



*Gymnastics Ethics Foundation
Fondation d’Ethique de la Gymnastique*

Appeal Tribunal

GEF AT 01/2025 - Gymnastics Ethics Foundation v. Gymnastics Australia

DECISION

rendered on 28 July 2025 by the

GYMNASTICS ETHICS FOUNDATION APPEAL TRIBUNAL

sitting in the following composition:

President	Ms. Catherine Pitre (Canada)
Members	Ms. Kendrah Potts (United Kingdom) Mr. Jan Kleiner (Switzerland)
Ad hoc secretary	Ms. Yoana Yankova (United Kingdom)

In the disciplinary proceedings between:

The Gymnastics Ethics Foundation

- **Appellant** -

and

Gymnastics Australia

- **Respondent** -



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List of abbreviations

<i>Art.</i>	Article
<i>Arts.</i>	Articles
<i>CAS</i>	Court of Arbitration for Sport
<i>CC</i>	Swiss Civil Code
<i>CEO</i>	Chief Executive Officer
<i>cf.</i>	Confer (compare)
<i>CHF</i>	Swiss Franc
<i>CO</i>	Swiss Code of Obligations
<i>CoD</i>	FIG Code of Discipline
<i>CoE</i>	FIG Code of Ethics
<i>DC</i>	GEF Disciplinary Commission
<i>e.g.</i>	Exempli gratia (for example)
<i>et seq.</i>	Et sequens (and the following)
<i>FIG</i>	Fédération International Gymnastique
<i>GEF</i>	Gymnastics Ethics Foundation
<i>i.e.</i>	Id est (this is)
<i>Mr.</i>	Mister
<i>Ms.</i>	Miss
<i>p.</i>	Page
<i>para.</i>	Paragraph
<i>paras.</i>	Paragraphs
<i>pp.</i>	Pages
<i>SCMP</i>	Supplementary Complaints Management Policy
<i>v.</i>	Versus



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I. Parties to the proceedings

1. The Parties in these proceedings are the Gymnastics Ethics Foundation (“*GEF*”), Appellant, and, Gymnastics Australia (“*GA*”), Respondent.
2. The GEF, the Appellant, is the independent body established in 2019 by the Fédération Internationale de Gymnastique (“*FIG*”) to safeguard the integrity of Gymnastics worldwide, with headquarters in Lausanne, Switzerland.
3. GA is the national governing body for gymnastics in Australia. GA was founded in 1949 and its seat is in Albert Part, Victoria, Australia.
4. The Parties shall be referred herein collectively as the “Parties”.

II. Factual Background and Procedural History

5. Below is a summary of facts and allegations drawn from the Parties’ written exchanges. Additional facts and allegations may be set out, where relevant, in connection with the legal discussion that follows. In reaching its conclusion, the Panel has duly taken into consideration all arguments advanced by the Parties therein, although not specifically addressed in the below section of the present decision (the “Decision”).

A. Summary of relevant facts

6. The Panel now sets out the relevant factual background. The Panel has taken into consideration all the facts presented to it by the Parties, however, that which is set out below is, in its view, most relevant for the outcome of this case – noting also that this is an appeal on limited narrow grounds.
7. The underlying proceedings were brought by the Gymnastics Ethics Foundation against Gymnastics Australia on 30 August 2024, further to the receipt and investigation of complaints from Australian gymnasts and parents in relation to the Supplementary Complaints Management Policy (“*SCMP*”) adopted by GA in 2020.
8. The SCMP was adopted while the Australian Human Rights Commission was conducting a review into the sport of gymnastics in Australia: “Change the Routine: Independent Review into Gymnastics in Australia” (“*AHRC Review*”). It was adopted to provide an interim avenue for individual complainants to pursue complaints relating to conduct covered by the AHRC Review. It was developed to ensure independence, fairness and transparency to encourage athletes to



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come forward and its process therefore limited the involvement of GA and the discretion of the GA CEO by incorporating SIA and the NST, both of which are independent statutory authorities in Australia.

9. Before the Disciplinary Commission, the GEF made a number of assertions relating to the unsuitability of the SCMP, which the DC analysed through seven specific questions. In summary, the GEF alleged that the SCMP lacked procedural fairness, and that the FIG Code and Policy were breached in its handling of three cases.
10. The Disciplinary Commission considered the matter and rendered its decision on 13 January 2025.
11. The DC found in favour of the GEF in only one of the claims made - that GA breached Article 3 of the FIG Code of Discipline, Article 6.4 of the FIG Safeguarding Policy and Article I(a) of the 2019 FIG Code of Ethics in Sport Integrity Australia's ("SIA") handling of the investigation of Case One – and granted it declaratory relief.
12. On the question of whether the SCMP lacked procedural fairness due to no appeal rights being granted to Complainants, the DC found that a Complainant could appeal a decision of the SCMP, and that the SCMP therefore did not lack procedural fairness.
13. On 28 January 2025, the GEF submitted a request for correction to the DC on this point, which was denied the next day.
14. On 3 February 2025, the GEF filed an appeal with the Appeal Tribunal.

B. Procedural history of this Appeal

15. On 3 February 2025, the GEF appointed an Appeal Tribunal Panel (the "*Panel*") consisting of Ms. Catherine Pitre, Ms. Kendrah Potts and Mr. Jan Kleiner to hear this case. The Panel elected Ms. Catherine Pitre to be President of the Panel.
16. Pursuant to art. 16 of the FIG CoD, Ms. Yoana Yankova was appointed as Panel ad hoc secretary.
17. On the same date, the GEF notified the Parties of the Appeal.
18. The GEF raised an Appeal of the Disciplinary Commission ("*DC*") decision dated 13 January 2025 for an error of fact in the DC decision, alleging that SCMP deprived the complainants of any right to appeal.
19. On 6 February 2025, the Panel sent directions to the Parties requesting the following:



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- Gymnastics Australia (GA) to confirm receipt of the Appeal filed by the Gymnastics Ethics Foundation (GEF), and access to the relevant accompanying file shared on 3 February 2025;
 - GA to indicate who is representing GA in this matter and provide contact information for them;
 - GA to submit their Response to GEF's Appeal Letter by no later than 24 February 2025.
20. On 18 February 2025, GA acknowledged receipt of the Appeal and confirmed GA CEO, Mr. Alistair Edgar, GA President, Mr. Sam Offord and Mr. Scott Traeger of Landers & Rogers as its representatives.
21. On 24 February 2025, GA submitted their Response to the GEF's Appeal Letter.
22. Having considered the submissions of both the GEF and GA, the Panel determined that it was well informed of the facts of this case and would consider the matter without holding a hearing.
23. On 14 March 2025, the Panel sent the following directions to the Parties:
- Parties are provided until 21st March to request the filing of any additional submissions. In the absence of any such request, the Appeal Tribunal will proceed to consider the matter on the basis of the written submissions provided to it.
24. On 21 March 2025, the GEF filed a Reply to the GA's Response.
25. On 26 March 2025, GA submitted rejoinder submissions.
26. On 7 April 2025, the Panel informed parties that the latest submissions made by parties would be admitted and considered, concluding the written exchanges. It also informed parties that it would consider the matter and issue a decision in due course.
27. The Panel met to deliberate on the matter, and the following is its decision with reasons.

III. Jurisdiction and Admissibility

28. Under art. 30 of the FIG CoD, Parties directly involved in the Disciplinary Proceedings are eligible to file an Appeal to the Appeal Tribunal.
29. Furthermore, under art. 30 of the FIG CoD, Appeals of the GEF shall be lodged by its Director.
30. The present appeal has been lodged by GEF Director, Mr. Alex McLin, in line with the requirements outlined in art. 30 of the FIG CoD.



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31. For all these reasons, the Panel concludes that it has jurisdiction to hear the present case and that this Appeal is admissible.

IV. Applicable Law

32. Pursuant to art. 32 of the FIG Statutes, the GEF shall manage disciplinary proceedings in accordance with the FIG Rules. Furthermore, decisions rendered by the Disciplinary Commission may be appealed to the Appeal Tribunal.
33. Pursuant to art. 1 of the FIG CoD, “in the absence of a specific provision in this Code, in the WADA Code or in other disciplinary provisions of the FIG Rules, the Disciplinary Authority shall rule according to the general principles set out in this Code and according to the general principles of justice, fairness and equality. It shall apply the general principles of Swiss law, and principles acknowledged internationally”.
34. The Panel notes that the Code of Discipline is silent in relation to the applicable standard to review a decision of the Disciplinary Commission. It does not expressly state whether it is the task of the Panel to review, in its entirety, the decision of the Disciplinary DC, as if it were itself in the position of the DC, or whether such a review is only of limited nature.
35. The Panel has considered the approach and reasoning taken in prior matters before the Appeal Tribunal (e.g. 2024/66 AT), not to conduct the proceedings on a *de novo* basis or to review the matter with full scrutiny, but rather, to assess whether the DC erred in exercising the discretion awarded to it under the Code of Discipline. The Panel’s view, in accordance with that taken by previous Panels, is that its review is limited to whether the DC reached a reasonable conclusion based on the evidence available to it – limited of course to the matters under appeal.

V. Position of the Parties and Requests for Relief

36. The Panel does not provide an exhaustive list of the Parties’ contentions, but, rather, a summary of the Parties’ main arguments. In considering and deciding upon the Parties’ claims, the Panel has accounted for and carefully considered all the submissions made and evidence adduced by the Parties.

A. GEF

37. The GEF asserts that the DC’s conclusion as to procedural fairness within the SCMP process is wrong because the Complainants were not granted appeal rights.



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38. According to GEF, Complainants who saw their complaint unsubstantiated and their matter closed had no remedy against the decision. The GEF contrasts this with the right afforded to Respondents to challenge a decision to impose a disciplinary measure to the Australian National Sports Tribunal (“NST”).
39. The GEF also argues that the procedure which predates the SCMP, and that adopted after the SCMP, both allow for greater rights of appeal further to the closure of a case, such as when new information becomes available or there is compelling reason to do so.
40. Specifically, the GEF asserts that paragraphs 44 and 65 of the DC decision are wrong:
- Paragraph 44 omits to consider Section 7 of the SCMP Supplementary Disciplinary By-Law, the specific section in the SCMP dealing with appeals against SIA findings and GA’s outcome letters. Instead, it references SIA’s Article 8.8(d) which has no application to the case;
 - Paragraph 65 references the right to lodge a complaint with the Commonwealth Ombudsman, providing an avenue in the absence of any appeal rights for complainants in the SCMP. The GEF asserts that it was never given the opportunity to make submissions on this potential avenue before the DC. Having now the opportunity to do so, it asserts that the Ombudsman is not an alternative to a true right of appeal before an independent entity such as the NST, the route made available to respondents. This assertion is made on the basis that the Ombudsman is limited in its ability to review matters, both because it has discretion not to investigate certain facts (and does not exercise its discretion in the majority of matters falling within its jurisdiction), and because it has no power to enforce a decision or force an agency such as GA to change a decision.
41. Consequently, the GEF requests that this Panel partially correct the DC decision and issue a new decision confirming that:
- Under the SCMP process, the complainants were deprived of a right of appeal while the respondent, if found guilty was granted an opportunity to appeal;
 - The unfair treatment in a procedure dealing with serious issues such as “misconduct, bullying, abuse, sexual harassment and assault toward an athlete” was a grave deficiency that seriously damaged the image of gymnastics in violation of Article 3 of the 2021 Code of Discipline;
 - The SCMP violated procedural fairness, a fundamental right, and thus violated Article 1(a) of the FIG 2019 Code of Ethics;
 - A complaint before the Commonwealth Ombudsman is not an alternative to a right of appeal before the NST or any authority with jurisdiction to issue a decision enforceable against GA.



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B. GA

42. GA denies that by adopting the SCMP it failed in its obligation to safeguard athletes and other participants in gymnastics from harassment and abuse, or that its adoption of the SCMP amounted to a breach of any of the Codes and Policies referred in the GEF's submissions.
43. GA asserts that the SCMP was set up specifically to ensure that complaints were handled in an independent and expert fashion by credible organisations, tasked with assessing and determining complaints.
44. GA makes two primary submissions in response to the GEF's, namely that:
- The SCMP contained appropriate and sufficient appeal rights. The lack of a formal specified process for appealing or seeking a review of the Independent Assessor's decision was not an attempt to silence complaints, nor did it prevent complainants from further pursuing their complaint or appeal through other means.
 1. By way of examples, GA sets out the review rights available to complainants throughout the SCMP process, depending on what course of action is taken and/or stage of the proceedings.
 2. Whilst GA acknowledges that there is no formal appeal process through which to challenge the initial assessment of a complaint by the Independent Assessor, it asserts that there are numerous appeal rights available at other stages of the process, including when the police may choose not to pursue a matter, or where a matter is determined by the General division of the NST and the complainant has chosen to participate in the hearing of the first instance matter.
 - Notwithstanding the above, adopting a policy that permits appeals only in limited circumstances does not amount to a denial of procedural fairness nor a breach of the 2021 FIG Code of Discipline or 20219 FIG Code of Ethics.
 1. GA submits that even if this Panel were to conclude that the appeal rights afforded to complainants to the SCMP were inadequate, such a finding would in no way rise to the level of demonstrating that GA had shown a lack of respect of human rights or dignity, in breach of the FIG Code of Discipline and FIG Code of Ethics, nor that it ignored, allowed or condoned incidents of harassment or abuse in breach of the FIG Safeguarding Policy.
 2. GA submits that in order for this Panel to accept the GEF's submissions, it would have to find that a process which does not permit appeal by complainants of the dismissal of their complaint at each and every stage breaches principles of integrity and sports fairness, which would be highly unfair and unsound.



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3. GA also contrasts the lack of appeal rights complained of by the GEF with those afforded under the FIG Code of Discipline at Articles 24 and 30.
4. GA submits that it is neither unusual nor inappropriate in sport or in life for a respondent to be afforded greater appeal rights than a complainant, due to the disparity in impact or prejudice suffered by parties, with a respondent facing a finding of culpability and sanction(s) potentially leading to loss of livelihood, income and reputational damage warranting a right of appeal.
5. Whilst GA accepts that the Ombudsman complaint process is not an appeal right as such, it is a pathway which provides a further means of effective review and oversight of decisions made by government agencies (e.g. SIA). It also submits that there is an expectation and existing practice that Australian government agencies would cooperate with the Ombudsman’s recommendations.

VI. Merits

A. Issues

- a. Did the Disciplinary Commission err in its assessment of appeal rights available to complainants?
- b. If the Disciplinary Commission erred, does it result in the conclusion that the SCMP lacked procedural fairness?

B. Analysis

i. Did the Disciplinary Commission err in its assessment of appeal rights available to complainants?

45. The relevant DC decision paragraphs (those in contention and related) are as follows:

Regarding the GEF’s submissions in the first-instance proceedings:

Para 44 - Specifically, the GEF asserts that the SCMP complaint process lacks procedural fairness because complainants have only one chance to be heard, with no right to respond or appeal. Under the NST Act, the NST will only hear cases between GA and the individuals accused of the misconduct. Similarly, SIA’s Article 8.8(d) limits [sic] rights of appeal are limited to only “the Respondent and/or Gymnastics



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Australia.” That means a complainant has no standing to bring their own case to the NST without GA’s consent, and the harmed athlete has no recourse to protest the outcome of the investigation.

Regarding the DC’s analysis on procedural fairness:

Para 63 – SCMP Section 1.13(e) states :

Only a Party to a Disciplinary Matter determined by the NSTGD under this Policy may appeal to the NST Appeals Division, in accordance with the Supplementary Appeals By-Law in Attachment C5 of this Policy.

SCMP Attachment C.5.8.1. provides that only a party to a disciplinary dispute may appeal to the NST.

SCMP Attachment C.4 states that the parties to a disciplinary dispute are the Respondent and any “Interested Parties”. This provision defines “Interested Parties” as “A person who has made a Relevant Complaint that is dealt with in the Disciplinary Dispute; and SIA.”

Para 64 – Accordingly, the Panel finds that the SCMP provides that the Complainant does have the right to appeal [of] the SCMP [sic].

Para 65 – Moreover, Complainants have the right to appeal [by lodging] a complaint with the Commonwealth Ombudsman [sic].

Para 66 – The GEF’s allegation that the SCMP lacks procedural fairness due to not having a right of appeal is not proven. The Panel finds that GA did not breach Article 1(a) of the 2019 FIG Code of Ethics when it adopted the SCMP.

46. The DC’s analysis fails to consider Section 7 of the SCMP, which provides that appeal to the NST is only available to the respondent against whom SIA has recommended disciplinary measures following its investigation.
47. Whilst the omission of an explicit reference to Section 7 would not in itself be problematic, had it been considered, it is clear from the DC’s analysis that it had not correctly identified and applied the relevant procedure to the question at hand.
48. There is no debate between parties that the scenario envisaged – one where a complaint is deemed unsubstantiated – does not give rise to an appeal right for the complainant within the SCMP process. In other words, the SCMP did not provide for appeal rights in such a scenario.
49. This Panel’s conclusion is that the DC erred, in principle, in its assessment of appeal rights available to complainants as part of the SCMP process.



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ii. If the DC erred, does it result in the conclusion that the SCMP lacked procedural fairness?

50. Having established that the DC erred in its conclusion that appeals right were available to complainants, this Panel now turns to the question of whether this result in the SCMP lacking procedural fairness.
51. The relevant provision of the FIG Code of Ethics (2019) which is alleged to have been breached is as follows:
1.a) The respect of human rights and dignity is a fundamental requirement during all activities of the sport of gymnastics on a national and international level.
52. Having carefully considered the matter and parties' submissions, this Panel finds that there has been no lack of procedural fairness resulting from the lack of appeal rights afforded to complainants in matters where their complaint is unsubstantiated and therefore closed further to independent investigation.
53. Complainants were provided with an interim route through which to have their complaints considered, the SCMP. It is not unreasonable for a procedure to be adopted which provides for appeal rights limited to those who may suffer prejudice as a result of a decision being taken. This does not in itself give rise to a lack of procedural fairness.
54. Whilst there has been some argument as to the prejudice suffered by the complainants, the policy grounds for adopting such a procedure relate to the potential prejudice suffered as a result of a decision (such as a sanction in matters of a disciplinary nature), not the underlying harm which drove to the bringing of a complaint.
55. Further, the lack of appeal rights being granted to the complainant does not give rise to a breach of 1.a) of the FIG Code of Ethics. The respect of human rights and dignity do not flow from whether an appeal right was afforded or otherwise at the conclusion of an investigation.
56. The Panel is satisfied that the SCMP's lack of unconditional appeal rights does not give rise to procedural unfairness.

VII. Costs

57. Article 27 of the Code of Discipline discusses costs of the proceedings and states in relevant part:

The Disciplinary Authority shall decide whether the costs incurred by the disciplinary proceedings shall be borne entirely or partly by the sanctioned Party or shared by the Parties at the percentage to be decided by the Disciplinary Authority or born by the Gymnastics Ethics Foundation.



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In principle, the Parties shall bear their own expenses and costs, but the Disciplinary Authority may request the unsuccessful Party to pay to the successful Party a fair contribution to or all the expenses (costs of the Party and the lawyer) incurred.

The Parties which have requested the hearing of witnesses or of experts shall pay the expenses related to the appearance of these persons.

58. Having taken into consideration the facts of the matter and its outcome, the Panel deems it appropriate for Parties to bear their own expenses and costs.

VIII. Publication

59. Article 23 of the Code of Discipline provides that final decisions shall be published in full, partly or in short on the FIG website or in the FIG official publication.

ON THESE GROUNDS

The GEF Appeal Tribunal renders the following decision:

60. The Panel finds that:

- The appeal filed on 3 February 2025 by the GEF is partially upheld, in that the Disciplinary Commission erred in its assessment of appeal rights available to complainants as part of the SCMP process.
- Notwithstanding the above, the Panel is satisfied that the SCMP’s lack of unconditional appeal rights does not give rise to procedural unfairness, nor to a breach of the FIG Code of Ethics. The appeal on this ground is dismissed.
- Each party shall bear its expenses and costs for these appeal proceedings.
- All further motions or requests are rejected.



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Lausanne, 28 July 2025

Ms. Catherine Pitre, Panel President

Ms. Kendrah Potts, Panel Member

Mr. Jan Kleiner, Panel Member



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Notice of Appeal

Article 34 of the FIG Code of Discipline – Appeal to CAS

An appeal against any decision of the Appeal Tribunal, or other decision if provided otherwise in a specific provision, may exclusively be lodged to the Court of Arbitration for Sport in Lausanne (Switzerland), within 21 days from the notification of the decision of the FIG Appeal Tribunal.

The Parties to an appeal to the Appeal Tribunal as well as, in any case, the FIG and the Gymnastics Ethics Foundation shall be authorised to appeal to the CAS.

The rules of the Code of Sports-related Arbitration with regard to sport apply for the proceedings to the Court of Arbitration for Sport