigating factor listed in the SIA Guidance appears to be the potential financial impact on the applicant of a cancellation of his accreditation.
262. There are other mitigating factors that I have considered, including acceptance of responsibility for the breach, the level of remorse/contrition of the Applicant for the conduct and whether the breach was uncharacteristic. For an assessment of the latter factor, I have considered character evidence submitted by the Applicant.
263. First, in relation to the financial impact of any sanction that suspends the Applicant's accreditation. The Respondent says that the cancellation of a person's AA coaching accreditation does not prevent them from providing services as an athletics coach or a personal trainer. It simply means they no longer gain access to certain benefits of accreditation such as insurance coverage, learning networking opportunities or the ability to market themselves by that title.
264. In my view, this does not accurately describe the loss of reputation suffered by the Applicant as a result of the original decision to cancel his accreditation. In practice, given the Applicant says coaching is his primary form of income, the ultimate outcome of a period of suspension or cancellation of his coaching accreditation is he will be prevented for a period of time from earning his historic source of income as a coach of athletic squads within schools and in the professional athletic community. It is a relevant factor to be considered.
265. I note that the Applicant has estimated his current loss of income at exceeding [REDACTED]. The Applicant has not provided any evidence in support of that assertion, but I accept the current and future loss of any sanction will be substantial for his circumstances.
266. I accept that there is significant evidence about the loss of the Applicant's reputation and his livelihood as an accredited coach. He has given evidence that since the complaints were lodged and during the time of the investigation, he has been banned from a number of school campuses and lost access to training facilities.
267. Another mitigating factor I have assessed is the evidence in relation to whether the Applicant has accepted responsibility for his conduct or has expressed remorse or insight into his conduct.



268. The Applicant's acknowledgement in his final submission that he is not without fault and has accepted responsibility where it was properly due. He does not however go onto say what it is he thinks he has done wrong or where he has been at fault.
269. The Respondent says that the Applicant has shown a complete lack of remorse and insight into his conduct which increases the risk of the Applicant engaging in similar behaviour in the future and underscores the needs for sanctions of the type that the Respondent seeks.
270. The NST Member has already found that the Applicant has demonstrated very little insight or empathy into the harm and impact of his conduct. I have been reminded by the Respondent of the Applicant's answers to questions during cross examination by way of example including the following exchanges:
- a. when asked about the existence of a power imbalance in the athlete/coach relationship, the Applicant stated "*adult [REDACTED] athletes can be very manipulative... there's definitely a lot of manipulation that goes on. And I don't know whether it's just how society is now or the way things have gone, but they certainly play on different things to suit themselves.*" (see page 22 of the Day 2 transcript); and
 - b. when responding about the potential correlation between body fat percentages and running times and whether that focus made athletes feel they needed to look lean and muscular in order to attain the Applicant's praise and attention, the Applicant stated, "*I think that's totally a totally individual thing and their own perception of things but certainly not my intent.*" (see page 45 of the Day 2 transcript).
271. I note that none of the Applicant's submissions contain apologies to any athlete or the squad for his conduct or the impact it may have had. There is no acknowledgment by the Applicant that his behaviour may have in any way been construed or interpreted in the way it has been by squad athletes, even if unintended. He has shown no understanding of the laws related to sexual harassment or that photographs sent to young [REDACTED] may be construed as sexualised content. He has also not acknowledged that his coaching techniques may have led to significant disordered eating and other health conditions in younger [REDACTED] athletes, as described by accredited dieticians in their evidence.
272. Remorse has been described in the case law as the determination to change a person's behaviour and to the extent possible, make amends. Remorse is usually described in terms of deep regret and repentance for wrong committed and wrongdoing. See *Barbaro v The Queen*, *Zirilli v The Queen*, [2012] VSC 288 at paragraphs 34 to 36.
273. In that case the Supreme Court of Victoria, Court of Appeal at paragraph 38 stated that the most compelling evidence of genuine remorse and a desire to atone will come from the testimony of the offender himself. Remorse at paragraph 39 is said to enhance prospects of rehabilitation and reduce the need for specific deterrence in sanction. This is because the person has an accurate appreciation of the wrongfulness of their offending and its impact upon the victims.
274. Unfortunately, there is no evidence in this case to indicate the Applicant acknowledges his conduct had adverse impact, apologises for the consequences of his actions or takes accountability for those actions. There is an absence of genuine remorse in the evidence and no stated desire to atone as described by the Court.

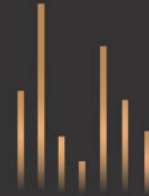


275. In my observation of his evidence and submissions, the Applicant has not demonstrated understanding of the professional boundaries and behaviour expected of an accredited coach. His conduct in the sending of sexualised messages and photographs and engaging in sexual harassment of [REDACTED] athletes, together with the way in which he applied coaching techniques focused on body and appearance also lack understanding of the power imbalance that exists between an older male coach and young [REDACTED] athletes.
276. The Applicant's lack of insight and empathy into the genuine impact and experience these athletes had under his coaching and of his behaviour is compelling and continues to be demonstrated in his submissions of 19 February 2026. To the contrary, in that submission the Applicant describes social media behaviour among athletes as often performative, exaggerated, influenced by peer dynamics and subject to retrospective reinterpretation. This does not constitute genuine remorse in my view. It is simply transferring responsibility to others.
277. The Applicant in my observation continues to hold a mindset outlined in a number of his submissions and in his cross examination of witnesses, that these complaints have been brought as part of conspiracy and collusion by a group of disaffected athletes, that they have no merit and that they are intended to do harm to him.
278. These observations have been taken into account by me in my assessment of whether or not the Applicant is capable of demonstrating different behaviour or being rehabilitated so he will comply with the Code's obligations in future.
279. Simply put, for the purposes of mitigation, I find the Applicant has shown no genuine remorse and continues to blame others for the situation he finds himself in.
280. In terms of other mitigating factors, I have taken into account that the Applicant has dedicated nearly three decades to his athletic professional career and has successfully coached hundreds of athletes with what he describes as professionalism, caring, and integrity. I accept the Applicant's submissions that he has not been the subject of previous disciplinary action or complaints.
281. I have also taken into account the Applicant's character evidence from 11 witnesses, some of whom are former and current athletes, some parents of athletes, some friends and colleagues. These statements universally describe a person dedicated to the sport, who was mentored and coached hundreds of athletes and helped shape successful careers for many.
282. The statements of Witness A, Witness V, Witness S and Witness W, universally state that they never saw the conduct alleged against the Applicant. However as indicated in this decision, two things can be true at the same time. It is not necessary in my view that every athlete in the squad had to have experienced misconduct, for Code breaches to have been sustained. I considered that there is a very consistent pattern of behaviour exhibited by the Applicant that male athletes may not have experienced including sexist, misogynistic and sexualised behaviour.
283. The evidence is also that male and female physique in athletes is different and that similar training techniques and coaching style may have been experienced by men and women differently.
284. I take into account that the Applicant has suffered anxiety, humiliation and embarrassment as disclosed in his submissions and that his family and the athletes he trained have all been deeply affected by these events. I note however that while he has given evidence that he requires ongoing

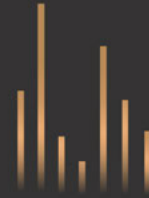


psychological support for his mental health, the Applicant has not provided any medical evidence from any treating doctor in support of these submissions.

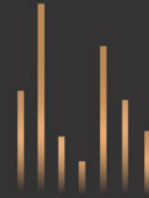
285. I have also taken into account that there have been no further breaches of the Code or allegations of misconduct against the Applicant, since May 2023, when he received the warning letter from the Respondent. This does not however mean then I am satisfied that the Applicant has in fact taken on board the suggestions made in that letter or that he understands and applies the Respondent's relevant policies, including the Disordered Eating Guidelines and Guidelines about the Coaching of Younger Persons and Children in particular.
286. Having considered the case categorisation framework and assessed both aggravating and mitigating factors. I have formed the view that for the purposes of sanction, the Code breaches should be deemed to fall within Category 3, when viewed in their totality. This is because in my view the aggravating factors outweigh the mitigating factors in the Applicant's favour:
- a. there are instances of the Applicant's conduct which occurred in the presence of a person under the age of 18;
 - b. the Applicant's conduct targeted multiple parties;
 - c. the Applicant's conduct was ongoing and occurred over a sustained period;
 - d. the Applicant abused his position of power and trust with respect to the squad; and
 - e. the injury, emotional harm, loss or damage suffered by some of the participants was substantial, including their level of embarrassment, distress and humiliation.
287. I have had further regard in reaching this view to the likely harm to the sport of athletics, including to its integrity and reputation that reasonably arises from public concern about misconduct by officials and coaches towards sporting participants.
288. Pages 9 and 10 of the SIA Guidelines relate to sanctions. For the purposes of this determination, the Guidelines relevantly state:
- a. sanctioning misconduct is primarily aimed at protecting an individual from harm with a secondary aim of protecting the integrity of the sport;
 - b. sanctions are designed to provide a clear message that the behaviour was unacceptable, thereby acting as a specific deterrent to the individual and a general deterrent to any other participant who is considering engaging in that behaviour;
 - c. the decision about whether to apply a sanction needs to be considered carefully on the facts and context of each case having regard to the following:
 - i. the seriousness of the conduct whether it was a one-off incidental part of an overall pattern of behaviour;
 - ii. the potential impact on public confidence in the integrity of the sport; and
 - iii. the views if any of the compliant as to the sanction to be applied;
 - d. aggravating and mitigating circumstances should be taken into account before determining the appropriate sanction. Aggravating circumstances refer to factors particular to a breach that increased the severity or culpability of the conduct; and



- e. as a general rule the more serious the alleged behaviour, the more appropriate it is to use sanction.
289. Page 10 outlines a range of sanctions and related measures that can be considered alone or in combination in applying sanction. For the purposes of Category 2 and 3 breaches, this can include:
- a. formal and mandatory awareness and education requirements;
 - b. mandatory education and programmes;
 - c. temporary or permanent suspension from a relevant event, entity or club;
 - d. withdrawal of accreditation from a relevant sporting event; and
 - e. supervision and mandatory oversight.
290. In assessing the sanction to be applied in this case I have also had regard to the principle of proportionality described within the SIA Guidelines. It states that sanctions and other measures must be applied in proportion to the severity of the violation(s) in any given matter. This will include taking into account any aggravating or mitigating circumstances as I have assessed described earlier in the determination.
291. Taking into account all of the circumstances outlined above I find in relation to sanction as follows:
- a. in order to achieve the aims identified in the SIA Guidelines, it is necessary to impose a period of suspension of the Applicant's AA coaching accreditation. I am comfortably satisfied that only a period of suspension is sufficient to ensure specific deterrence and for the Applicant to understand the gravity and seriousness of his misconduct and that certain aspects of his conduct have caused offence and harm;
 - b. the duration, extent and nature of offending by the Applicant warrants a long suspension, as described above;
 - c. general deterrence is also a relevant factor in determining that a suspension is required. Suspension will send a clear message to sporting participants that such conduct will not be tolerated and that confidence in the sport, its integrity and reputation is a paramount consideration in the assessment of Code breaches;
 - d. a 12-month suspension, as submitted by the Applicant is insufficient to achieve these aims and is wholly inadequate when taking into account the number, duration and seriousness of some of the contraventions and his lack of remorse and insight into his misconduct and the impact it has had;
 - e. I am persuaded in balance that a four-year suspension of the Applicant's AA coaching accreditation, as submitted by the Respondent, is more likely to achieve the stated aims and is a fair and proportionate sanction;
 - f. I have real concerns based on the evidence about the ability of the Applicant to return to coaching in the future once his suspension has expired without extensive professional development and re-education in particular aspects of modern coaching and professional obligations, the law associated with sexual harassment and sexualised behaviour, Disordered Eating Guidance and the coaching of younger persons. This is particularly



- supported by the Applicants lack of insight into his behaviour and his lack of demonstrated remorse;
- g. I find that prior to re-accreditation, the Applicant must undertake and successfully complete the professional development activities outlined in the Respondents submissions of 19 February 2026 at paragraph 4 or equivalent courses:
- i. Coaches education course;
 - ii. the Sport's national integrity framework;
 - iii. Safeguarding children and young people in sport induction;
 - iv. harassment and discrimination;
 - v. ethical obligations under the Code;
 - vi. unlawful behaviours covered under the positive duty; and
 - vii. disordered eating and eating disorders in sport;
- h. The Respondent has requested the Applicant also complete a return to sport interview with the Respondent's General Manager to demonstrate that the Applicant is, to the Respondent's reasonable satisfaction, aware of and intending to embody, the behaviours expected as a high-performance AA accredited coach;
- i. in all of the circumstances I am persuaded that an interview of this nature is warranted, but that it should be undertaken, if possible, by the Respondent's Ethics and Integrity Committee or equivalent body. The evidence indicates this Committee is formed by requested participants and experts who are well placed to assess whether or not the Applicant will in fact undertake his professional obligations as an AA accredited coach in accordance with the Respondent's Code framework; and
- j. in determining the sanction, I have taken into account that the Applicant has already served a 12-month period of suspension, given his AA coaching accreditation was cancelled on 13 February 2025 by the Respondent. I consider it is fair in all of the circumstances as a result, that the four-year suspension therefore expires on 12 February 2029.
292. In reaching these findings on sanction, I have taken into account the Applicant's financial loss and loss of career opportunities.
293. The impact of the decision on the Applicant must also be balanced against the significant and real impact that the Applicant's misconduct has had against numerous ████████ athletes' overtime, that he must be accountable for that conduct and the many and serious breaches of the Code that have been found against him. The decision also sends a clear message of general deterrence to other participants in the industry.



THE TRIBUNAL THEREFORE DETERMINES

1. For the reasons set out in the Determination, I find as follows in respect of the relevant conduct:
 - a. it is fair and reasonable to impose a sanction on the Applicant in place of the original sanction imposed by the Respondent to permanently cancel his AA coaching accreditation;
 - b. it is appropriate and proportionate that the Applicant's Australian Athletics coaching accreditation be suspended for a period of four years. This includes his specific coaching accreditations of:
 - i. Level 4 High performance coach;
 - ii. Level 4 specialist coach (sprints, relays, hurdles);
 - iii. Kids athletics coach; and
 - iv. Athletics Program Coordinator;
 - c. the period of four years suspension commences from the date that the Applicant's accreditation was cancelled by the Respondent, namely on 13 February 2025;
 - d. the Applicant may reapply for accreditation from 13 February 2029 subject to the following:
 - i. that prior to applying for re-accreditation the Applicant undertake and satisfactorily complete the series of professional development courses outlined above; and
 - ii. the Applicant to have successfully undertaken an interview with the Respondent's Ethics and Integrity Committee or equivalent body and that to their reasonable satisfaction, he can demonstrate that he is aware of and intends to comply with the Code.

Dated: 10 March 2026



Dr June Smith