



Integrating the UCCMS to University Sports

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The opinions expressed are those of the author. They do not necessarily correspond to the SDRCC position on any of the issues.

The Universal Code of Conduct to Prevent and Address Maltreatment in Sport (“UCCMS”) and the safe sport movement are intended to be implemented across all levels and organizations of the Canadian sport system. The UCCMS is a critical document to harmonizing behavioural rules across all levels of sport in Canada. The challenges for organizations that are not national sport organizations and that do not have a direct relationship with the Office of the Sport Integrity Commissioner (“OSIC”) can be considerable. This is the case for university sports in Canada and its different regional conferences (i.e., Canada West, Ontario University Athletics, *Réseau du sport étudiant du Québec* and Atlantic University Sport).

Breaking the challenges into smaller parts can help us look at this in a manageable way. The UCCMS holds two components that complement each other and can be looked at as distinct. First, there are behaviour expectations, outlined in sections 1 to 5. Then, there are procedural steps that are outlined in sections 6 to 8, including key elements such as intaking a complaint, having access to an independent complaint process and sharing information on outcomes.

Safe Sport - University Perspective

The best starting place for organizations that are not signatories to the OSIC system is to review and adopt sections 1 to 5, the behaviour expectations. These behaviours have quickly become the expectations in the Canadian sport system, and it would be challenging for any organization to not expect following and being accountable to these behaviours. There are multiple online education tools developed to support implementation and all sport organizations should be moving to accept and communicate these behaviour expectations. It is important to note that the UCCMS does not include the “Rule of Two”; it is instead a recommendation developed by the Coaching Association of Canada (“CAC”).

Though universities are keen to align with the UCCMS and the safe sport movement, most have outlined a series of implementation challenges that prevent full adoption. The more challenging areas come in sections 6 to 8 where complaints, investigations, and information sharing are outlined.

Drafters of collective agreements and employer agreements may not be willing to recognize the authority of an external body and enforce the outcomes. Many universities have hired professionals to address sexual misconduct or other behavioural issues like harassment or hazing, and they are not wanting to have a second, different process for a small group of students. There is concern over how the duty to report affects sexual assault and the need to keep the survivor in control of the process. Many universities have ombudspersons and an independent process already. The conflict between privacy law and the expectations around information sharing presents a significant legal challenge. The OSIC has overcome this with signed agreements, but these may not be possible with existing staff and Human Resource agreements. Finally, there is a general concern that if all issues are directed to an independent complaint process, there may be an escalation effect, which for lower offences may decrease mitigation strategies such as education, warnings, and dialogue, which can constructively resolve many issues.

To address these challenges, we are leading a staged approach. Universities should adopt the behaviour expectations, provide education through the CAC training, and provide clarifications in areas that are grey or not yet clarified by the OSIC. This is possible because adjudication of complaints will not be managed by the OSIC. In the first stages, any



complaints can be managed by the universities existing process. Each university should be updating their policies to provide an independent investigation process. This should therefore be completely external to the athletic department.

A key element in integrating the complaints procedure into the universities policies is to have a road map that outlines how complaints are received, who and what determines how they are investigated and reviewed, and what options are available based on factors such as scope, severity, criminality, and overlap between the UCCMS and existing university policies. In addition, there should be consideration with regards to the range of tools for addressing complaints, either formally, informally, with alternative dispute resolution or through restorative justice.

Finding the balance between the especially important independent process for extreme behaviours, and reasonable intervention for regular conflict or challenges in the sport environment, is critical to structuring a healthy, high-performing system.

Safe Sport - Regional Conference Perspective

For a conference that oversees university sport in a region, which is the case for Atlantic Canada, its jurisdiction is limited to the field of play and during the hosting of conference championships. The Atlantic University Sport (“AUS”) conference is fully committed to adopting the behavioural sections (i.e., 1-5) of the UCCMS. It is also committed to working with member universities to encourage them to adopt these sections to enhance their current institutional Codes of Conduct to align with the conference, once it has adopted them. The challenge remains to be that universities do not typically differentiate between students and student-athletes, as in the eyes of policies, a student is a student.

The other significant challenge is how complaints are managed and done so in a cost-effective manner. The AUS is fully supportive of third-party vetting and management of complaints. The understanding is that many organizations have adopted the UCCMS only to face challenges in the complaint management process which includes vetting, investigation and possibly legal action with most egregious allegations moving to criminal proceedings.

There are many great coaches and administrators in the university system that approach their jobs with respect, professionalism and integrity year in and year out. However, the new landscape of the UCCMS with more complaints moving to formal processes, creates fear that accusations can be reputation or career ending, even if no or mild fault is found.

We firmly believe that many, if not most, complaints can be resolved in a less punitive manner and are strong proponents of opportunities for restorative justice, or alternative dispute resolution such as mediation, when possible. This is primarily to safely support victims, but also to bring parties together through moderation, so the victim is heard in an effective and non-threatening way to get to an appropriate resolution. We need to do everything in our power to provide responsible approaches to complaint management that serves all participants, which starts with a high level of education and prevention.

Universities across the country are investing time and money in bringing these important behaviour expectations into their system and policies, and are deeply invested in changing culture where signs of maltreatment exist. The alignment to the safe sport movement in Canada is central to ensuring the best environment for student-athletes and sport leaders.