Prioritizing University Sport: How Canadian Sport Can Better Protect Student Athletes

NICOLE FREDRICKSON [*]

ABSTRACT

The governance of Canada's sport system has recently come under scrutiny from stakeholders such as athletes, Parliamentary committees, and former ministers of sport. Concerns surrounding violations of safe sport principles, such as maltreatment and harassment, have come to the forefront. This scrutiny has revealed a systemic failure that urgently needs to be addressed — that there is no federal legislation mandating Canadian sport organizations to adopt safe sport policy or governance procedures. Without legislative oversight, widespread reform is inevitably fraught with challenges and questions surrounding jurisdiction or a stakeholders' role within the context of accountability arise. This is particularly relevant for university sport. While university sport falls under the purview of U Sports, the national governing body for university sport in Canada, athletes may compete internationally, and thus under their national sports organization during the off-season. This article will explore jurisdictional limits that university sport experiences and analyze the impact systemic failures have on addressing safe sport issues. This analysis will also examine what strategies other jurisdictions, such as the United Kingdom and Australia, have employed to address safe sport concerns among university sport and national sport governance more broadly.

[*] J.D. Candidate 2024, Thompson Rivers University. B.A. 2020, University of Victoria.

* Marcus Mazzucco, J.D., is an Adjunct Lecturer in the Faculty of Kinesiology and Physical Education at the University of Toronto and an Advisory Board Member of the Centre for Sport Policy Studies.

** Hilary Findlay, LL.B., Ph.D., is a Member of the Centre for Sport Capacity at Brock University.

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INTRODUCTION

Canada's established history of sport excellence is internationally renowned. These accolades, however, have not been without a cost. Recently, the governance of Canada's sport system has come under scrutiny. Stakeholders have expressed concerns as safe sport violations have emerged.[1] More specifically, Canada is in desperate need of a complete overhaul of its existing system of sport governance.[2] Criticism surrounding the historical prioritization of a "medals-first mandate", rather than focusing on the health and safety of Canadian athletes, has been advanced by scholars and athletes alike.[3] While strategies are underway to address this crisis and redevelop a system that prioritizes the well-being of athletes, it has proven to be ineffective as there is no existing legislation that has the oversight to independently regulate or mandate such efforts. Legal professionals often recognize that what the law says on paper, and how it is applied, can differ greatly.[4] However, with no legislative oversight, current efforts to implement safe sport policy have ultimately proven to be ineffective.

Safe sport has many definitions. It can be characterized as preventing any form of harassment or abuse within sport, including bullying, verbal abuse, and sexualized violence against athletes.[5] Implementing effective policy aimed at preventing and addressing instances that violate safe sport ideals plays a crucial role in prioritizing the safety and well-being of those it

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1 House of Commons, Standing Committee on the Status of Women, *Evidence*, 44-1, No 048 (2 February 2023) at 3:30 (Karen Vecchio).

2 House of Commons, *Time to Listen to Survivors: Taking Action Towards Creating a Safe Sport Environment for All Athletes in Canada* (June 2023) (Chair: Karen Vecchio).

3 Lori Ewing, "U of T Scholars Ask Sport Minister for Review of Own the Podium" (2 April 2022), online: cbc.ca/sports/olympics/uoft-scholars-ask-sport-minister-review-own-the-podium-1.6412584 [perma.cc/KU4A-NUJ4].

4 Sandy Adam et al., "National Sports Governance Observer 2. Benchmarking Governance in National Sports Organisations" (November 2021) at 6, online (pdf): playthegame.org/media/v2cbmyte/national-sports-governance-observer-2_final-report.pdf [perma.cc/7AV3-MXSB].

5 Kate Scallion, "Canada Needs an Actual Safe Sport System" (16 May 2019), online: <impactethics.ca/2019/05/16/canada-needs-an-actual-safe-sport-system/> [perma.cc/Y632-3Z34].

is designed to protect. Because the scope of safe sport is so far-reaching, its efficacy impacts athletes at every level of sport.

University sport, particularly its student-athletes, is an area of governance that is overlooked. The lack of a clear, well-communicated system of governance has further compromised university athletes' safety and well-being. Most notably, there is no effective reporting mechanism that exists to resolve reports of maltreatment, harassment, or abuse at the university level. Without a well-functioning system to receive and properly resolve complaints, reports of maltreatment and harassment are ineffectively resolved. U Sports, the national governing body for university sport in Canada, oversees all regulatory functions that pertain to university sport and its athletes.[6] However, U Sports' oversight is very unclear. This has led to a governance crisis that is further exacerbated by Canada's ineffective sport governance system more broadly. The effects that poor governance has on university athletes is seldom researched. This has left university athletes in a particularly precarious position. Safe sport governance concerns within university sport exist, as up-to-date policy, unified frameworks, and clear governance hierarchies are absent.

Given its oversight, U Sports has arguably one of the most fertile areas in Canadian sport for widespread policy adoption. Unlike other sport organizations in Canada, U Sports oversees just one level of sport; university level. That is – university sports, with athletes attending degree-granting institutions, who compete against teams whose athletes are also enrolled in university institutions. Although its governance is currently lackluster, U Sports has the potential, and likely the ability to, adopt widespread and meaningful reform.

By drawing inspiration from other Commonwealth jurisdictions, the governance of Canada's university sport system can implement improved frameworks. As demonstrated in the UK and Australia, a fulsome review that captured the interests of all stakeholders translated to adequate safeguarding and safe sport resources for athletes. Government funded reports directly resulted in the adoption of sport-specific legislation. The necessity for a fulsome reporting process has become more apparent than

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6 Government of Canada, "National Multisport Service Organizations" (11 September 2023), online: canada.ca/en/canadian-heritage/services/sport-organizations/national-multisport-service.html [perma.cc/GFL9-D7HP].

ever. At present, it is unclear whether a university athlete expresses concerns to their respective university, U Sports, or the Office of Canada's Sport Integrity Commission ("OSIC"). A poorly understood reporting process ultimately places university athletes at greater risk of experiencing perpetuated maltreatment and abuse.

While the governance challenges and jurisdictional issues that university sport faces are ones that Canada also faces more generally, this research seeks to understand its effects on the safety of university athletes. First, I will provide an overview of the governance of sport in Canada. Then, I will delve into the structure of university sport and the role of U Sports, while also acknowledging the unique considerations of university athletes. Finally, I will analyze the implications that inadequate governance has on university athletes and explore practices that can be gleaned from other Commonwealth jurisdictions.

I. OVERVIEW OF SPORTS GOVERNANCE IN CANADA

A. *Development Pre-2018*

The federal government's involvement in amateur sport can be traced back to the early 1960s. In 1961, the *Fitness and Amateur Sport Act* affirmed the commitment the Government of Canada made to "encourage, promote and develop fitness and amateur sport."[7] A decade later, Sport Canada was developed as a branch of the Department of Canadian Heritage.[8] Responsible for the development of competitive sport, Sport Canada provides leadership and administers funding to high-performance athletes.[9]

The promotion of safety in sport first began in 1995 when the federal government adopted the *Sport Funding and Accountability Framework*.[10] This created a funding structure for National Sport Organizations ("NSO") to better support national level sport and promote the hosting of sporting events that helped Canadians compete at the national and international

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7 *An Act to Encourage Fitness and Amateur Sport* [short title: *Fitness and Amateur Sport Act*], S.C. 1960–61, c. 59.

8 Library of Parliament, *Background* Paper, No 2020-12-E (23 January 2020) at 2.

9 *Ibid.*

10 Lucie Thibault & Jean Harvey, *Sport Policy in Canada* (Ottawa: University of Ottawa Press, 2013) at 20.

levels.[11] In the years following, the Athlete Assistance Program ("AAP") emerged to financially support Canada's high-performance athletes and resolve concerns over athlete well-being.[12]

Published in 1998, a report titled "Sport in Canada: Leadership Partnership and Accountability; Everybody's Business", most often referred to as the "Mills Report", outlined the social, cultural, economic, and political significance sport has on Canadians.[13] This report served as a precursor to an extensive Pan-Canadian consultation involving stakeholders at all levels, spanning from recreational sport to high-performance organizations. These consultations led to the enactment of the *Canadian Sport Policy* and the *Physical Activity and Sport Act*, which ultimately created a framework for how Sport Canada was to administer and distribute funds to various sport organizations.[14] This included NSOs, National Multisport Service Organizations ("MSO"), such as U Sports and the Sport Dispute Resolution Centre of Canada ("SDRCC"), and Canadian Olympic and Paralympic Sport Institutes and Centres. Of particular interest is the SDRCC. The SDRCC aims to directly address sports related disputes and complaints, but more importantly, provide a national alternative dispute resolution service.[15] Developing the SDRCC was among the first government initiatives that not only addressed concerns outside of the scope of a NSO, but it also acted as an independent third party in the adjudication of disputes. At its inception, however, using the SDRCC was not mandatorily adopted or imposed.

Past research efforts devoted to improving the administration of sport governance in Canada is well documented.[16] In 2012, an updated *Canadian*

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11 Government of Canada, "Role of Sport Canada" (01 April 2020), online: canada.ca/en/canadian-heritage/services/role-sport-canada.html#a1 [perma.cc/T9GL-99JH].

12 Lucie Thibault & Kathy Babiak, "Organizational Changes in Canada's Sport System: Toward an Athlete-Centered Approach" (2006) 5:2 European Sport Management Quarterly 105 at 111.

13 *Ibid.*

14 *Physical Activity Act*, S.C. 2003, c 2.

15 *Ibid* at s.10(1).

16 Barnes, Cousens & Maclean, "From silos to synergies: A network perspective of the Canadian sport system" (2007) 2:5 International Journal of Sport Management and Marketing 555 at 556.

Sport Policy published a framework to harmonize sport policies in Canada.[17] This policy recognized that four distinct sport contexts, namely the introduction of sport, recreational sport, competitive sport, and high-performance sport, each have a range of complexities that led to barriers in developing unified policies. These can include infrastructure differences, private sector considerations or international sport concerns.[18] The *Canadian Sport Policy* also set forth policy requirements that NSOs had to abide by to ensure they received funding from Sport Canada.

B. *Post-2018 Reforms*

In 2018, Minister of Sport at the time, Kristy Duncan, announced that stronger measures would be enacted to mitigate harassment, abuse and discrimination within sport.[19] These policy changes culminated to the development of the *Universal Code of Conduct to Prevent and Address Maltreatment in Sport* ("UCCMS"), first published in 2019.[20] The UCCMS recognized various forms of maltreatment that are prohibited within sport, along with sanctions for those who were found in violation of it.[21]

In July 2021, the Federal Government designated the SDRCC as Canada's primary "independent safe sport mechanism at a national level."[22] NSOs were not required to seek resolution assistance through the SDRCC due to an absence of legislation or policy that required them to do so.

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17 The Sport Integrity Resource Centre: SIRC, "Canada Sport Policy 2012" at 6 (27 June 2012), online (pdf): <sirc.ca/wp-content/uploads/files/content/docs/Document/csp2012_en.pdf> [perma.cc/RET3-Y8RK].

18 *Ibid.*

19 Canadian Heritage "Minister Duncan Announces Stronger Measures to Eliminate Harassment, Abuse and Discrimination in Sport" (19 June 2018), online: canada.ca/en/canadian-heritage/news/2018/06/minister-duncan-announces-stronger-measures-to-eliminate-harassment-abuse-and-discrimination-in-sport.html [perma.cc/J4Z5-9QEG].

20 Universal Code of Conduct to Prevent and Address Maltreatment in Sport (UCCMS), Version 6.0 (2022).

21 *Ibid* at s. 1.

22 Canadian Heritage, "Minister Guibeault Announces New Independent Safe Sport Mechanism" (06 July 2021), online: canada.ca/en/canadian-heritage/news/2021/07/minister-guilbeault-announces-new-independent-safe-sport-mechanism.html [perma.cc/8YQY-GP8L].

Historically, sport organizations have been given the authority to handle their own affairs. The method of alternative dispute resolution varied according to the policies and procedures of each NSO. This ultimately created a system of inconsistent and unclear dispute resolution across the various NSOs in Canada. Reform came in 2022 when Minister of Sport at the time, Pascale St-Onge, announced that there is a need to promote better governance within organizations to prevent maltreatment and abuse.[23] More specifically, the minister mandated the use of the SDRCC by NSOs and enforce accountability frameworks. As of April 2022, Sport Canada amended their Contribution Agreements with NSOs to ensure that they meet new Sport Canada eligibility requirements through the Sport Funding and Accountability Framework.[24] This was a first for Canadian sport as eligibility requirements to receive funding were previously nonexistent. With this, the Abuse-Free Sport Program, and OSIC launched its first phase of operations.[25]

C. *Safe Sport in Canada*

OSIC is an independent division of the SDRCC that administers the UCCMS under the Abuse-Free Sport Program.[26] The Abuse-Free Sport Program was created by the SDRCC and works with federally funded sport organizations to address alleged UCCMS violations.[27] More specifically, the Abuse-Free Sport Program focuses on prevention, whereas OSIC addresses complaints under the UCCMS.[28] OSIC serves as the centralized hub of the Abuse-Free Sport Program and independently administers the UCCMS.[29] The OSIC management and assessment process acts as an independent

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23 Canadian Heritage, "Minister St-Onge announces new measures to improve accountability and foster a safe and sustainable culture change in sport" (12 June 2022), online: canada.ca/en/canadian-heritage/news/2022/06/government-of-canada-provides-update-and-announces-action-on-safe-sport.html [perma.cc/5D3C-QR3U].

24 *Ibid.*

25 *Ibid.*

26 Office of the Sport Integrity Commissioner, "About" (2022), online: <sportintegritycommissioner.ca/about> [perma.cc/2R66-YV5A].

27 Abuse-Free Sport Sans Abus, "About" (2022), online: <abuse-free-sport.ca/about> [perma.cc/C9U3-HPJ8].

28 *Ibid.*

29 *Ibid.*

third party which determines how complaints and reports should be handled. At first, adhering to this process was not mandatorily adopted and compliance with OSIC was at the discretion of each sport organization. In any event, adoption was typically limited to NSOs. As of May 11, 2023, all MSOs were required to become signatories of OSIC by July 2023, and thus adhere to the Abuse-Free Sport Program, to receive funding from the Government of Canada as a condition of their Sport Canada Contribution Agreements.[30] As a MSO, U Sports was required to become an OSIC signatory. The U Sports Board approved a motion to become a program signatory on June 8, 2023.[31] As a signatory, OSIC will become the third-party independent investigator to U Sports, but only if the complaint filed satisfies UCCMS admissibility criteria that is determined by OSIC (see Appendix B).[32]

II. STRUCTURE OF UNIVERSITY SPORT

A. *Stakeholders*

As previously mentioned, U Sports is the national governing body for university sport in Canada. U Sports oversees over 14,000 athletes across 57 universities nationwide.[33] U Sports universities are organized into four regional associations: Atlantic University Sport (AUS), Canada West (CW), Ontario University Athletics (OUA), and Réseau du sport étudiant du Québec (RSEQ).[34] Stakeholders can be described as "individuals, groups or entities that have an interest in the activity of the organisation and are affected by it or can affect it themselves".[35] While stakeholders typically

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30 Lisa Beatty, "Safe Sport" (Presentation delivered at the AGM, 2023) at 3 [unpublished] online (pdf): <usports.ca/uploads/hq/AGM/2023/Presentations/Day_3/Part_1_-_Safe_Sport_AGM_ppt_%28EN%29_-_Lisa_Beatty.pdf>.

31 *Ibid* at 4.

32 Office of the Sport Integrity Commissioner, *supra* note 26.

33 U Sports, "Member Universities" (28 September 2023), online: <sports.ca/hq/member-universities>.

34 *Ibid.*

35 Sport England & UK Sport, "A Code for Sports Governance" (December 2021) at 64, online (pdf): <sportengland-production-files.s3.eu-west-2.amazonaws.com/s3fs-public/2021-

denote athletes, it can also include other members such as staff, administrators and government officials.[36] The role of stakeholders within the context of U Sports cannot be overstated as they play a direct role in prioritizing the safety of university athletes.

Anecdotal reports of maltreatment and abuse involving university athletes revealed that existing U Sports governance is insufficient in prioritizing the safety of university athletes.[37] If complaints do not fall within the scope of OSIC's jurisdiction, they are left to a university institution to resolve them internally, unless their respective policy dictates otherwise. Like NSOs, using the SDRCC, or becoming a signatory of OSIC, was not previously mandated for MSOs like U Sports. Even as an OSIC signatory, the efficacy of resolving U Sports complaints remains unclear. This uncertainty impacts U Sports stakeholders, namely athletes.

In its first year of operation, of the 193 complaints OSIC received between June 1, 2022 and June 30, 2023, only 66 fell under OSIC's scope and were thus admissible under their jurisdiction.[38] Of the total complaints that OSIC received, 2% of them pertained to university level sport.[39] While OSIC did not stipulate the role of the complainant which filed a complaint at the university level, such as an athlete or coach, they did clarify the various reasons why jurisdiction was denied for all complaints they received. Reasons for denial included: 1) the sport organization not being a signatory of the Abuse-Free Sport Program, 2) the complainant was not considered a participant under the UCCMS, or 3) the matter was unrelated to the UCCMS, or the complaint contained inadequate information to proceed.[40] Of all inadmissible cases, an alternative reporting option was identified in about 50% of cases, while a referral was made in 38% of cases.[41] The

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12/A%20Code%20for%20Sports%20Governance..pdf?VersionId=Q0JD6BVXB.VgwbGEacG0zWsNPiWcGDHh> [perma.cc/U2RW-KBCT].

36 *Ibid.*

37 Laura Kane (The Canadian Press), "Canadian Universities Failing to Protect Athletes from Abusive Coaches, Students Say" (24 November 2019), online: <saanichnews.com/news/canadian-universities-failing-to-protect-athletes-from-abusive-coaches-students-say/> [perma.cc/Y5QN-ZFFH].

38 Sport Integrity Commission, *Abuse Free Sport Sans Abuse Year One Report* (2021) at 7.

39 *Ibid* at 5.

40 *Ibid* at 7.

41 *Ibid.*

remaining inadmissible cases were left unable to be resolved. This leaves a large gap in cases that fall outside of OSIC's jurisdiction, thus leaving a complainant to fall back on their respective sport organization. How these statistics relate to university sport remains unclear. Despite U Sports commitment to the OSIC's Abuse-Free Sport Program, and whether this mandate subsequently requires all universities to do the same, has yet to be seen. Nor do these metrics accurately capture the implications that U Sports recent adoption to the OSIC signatory program has on stakeholders at the university level. The jurisdictional limits of OSIC, and the subsequent implications it has on university sport, have grave consequences. In short, this ambiguity leaves complaints at risk of going unresolved. As discussed above, most complaints submitted to OSIC face jurisdictional limits which prevent them from being resolved, thus "bouncing back" to the respective university that the complaint pertains to. In addition to facing jurisdictional limits when resolving disputes, the inconsistent application of OSIC policy and oversight by U Sports within individual universities places stakeholders, specifically athletes, at risk of having their complaints unadjudicated.

B. *U Sports Governance Structure*

While U Sports oversees all university sport, the administration of each university sport program has historically been at the individual discretion of each university. Before U Sports became an OSIC signatory, thus adopting the Abuse-Free Sport Program, nearly all safe sport complaints were handled by the academic institution and "not the NSO, PSO (Provincial Sport Organization) or MSO".[42] In fact, many university institutions viewed this separation as an advantage as they were traditionally seen as the most capable of handling their own affairs.[43] This is regardless of any safe sport policies or procedures that each university may or may not have. At present, governance by U Sports is ineffective as policies and frameworks are not parallel across all institutions (see Appendix A). At first glance, this seems reasonable as each university has distinct factors to consider within its policy. However, systemic failures attributed to poor governance and inconsistent policy application place the safety of university athletes at risk as it can perpetuate existing safe sport concerns.

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42 Sport Dispute Resolution Centre of Canada (SDRCC), *National Consultations on the Independent Safe Sport Mechanism Summary Report* (2021) at 14.

43 *Ibid.*

At the time of writing, only 39 of the 57 university institutions under U Sports' purview have publicly available policies in place. For the purposes of this review, policies can include a student-athlete handbook or an athlete code of conduct. "Up-to-date" policies are those current for the 2023-24 academic year. Of the 39 university institutions with policies, 29 were either outdated, undated, or did not reflect the current academic year, leaving just 12 universities with up-to-date policies. Just 7 universities had established safe sport resources or had frameworks in place (see Appendix A). Of the 27 universities that did not have publicly available policies, 12 did not have any published policies whatsoever. Policies for the 7 remaining universities could either not be found despite their mention, as the webpage was broken, publication of the policy was pending, or the "policy" published was in the form of an infographic, as opposed to a formal document (see Appendix A). Given this, it is apparent that university sport policy does not operate under universal standards or expectations. For instance, the University of British Columbia ("UBC") in Vancouver does not have a published athlete code of conduct, whereas their campus in Kelowna, the University of British Columbia Okanagan ("UBCO"), does have a published athlete code of conduct. It is unforeseen, and in many ways unexplainable, for there to be no parallels between policies at UBC and UBCO. Of course, internal policy and procedures, meaning information that only university athletes are privy to, may differ from what is represented on their website. For this review, I can only analyze and make inferences from publicly available information. Even though university athletes are students first, there is a need to create separate policies for university sport programs. University athletes require additional considerations that are not always captured by a policy designed for university students more broadly, and thus do not capture the unique concerns of university athletes. Nevertheless, present policy inconsistencies and apparent disconnects across universities further illustrate U Sports' inability to adopt universal policy.

Understanding why policies between university institutions are not mandated or unified could be clarified through the U Sports website. U Sports Central, U Sports' online university athlete platform, is a database for prospective athletes and recruits.[44] Incoming athletes pay a one-time fee

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44 U Sports, "U Sports Central Student-Athlete User Guide" (2021-2022) at 5, online (pdf): <usports.ca/uploads/cis/About/athlete_info/2021-22/U_SPORTS_Central_User_Guide_%2821-22%29_UPDATED.pdf>.

to have lifetime access to this platform which "streamlines processes relating to athletic and academic awards, student-athlete and member communications, letters of intent, international programs, Athletic Financial Awards, and more".[45] It is unclear whether U Sports Central also provides policies, frameworks, or any clarification on U Sports governance, or if it is merely a portal to improve the university athlete recruiting process. Nevertheless, acquiring U Sports by-laws, policies and procedures is difficult. Accessing U Sports "Headquarters" from the U Sports homepage is inconspicuous (see Appendix C).[46] Since there is no dropdown menu from the "HQ" icon, it is not obvious that policy and governance resources are located within this area of the website.[47] Based on currently available documents, none appear to reflect the 2023-2024 academic year, despite the webpage being last updated in 2023.[48] Accessing these resources by another route does not presently seem available. There are various challenges in understanding the governance of U Sports given its currently available policies and codes of conduct. While it is unclear whether U Sports Central provides policies, frameworks, or codes of conduct, the inaccessible nature of accessing governance information from the U Sports website, makes it challenging to determine what policy U Sports is governed by since none appear to be up-to-date.

III. Considerations Unique to University Athletes

Some of Canada's most notable athletes began their careers later in life, such as Jeremiah Brown[49] and Kelsey Mitchell.[50] This is particularly true for

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45 U Sports, "U Sports Central" (n.d.), online: <usportscentral.ca/StudentCentre> [perma.cc/NQP3-EQSX].

46 U Sports, "Homepage" (n.d.), online: https://en.usports.ca/landing/index [https://en.usports.ca/landing/index].

47 U Sports, "Welcome to U SPORTS Headquarters!" (n.d.), online: <usports.ca/hq>.

48 U Sports, "By-Laws, Policies, Procedures" (08 February 2023), online: <usports.ca/hq/by-laws-policies-procedures>.

49 Canadian Olympic Committee, "Jeremiah Brown" (2024), online: <olympic.ca/team-canada/jeremiah-brown/> [perma.cc/DZ5Q-7C89].

50 Donna Spencer (The Canadian Press), "Alberta's Kelsey Mitchell discovers her track cyclcing talen in time for Tokyo 2020" (12 September 2019), online: cbc.ca/news/canada/edmonton/kelsey-mitchell-s-track-cycling-talent-sherwood-park-tokyo-2020-1.5281366 [perma.cc/5QXU-C4YJ].

late-entry sports. There are many reasons why this occurs. For instance, each sport has an optimal range where athletes can expect to reach their peak performance. At the Tokyo 2020 Olympics, the age range of male and female athletes competing in swimming and diving events was, on average, within their early 20s,[51] whereas the age range of male and female athletes competing in volleyball, basketball or golf was, on average, within their mid 20s (see Appendix D).[52] For athletes that take up a sport later in life, they have the opportunity to expedite their sporting career while attending university. This could be attributed to a university athlete's access to non-university competition. In addition to U Sports affiliated competitions, university athletes may also compete at events hosted by their NSO, such as national level events that are open to non-university athletes. This, of course, varies across each sport.

For athletes that are eligible to compete at both NSO and MSO hosted events, they essentially compete in more than one capacity. On one hand, they train and compete for their university. This could be during the academic year, typically between September and April. On the other hand, that same athlete may also be eligible to compete at a national level, beyond that of a typical university athlete. Depending on their national ranking, they may represent, and thus train with, their national team at international level events during the university off-season. While they may not be considered a "national team athlete" in the traditional sense, that is, athletes who are training full time in the pursuit of competing at events such as the Olympic/Paralympic Games or World Championships, they remain under the general scope of their sports NSO in their university off-season.

While under the purview of a NSO, an athletes' classification is understood through their "carding" status. The AAP, as mentioned earlier, was developed to financially assist athletes throughout their career. This sport funding program is administered by Sport Canada and is only offered to qualifying athletes. An athlete's carding status is dictated by standards set forth by each NSO. This status can range from development to senior level national team cards (see Figure 1).

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51 Rafal Chomik and Michael Jacinto, "Peak Performance Age in Sport" (August 2021) at 2, online (pdf): <cepar.edu.au/sites/default/files/peak-performance-age-sport.pdf> [perma.cc/6J8U-UHWN].

52 *Ibid.*

The Sport Canada AAP funds Athletes in Olympic Events at two levels:

Senior Card:	Senior International Card (SR1, SR2)	$1,765.00/month, totalling $21,180/yr
Senior Card:	Senior National Team Card (SR)	$1,765.00/month, totalling $21,180/yr
Developmental Card (D):		$1,060.00/month, totalling $12,720/yr

Figure 1 – Swimming Canada AAP Funding [53]

Typically, an athlete's carding status has a direct relationship with how much an athlete is required to train at a national training location, sometimes referred to as a National Training Centre ("NTC"). For example, a development athlete may only be competing at an Under-23 level, and thus only need to be training at a NTC throughout peak competition periods. This can be ideal for university athletes with sports that have an international competition season during the summer months. This creates a situation where an athlete is considered a university athlete throughout the academic year, but a national team athlete during the summer. For athletes that jump between these two designations, they fall within two sport jurisdictions: their university institution and their NSO. At first glance, this seems reasonable as university athletes should have the choice to compete for their national team during the university off-season. However, this unclear jurisdictional oversight creates a situation where athletes fall within a "grey area" of sport governance. This ambiguity has a profound impact on how sport is governed for university athletes as they can either fall under the scope of their university or their respective NSO. This relationship,

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[53] Swimming Canada Natation, "Athlete Assistance Program Criteria – Olympic Program" (n.d.) at 2, online (pdf): <swimming.ca/content/uploads/2022/12/ATHLETE-ASSISTANCE-PROGRAM-CRITERIA-2023-24-%E2%80%93-OLYMPIC-PROGRAM.pdf> [perma.cc/TDD5-N8GE].

however, is unclear. Delineating when an athlete is or is not considered a university athlete, and which governance structure takes precedence is poorly understood. This is particularly true for development athletes who may train with their university instead of their NTC during the university off-season. Without this clarity, university athletes needing to access safe sport resources are more likely to face additional barriers when compared to a typical, non-university athlete.

IV. ANALYZING THE U SPORTS SYSTEM

My analysis of the U Sports system uses two approaches: a stakeholder approach and a comparative approach. The stakeholder approach will assess the U Sports system by understanding the perspectives of its primary stakeholders, university athletes. Then, a comparative approach is used to differentiate the Canadian university sport system from the National Collegiate Athletic Association ("NCAA") in the United States, British Universities and Colleges Sport ("BUCS") in the UK, and Australia's UniSport. While the research analyzing NCAA athletes employs a stakeholder approach, it will be analyzed through a comparative approach to contrast it from Canadian university athletes. Stakeholders can provide a firsthand account of how the U Sports system is governed. However, a lack of formalized research which recognizes the experiences of Canadian university athletes does not provide a fulsome understanding. Given this, a comparative approach was used to provide a more holistic overview of the U Sports system.

A. *Stakeholder Approach*

In Canada, we can gain insight into the experiences of stakeholders through anecdotal reports of maltreatment and abuse. For instance, University of Lethbridge women's hockey players reported to have "suffered psychological and emotional impacts" as a consequence of abusive coaching practices.[54] University of Victoria women's rowers testified that in addition to leaving the rowing program altogether, they experienced a wide range of mental health issues such as post-traumatic stress disorder, anorexia,

54 Kane, *supra* note 37.

insomnia, depression, anxiety, panic attacks, dissociation, and suicidal thoughts due to the conduct of their former head coach."[55]

Under the current governance structure, it is reasonable for university athletes to presume that NSO policy would apply to their university since their ability to compete between their NSO and university is interchangeable. However, this assumption is inaccurate given the existing legislative and sport governance framework.[56] University institutions can internally review safe sport concerns and are not mandated to involve the relevant NSO, creating a communication challenge for athletes that file complaints.[57] Few universities publicize safe sport resources and reporting options, leading to additional challenges in determining where and how an athlete can file a complaint or report a concern (see Appendix A). Since there is no explicit link to an athletes' NSO, they may not realize the possibility of filing a complaint with the NSO even exists. While this issue most notably affects athletes, it also creates problems for university sport directors and their management. With no mandatory policy adoption criteria for universities to follow, coupled with a lack of government oversight, the safety of university athletes is jeopardized as they are most affected by ineffective governance and policy. Whether it be a coaching code of conduct or resources provided to athletes explaining how they can report complaints, numerous challenges arise from a patchwork system of governance. This ultimately allows complaints to be more likely to go unresolved. However, university administrators cannot be entirely to blame. With so many government initiatives being enacted in recent years, it is undeniably challenging for university institutions to continually update their policies to align with everchanging government programs and procedures.

Stakeholders' unfamiliarity with the governance of sport in Canada, specifically with the safe sport reporting process, remains apparent. During the drafting of this paper, an updated SDRCC Abuse-Free Sport Program Activity Report was published. Of the five most-reported topics of concerns disclosed to the Abuse-Free Sport Helpline between July 1 and October 31, 2023, inquiring about the safe sport process was the foremost topic of

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55 Rowing Canada Aviron, *Full Written Decision with Reasons on Complaints Against Barney Williams* (2021) at paras 38, 58, 78 and 92.

56 Sport Dispute Resolution Centre of Canada (SDRCC), *supra* note 42 at 14.

57 *Ibid.*

concern.[58] Specifically, 17% of the 127 safe sport-related inquiries received during the reporting period were about a complainant's unfamiliarity with the governance process.[59] By comparison, the second most-reported topic of concern surrounded bullying, at 13%.[60] While only 1% of all reports pertained to university level sport, the SDRCC Abuse-Free Sport Program Activity Report indicates that stakeholders continue to misunderstand the sport governance process.[61] Despite recent reform to improve the safe sport process more broadly, sport governance in Canada remains ambiguous and unclear.

For most university students, a typical undergraduate degree takes four years to complete. University athletes who take longer to graduate due to training and competition requirements face additional challenges concerning their eligibility. U Sports imposes restrictions, allowing athletes only five eligible years of university level competition.[62] While university sport typically refers to students completing their undergraduate degree, it can also include students in graduate programs.[63] Nevertheless, university athletes will inevitably age out of their eligibility and thus cycle out of the university sport system. At first glance, this seems reasonable as university athletes must continue to prioritize their studies and be encouraged to finish their degree within a prescribed timeline. Conversely, as university athletes cycle out, so could the concerns they bring forward to their university. This means that any complaints that are brought forward are at risk of aging out with the athlete who brought them forward, especially if they are unable to be adjudicated by OSIC. In some regard, it acts as an informal limitation period, potentially restricting an athlete's ability to bring forward a claim

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58 SDRCC, "Activity Report For the Period of July 1 to October 21, 2023" (4 December 2024) at 1, online (pdf): <sportintegritycommissioner.ca/files/Abuse-FreeSport_ActivityReport_July_October2023_FINAL.pdf?_t=1701700239> [perma.cc/RWR4-CQYP].

59 *Ibid.*

60 *Ibid.*

61 *Ibid* at 2.

62 U Sports, "Policies and Procedures – Eligibility" (August 2021) at para 40.10.4.3, online (pdf) <usports.ca/uploads/hq/By_Laws-Policies-Procedures/2021/Policy_40.10.1_to_40.10.6_Eligibility_Rules_%282021-2022%29_DRAFT.pdf> [].

63 *Ibid* at para 40.10.2.4.

once they graduate. Unlike other sport organizations, universities must forfeit an athlete's ability to compete once their eligibility ends.[64] This poses a serious risk because universities are not explicitly obligated to address safe sport issues once this occurs.

The absence of a direct link to a university sport and the respective NSO leaves sport organizations vulnerable to cases of abuse, discrimination, or harassment within a university sport program.[65] The lack of up-to-date reporting options and accountability frameworks exacerbates existing concerns, making it challenging to address issues as there are no adequate systems to resolve them.[66] It is reasonable to presume that the first person an athlete reaches out to when expressing a concern would be their head coach. Yet, if that concern involves the head coach themselves, going to their university varsity sport director to express these concerns may fall on deaf ears. This was exemplified in 2018 when University of Victoria women's rowers and their assistant coach expressed concerns to the associate director of sport over a newly hired head coach.[67] The complaints were not addressed, and no formal resolution process took place. Since then, a civil lawsuit has been filed, and the head coach has "resigned".[68] Three years later, Rowing Canada Aviron, issued a 12-month sanction against the head coach from coaching anywhere in Canada.[69]

While poor sport governance typically affects athletes, barriers to resolving complaints by university sport directors and their management remain present. With no mandatory criteria that universities are held to, oversight into how to instill policy and procedures into protecting university athletes often goes unnoticed. Whether it be a coaching code of conduct or resources provided to university athletes, numerous challenges result from a patchwork system of sport governance, thus leaving complaints at risk of going unresolved. While efforts to implement a code of conduct or

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64 *Ibid* at para 40.10.4.3.

65 *Ibid.*

66 Kane, *supra* note 37.

67 Rowing Canada Aviron, *supra* note 55 at paras 39, 108, 147 and 157.

68 Brenna Owen (The Canadian Press), "UVic, women's rowing coach deny former athlete's allegation of verbal abuse" (10 April 2021), online: <vancouverisland.ctvnews.ca/uvic-women-s-rowing-coach-deny-former-athlete-s-allegation-of-verbal-abuse-1.5382482> [perma.cc/HNM4-JD22].

69 Rowing Canada Aviron *supra* note 55 at para 180.

resources prioritizing athlete safety are seemingly straightforward, Canada's inability to develop an effective governance system has been a well-documented challenge.

B. *Comparative Approach*

Despite anecdotal accounts of university athletes' experiences with maltreatment, there is a lack of formalized research analyzing the effects poor governance has on university athletes and university sport more broadly. There is, however, limited research which details the perspectives of NCAA athletes.[70] Through this research we can recognize that while there are many well-established benefits to participating in collegiate level sport, it can also be a place where abuse and other non-accidental harms occur, resulting in devastating consequences for athletes.[71] Reported positive outcomes of participating within NCAA sport included "developing a more caring coaching and life philosophy, the formation of lifelong friendships, and a desire to serve as an advocate for other student-athletes". Conversely, negative outcomes were reported to include "the development of post-traumatic stress disorder (PTSD) and PTSD-like symptoms, chronic mental health impairments, a need for more long-term counselling, relationship impairments, and burnout from sport."[72] Though the extent of abuse and individual experiences can vary, traumatic events have enduring effects on athletes which can extend into their personal lives.[73]

While we can draw comparisons between the experiences of NCAA athletes to the anecdotal experiences of university athletes in Canada, until formalized research efforts are employed, we can only rely on anecdotal experiences to understand how existing sport governance is impacting university athletes at present. However, inherent challenges persist as many athletes are reluctant to publicly disclose, or report instances of misconduct or maltreatment. Given this, introducing effective safeguarding to prevent harm is not only vital to promote safety among university athletes in

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70 Katherine N. Alexander, Kat V. Adams & Travis E. Dorsch, "Exploring the Impact of Coaches' Emotional Abuse on intercollegiate Student-Athletes' Experiences" (2023) 32:9 Journal of Aggression, Maltreatment & Trauma 1285 at 1292.

71 Miguel Nery et al., "Editorial: Safeguarding in sports" (2023) 13 Front. Psychol 1 at 1.

72 Katherine N. Alexander, Kat V. Adams & Travis E. Dorsch, *supra* note 70 at 1292.

73 *Ibid.*

Canada, but it also eliminates the tendency to create policy from the "top-down".

Turning to strategies developed by other Commonwealth countries, such as the UK and Australia, is advantageous while Canada continues to improve its governance system. This is particularly true for university sport as both the UK and Australia remain successful at prioritizing the safety of university athletes as a direct result of well-developed sport governance systems. While it is seemingly easy to draw comparisons to sport governance models in the United States, namely the United States Center for SafeSport and the *Safe Sport Authorization Act*[74], insight gleaned from these systems falls short in providing meaningful recommendations in its application to university athletes within Canada. This is namely due to the stark policy and structure differences between the NCAA and U Sports. Therefore, for the purposes of this review, I will keep my analysis focused on Commonwealth jurisdictions.

In the UK, BUCS is the national governing body for higher education sport.[75] Similar to U Sports, BUCS facilitates the delivery of sport to university athletes across the UK. Published in 2021 by the Lords Sports and Recreation Committee (the "Committee"), "A national plan for sport, health and wellbeing" highlighted various risks associated with failing to remain proactive in setting clear goals and better coordinating departments in administering sport within the UK.[76] One of its key recommendations included imposing financial sanctions against publicly funded bodies that fail to demonstrate safeguarding.[77] At first glance, this recommendation aligns closely with OSIC mandating the adoption of safe sport policy for government-funded organizations within Canada. However, this report comes two years before that requirement was made mandatory in Canada. Further, the Committee also recognized that the existing framework of sport and recreation within the UK is "uncoordinated and fragmented from the top down".[78] This conclusion was accompanied by a recommendation to

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74 *Protecting Young Victims from Sexual Abuse and Safe Sport Authorization Act*, 36 U.S.C. § 220541 (2018).

75 British Universities and Colleges Sport (BUSC), "About" (2023), online: <bucs.org.uk/about.html> [perma.cc/8KJJ-MUY7].

76 UK, HL, *A national plan for sport* (Cm 113, 2021).

77 *Ibid* at para 406.

78 *Ibid* at para 76.

develop a new architecture of cross-departmental working and to reset delivery and funding.

Sport Integrity Australia was founded in 2020 as a direct response to recommendations made by the Australian Department of Health in their "Report of the Review of Australia's Integrity Arrangements".[79] In light of this review, the *Sports Anti-Doping Authority Amendment (Sport Integrity Australia) Bill 2019* was enacted to amend the *Australian Sports Anti-Doping Authority Act 2006* to establish a single point of responsibility which would address all sport integrity matters.[80] This led to the formation of the National Integrity Framework (the "Framework"). The Framework can be accessed on the Sport Integrity Australia website and provides an independent complaints process. Additional resources, such as template integrity policies, are also available.[81] Offering a precedent, along with what the "bare minimum" policy requirements are, provides sport organizations with a foundation to develop their policies.

Following the enactment of the *Sports Anti-Doping Authority Amendment (Sport Integrity Australia) Bill 2019*, UniSport, the national governing body for university sport in Australia, announced in 2022 that they would adopt the Sport Integrity Australia Framework to better support university athletes and their respective institutions.[82] Since this Framework is governed by federal legislation, it guarantees a level of accountability over each organization that it oversees. Reports and formal complaints are made directly through the Sport Integrity Australia website, with a reporting category specifically designated for university sport.[83] If a sport organization, for instance, is not operating under the National Integrity Framework, then the website will not allow for a report to be made. It will, however, provide

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79 Sport Integrity Australia, *Report of the Review of Australia's Sports Integrity Arrangements* (Canberra: Department of Health, 2017) at 6.

80 *Australian Sports Anti-Doping Authority Amendment (Sport Integrity Australia) Bill 2019* (Commonwealth), 2019 at 4 (Austl).

81 Sport Integrity Australia, *supra* note 79 at 234-255.

82 UniSport Australia, "UniSport Australia Adopts National Integrity Framework" (04 July 2022), online: <unisport.com.au/post/unisport-australia-adopts-the-national-integrity-framework> [perma.cc/A3LA-K9V9].

83 Sport Integrity Australia, "Make an Integrity Complaint or Report" (n.d.), online: <sportintegrity.gov.au/contact-us/make-an-integrity-complaint-or-report> [perma.cc/7WE5-ASP9].

information on how a complaint or report can be filed in an alternative manner, followed by a hyperlink to that specific sports website (See Appendix E).[84]

In short, persistent challenges to develop a system of sport governance, particularly within the scope of university sport, highlights the need for clearer communication, mandatory criteria for universities, and the adoption of effective frameworks that prioritize the safety of university athletes. Drawing inspiration from the UK and Australia serves as positive examples for improving the governance of Canadian university sport.

V. RECOMMENDATIONS

While considering the current landscape of sport governance in Canada, it is well-recognized that existing safe sport initiatives lack efficacy. Notably, Canada's safe sport initiatives have historically relied on a top-down approach to implement policy, driven by government officials and sports leaders.[85] Yet, little is known about how stakeholders conceptualize safe sport.[86] While a "plethora of research exists on stakeholders' experiences of harms in sport – ranging from maltreatment, abuse, and violence – there is an absence of research that has explored how stakeholders interpret and understand the concept of safe sport."[87] In

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84 *Ibid.*

85 Daniel Wigfield & Sandy MacIntosh, "Enhancing accountability and alignment within Canadian Basketball clubs through collaborative governance" (8 November 2023), online: <sirc.ca/blog/accountability-canadian-basketball-governance/> [perma.cc/QQ64-CQ7D]. See also Canadian Intergovernmental Conference Secretariat, "RED DEER DECLARATION – For the Prevention of Harassment, Abuse and Discrimination in Sport" (delivered at the Conference of Federal-Provincial - Territorial Ministers Responsible for Sport, Physical Activity and Recreation, 14-15 February 2019) online: <scics.ca/en/product-produit/red-deer-declaration-for-the-prevention-of-harassment-abuse-and-discrimination-in-sport/> [perma.cc/3TYT-3B69]. Signed by federal-provincial-territorial sport ministers, the Red Deer Declaration commits to preventing abuse, harassment, and discrimination in sport. The Red Deer Declaration also acknowledged that collaboration at all levels is necessary to achieve a collective goal of improving sport. This contrasted from what has historically been relied on by government officials when implementing sport-specific policy.

86 Joseph John Gurgis, Gretchen Kerr & Anthony Battaglia, "Exploring Stakeholders' Interpretations of Safe Sport" (2022) 47:1 Journal of Sport and Social Issues 75 at 78.

87 *Ibid.*

general, administrators and researchers alike evince more familiarity with safe sport when compared to athletes and coaches.[88] This indicates an implicit expectation for the latter to adhere to policies designed at the top of sport organizations or government bodies.[89] This inherent disjunction between those at the "bottom" and individuals at the "top" ultimately warrants a complete rectification of the existing approach to sport governance in Canada.

As previously mentioned, the role that stakeholders hold within sport governance cannot be undermined. Previous research suggests that sports administrators have an important position within the operation of sport organizations. The responsibilities that sport administrators hold can include risk management, addressing legal issues, and the implementation of policy and procedures, among others.[90] As sports administrators commit to fortifying safety within sport, exploring issues that contribute to an unsafe environment remain ongoing.[91] Given the systemic nature of maltreatment pervading sport, recognizing the perspectives, roles and experiences of stakeholders, including athletes, facilitates a more sustainable and safer experience for all.[92] More specifically, it demonstrated the need to shift from a harm prevention approach to one that is values-driven.[93] This shift not only illustrates the importance of collaborative consultation when developing policy, but it also prioritizes the safety of stakeholders. This is reinforced by existing research which recognizes the importance of engaging athletes when exploring the impacts of maltreatment, including the knowledge of lived experiences and subsequent learning within sport organizations.[94] For university sport, formal research is required to better understand the perspectives of stakeholders. Doing so would advance the

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88 *Ibid* at 91.

89 Thomas May, Spencer Harris & Mike Collins, "Implementing community sport policy: Understanding the variety of voluntary club types and their attitudes to policy" (2013) 5:3 International Journal of Sport Policy and Politics 397 at 401.

90 Joseph John Gurgis & Gretchen Kerr, "Sport Administrators' Perspectives on Advancing Safe Sport" (2021) 3 Frontiers in Sports and Active Living 1 at 3.

91 *Ibid* at 5.

92 *Ibid* at 11.

93 *Ibid.*

94 Michael Hartill et al., *Voices for Truth and Dignity: Combatting Sexual Violence in European Sport Through the Voices of Those Affected* (Köln: Deutsch Sporthochschule Köln, 2019).

implementation of a values-based approach to policy development as it inherently values the perspectives and experiences of university athletes.

Departing from the current governance of individual universities and U Sports to embracing a system that prioritizes the safety of athletes, can be advanced by incorporating effective safeguarding measures. Safeguarding can be understood as the "maintenance and promotion of physical and mental health and wellbeing."[95] First originating from UK legislation in the early 2000's to protect child welfare, safeguarding introduced a shift from providing services that protect a small number of at-risk children to a broader holistic approach that proactively prevent harm and promote positive outcomes for all children.[96] The notion of safeguarding has since been adopted outside of the UK and expanded to include adults and sport.[97] Implementing safeguarding within sport "requires a multi- and interdisciplinary approach with interventions enacted across different levels of sport…and the engagement of sports organizations and stakeholders from across the performance spectrum."[98] Therefore, ensuring that all stakeholders, and most importantly athletes, are engaged in the development of policy, is essential to ensure adequate safeguarding is adopted. This, coupled with a values-based approach, affirms the imperative to integrate the perspectives of all stakeholders, particularly university athletes, in policy development. This integration is paramount to not only ensure that a comprehensive approach to safeguarding is adopted, but to also develop future policy through collaboration, instead of using a top-down approach.

As previously mentioned, Canadian safe sport initiatives have been implemented in the wake of reports of athlete maltreatment, prevalence studies, and the federal government's commitment to adopt safe sport ideals.[99] However, the exigency of engaging athletes when exploring

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95 Miguel Nery et al., *supra* note 71 at 1.

96 *Ibid* at 1-2.

97 *Ibid.*

98 *Ibid.*

99 Canadian Heritage, "Minister Duncan Announces Support for Sport Organizations to Address Harassment, Abuse, Discrimination and Maltreatment in Sport" (21 May 2019), online: <canada.ca/en/canadian-heritage/news/2019/05/minister-duncan-announces-support-for-sport-organizations-to-address-harassment-abuse-discrimination-and-maltreatment-in-sport.html> [perma.cc/UHW6-S2WE].

maltreatment concerns underscores these strategies' efficacy. This is particularly true for university athletes. While governance frameworks developed and employed within the UK through BUCS' seemingly parallel U Sports frameworks in Canada, BUCS' efficacy in centrally regulating university sport and providing transparent reporting procedures is noteworthy. The absence of information relating to a comparable reporting process on the U Sports website, coupled with inconsistent, and at times, inaccessible, policy and procedures, accentuates the jurisdictional barriers that OSIC faces in adjudicating complaints related to university sport. For instance, the BUCS website publishes a comprehensive set of rules and regulations that govern university sport in the UK. Not only are there general regulations, but information on sport-specific regulations and affiliations is also published.[100] Additionally, and arguably most importantly, a reporting procedure is available.[101] This comprehensive process allows for an athlete to report an incident about either themselves or on behalf of someone else, publicly, or anonymously, and for both past and future events. Additional information such as the date, time and location of the incident, the institution and sport it involves, a description, and supporting information or evidence can be submitted. Once a report is received and BUCS ensures that it is anonymous, BUCS will then send the report to the university to investigate the incident and subsequently require the institution to report back on its findings. Once returned, BUCS will evaluate the findings and determine whether further disciplinary actions are mandated under REG 5 (Misconduct and Bringing BUCS into disrepute) policy.[102]

By comparison, the U Sports website does not provide information about the OSIC reporting process, nor are policies and procedures easily accessible. As previously mentioned, OSIC experiences jurisdictional challenges in adjudicating complaints, with half of the submitted reports

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100 British Universities and Colleges Sport (BUCS), "Rules and Regulations" (2023), online: <bucs.org.uk/rules-and-regulations.html> [perma.cc/335N-LT8U].

101 British Universities and Colleges Sport (BUCS), "Initiations Form" (2023), online: <bucs.org.uk/initiations-form.html>.

102 British Universities and Colleges Sport (BUCS), "What Happens When a Report Is Made?" (2023), online: <bucs.org.uk/report-an-initiation/what-happens-when-a-report-is-made.html> [perma.cc/MY46-TES3].

unable to be resolved by OSIC.[103] While Canada is in its infancy of mandating policy and procedures to guarantee funding to organizations such as U Sports, it is unclear how governance mechanisms and reporting options affect university sport today. Therefore, Canadian universities, and U Sports more broadly, could benefit greatly from drawing inspiration from BUCS' approach to safeguarding within university sport. While it is unreasonable to suggest that U Sports and BUCS are synonymous, adopting a proactive approach to developing safeguarding within university sport is vital. The existing cyclical nature of sport governance within Canada, particularly within the context of U Sports, is not only dissonant but its efficacy is disputed. Given the nature of university sport, it could welcome a universal approach to policy. Meaning, that each university in Canada could have parallel policies relating to sport dispute resolution and the prioritization of athlete safety through athlete codes of conduct. Implementing a reporting process would be beneficial to university athletes as it would provide a clear avenue for athletes to file and resolve safe sport complaints. The existing OSIC framework not only creates uncertainty but inevitably leads athletes to question what the "correct" way to handle their safe sport concern is. This was exemplified through a recent Abuse-Free Sport Program Activity Report as the top reported concern surrounded inquiries about the Abuse-Free Sport Process. Therefore, U Sports could greatly benefit from developing a reporting framework that is publicly available, well-communicated, and easily accessible to Canadian universities and their athletes.

Turning to Australia, the streamlined and efficient reporting process and Framework instituted by Sport Integrity Australia provides a notable benchmark for Canada to learn from. Most importantly, the power granted to Sport Integrity Australia was provided through the authority of the *Australian Sports Anti-Doping Authority Act 2006*. This single point of responsibility to address all sport integrity matters absolves any ambiguity or inconsistency that could arise amongst stakeholders. A second noteworthy recommendation emanates from the Australian governance structure. More specifically, developing a pre-emptive assessment of the admissibility of complaints expedites the resolution process. Adopting an approach where OSIC's website could deem a report admissible at the start, rather than exhausting the whole process only to find out OSIC is unable to help

[103] Sport Integrity Commission, *supra* note 38 at 5.

adjudicate a complaint, would provide for an improved method of dispute resolution. This not only prevents ineffectual submissions, but also advises complainants whether they are submitting their complaint through the correct avenue at the outset. This is also mutually beneficial for Sport Integrity Australia because they do not have to spend time delineating what complaints they can and cannot receive, a process that can become increasingly burdensome for OSIC. Moreover, the Sport Integrity Australia website also provides complainants with alternative reporting options if they cannot file a complaint through the Sport Integrity Australia Framework (see Appendix F). This provides adequate support to complainants, instead of simply leaving them with nowhere to go. Not only does this compromise the safety of athletes, but it is also counterintuitive in preventing maltreatment and harassment from occurring in the first place. Without a consistent, well-communicated safe sport governance framework, policies, programmes, and practices to advance safe sport will also vary.[104] In short, Sport Integrity Australia and their current operations under the Framework can serve as a source of inspiration for Canada, particularly within the context of university athletes.

Insights gleaned from the UK and Australia underscore the imminent need for Canada, particularly within the context of U Sports, to overhaul its existing approach to sport governance. Integrating a system of governance guided by values, and disrupting the prevailing "top-down" paradigm, not only facilitates the expression of stakeholder's perspectives, but it would also emphasize the importance of safeguarding university athletes. Integrating transparent reporting mechanisms and a streamlined complaints process, modelled after other Commonwealth nations, is imperative in fostering a safe environment within the realm of university sport.

VI. CONCLUSION

While Canada has earned global acclaim for its history of sporting excellence, recent scrutiny over the governance of its sport systems, particularly concerning its safe sport practices, casts a shadow on these accolades. The longstanding "medals-first mandate" has compromised the health and safety of athletes. Current efforts to address these issues are

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[104] Joseph Gurgis & Gretchen Kerr, *supra* note 90 at 2.

hindered by an absence of legislative oversight, rendering the implementation of adequate safe sport policies ineffective.

The concept of safe sport surrounds preventing harassment and abuse within sport. Safe sport plays a critical role in prioritizing the well-being of athletes across all levels of sport. University sport, however, faces unique challenges, such as a lack of clear governance and a well-communicated reporting mechanism. Without them, university athletes are left in a precarious situation that compromises their safety and well-being. As the national body of university sport in Canada, U Sports plays a pivotal role in governing university sport. However, U Sports' oversight over Canadian universities, its function within the broader sport context, and their governing policies remain unclear.

While we can acknowledge the unique considerations of university athletes, research which analyzes the impacts Canada's governance crisis has on university athletes is desperately needed. This need is further compounded by the broader inefficiencies, such as the absence of up-to-date policies, unified frameworks, and clear governance structures further exacerbates pre-existing safety concerns for university athletes. When drawing inspiration from other Commonwealth nations like the UK and Australia, there is an apparent need for a comprehensive review that captures the interests of all stakeholders. During the time of writing, Canada announced the creation of the Future of Sport in Canada Commission.[105] Over the course of 18 months, the Commission will undertake and independently review Canada's sport system by engaging with a variety of stakeholders.[106] This is a promising step for Canada as this strategy was successfully employed in both the UK and Australia. The Future of Sport in Canada Commission should be amenable to consult U Sports, and specifically university athletes, throughout this process.

As this paper seeks to understand the governance challenges and jurisdictional limits facing university sport in Canada, it also aims to emphasize the importance of prioritizing the safety of university athletes. By analyzing the governance structure of university sport within Canada and recognizing the implications that inadequate U Sports governance has on

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105 Canadian Heritage, "Building a safe sport system for Canada" (11 December 2023), online: <canada.ca/en/canadian-heritage/news/2023/12/building-a-safe-sport-system-for-canada.html> [perma.cc/PRE4-9HAH].

106 *Ibid.*

university athletes, this article provided considerations which can inform policy discussions. Practices adopted from other Commonwealth jurisdictions provide Canada with a roadmap to guide the development of effective governance within its sport system. This will ultimately ensure the safety and well-being of university athletes is at the forefront of future policy considerations.

VII. APPENDICES

Appendix A – Presence Of University Athlete Code Of Conduct Or Policy

✓= PUBLICLY AVAILABLE | ✓✓ = SAFE SPORT RESOURCES | × = UNPUBLISHED
* = INFORMAL/PAGE COULD NOT BE FOUND

	Institution	Prov	Code/ Policy	Year	Citation
1	Acadia University	NS	✓	2022-2023	Acadia Athletics, "Student-Athlete Handbook" (2022-2023), online (pdf): <d2o2figo6ddd0g.cloudfront.net/b/q/ed2qolmcibwiu3/Acadia_Student-Athlete_Handbook_-_2022-2023.pdf>.
2	Cape Breton University	S	✓	2021-2022	Cape Breton University Athletics, "Student Athlete Handbook" (2021-2022), online (pdf): <d2o2figo6ddd0g.cloudfront.net/1/j/w5vsa797znmbwz/Student-Athlete_Handbook_2021-22-2.pdf>.
3	Dalhousie University	S	×	-	N/A
4	Memorial University of Newfoundland	L	×	-	N/A
5	Mount Allison University	B	✓	2019-2020	Mount Allison Mounties, "Student Athlete Handbook" (2019-2020), online (pdf): <d2o2figo6ddd0g.cloudfront.net/o/1/3ktgdl2a8lzfzf/MountiesSAHandbookAug22-compressed.pdf>.
6	Université de Moncton	B	×	-	N/A
7	University of New Brunswick	B	*	-	UNB Athletics, "UNB Reds Standards and Expectations" (n.d.), online: <goredsgo.ca/information/standards/standards>.
8	University of Prince Edward Island	EI	✓	2015-2016	UPEI Athletic Program, "UPEI Code of Conduct & Consent Forms" (2015/2016) online (pdf): <files.upei.ca/athletics/athletes_only-code_of_conduct_and_consent.pdf>.
9	Saint Mary's University	S	✓	2023	Saint Mary's University, "Varsity Student-Athlete Handbook" (2023), online (pdf): <d2o2figo6ddd0g.cloudfront.net/q/x/qzic1rp5dfmsq8/Huskies_2023_Student-Athlete_Handbook.pdf>.
10	St. Francis Xavier University	S	✓ ✓✓	2021	STFX Athletics, "STFX Student-Athlete Code of Conduct Agreement" (2021), online (pdf): <d2o2figo6ddd0g.cloudfront.net/6/1/9f5dpuw8ykcyt5/StFX_Student-Athlete_Code_of_Conduct_2021.pdf>. STFX Athletics, "STFX Safe Sport" (n.d.), online: <www.goxgo.ca/student_athlete/safe_sport/index>.

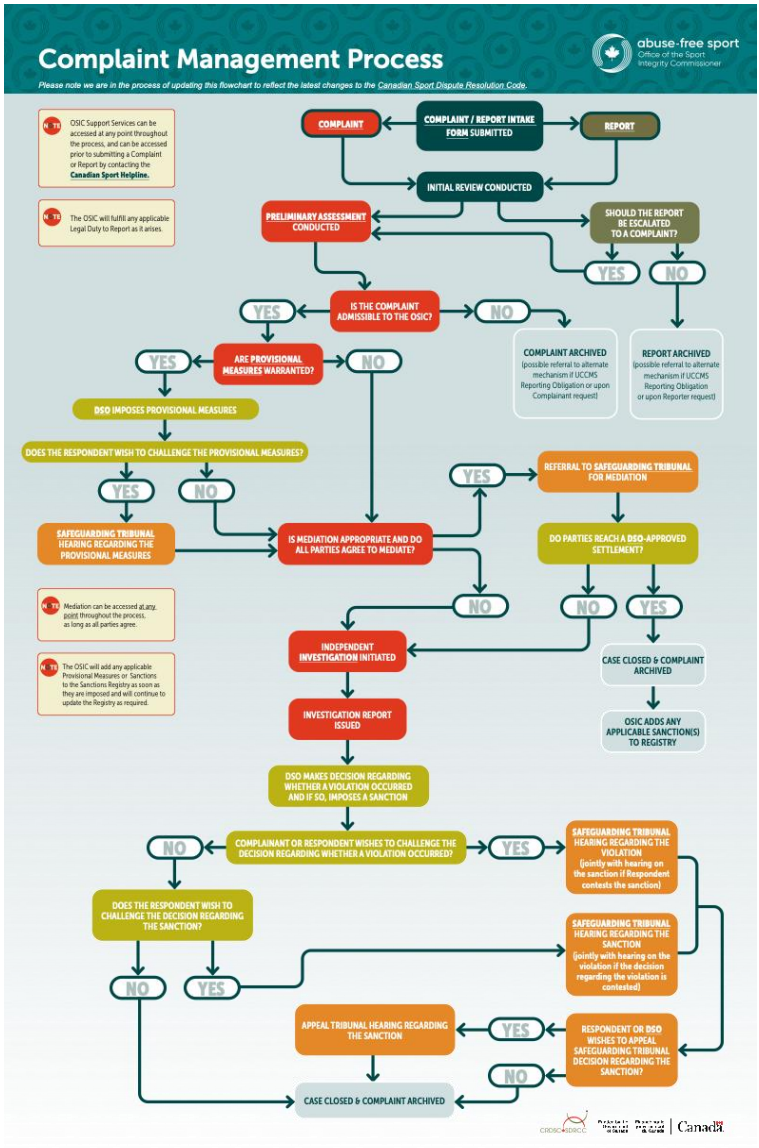
11	St. Thomas University	B	✓	2023-2024	STU Athletics, "Athletics Code of Conduct – St. Thomas University" (June 2023), online (pdf): <d2o2figo6ddd0g.cloudfront.net/r/6/m3oyudmgcsn1g0/STU_Athletics_Code_of_Conduct_-_2023-2024.pdf>.
12	University of British Columbia	C	×	-	N/A
13	Trinity Western University	C	✓	2022-2023	Spartan Athletics, "Student-Athlete Manual 2022-23" (2022-2023), online (pdf): <s3.us-east-2.amazonaws.com/sidearm.nextgen.sites/gospartans.ca/documents/2022/11/16/2022-23_TWU_SPARTANS_Athlete_Handbook.pdf?path=general>.
14	University of Victoria	C	✓ ✓✓	2023	University of Victoria Vikes, "Handbook for Student-Athletes" (2023), online (pdf): <s3.us-east-2.amazonaws.com/sidearm.nextgen.sites/govikesgo.com/documents/2023/11/14/Vikes_Varsity_Student_Athlete_Handbook.pdf>. University of Victoria Vikes, "Vikes Reporting Options & Support Resources" (October 2020), online (pdf): <s3.us-east-2.amazonaws.com/sidearm.nextgen.sites/govikesgo.com/documents/2020/10/29/VIKES_Reporting_Options_and_Support_Resources_Oct_2020.pdf>.
15	University of the Fraser Valley	C	✓	2023-2024	UFV Cascades, "UFV Athletics Handbook" (2023-2024), online (pdf): <s3.us-east-2.amazonaws.com/sidearm.nextgen.sites/fraservalley.sidearmsports.com/documents/2021/9/27/Handbook_2023-24_update.pdf>.
16	University of Northern British Columbia	C	✓	2018-2019	UNBC Timberwolves, "Student-Athlete Handbook" (2018-2019), online (pdf): <www2.unbc.ca/sites/default/files/sections/timberwolves/studenthandbook2018-19.pdf>.
17	Thompson Rivers University	C	✓	2022	Thompson Rivers University Wolfpack, "Student-Athlete Handbook" (2022), online: <gowolfpack.ca/sports/2022/7/19/student-athlete-handbook.aspx>.
18	University of British Columbia Okanagan	C	✓	2023-2024	UBCO Heat, "Student Athlete Handbook" (2023-2024), online (pdf): <s3.us-east-2.amazonaws.com/sidearm.nextgen.sites/goheat.ca/documents/2023/7/21/HEAT_SAH2023-_FINAL1.pdf>.
19	University of Alberta	B	×	-	N/A
20	University of Calgary	B	✓ ✓✓	2014	University of Calgary Dinos, "Dinos Policies and Procedures" (2014), online (pdf): <s3.us-east-2.amazonaws.com/sidearm.nextgen.sites/godinos.com/documents/2014/12/17/PolProc_2014.pdf>. University of Calgary Dinos, "Student-Athlete Reporting Pathway & Support Services" (May 2023), online (pdf): <s3.us-east-2.amazonaws.com/sidearm.nextgen.sites/godinos.com/documents/2023/6/26/SafeSport_-_Athlete_Pathway__May_2023_.pdf>.
21	MacEwan University	B	✓	2020-2021	MacEwan University Griffins, "Student Athlete Handbook" (2020-2021), online (pdf): <d2o2figo6ddd0g.cloudfront.net/2/b/0kz3d2t44tx0ui/Athletics_student_athlete_Handbook_2020-21.pdf>.
22	Mount Royal University	B	✓	2021-2022	Mount Royal University Cougars, "Cougars Athletics and Recreation Student-Athlete Handbook" (2021-2022), online (pdf): <s3.us-east-2.amazonaws.com/sidearm.nextgen.sites/mrucougars.com/documents/2020/11/3/CAR_Student_Athletes_Handbook_2020_2021.pdf>.

23	University of Saskatchewan	K	✓	2020	Huskie Athletics, "Athlete Code of Conduct" (2020), online (pdf): <s3.us-east-2.amazonaws.com/sidearm.nextgen.sites/saskatchewan.sidearmsports.com/documents/2020/9/11/HA_STUDENT_ATHLETE_code_of_conduct.pdf>.
24	University of Lethbridge	B	✓	2023	University of Lethbridge Pronghorn, "Student-Athlete Handbook" (26 August 2023), online (pdf): <s3.us-east-2.amazonaws.com/sidearm.nextgen.sites/gohorns.ca/documents/2023/9/26/23-24_Student_Handbook.pdf>.
25	Brandon University	B	✓	2018	Bobcat Athletics, "Student-Athlete Code of Conduct" (24 November 2018), online (pdf): <www.brandonu.ca/governors/files/Bobcat-Athletics-Student-Athlete-Code-of-Conduct-FINAL-November-2018.pdf>.
26	University of Regina	K	×	-	N/A
27	University of Winnipeg	B	✓	2022	Wesmen Athletics, "Code of Conduct" (2022), online: <wesmen.ca/sports/2022/4/13/about-wesmen-Athletics-Code-of-Conduct.aspx>.
28	University of Manitoba	B	✓ ✓✓	2023-2024	University of Manitoba Bisons, "Student-Athlete Handbook" (2023-2024), online (pdf): <s3.us-east-2.amazonaws.com/sidearm.nextgen.sites/umanitoba.sidearmsports.com/documents/2023/9/1/BISONS_Student_Athlete_Handbook_23_24_FINAL.pdf>. Gene Muller, "Bison Sports Reporting Options & Support Resources" (29 August 2022), online: <www.dropbox.com/scl/fi/4mzoclbxpooa8wmjfhb14/Bison-Sports-reporting-options-link.docx?dl=0&rlkey=grtzbv3i7rxxujexp1tze4tz4>.
29	Carleton University	N	*	n.d.	Bruce Marshall (Carleton University), "Code of Conduct" (n.d.), online: <goravens.ca/wp-content/uploads/CODE-OF-CONDUCT18-Web.docx>.
30	University of Ottawa	N	✓	n.d.	University of Ottawa (uOttawa) Gee-Gees, "uOttawa Gee-Gees Behavioural Guidelines CIS Varsity Programs" (n.d.), online (pdf): <www.geegees.ca/sites/default/files/documents/student_services/varsity_behavioural_en.pdf>.
31	University of Toronto	N	✓	2019-2020	University of Toronto Varsity Blues, "Student-Athlete Handbook" (2019-2020), online (pdf): <s3.us-east-2.amazonaws.com/sidearm.nextgen.sites/varsityblues.ca/documents/2019/7/30/2019_20_Athletes_Handbook_web.pdf>.
32	Toronto Metropolitan University	N	✓	2019-2020	Ryerson Rams, "Student-Athlete Handbook" (2019-2020), online (pdf): <s3.us-east-2.amazonaws.com/sidearm.nextgen.sites/ryersonrams.ca/documents/2020/5/23/2019_20_Rams_Student_Athlete_Handbook_letterpage_version.pdf>.
33	Queen's University	N	✓	2022-2023	Queen's University, "Student-Athlete Handbook" (2022-2023), online (pdf): <s3.us-east-2.amazonaws.com/sidearm.nextgen.sites/gogaelsgo.com/documents/2022/8/9/Athlete_Handbook-2022-23-FINAL-v3-low_resolution.pdf>.
34	York University	N	✓	2013	York U Lions, "Code of Conduct" (2013), online (pdf): <yorkulions.ca/sports/2013/3/19/GEN_0319132013.aspx#:~:text=You%20are%20a%20representative%20not,general%20with%20respect%20and%20consideration.>.
35	Laurentian University	N	✓	2017-2018	Laurentian University, "Student-Athlete Handbook" (2017-2018), online (pdf): <d2o2figo6ddd0g.cloudfront.net/j/2/iszr4bdrf79s5w/SA_Handbook_2017-18.pdf>.
36	Algoma University	N	✓	2023-2024	Algoma University, "Thunderbird Varsity Student-Athlete Handbook" (2023-2024), online (pdf): <s3.us-east-2.amazonaws.com/sidearm.nextgen.sites/algomau.sidearmsports.com/documents/2023/8/4/Algoma_Thunderbird_Athletics_Handbook_2022_23__revised_August_4_2023.pdf>.

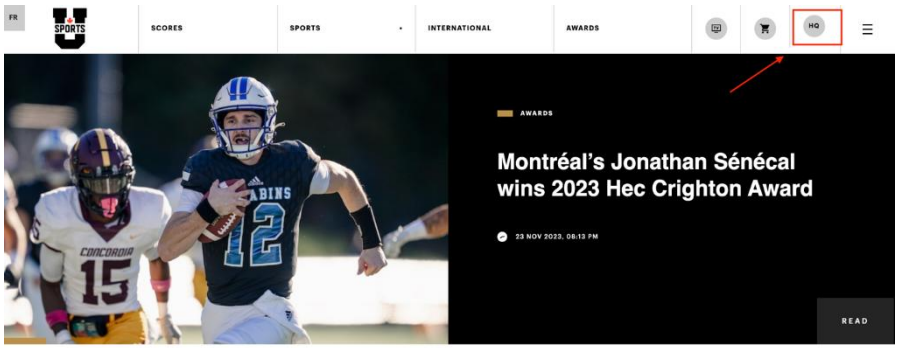
37	Royal Military College of Canada	N	×	-	N/A
38	Trent University	N	*	n.d.	Trent Excalibur, "Safe Sport" (n.d.), online: <www.trentvarsity.ca/Safe_Sport>.
39	Nipissing University	N	✓	2022-2023	NU Lakers, "Student – Athlete Handbook" (2022-2023), online (pdf): <s3.us-east-2.amazonaws.com/sidearm.nextgen.sites/nipissing.sidearmsports.com/documents/2022/10/14/NU_Handbook_2022-23B.pdf>.
40	Ontario Tech University	N	✓ ✓✓	2023	Ontario Tech University, "Student-Athlete Handbook" (2023), online (pdf): <s3.us-east-2.amazonaws.com/sidearm.nextgen.sites/uoit.sidearmsports.com/documents/2023/9/6/Ridgeback_StudentHandbook2021.pdf>. Ontario Tech University, "Safe Sport" (n.d.), online: <goridgebacks.com/sports/2022/8/4/safe-sport.aspx>.
41	University of Western Ontario	N	✓✓	2020	University of Western Ontario, "Safe Sport at Western University" (n.d.), online: <westernmustangs.ca/sports/2023/10/1/safe-sport-at-western-university.aspx>.
42	University of Windsor	N	*	-	University of Windsor, "OUA Conduct & Discipline" (n.d.), online: <golancers.ca/sports/2021/5/28/oua-conduct-discipline.aspx>.
43	McMaster University	N	✓	2011	McMaster University Athletics, "Code of Conduct" (2011), online (pdf): <marauders.ca/sports/2011/3/26/codeofconduct.aspx>.
44	University of Guelph	N	✓	2023	University of Guelph, "Student-Athlete Code of Conduct" (2023), online (pdf): <s3.us-east-2.amazonaws.com/sidearm.nextgen.sites/uoguelph.internetconsult.com/documents/2023/1/13/SA_CodeofConduct.pdf>.
45	University of Waterloo	N	*	2013	University of Waterloo Warriors, "Student-Athlete Behavioural Expectations" (2013), online (pdf): <s3.us-east-2.amazonaws.com/sidearm.nextgen.sites/uwaterloo.sidearmsports.com/documents/2013/9/6/Student-Athlete_Behavioural_Expectations.pdf>.
46	Wilfrid Laurier University	N	✓	2021	Laurier Athletics, "Student-Athlete Code of Conduct" (2021), online: <laurierathletics.com/sports/2021/6/29/37_132694615707939299.aspx?id=9>.
47	Brock University	N	✓	2023-2024	Brock University, "Student-Athlete Manual" (12 October 2023), online: <issuu.com/brockuniversity/docs/athlete_manual-2023-24?fr=xKAE9_zU1NQ%5C>.
48	Lakehead University	N	✓	2023-2024	Lakehead University Thunderwolves, "Student-Athlete Handbook" (2023-2024), online (pdf): <d2o2figo6ddd0g.cloudfront.net/d/i/ejh1f960j43q9x/20232024_Student_Athlete_Handbook.pdf>.
49	Concordia University	C	×	-	N/A
50	Université Laval	C	✓✓	2022	Université Laval Rouge et Or, "Méchanisme de Prévention" (2022), online (pdf): <rougeetor.ulaval.ca/wp-content/uploads/2022/03/mecanisme-plainte.pdf>.
51	Université du Québec à Montréal	C	×	-	N/A
52	McGill University	C	✓	2019	McGill University, "Athletics and Recreation Guide to Varsity Sports (9 July 2019), online (pdf): s3.us-east-2.amazonaws.com/sidearm.nextgen.sites/mcgill.sidearmsports.com/documents/2018/11/21/McGill_Varsity_Guide_2015may26_OD3_V3_Corrections.pdf>.
53	Bishop's University	C	*	2019	Bishop's University Gaiters, "Student Athlete's Code of Conduct" (2019), online (pdf): <s3.us-east-

					2.amazonaws.com/sidearm.nextgen.sites/ubishops.sidearmsports.com/documents/2019/7/31/Student_Athlete_Code_of_Conduct.pdf>.
54	Université de Montréal	C	×	-	N/A
55	Université du Québec à Trois-Rivières	C	×	-	N/A
56	Université de Sherbrooke	C	✓	2017	Université de Sherbrooke, "Politique relative aux étudiantes et étudiants athletes" (08 February 2017), online (pdf): <www.usherbrooke.ca/vertetor/fileadmin/sites/vertetor/documents/2020-2021/politiqueUdeSetudiantathleteCorposortsetudesFevrier2021.pdf>.
57	Université du Québec à Chicoutimi	C	×	-	N/A

Appendix B – OSIC Complaint Management Process



Appendix C – U Sports Homepage



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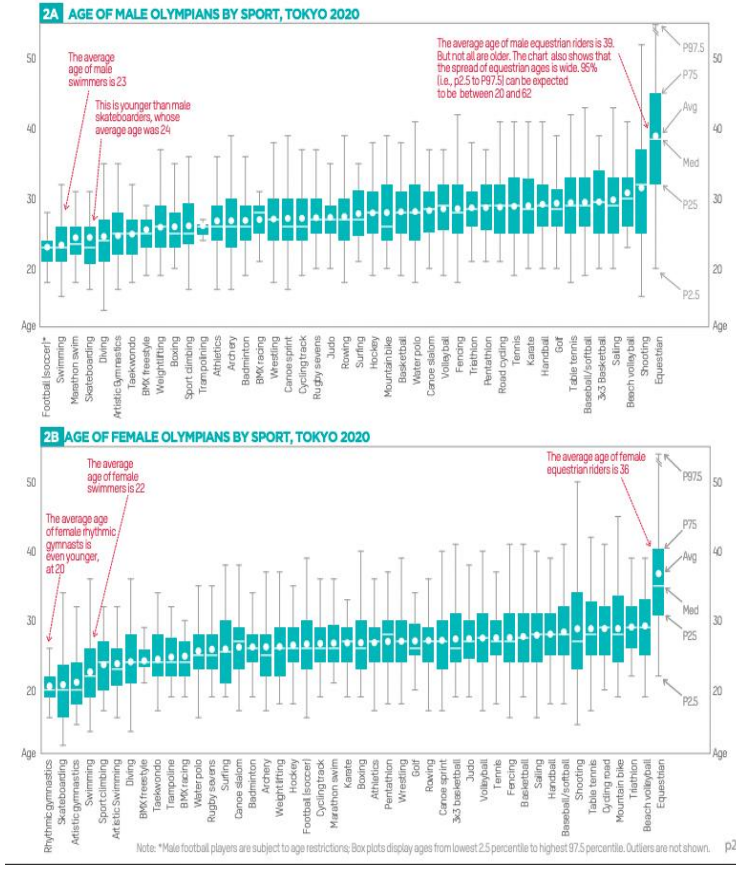
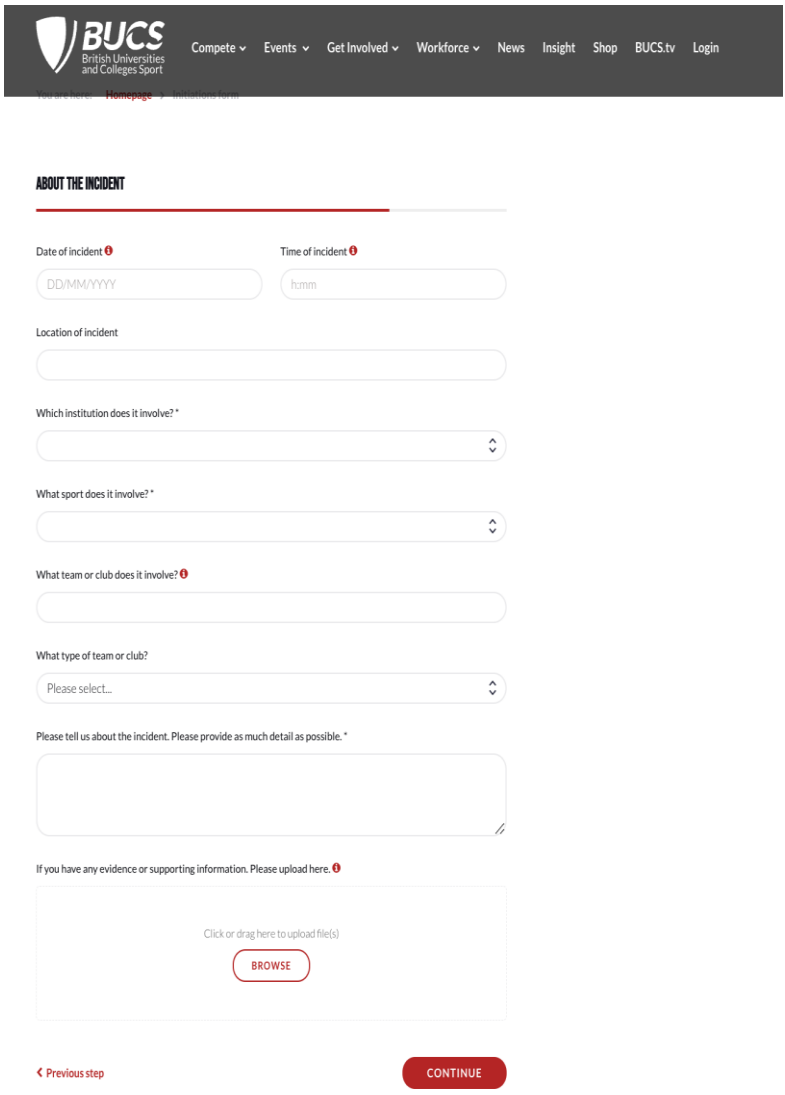
Appendix D – Average Age of Tokyo Olympians by Sport



Appendix E – BUCS Incident Report Form



Appendix F – Sport Integrity Australia: Example of Sport Not Captured by the National Integrity Framework

