



# **McLaren Independent Canada Soccer Review**

McLaren Independent Canada Soccer Review

**Final Report**

28 July 2022

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## Chapter 1: Executive Summary

### 1.1 Introduction

On 12 November 2021, Canada Soccer announced that McLaren Global Sport Solutions ('MGSS') had been selected to conduct an Independent Review. The first stage of the Review was for MGSS to review the Canadian Soccer Association's ('CSA'<sup>1</sup>) institutional response to harassment allegations made in 2008 against former U-20 Women's National Team ('U-20 WNT') coach Bob Birarda ('Birarda'). The second stage of the Review was for MGSS to undertake a thorough review and assessment of all of Canada Soccer's current Safe Sport policies<sup>2</sup> as well as the implementation and administration of the policies and procedures contained therein, to inform recommendations on identified shortcomings based on best practices and legal requirements. This public Report includes information about both stages of the Review but focuses on the first.

#### The Review

The Review is organised into eight chapters. This Executive Summary is followed in Chapter 2 by an overview of the relationship between the Vancouver Whitecaps and the CSA in 2008. Chapter 3 provides an analysis of the CSA in 2008, including the organisational structure, By-laws, and Rules and Regulations in place at the time. This provides important context to evaluate the institutional actions of the CSA involving the Birarda allegations in 2008. Bob Birarda is the focus of Chapter 4. The Review continues with an analysis of the institutional actions of the CSA concerning both the May and September allegations in Chapter 5, followed by Chapter 6 which summarises player feedback from interviews and public statements. The Review concludes with Chapter 7 which provides a summary and analysis of Canada Soccer's Safe Sport policy evolution. Recommendations are provided in Chapter 8.

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<sup>1</sup> Canada Soccer's corporate name in 2008 was the Canadian Soccer Association. For all purposes, they are the same organisation. The Reader can assume that any reference to the CSA relates to incidents in 2008 while any reference to Canada Soccer relates to the current organisation.

<sup>2</sup> Canada Soccer's current Policy and Procedures Manual, Safe Sport Programs and all regulatory policies including but not limited to Canada Soccer's Code of Conduct.

### The Independent Review Team

The Independent Review Team ('IRT') conducted a total of 28 interviews including 23 current and former CSA staff and executives. Former U-20 WNT players were reluctant to participate in the Review; three former players consented to be interviewed by the IRT. Additional player perspectives were drawn from various athlete statements made in 2019 concerning Birarda's tenure as Head Coach of both the Whitecaps FC Women's Team ('Whitecaps WT') and the U-20 WNT. The IRT also requested from Canada Soccer that it produce a large volume of documents dating back to 2008, including inter alia policies and procedures, email correspondence, athlete agreements, minutes and records of Board and Executive meetings and internal processes, employee records, and human resource files. Canada Soccer was cooperative in providing many of the requested documents. However, given the passage of time, certain documents either did not exist or could not be located by Canada Soccer. Some of the documents that could not be located include human resource documents about Birarda such as an employment contract, job description, performance management documentation, and severance agreement. Canada Soccer also was unable to provide a copy of any athlete agreements for U-20 WNT players in 2008.

### Concurrent Whitecaps Review

A concurrent review is being undertaken by Major League Soccer ('MLS') and focuses on the actions of the Vancouver Whitecaps concerning the harassment allegations related to their employment of Birarda; Rubin Thomlinson LLP is conducting the MLS review. The actions of the Vancouver Whitecaps are outside the scope and Terms of Reference of MGSS's independent Review of Canada Soccer. However, MGSS and Rubin Thomlinson agreed to have a dialogue and explore areas of cooperation within their respective Terms of Reference. For example, players were offered to participate in a joint interview if requested. One such player interview was jointly conducted at the invitation of Rubin Thomlinson.

## The Framework for the Review and this Report

### i) The CSA and the Whitecaps

As expanded upon in Chapter 2, the Vancouver Whitecaps and the CSA worked closely in providing high-performance opportunities for players, including linkages between the Whitecaps WT and the U-20 WNT. The fact that Birarda was deployed as the Head Coach of both women's teams is one indication of this working relationship. Greg Kerfoot, the owner of the Vancouver Whitecaps, also made a personal donation to the CSA before 2008 to help create and fund a residential training environment for the Women's National Team who, like the U-20 WNT, also trained in the Vancouver area. There were many other linkages between the Whitecaps and the CSA. For example, Greg Anderson, Director of Professional Teams for the Whitecaps, was also voted to the CSA Board of Directors in 2008. One player referred to the Whitecaps WT as the de facto U-20 WNT since it included so many U-20 WNT players.

In 2008, the Whitecaps WT roster included approximately twenty-five players who also were identified as being affiliated with the U-20 WNT program.<sup>3</sup> At this time, players lived in Vancouver while competing for the Whitecaps WT and training for the U-20 WNT. During the summer months, players trained and competed under the jurisdiction of the Vancouver Whitecaps. Following the 2008 Whitecaps WT summer season, the U-20 WNT players transitioned to training for the Canadian National Team in September 2008. This integration was cited as an advantage by some players because the players could train together over a longer time period with the Whitecaps WT before the start of the U-20 WNT training camps. It was a seamless transition for many of the U-20 WNT players who were already living in the Vancouver area, including many players who continued to live in the same apartment complex when the U-20 WNT training commenced in September 2008. Despite the apparent intertwining of the U-20 WNT and Whitecaps WT programs, specifically the dual role of Birarda as Head Coach of both women's teams, the IRT learned that there was no formal operating agreement between the Vancouver Whitecaps and the CSA.

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<sup>3</sup> 2008 Vancouver Whitecaps Women's Team Roster. Provided to the IRT by Canada Soccer.

## ii) CSA Leadership and Governance 2008

There was significant leadership upheaval and transition at the highest levels of the CSA in 2007 and 2008 including the positions of President and CEO, General Secretary, and Deputy General Secretary.

The CSA's governance in 2008 was described by many as being dysfunctional and inefficient. The Executive Committee held broad influence and power over the CSA with the Board being described as basically "rubber-stamping" any of the Executive Committee's decisions. A strategic plan to move to a new "Policy Board Model" to governance was approved later that year.

Chapter 3 provides additional insight into several deficiencies identified in 2008 by a program called the Road to Excellence Evaluation Tool<sup>4</sup>. The Road to Excellence referred to "a disconnect between the Association and Women's team which operates relatively independently as team being in Vancouver"<sup>5</sup>; the Road to Excellence further identified various deficiencies in the CSA's oversight, operation, and management of the WNT, its players and its coaches, most of which stemmed from a dysfunctional governance model.

## iii) CSA Policy Environment 2008

In 2008, the CSA was governed by By-laws and a "Rules, Regulations, and Administrative Guide". The latter document included a standalone Harassment Policy including "Definitions of Harassment", "Responsibilities of the People in Charge", "Disciplinary Action", "Complaint Procedures", "Formal Complaint Investigation", "Disciplinary Sanctions", and "Report". The Harassment Policy also includes a description for "Harassment Prevention Officers". The IRT found that the CSA did not follow its Harassment Policy's procedures when dealing with the complaint and investigation process associated with the September Birarda complaint. Chapter 3 provides insight into these various regulatory documents.

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<sup>4</sup> Road to Excellence, "Canadian Soccer Association Women's Senior National Team Evaluation Tool", 2008.

<sup>5</sup> Road to Excellence, "Canadian Soccer Association Women's Senior National Team Evaluation Tool", 2008.

iv) Bob Birarda

As expanded upon in Chapter 4, the CSA employed Birarda as Head Coach of Canada's U-20 WNT from December 2007 through 8 October 2008. Before this assignment, Birarda, who was then highly regarded notably in British Columbia as an outstanding technical and tactical soccer coach having run a successful Soccer Academy for years in Vancouver, held other part-time roles with the CSA including as a scout and assistant coach with the WNT. During his tenure as Head Coach of the U-20 WNT, Birarda also was employed as the Head Coach of the Vancouver Whitecaps FC Women's Team who competed in the United States Soccer League USL W-League, the second tier of competitive women's soccer in the United States and Canada. Birarda held a "B" Licence required to coach the U-20 WNT and the Licence expired in 2011.

v) The Complaints

As explained in Chapter 5, in May 2008, a player complaint was reported to the Vancouver Whitecaps organisation. The Whitecaps hired an Ombudsperson from the Law Society of British Columbia named Anne Chopra to investigate the May 2008 complaint. Following Ms. Chopra's investigation, the Whitecaps informed the CSA of the complaint, the subsequent investigation, and the recommendations provided by Ms. Chopra.

In September 2008, additional allegations surfaced regarding Birarda's behavior, including a continued pattern of sending inappropriate text messages to certain players on the U-20 WNT. This information did not come in the form of a direct complaint to the CSA from any U-20 WNT player; rather, some players had confided in former Canadian National Team player and mentor Andrea Neil who, in turn, brought these "*serious allegations*" forward to Even Pellerud, Head Coach and Director of the Women's Senior National Team ('WSNT'). Pellerud reported this information by telephone to the General Secretary of the CSA. The CSA and the Whitecaps jointly hired Anne Chopra to investigate this second complaint.

vi) The May 2008 Investigation

The subject of the May complaint included Birarda sending inappropriate sexually suggestive emails to a player on the Whitecaps WT who also played on the U-20 WNT. Following the May investigation, the Ombudsperson recommended that Birarda complete sensitivity training. After being informed about the May complaint, the CSA General Secretary spoke to Even Pellerud, Head Coach and Director of the WSNT. He made it clear to Pellerud that Birarda was his concern and that he was responsible to ensure that such behaviour would not reoccur. The General Secretary told the IRT that he was under the impression that after the May complaint had been dealt with, Pellerud had reached out to some players and the players “*just wanted to move on*”. This was the extent of the CSA’s actions and communications with its players following the May complaint, only days before Birarda was scheduled to accompany the team to a qualifying event in Mexico. There was no additional follow-up between the CSA and players on the U-20 WNT as it concerned the May complaints; the CSA did not make any support mechanisms available to players on the team, nor did they take the opportunity to remind players of the rules and regulations governing harassment or raise any awareness regarding players’ rights in the event of any continued harassment by Birarda.

vii) The September 2008 Investigation

The September investigation took place between 26 August 2008 and 8 October 2008 and consisted of a total of 41 hours of work subsequently billed by Anne Chopra. The IRT estimates the amount of time spent on the player component of the investigation itself (contacting and interviewing players, and related tasks) to have been between 8.5 and 17 hours. Based on its assessment of the information in its possession, the IRT finds that the scope of the investigation was limited. Most players on the U-20 WNT were not asked or invited to participate in the investigation.

There is no written record of the investigation including the Terms of Reference, final report, and recommendations. The Ombudsperson’s report and recommendations were delivered verbally to the Vancouver Whitecaps and the CSA.

Pending the completion of the investigation, a letter of suspension was issued to Birarda by the CSA and the Whitecaps on 3 October 2008. The letter advised Birarda that *“evidence of any of these conditions shall result in immediate steps, including but not limited to termination of your contract with the Whitecaps Football Club Ltd. and Canadian Soccer Association.”*<sup>6</sup>

According to interviews conducted by the IRT, the Ombudswoman found a continuing pattern of harassing emails and a power imbalance between Birarda and the players and recommended that Birarda should no longer be coaching the U-20 WNT.

The IRT interviewed members of the Executive Committee from 2008 who confirmed that these verbal recommendations were made by the Ombudswoman and were the basis for their vote to terminate Birarda. However, the Executive Committee’s vote to terminate Birarda is not documented in any meeting minutes of the Executive Committee or Board of Directors.

Following meetings between the Whitecaps, CSA, Birarda, and lawyers for the parties, on 8 October 2008, Birarda submitted a letter of resignation addressed to the General Secretary. The letter states that *“I confirm we have come to a mutual agreement that there is a need for a coaching change for the U20 Women’s National Team effective immediately and accordingly I am stepping aside.”*<sup>7</sup>

#### viii) Communication following September Investigation

The CSA convened a meeting on 8 October 2008 which was attended by executives of the Whitecaps and the CSA, incoming U-20 WNT coach Ian Bridge, and selected players on the Whitecaps WT and U-20 WNT. The purpose of the meeting was to inform the players in attendance of the coaching change. Scripted speaking notes were prepared in advance of the meeting including a prepared statement by Birarda to be read by Ian Bridge. There is no acknowledgment of Birarda’s harassment in his prepared statement and no mention of any decision to terminate Birarda in the speaking notes. On the contrary, Birarda’s exit as Head

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<sup>6</sup> Canadian Soccer Association and Vancouver Whitecaps, “Birarda Suspension Letter”, 3 October 2008.

<sup>7</sup> Bob Birarda, “Resignation Letter to CSA”, 8 October 2008.

Coach was characterized as “a mutual decision to part ways” in scripted comments to be read at the meeting by the CSA Vice President and generic statements issued to the general public.

ix) Player Feedback and Canada Soccer Response 2019

Chapter 6 provides a summary of player feedback including three women who were on the U-20 WNT in 2008. The IRT also reviewed several public statements made in 2019 including: i) 2019 blog by Ciara McCormack; ii) 2019 Collective Statement by the U-20 WNT pool; iii) 2019 Personal Statement by Hana Taijji; and iv) 2019 Statement “A Game of Two Halves” by Andrea Neil. The information in these public statements helped assess and corroborate other information obtained by the IRT throughout the Review. Finally, Chapter 6 expands upon the CSA’s response to these 2019 player statements.

x) Safe Sport Policy Evolution

Chapter 7 provides a summary and analysis of Canada Soccer’s current regulatory approach to Safe Sport. The CSA’s Harassment Policy described in Chapter 3.6 was replaced with the Code of Conduct and Ethics in 2017 followed by the development of the Canada Soccer Disciplinary Code in 2020. The current version of the Code of Conduct (now titled the “Code of Conduct and Ethics”) is a lengthier and more fulsome policy intended to ensure a safe and positive environment for all Canada Soccer members.

The current Disciplinary Code emphasizes the independent nature of the judicial bodies that deal with complaints of misconduct and clearly articulates the process in which complaints are filed and the judicial body they are referred to. It outlines a broad and detailed process for receipt and processing of all complaints of misconduct, including harassment, and explains the procedure for dealing with the same. It also provides a non-exhaustive list of disciplinary sanctions that may arise as a result of such misconduct.

Canada Soccer also has published the “Canada Soccer Guide to Safety” and has developed several new programs and policies which strengthen its ability to receive complaints and respond to harassment allegations, including the following:

- Whistleblower Policy
- Canada Soccer Club Licensing Program
- National Soccer Registry
- Coach Education Certification and Registration

The progress that has been achieved by Canada Soccer in both governance and Safe Sport is reflected in the following comment by a long-serving Canada Soccer staff member: *“We pushed...we’ve come a long way. (...) Independence on judicial bodies, greater expertise in harassment, That has been a big game changer.”*

## 1.2 Independence of Investigation

The evidence relied upon as the basis of this Report has been independently requested, collected, collated, and examined without bias or partiality. MGSS and its IRT operated in complete independence from Canada Soccer, and as a condition of its mandate, was granted the right to publish the final Report at its unfettered discretion.

## 1.3 Terms of Reference for this Report

The Terms of Reference required MGSS to conduct a review of the CSA’s institutional response and processes surrounding the allegations at the time in 2008 concerning former U-20 WNT Coach Birarda. This Review considered both the organisational and policy context in place at the time within the CSA, and also examined the relationship and interaction between the Vancouver Whitecaps and the CSA in responding to the 2008 complaints. This Review also includes an assessment of Canada Soccer’s current Safe Sport policies, with recommendations to ensure Safe Sport for all Canada Soccer participants.

The Review was never meant to be and was not a re-investigation of the complaint(s).

## 1.4 Methodology

The IRT conducted preliminary research to identify and compile a list of interview subjects. Canada Soccer provided a roster for the 2008 Whitecaps WT as well as the roster for the 2008

U-20 WNT. Through publicly available sources, the IRT obtained contact information for interview subjects which included email and social media (i.e. LinkedIn, Instagram).

The IRT contacted potential interview subjects by email or social media. Interview subjects were provided with background information about the Review including Terms of Reference and were invited to participate in an interview with the IRT. Former players also received an open letter signed by Richard McLaren with additional background information about how the Review was to be conducted.

A communiqué also was published on the MGSS website inviting former players, staff members, or others to participate in this Review. A confidential email address was provided: [McLarenIndependentSoccerReview@mgssportsolutions.com](mailto:McLarenIndependentSoccerReview@mgssportsolutions.com). The communique was promoted directly to players as well as via social media.

The IRT obtained contact information for twenty-three players, each of whom received an invitation to participate. Four players responded, including two who consented to an interview and two who declined to participate. A third joint player interview was conducted with Rubin Thomlinson; this was readily accommodated at the player's request so that she did not have to participate in two separate interviews. The IRT acknowledges the reluctance of some players to participate in this process; however, if further to this Report players wish to come forward, Canada Soccer will surely be open to engaging in a dialogue.

The IRT developed interview guides for each interview subject including former CSA staff, executives, and U-20 WNT players. All interviews were conducted by Zoom videoconference except for one telephone interview. All interviews were conducted by a female and male representative of the IRT, with two exceptions. At the outset of each interview, the interviewee was apprised of the Terms of Reference and asked if they had any questions concerning the interview process. All interviews were recorded with the consent of the interviewee who was advised that the recording was only to be used by the IRT for the sole purpose of verifying information.

The IRT invited a total of thirty-three non-players to participate in an interview; twenty-five consented to interviews, including the individuals identified in Table 1. The IRT attempted to locate Birarda for an interview but was unsuccessful. **Note:** as a convention to distinguish between former staff and current staff more clearly, ‘CSA’ has been used in association with former staff and ‘Canada Soccer’ to identify current staff.

Table 1: Non-Player Interviews Conducted by the IRT

Name	Job Title (*denotes 2008 job title)
Billingsley, John	Deputy General Secretary*, CSA
Bontis, Nick	President, Canada Soccer
Breda, Cathy	Manager of Administration, Canada Soccer
Cochrane, Earl	General Secretary, Canada Soccer (current)
Confidential Interview	British Columbia Soccer Association
Devos, Jason	Director, Development, Canada Soccer
Gendron, Camély	Chair, Ethics Committee, Canada Soccer
Glass, Maeve	Women’s National Team Tour and Equipment Manager*, CSA
Guest, Joe	Director, Officials*, CSA (2008) Deputy General Secretary*, CSA (2008-2021)
Heffernan, Sean	Chief Financial Officer, Canada Soccer
Hickey, Dorothy	Manager of Competitions*, CSA
Kendall, Leanna	Former Chair, Ethics Committee, Canada Soccer
Kelloway, Judi	Chair, Competitions Committee, Canada Soccer
Maestracci, Dominique	President, CEO, Board Chair, President Executive Committee*, CSA
Montagliani, Victor	Chair, National Teams Committee* (2008), CSA
Montopoli, Peter	General Secretary, CSA*/Canada Soccer (April 2008 – Dec. 2021)
Nicolle, Leanne	Former Canada Soccer Board Member
Nutt, Dave	Manager, Development Operations, Canada Soccer
Pazuk, Daniel	Systems Coordinator and Registrar, Canada Soccer
Pellerud, Anne	Team Administrator*, CSA
Pellerud, Even	Head Coach and Director, Women’s Senior National Team (‘WSNT’)*, CSA
Stewart, Joyce	Chair, Harassment Prevention Committee*, CSA
Story, Don	Board Member, Canada Soccer; Chair, Governance Committee
Ursini, Vincent	Past Board Member and Executive Committee Member*, CSA
Weir, Nicole	Client Services Manager, Xpera Corporation (Whistleblower Hotline)

In some cases, secondary conversations took place or email correspondence was shared between interview subjects and the IRT. The purpose was to verify information developed by the IRT and to receive additional documentation. Some individuals responded to the IRT after taking time for additional reflection to confirm specific information about the events of 2008.

The IRT found all acquiescent interview subjects to be fully cooperative. The IRT would like to acknowledge Joyce Stewart, Judi Kelloway, Dorothy Hickey, and Earl Cochrane who responded without reservation to multiple follow-up requests from the IRT for additional information and documentation.

In addition to relying upon and referring to the aforementioned personal interviews, the Review was informed by a thorough documentary analysis. The IRT requested, received, and reviewed information and documents from various individuals and organisations including current and former Canada Soccer staff and executives, former U-20 WNT players, British Columbia Soccer, the Vancouver Whitecaps, and Canada Soccer.

## 1.5 Limitations

The IRT faced several limitations in conducting the Review. The most significant limitation is related to the passage of time - fourteen years - from the time of the original allegations. Some interview subjects had difficulty recalling specific events from 2008 which could impact the reliability of the information provided to the IRT. As noted above, some interview subjects benefitted from additional time to aid their recall of events from 2008 and contacted the IRT following the first interview to either clarify their recollection of events or provide additional information.

The passage of time also proved to be a significant constraint in locating, obtaining, or verifying the existence of certain documents. In fact, Canada Soccer could not locate some records requested by the IRT. Due to the passage of time, it may be that some of the requested or referred to documents never existed. This includes human resource records about Birarda, copies of athlete agreements that may have been signed in 2008, and certain Executive Committee records, in particular documentation on its motion and subsequent vote to suspend

and subsequently terminate Birarda in October 2008. In these cases, the IRT relied on corroboration from witness interviews, direct evidence, and other documentation available to the IRT. For example, although the IRT was not provided with an employment contract for Birarda, it is unambiguous that he was a CSA employee in 2008 as illustrated by copies of T4 tax statements provided by Canada Soccer.

Another limitation was the reluctance of former U-20 WNT players to participate in the Review. This is the result of several factors including the passage of time and a complete lack of trust in Canada Soccer. The latter is a product both of the dissatisfaction expressed by many players with how the 2008 investigations were conducted and communicated, as well as dissatisfaction with Canada Soccer's failure to deliver on the 2019 Player's list of requests <sup>8</sup>.

Finally, the most important limitation the IRT faced was that the investigation conducted by Anne Chopra in September 2008 did not have documented Terms of Reference and neither a written report nor written recommendations were issued. Notwithstanding the same, the IRT was able to assess with reasonable certainty what steps were undertaken in that investigation by way of its analysis of produced documents including Ms. Chopra's itemized invoice for services rendered for the investigation she conducted on behalf of Canada Soccer and the Whitecaps.

## 1.6 The CSPA and PFACan Demands 2021

The IRT learned from Canada Soccer that the impetus for the current Review was the result of public demands made by the Canadian Soccer Players' Association ('CSPA') who represent players on the Women's National Team. Following Canada's Olympic gold medal performance at the 2021 Tokyo Games, a two-game Celebration Tour was scheduled; however, the CSPA only agreed to the exhibition matches under several conditions including a commitment to an independent review of the 2008 Birarda investigation. The players' sentiment is expressed in the following comment published on 27 October 2021. *"We wanted an independent*

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<sup>8</sup> On 8 November 2021 the Professional Footballers Association of Canada issued a statement by former Whitecaps WT players. The statement included a total of 7 requests related to the announcement of the two independent investigations.

*investigation, and that the findings of those investigations made public” according to Eden Hingwing. “We asked for that from Canada Soccer, and it was deafening silence.”<sup>9</sup>*

The Professional Footballers Association Canada (‘PFACan’), which represents several former Canadian National Team members, has been in contact with Canada Soccer through their attorney to discuss various demands, including mental health support for athletes. Canada Soccer indicates that they have been receptive to discussions about mental health support for athletes *“in theory”*.

On 8 November 2021, the PFACan issued a statement by former Whitecaps WT players following the announcement of an investigation by MLS regarding the Whitecaps’ role in the Birarda case, as well as that of another former coach Hubert Busby Junior. The statement welcomed the investigation by the Whitecaps and commented on Canada Soccer’s announcement of their independent review. In the statement, the PFAC claims, *“It is not clear that the MLS investigation and Canada Soccer review will do anything to ensure the safety and well-being of athletes in the system moving forward, which is of paramount concern and motivation to us.”<sup>10</sup>* Despite stating that concern for player health and safety was paramount moving forward, few players agreed to participate let alone provide input in the IRT’s Review.

The PFACan statement included a total of seven requests related to the announcement of the two independent investigations. Some players refused to consent to an interview citing the 8 November 2021 statement as the reason. For example, one former player responded to the IRT’s request for an interview as follows: *“For the avoidance of doubt, the reason why I am currently not prepared to engage directly with McLaren Global Sport Solutions is captured within the Professional Footballers Association Canada’s (‘PFACan’) press release of 8 November 2021.”<sup>11</sup>* In response, the IRT invited Player 4 to engage in dialogue to address her concerns before consenting to a formal interview. Player 4 was informed that the two

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<sup>9</sup> TSN, “Tipping Point from national women’s team spurs Canada Soccer to investigate coach”, Online: [‘Tipping point’ from national women’s team spurs Canada Soccer to investigate coach - TSN.ca](#) (Last Accessed: 30 March 2022).

<sup>10</sup> Professional Footballers Association Canada, “Statement by Former Whitecaps Women’s Players Who Played Under Bob Birarda and Hubert Busby Jr., as Represented By Professional Footballers Association Canada (PFACan)”, 8 November 2021.

<sup>11</sup> Player 4 Letter to MGSS, 16 March 2021.

investigations had agreed to collaborate on joint player interviews and the final report would be published by MGSS for full transparency as demanded by players. However, Player 4 did not reply to this invitation to dialogue with the IRT.

Following the 2019 player statements, the Vancouver Police contacted the General Secretary who recalled one or two conversations. The Police asked about an employment contract between the CSA and Birarda, remuneration details, and employment dates with the CSA. The General Secretary was unable to locate an employment contract for Birarda but did provide information concerning per diems paid as well as employment dates.

## 1.7 Findings

These are the IRT's key findings concerning the Report's reoccurring themes:

### CSA and the Whitecaps

1. No written operating agreement existed between the Vancouver Whitecaps and the Canadian Soccer Association in 2008; despite the dual coaching roles of Birarda as Head Coach of the Whitecaps WT and the U-20 WNT and other apparent intermingling between the two programs.
2. The CSA was going through a difficult period of executive leadership upheaval leading up to the timing of the Birarda complaints. The governance model that was in place in 2008 was characterized by a *"dangerous lack of attention to planning and accountability matters."*<sup>12</sup>
3. In 2008, the Head Coach and Director of the WSNT and the National Team Manager were both unaware of any formal job description clearly outlining their roles, responsibilities, authorities, and accountabilities. Other than performance objectives, roles and responsibilities had never been formalised or communicated to them. The lack of formality and oversight of the WNT coaching and management staff is corroborated by interviews with former CSA staff.
4. WNT staff did not have formal performance reviews in 2008; the reason cited was *"presumably due to void in senior CSA staff."*<sup>13</sup> This also was the case for U-20 WNT staff as corroborated by former CSA staff. There was confusion as to the supervisory role of Even Pellerud; the CSA's organisational hierarchy showed the U-20 WNT (and

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<sup>12</sup> Canadian Soccer Association, "Board Model Presentation", September 2008.

<sup>13</sup> Canadian Soccer Association, "Road to Excellence Evaluation Tool", 2008.

Birarda) reporting to the Head Coach and Director of the WSNT (Even Pellerud). However, no job description was produced for this position and Even Pellerud told the IRT that, other than performance-related goals, he was unaware of specific accountabilities associated with his role. He said he did not supervise Birarda.

#### Lack of oversight of the Women's National Team Program

5. There was a lack of oversight of the U-20 WNT and a *“disconnect between the Association and Women's team which operates relatively independently as team [sic] being in Vancouver”*<sup>14</sup> according to the 2008 Road to Excellence Evaluation Report.

#### Bob Birarda

6. The CSA Rules, Regulations and Administrative Guide 2008 included a Harassment Policy which at Article 2 provides that it applies *“to all employees, as well as to all directors, officers, volunteers, coaches, athletes, officials, administrators, members and participants who are under the jurisdiction of the CSA.”*
7. As Head Coach of the U-20 WNT in 2008, Birarda was a part-time employee of the CSA and subject to the CSA Rules, Regulations, and Administrative Guide 2008.
8. Birarda was widely known to be a great technical and tactical soccer coach.
9. For the most part, Birarda operated independently with inadequate supervision and no oversight, or performance monitoring.
10. Birarda had significant unilateral power and influence over the U-20 WNT program and its players whose control was described by several players as being *“God-like.”*
11. With no one directing or overseeing him, and given his expansive personality, power, influence, and control over the U20-WNT and its players, Birarda ran the team as he saw fit, moved players around at his whim, and engaged in what should have been identified by CSA as highly questionable if not flatly proscribed relationships, communications, and activities with his female players (e.g. sexting, flirting, discussing personal relationships, making sexual overtures, going out at night with players, total disregard for the rule of two, and blurring of other professional boundaries).

#### The 2008 Harassment Policy and Harassment Training

12. There was a complete lack of familiarity with the Harassment Policy amongst CSA senior officials in 2008.
13. Harassment was not a priority issue amongst the senior CSA leadership team in 2008.

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<sup>14</sup> Canadian Soccer Association, “Road to Excellence Evaluation Tool”, 2008.

14. The CSA fell short in its commitment to provide *“a process that is widely published in the soccer community, available to all participants and easy to follow and implement.”* The lack of transparency in documenting the CSA’s actions about the 2008 Birarda harassment complaints is inconsistent with the spirit and intent of the Policy Statement on Discrimination and Harassment.
15. Given the young age and vulnerability of players on the U-20 WNT roster, educating and training National Team players and staff about harassment issues should have been a greater priority for the CSA. Minimally, harassment training and support for the U-20 WNT should have been commensurate with the attention paid to harassment for the National Amateur Club Championships. However, this was not on the radar of senior CSA officials including several former staff who described 2008 as *“a different time”* in terms of attention paid to harassment prevention.
16. Players on the 2008 U-20 WNT did not receive any in-person training or education sessions about safeguarding, harassment and complaints, or reporting relating to the same. The IRT has not found or been informed of other documentation that may have required a player signature at the time including an athlete agreement and code of conduct that may have referenced the Harassment Policy. No players interviewed could recall any such agreements or reference to the Harassment Policy in any documents they might have received at the time.
17. Although player agreements were commonplace amongst other National Sport Governing Bodies in 2008, Canada Soccer was unable to produce a copy of a 2008 U-20 WNT athlete agreement, and no player interviewed by the IRT recalled signing an athlete agreement with the CSA. Some players did recall signing an agreement with Sport Canada concerning their status as a carded athlete involving financial remuneration, but the IRT could not be provided with copies of the same due to the inability to access them as a result of the passage of time. CSA staff also confirmed the existence of some form of parental waiver agreement for players who were minors, which as the IRT understands would not have included any reference to the Harassment Policy.
18. The Executive Committee failed to appoint *“four (4) appropriately qualified persons, two male and two female, to serve as National Harassment Prevention Officers”* as required under Article 8 of the Harassment Policy. The Chair of the Harassment Prevention Committee, Joyce Stewart, was widely understood to be the CSA National Harassment Prevention Officer although this was effectively not her role. Appointment of Harassment Officers was done on an ad hoc basis by the Harassment Committee for assignment to the National Amateur Club Championships. None of the appointed Harassment Officers had any interaction with the U-20 WNT program.

### The 2008 May complaint

19. The IRT is not aware of any specific actions, due diligence, player support, or education provided by the CSA upon being made aware of the May 2008 complaint, investigation, and recommendations about sensitivity training for Birarda. The sole exception is that a CSA executive instructed the Head Coach of the Women's National Team to "*ensure that this does not happen again.*"
20. The documents provided to the IRT confirm that the Vancouver Whitecaps had informed and kept the CSA apprised of the developments in the May 2008 complaint following the investigation undertaken by Anne Chopra.
21. After being informed of the May 2008 complaint, investigation, and recommendations, the CSA did not ensure that Birarda completed any of the undertakings he had committed to as remedial actions before starting the U-20 WNT training camps.
22. The CSA also failed to seize the opportunity to educate the U-20 WNT players on the rights and processes available to them under the Harassment Policy.

### The 2008 September complaint

23. The CSA, through the actions of the Head Coach WNT, President and CEO, General Secretary, and Executive Committee acted expeditiously in commencing an investigation upon being informed by Even Pellerud of the September 2008 allegations.
24. The CSA informed the Vancouver Whitecaps of the September allegations. Together they agreed to jointly appoint the same investigator who had conducted the May 2008 investigation.
25. The CSA did not "*Where sexual harassment is alleged the Executive Committee shall appoint two individuals, a male and a female to investigate the complaint*" as required under Article 10.4 of the Harassment Policy. Rather, the selection of Ombudswoman Anne Chopra to lead the investigation did not follow a prescribed selection or vetting process, relying on word-of-mouth recommendations of the Vancouver Whitecaps who had previous experience with Ms. Chopra as the one who had been retained to investigate the May 2008 complaint which was solely under the Whitecaps' jurisdiction.
26. Anne Chopra's investigation was not guided by written Terms of Reference. Ms. Chopra did not respond to a request to be interviewed by the IRT.
27. There is no evidence that the Ombudswoman was aware of or consulted the CSA Harassment Policy; nor is there any evidence that in the course of her investigation she informed complainants of the options available to them as provided in the Harassment Policy, Article 9 "Complaint Procedures" or that she sought to follow the Harassment Policy in any way.

28. The investigation took place over 11 days between 29 September to 9 October. The time allotted to the investigation was 41 hours, more than half of which involved administrative and planning tasks (e.g. calls with officials, strategy, scripting, consultation with lawyers). The IRT estimates that less than 15 hours were devoted to tasks related to player contacts and interviews. Many former U-20 WNT players were not invited to take part in the investigation and others claimed a lack of follow-up by the investigator.
29. The CSA failed to meet its obligations under Article 10.5 of the Harassment Policy which states, *“The results of the investigation shall be contained in a written report which may include material obtained during the course of the investigation and may also include recommendations based on the results of the investigation.”* Anne Chopra neither issued a written report nor written recommendations following the investigation. Her findings and recommendations were verbally reported to the CSA. The CSA did not insist on obtaining her report or recommendations in writing.

#### The improper implementation of regulatory procedures

30. Although the CSA acted expeditiously in commencing the investigation, the CSA did not follow the investigation procedures outlined in Article 10 of the Harassment Policy, entitled “Formal Complaint Investigation”.
31. According to Article 11 of the Harassment Policy, appropriate Disciplinary Sanctions are to be determined by the Case Review Panel and then recommended to the Executive Committee. The CSA Executive Committee did temporarily suspend Birarda without pay and eventually voted to terminate his employment, both disciplinary options provided in Article 11.2. However, such recommendations should have come from the independent Case Review Panel by way of a final report informed by several factors outlined in Article 11(1) of the Harassment Policy.
32. The Harassment Policy provides for the Case Review Panel to play a crucial and integral role in the actions and procedures implemented further to receipt of the written investigation report. A written report was not issued and a Case Review Panel was not appointed, both in breach of the Harassment Policy. As a result, there was effectively no way the CSA could successfully implement the procedures provided at Articles 9, 10, 11, or 12 of the Harassment Policy.

#### Birarda’s departure (resignation/termination)

33. The CSA, through the Executive Committee, voted to suspend Birarda from all coaching duties pending the outcome of the September 2008 investigation. A letter of suspension was jointly issued by the Vancouver Whitecaps and the CSA on 3 October 2008.

34. According to the information received by the IRT, upon completion of her investigation, Anne Chopra verbally recommended that Birarda should no longer be coaching the Whitecaps WT or the U-20 WNT based on a continuing pattern of harassing behavior and power imbalance.
35. Following the investigator's recommendation, the CSA Executive Committee voted to terminate Birarda in October 2008.
36. On 8 October 2008 Birarda issued a letter to the CSA indicating that he was resigning. The mutual parting of ways rather than termination of the coach was structured on the advice of legal counsel and "mutual agreement" of all parties that a coaching change was necessary.
37. The Executive Committee failed to impose appropriate disciplinary sanctions on Birarda according to Article 11 of the Harassment Policy. Although the Executive Committee acted swiftly to provisionally suspend Birarda and voted to terminate him, they allowed him the opportunity to resign from his position without acknowledging his harassment.

#### Communication Deficiencies

38. Birarda's departure from the U-20 WNT was poorly communicated to players, coaching staff, CSA Board members, or CSA Staff, if at all.
39. The decisions made by the CSA Executive Committee concerning Birarda were not recorded transparently. There is no record of any of the decisions of the Executive Committee concerning Birarda in the official minutes of the CSA including the Executive Committee and Board of Governors. There is no documentation provided to the IRT that shows a recorded vote of the Executive Committee to suspend, then terminate Birarda, or that such vote was shared with the CSA Board of Directors. CSA staff did not recall being informed of Birarda's departure or the circumstances surrounding the same.
40. The generic public statement issued by the CSA following Birarda's departure did not acknowledge Birarda's harassment or the recommendations of the Ombudswoman. The CSA Executive Committee's intent to terminate Birarda was communicated as a "*mutual parting of ways*" which mischaracterised if not glossed over the real circumstances surrounding his departure.
41. A statement was drafted by Birarda to be read at a player meeting by incoming Head Coach Ian Bridge to inform them of the coaching change. The self-serving statement references personal challenges including Birarda's health and family but does not acknowledge the harassing behavior at the root of his departure. Players at the meeting were told by a CSA official that "*Many of you are aware of some of the*

*challenges that Mr. Birarda has been dealing with, including his health and limited time for his own personal obligations.”<sup>15</sup>*

42. Only selected players were invited to a meeting on 8 October 2008 to inform them of the coaching change. The meeting was attended by a CSA Vice President, the President of the Vancouver Whitecaps, and the newly appointed coach Ian Bridge, among others who may have been present. The players were informed that effective immediately, *“Mr. Birarda will no longer be the Head Coach of the Women’s U-20 National Team”* and *“It is a mutual decision to part ways, Mr. Birarda, and the CSA agree that it is in the best interest for all parties concerned.”<sup>16</sup>* The content of the CSA scripted communication did not directly acknowledge the harassment experienced by certain players but did refer to Birarda’s personal *“challenges.”*
43. Other players interviewed by the IRT said that they had never been informed that Birarda had been provisionally suspended and were only informed of the coaching change by the new Head Coach Ian Bridge before a team practice after Birarda’s departure.
44. The little information the CSA shared with the players at the meetings and by way of the issued public statement rightly resulted in the players being taken aback and angry as to the investigation process and its outcomes.
45. Inadequate support, easement, and follow-up were given to the U-20 WNT players further to the investigation and Birarda’s departure.
46. The lack of transparency in documenting the CSA’s actions concerning the 2008 Birarda harassment complaints and maintaining records of the same is inconsistent with the spirit and intent of the CSA’s Policy Statement on Discrimination and Harassment.
47. The National Harassment Prevention Committee (‘NHPC’) provided a report to the CSA AGM in February 2009 which did not include any reference to the allegations against Birarda nor to the investigation that was undertaken during the 2008 reporting period when these events occurred. Former members of the NHPC interviewed by the IRT did not recall having any involvement or knowledge of the Birarda complaints or investigation.
48. The leaders of Canada Soccer acknowledged to the IRT that mistakes were made in how the Birarda complaint process was managed and communicated including regrets that *“we had taken a silent position on this.”*

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<sup>15</sup> Speaking notes for player meeting to advise the Birarda coaching change, undated.

<sup>16</sup> Speaking notes for player meeting to advise the Birarda coaching change, undated.

### Canada's Soccer's response to the various 2019 Player Statements

49. The May and September allegations were in no way as egregious as the admissions of sexual harassment Birarda later made in 2019 further to criminal charges being brought against him, and more importantly the details victims shared with the IRT. The IRT has no evidence that the CSA had been informed of the latter in 2008.
50. In 2019 following the player statements, Canada Soccer felt that they had already addressed the allegations in 2008, which Canada Soccer assumed had been accurately and thoroughly investigated by the Ombudswoman. Canada Soccer's knowledge of the 2008 complaints was limited to inappropriate texting; the IRT is not aware of any additional complaints or more egregious allegations reported to the CSA by players following the September 2008 investigation.

### Safe Sport Policies 2022

51. Canada Soccer has enacted measurable improvements to its Safe Sport policies, education, and programs to ensure greater accountability within its ecosystem from grassroots to high performance. Its "Safe Sport Roster" was approved unanimously by members in 2019; *"a progressive package of programs, policies, and procedures designed to ensure that all organizations that offer soccer programming in Canada create safe, fun, and welcoming experiences for all participants."*
52. Key elements of the current Safe Sport policies include a new Code of Conduct and Ethics, Disciplinary Code, independent Whistleblower Hotline, National Soccer Registry, and Club Licensing Program. Furthermore, Canada Soccer has introduced enhanced coach education pathways and has developed relationships with the Canadian Centre for Child Protection, and The Respect Group, among others.

### Other Clarifications of Relevance

53. No documentation or witness testimony suggests a non-disclosure agreement existed pertaining either to the September 2008 investigation or the removal of Birarda as Head Coach of the U-20 WNT.
54. Given Birarda's decision to resign, no formal disciplinary proceedings or sanctions were taken against him under Article 11 of the Harassment Policy. He was not terminated. Because no disciplinary sanctions were effectively imposed upon him under the Harassment Policy, the circumstances of his departure could not inform the hiring decisions of other soccer organisations.
55. Birarda received his B Licence on 16 May 2006 and it expired after five years in 2011. Although Birarda's B Licence expired, most coaches at the grassroots level in Canada do not hold a Licence and may not be required to hold a Licence depending on the level of the team being coached. Birarda was not required to hold a B Licence for the coaching assignments he accepted after leaving the U-20 WNT, which may explain why he let his B Licence lapse. A coaching Licence is irrevocable. The expiration of Birarda's Licence had no bearing on his ability to continue coaching.

## Chapter 2: Vancouver Whitecaps & Canadian Soccer Association Relationship

In 2008, the Vancouver Whitecaps and the Canadian WNT program mutually benefited from a strong relationship dating back to early 2000; the relationship was fostered by Kevan Pipe, the CSA's former Chief Operating Officer who was terminated by the CSA in 2006. Before he was appointed the Head Coach of the U-20 WNT, Birarda was employed as the full-time Head Coach of the Whitecaps WT. As the U-20 WNT Head Coach, Birarda worked on a casual, part-time basis.

In 2006, an Agreement was entered into between the CSA and its WNT Program and the Greg Kerfoot Family Trust ('GKF').<sup>17</sup> The details of the Agreement are summarized in a letter from Evan Pellerud on behalf of the CSA to Greg Kerfoot, owner of the Vancouver Whitecaps. The Agreement was for three years and was approved unanimously by the Executive Committee of the CSA Board of Directors in January 2006. The purpose of the Agreement was to provide financial support to players of the WNT Program in 2006, 2007, and 2008 that would *"result in players being allowed to devote themselves full time to (CSA) preparations."* The Kerfoot funding was to provide \$20,000 per year to each player selected, with the total amount each player would receive at between \$38,000 to \$40,000 when additional funding from the Sport Canada carding program was factored in. With this support, there was an expectation from the CSA that each of their approximately 20 players would agree to *"confirm that they are now full-time players"*, and *"re-locate to Vancouver for the next 31 months"* allowing Pellerud *"to work with these players on a daily basis and to in effect operate our Women's National Team like a club."*

The strength of the relationship between the Whitecaps and the CSA was not simply predicated on a financial arrangement. It also benefitted from the CSA moving the WNT program from Toronto to Vancouver. For example, the Head Coach of the WNT initially carried out his duties from the CSA offices in Toronto. However, *"in 2004, with the agreement of the CSA, [Pellerud] and his wife moved to Vancouver in conjunction with the CSA's move of the Team operations*

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<sup>17</sup> Canadian Soccer Association, Letter "Re. Confirmation of Agreement between the Canadian Soccer Association and its National Women's Team (NWT) Program and the 'Greg Kerfoot Family Trust (GKF)'" . Evan Pellerud (Canada Soccer) to Greg Kerfoot (Vancouver Whitecaps), 30 January 2006.

to Vancouver.”<sup>18</sup> Furthermore, the WNT Head Coach and his wife rented and lived in a large home in West Vancouver owned by Greg Kerfoot.

In 2007, the CSA’s office and Whitecaps’ office were located in Vancouver, in the same building, and on the same floor. Before this shared location, the CSA occupied space in the Whitecaps’ office.<sup>19</sup> One former CSA executive indicated that the relationship between Bob Lenarduzzi of the Whitecaps and Evan Pellerud was “*more or less a clique*” and that “*they [WNT] did their own thing because Pellerud was in Vancouver.*” Another former CSA executive suggested that Pellerud had a lot of control and influence over the WNT program given his permanent residency in Vancouver, and his close relationship with Vancouver Whitecaps senior leadership and ownership.

One former U-20 WNT player described the Whitecaps WT as the de facto U-20 WNT since so many Canadian National Team players also competed as members of the Whitecaps. Another player suggested that the CSA was “*outsourcing*” the development of the U-20 WNT to the Whitecaps. The player commented that “*It was difficult. You do not want to upset a financial benefactor. On the other hand, you have responsibility for a program you should not be outsourcing.*” One senior CSA staff member described the Vancouver Whitecaps as “*being so embedded in the Canadian Women’s National Team Program...It was because their ownership group felt it was important.*”

The dual coaching roles of Birarda together with a large number of U-20 WNT players on the Whitecaps roster provided strong continuity when the Whitecaps season ended and transitioned to National Team training camps. In September 2008 the Whitecaps WT season transitioned to a training camp for the U-20 WNT in preparation for the World Cup in Chile.

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<sup>18</sup> Sport Dispute Resolution Centre of Canada, AWARD: Charmaine Hooper, Christine Latham, Sharolta Nonen (CLAIMANTS) and Canadian Soccer Association and Evan Pellerud (RESPONDENTS), June 1, 2007. Online: [Microsoft Word - Reasons for Award - 07-0051.doc \(crdsc-sdrcc.ca\)](#) (Last accessed March 8, 2022).

<sup>19</sup> Sport Dispute Resolution Centre of Canada, AWARD: Charmaine Hooper, Christine Latham, Sharolta Nonen (CLAIMANTS) and Canadian Soccer Association and Evan Pellerud (RESPONDENTS), June 1, 2007. Online: [Microsoft Word - Reasons for Award - 07-0051.doc \(crdsc-sdrcc.ca\)](#) (Last accessed March 8, 2022).

As many as twenty-five players listed on a 2008 roster for the Whitecaps WT were affiliated with the U-20 WNT. Many of the players lived in an apartment complex in Vancouver called the Monterey. This included both Women's Senior National Team players and U-20 WNT players. The IRT was told that the Whitecaps paid for the residency in the apartment complex. After the Whitecaps season concluded, players continued to live in the apartment complex during subsequent training camps held throughout the greater Vancouver area. The Whitecaps also provided a unit in the apartment complex for meetings (a unit in which Birarda temporarily lived as explained hereunder).

There were other connections between the Whitecaps and the CSA. For example, Greg Anderson, Direction of Professional Teams for the Whitecaps, was also on the CSA Board of Directors in 2008. The close working relationship between the two programs is evidenced by the large volume of internal correspondence and cooperation between Greg Anderson and the CSA when dealing with the allegations against Birarda.

Despite the close intermingling between the two organisations, the IRT learned that there was no formal operating agreement between the Vancouver Whitecaps and the CSA. During the Whitecaps WT season when Birarda was coaching the team, the jurisdiction over Whitecaps/U-20 WNT players belonged to the Vancouver Whitecaps. When U-20 WNT players transitioned to the September 2008 training camp led by Birarda, the jurisdiction over players belonged to the CSA. At no time did the CSA have jurisdiction over other Whitecaps WT players not affiliated with the U-20 WNT.

Although the latter explanation of jurisdiction appears to be clear, there are additional nuances and interpretations concerning jurisdiction based on the IRT's review of the CSA's Rules, Regulations, and Administrative Guide. For example, Article 2 of the CSA Harassment Policy provides the following information about the applicability of the policy:

*"This policy applies to harassment which may occur during the course of all CSA business, activities and events. It also applies to harassment occurring outside those situations, when the harassment is occurring between individuals covered by this policy and when such harassment adversely affects relationships with the CSA's work and sport environment." (p.77)*

The harassment complaint reported to the Vancouver Whitecaps in May 2008 was clearly within the Vancouver Whitecaps' jurisdiction. However, although the May complaint occurred outside of the CSA's "*business, activities and events,*" one can reasonably infer that given the dual coaching role of Birarda and a large number of U-20 WNT players on the Whitecaps WT, the harassment reported in May adversely affected "*relationships with the CSA's work and sport environment.*" This proved to be true in hindsight, given the renewed allegations against Birarda in September 2008. The close connection between the two programs and the seamless transition described between the Whitecaps season and the U-20 WNT training camps suggests that even though the May complaint fell under the Whitecaps jurisdiction, the CSA Harassment Policy also may have applied given the concomitant impacts on the U-20 WNT players and program.

The complaint made to the Whitecaps in May 2008 was investigated by the Whitecaps and shortly thereafter reported to the CSA. Although documentation in the IRT's possession confirms that CSA executives were well apprised of the May 2008 investigation and its outcomes, the IRT is not aware of any specific actions, due diligence, player support, or education provided by the CSA upon being made aware of the May 2008 complaint, investigation, and recommendations by Anne Chopra and the Whitecaps. The only exception is an instruction provided by the General Secretary to Even Pellerud whereby he advised that Birarda is under Pellerud's jurisdiction and that Pellerud is responsible to ensure that "*this does not happen again*". Considering the U-20 WNT was leaving for training camp in Mexico in the weeks after the May investigation ended, it would have been incumbent upon the CSA to advise the U-20 WNT players to be vigilant. It might also have been judicious if only a perfect educational opportunity at that time to encourage players to become aware of the Harassment Policy and to not be afraid to come forward with complaints. The CSA Board of Directors also should have had the insight to place Birarda on their risk registry.

One of the recommendations of the May 2008 investigation was for Birarda to follow sensitivity training. The IRT is unaware of the documented completion of this training and by whom. No one from the CSA could confirm if Birarda completed such training, or if he completed it before his departure for the CSA training camp in Mexico. In any event, after the Whitecaps season, Birarda resumed his duties as the U-20 WNT Head Coach irrespective of the completion of this

training. The IRT's assessment of the evidence is that the September 2008 complaint included Birarda's continued suggestive texting, the same misconduct that was alleged in the May 2008 complaint that triggered the first investigation led by the Whitecaps.

While the September 2008 complaint fell outside the Whitecaps' strict jurisdiction, given Birarda's overlapping coach-player relationships within both organisations' programs and in light of the preceding May complaint that had been dealt with by the Whitecaps, the two organisations decided it was in their mutual interest to jointly select and pay for an individual to investigate. Considering that Anne Chopra had led the investigation into the May complaint, the Whitecaps suggested, and the CSA agreed, that she should also lead the investigation into the September complaint with no consideration of what the CSA's Harassment Policy provided in terms of process.

## Chapter 3: Canadian Soccer Association 2008

The 2008 CSA was described by several former staff as dysfunctional. The governance model was characterized as inefficient and there was pressure from Sport Canada as well as FIFA to improve the CSA's governance model. Compounding this was a period of significant leadership upheaval at the most senior levels of the organisation including the positions of President and CEO, General Secretary, and Deputy General Secretary. While enacted and applicable, the existence of a Harassment Policy was mostly unknown by executive staff and players alike. Although attention was given to safeguarding at the National Club level, the Harassment Policy was not implemented by anyone within the CSA.

Because all of these factors played a role in the shortcomings of the CSA's response to the Birarda allegations in 2008, this section provides an overview of the CSA in 2008 from an operational and policy perspective to give context to the institutional actions and decisions that were undertaken concerning the Birarda complaints. This includes an examination of the CSA's organisational and governance structure, By-laws, Rules, and Regulations, and a comparative analysis of Harassment Prevention processes across the CSA in different competitive contexts.

### 3.1 Leadership Upheaval – 2006-2008

In the period leading up to the 2008 complaints, the CSA was in a period of “*great upheaval*” according to one former CSA leader. This involved significant disruption at the most senior levels of the CSA including the positions of President and CEO, and General Secretary (C.O.O.).

The termination of CSA Chief Operating Officer Kevan Pipe created a leadership void in November 2006. Pipe had played a key role in cultivating the relationship with the Vancouver Whitecaps. The void created by Pipe's departure was filled by a triumvirate including the Deputy General Secretary/C.O.O., the Chief Financial Officer, and the Tournament Director.

The Deputy General Secretary was appointed to the position of Acting Chief Operating Officer (General Secretary) in early 2007 and held this role for approximately one year until a permanent General Secretary was hired.

The CSA Board had hired a professional search firm and announced the appointment of Fred Nykamp as the organisation's new Chief Executive Officer on 24 May 2007. The CSA issued a media statement that included the following excerpt:

*"We are proud to welcome Mr. Nykamp to the Canadian Soccer Association team," says President Colin Linford. "It is a pleasure to introduce someone with such a strong business repertoire from both the corporate and sport communities. He will play an integral part in shaping the Canadian Soccer Association from our youngest first-time players to our senior professional and international players."*<sup>20</sup>

However, after the public announcement, some members of the Board demanded that the offer should be rescinded. This caused a major crisis for the CSA and led to legal action by Nykamp. According to media reports, "Nykamp sued the national soccer organization for more than \$1.75 million in a bizarre case in October, claiming wrongful hiring and firing".<sup>21</sup> A settlement was reached with Nykamp and announced by the CSA on 28 January 2008.<sup>22</sup>

On 25 March 2008, the CSA announced the appointment of Peter Montopoli to the position of General Secretary.<sup>23</sup> Montopoli had recently led the CSA's involvement with the FIFA U-20 World Cup held in Canada in 2007. Thus, Montopoli was relatively new to his role when the CSA was apprised of complaints about Birarda by the Whitecaps in June 2008.

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<sup>20</sup> Canadian Soccer Association, "Fred Nykamp Named Canadian Soccer Association's Chief Executive Officer", Media Statement, 24 May 2007. Online: [Fred Nykamp named Canadian Soccer Association's chief executive officer - Canada Soccer](#) (Last accessed 5 May 2022).

<sup>21</sup> Toronto Star, "CSA, Nykamp reach settlement", 28 January 2008. Online: [CSA, Nykamp reach settlement | The Star](#) (Last accessed 5 March 2022).

<sup>22</sup> Canadian Soccer Association, "Canadian Soccer Association, Nykamp Reach Settlement", Media Statement, 28 January 2008. Online: [Canadian Soccer Association, Nykamp reach settlement - Canada Soccer](#) (Last accessed 5 March 2022).

<sup>23</sup> Canadian Soccer Association, "Association Appoints Peter Montopoli As New General Secretary", Media Statement, 25 March 2008. Online: [Association appoints Peter Montopoli as new general secretary - Canada Soccer](#) (Last accessed 5 March 2022).

Following Montopoli's appointment, the Acting C.O.O. returned to his previous role as Deputy General Secretary (Joe Billingsley); this position was described as Montopoli's "*right-hand man*" by one interviewee. The Deputy General Secretary retired from the CSA shortly thereafter in October 2008, replaced by Joe Guest.

Amidst the hiring controversy of the General Secretary, the President and C.E.O. Colin Linford tendered his resignation on 28 August 2007.<sup>24</sup> Linford had been in the role since May 2006. The void created by his departure was filled by the appointment of Dominique Maestracci as Chairman of the Board on 20 October 2007. Maestracci was subsequently elected President and C.E.O. in May 2008. Like Montopoli, the CSA President was new to this role when the Birarda complaints were made in 2008.

### 3.2 Governance Structure

The CSA's 2008-2012 strategic framework describes the governance structure as a weakness and the CSA as being significantly undercapitalized to meet the needs of the membership.<sup>25</sup> The strategic framework identifies that the "*Board lacks clarity, roles, and function*" and that the "*CSA Executive Committee functions as a [sic] operational (day to day) body vs. acting as a strategic governance body.*" Other weaknesses cited in the strategic framework include the decentralization of CSA staff offices and the lack of a CSA disciplinary policy. The IRT's findings concur with these identified weaknesses.

A former CSA executive explained to the IRT that there were two distinct periods of governance. During the first period (between 2008 and 2012) the General Secretary's role was largely administrative versus strategic. The second period of governance was between 2012 and 2021 during which time the General Secretary's accountabilities evolved into a CEO role with more strategic leadership responsibilities.

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<sup>24</sup> Canadian Soccer Association, "President Colin Linford Resigns", Media Statement, 28 August 2007. Online: [President Colin Linford resigns - Canada Soccer](#) (Last accessed 5 March 2022).

<sup>25</sup> Canadian Soccer Association, "Draft Strategic Framework 2008-2012", May 15&16, 2008 (Board package).

The IRT learned that in 2008 some of the governance issues were the result of the Board of Directors' structure and accountabilities, or lack thereof. Several former CSA employees suggested the governance structure was ineffective because the power rested with provincial and territorial representatives and the Board operated as a "Management Team" Board. This model's shortcomings were highlighted in an internal presentation made to the Executive Committee in September 2008.

*"The most important shortcoming is that all too frequently, it degenerates into what I call the Micro-management Team Model in which board members refuse to delegate authority, believing that their role requires them to make all operational decisions, leaving only the implementation to paid staff. The result is invariably a lack of consistency in decisions, dissatisfied board members, resentful staff and a dangerous lack of attention to planning and accountability matters."*<sup>26</sup>

This approach led the CSA to adopt a "Policy Board Model" which was approved in September 2008.

*" [...] the need to differentiate the board's role from the manager's role arose from the failure of many organizations to maintain proper accountability at the highest levels and the dissatisfaction of many board members over their [sic] inability to comply with the expectations of their role. They began to ask why, when they were such competent and accomplished individuals, they felt so ineffective and frustrated as board members. This led to an examination of the role of the board, the relationship between the board and the CEO, and the relationship between the board and the community."*<sup>27</sup>

In 2008, CSA business was conducted by a Board of Directors comprised of Officers and Directors. This included eight officers who together comprised the Executive Committee, twelve Directors who were Presidents of each Provincial/Territorial Association in membership, as well as "One Director to represent collectively Canadian Professional Club – the Director: Professional."<sup>28</sup> The Director, Professional on the CSA Board was Greg Anderson. At the time Mr. Anderson was the Director, Professional Teams of the Vancouver Whitecaps FC. Mr.

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<sup>26</sup> Canadian Soccer Association, "Board Model Presentation", September, 2008.

<sup>27</sup> Canadian Soccer Association, "Board Model Presentation", September, 2008.

<sup>28</sup> Canadian Soccer Association, "By-laws", 2008.

Anderson was a key figure in respect to both the May and September 2008 Birarda complaints. In 2008, there were three additional “Director at Large” positions on the Board who also served on the Executive Committee.

The meeting minutes document several governance issues the CSA faced in 2007-2008. This includes correspondence from Canadian Heritage to the CSA on 8 November 2007 that outlined concerns including organisational stability, human resource capacity, and strategic plan development. Subsequent correspondence from Canada Heritage to the CSA on 14 July 2008 acknowledges the *“progress and accomplishments that have been made over the past months in addressing some of the concerns that were communicated in our letter of November 9, 2007 [...]”*<sup>29</sup> However, despite this progress, the letter highlights *“a number of issues that Sport Canada views as being particularly important for Soccer Canada<sup>30</sup> to accomplish in the short term, in order to satisfactorily meet Sport Canada’s funding requirements for 2009-2013.”* This included the implementation of *“Wellness to World Cup, Soccer Canada’s Long Term Player Development”*, as well as transitioning into the new National Coaching Certification Program, and a policy that addresses *“Equity and Access for the Association.”* The critical importance for Sport Canada to address these issues is reflected as follows: *“Should all of these items not be completed by October 2008 the continued eligibility of Soccer Canada for Sport Canada funding may be in jeopardy.”*

### 3.3 CSA Organisational Structure

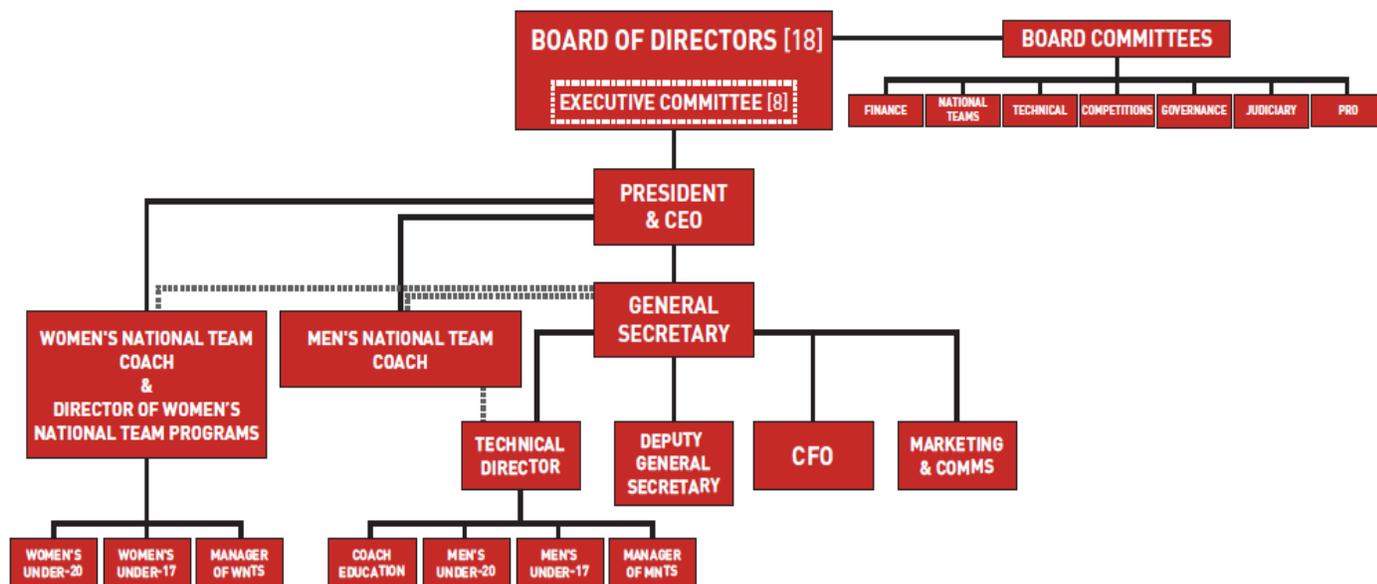
The CSA’s 2008 organisational structure is illustrated in Figure 1.

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<sup>29</sup> Canadian Heritage, “Letter to Peter Montopoli”, 14 July, 2008.

<sup>30</sup> The correct terminology used today is Canada Soccer.

Figure 1: CSA Organisational Structure 2008



\*GOVERNED BY 2008 BYLAW & RULES & REPS

As illustrated in Figure 1, the Women’s U-20 WNT program reported to the Head Coach and Director of the WSNT. However, Even Pellerud disputes that he supervised Birarda. One factor contributing to this confusion is the lack of a job description outlining the roles and responsibilities of the Director of WNT Programs.

The structure of reporting for the women’s programs differed from the men’s program and was less rigorous. For example, the U-20 Men’s National Team reported to a Technical Director who, in turn, reported to the General Secretary with a dotted line functional report to the Men’s National Team Head Coach. However, the U-20 WNT did not have a technical director in the reporting hierarchy and all supervisory authority – on paper - rested with the WNT Head Coach. To the IRT, this lack of reporting was also a product of the CSA’s perceived, if not established, lack of interest and oversight into the U-20 WNT at the time.

### 3.4 Decentralization and Lack of Oversight

The WNT program operated in Vancouver, British Columbia, far removed from the CSA head office in Ottawa and the technical office in Toronto. Former staff described the WNT program as not receiving much attention from the CSA. The feeling was that the program was not a high priority for the CSA. Several former CSA staff, including those directly involved with the U-20 WNT, claimed that in 2008 they did not have a formal job description clearly outlining specific responsibilities, reporting relationships, and accountabilities, let alone a proper employment contract. For example, a former CSA staff member who began with the CSA in 2004 told the IRT that she did not have a written employment contract until 2010 and did not undergo a formal performance review until 2011. Before having a contract, this employee informally reported to a myriad of individuals in more senior positions; and much of the direction received was on an ad hoc situational basis depending on varying job functions she might have carried out.

#### Lack of clear job responsibilities and oversight

In 2008, the CSA was identified as *“one of the targeted sports supported by the Road to Excellence (‘RTE’). All targeted sports were advised on the 28<sup>th</sup> of February that RTE would be introducing a planning model approach to funding.”*<sup>31</sup> The Road to Excellence was a precursor to Canada’s Own The Podium organisation.

According to the RTE letter, *“Your organization was recently evaluated by RTE and a number of planning implications for your high-performance program for the 2012 Olympic/Paralympic cycle were identified in conjunction with the High-Performance Advisor.”* Appended to the letter was a document entitled *“Canadian Soccer Association – Women’s Senior National Team Evaluation Tool 2008.”*<sup>32</sup> The Evaluation Tool identified several key areas including: *“Technical Leadership/Coaching”, “Athlete Development Pathway”, “Athlete Retention”, and “High-Performance Training and Competition”, among others.*

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<sup>31</sup> Road to Excellence, “Letter to CSA General Secretary”, 30 May 2008.

<sup>32</sup> Road to Excellence, “Canadian Soccer Association – Women’s Senior National Team Evaluation Tool”, 2008.

The RTE Evaluation Tool includes several evaluation questions, qualifying statements, and practical solutions. For example, one question asks, *“Do the job descriptions for each technical position clearly outline the roles, responsibilities, authorities and accountabilities for the individual?”*. The Evaluation Tool report acknowledges that although the Head Coach of the Women’s National Team has a contract that lays out job duties, the Head Coach *“does not believe there is a formal job description.”* As well, the *“National Women’s Team Manager does not believe there is a Job Description for his position.”* These statements are consistent with the IRT’s interview of the former WNT Head Coach as well as other staff who worked with the U-20 WNT. This may explain why the IRT has been unable to locate a job description for the U-20 WNT Head Coach position, as none might have existed in 2008.

The RTE Evaluation Tool report suggests that *“there appears to be some uncertainty in this area probably due to the staff leadership void. This suggests a need to formalize everything particularly reporting relationships, authorities and accountabilities.”* This uncertainty over job descriptions and accountabilities was reported to the IRT by several former staff. Former CSA employees provided conflicting statements about who they thought Birarda reported to as the U-20 WNT Head Coach. Some felt Birarda reported to no one and ran the team as he deemed fit, whereas others suggested that he reported to the WNT Head Coach. Pellerud and his staff had a technical interest in the U-20 WNT as a source of talent for the WNT and would regularly scout U-20 WNT games; however, a formalized reporting relationship between Birarda and Pellerud remains unclear.

On the 2008 CSA organisational chart, Pellerud is listed as the WNT Head Coach & Director of WNT Programs with a direct reporting line from “Women’s Under-20”. Pellerud was unsure as to what the “Director of Women’s National Team Programs” position entailed and could not recall specific accountabilities inferred by this job title. Pellerud told the IRT that he had made a recommendation to hire Birarda but was uninvolved and unaware of Birarda’s employment relationship with the CSA. Although he says that he did consult with Birarda informally coach-to-coach for scouting purposes and that they shared a friendly relationship, Pellerud claims to have had no hiring or supervisory authority over Birarda.

The findings of the RTE Evaluation Tool report, together with the leadership upheaval in 2008 and flawed CSA governance structure, provide important context in helping to understand the confusion and lack of formality concerning those to whom Birarda reported. The IRT finds that irrespective of any job description that may or may not have existed for the Head Coach U-20 WNT, Birarda operated independently with no oversight and inadequate supervision or performance monitoring.

#### The lack of oversight of the U20-Women's National Team

The RTE Evaluation Tool report also corroborates the perceived or established lack of attention to the Women's National Team program, as voiced by players and CSA coaching staff alike. The RTE acknowledges the *"need to eliminate what could be described as an adversarial relationship between the Women's program and CSA."* The discontent, or *"adversarial relationship"*, bred by this decentralization is further described as follows:

*"There is currently a disconnect between the Association and Women's team which operates relatively independently as team [sic] being in Vancouver. This is partly due to the 'volunteer board' perceived bias toward's [sic] men's soccer. If the current development approach continues, some additional admin and coaching support may be warranted. The current Women's NTP staff make it work but my sense is that they are all in danger of burn-out."*

The focus of the WNT program was on performance and technical development and the coaching staff's accountabilities were tied to wins and losses. From a high-performance training and competition perspective, the RTE Evaluation Tool report acknowledges that the daily training and monitoring for all identified high-performance athletes in the women's program *"is adequate"* and *"decentralised athletes at developmental levels are not monitored at a world-class level."* The IRT equally finds that the CSA's decentralization and lack of oversight, monitoring, and evaluation processes were crucial factors that led to its institutional shortcomings in preventing and then adequately addressing and treating the Birarda allegations in accordance with its Harassment Policy and Safe Sport best practices.

### 3.5 By-laws

The CSA By-laws provide a framework for its operation and management; they outline the CSA's governance structure including rights and conditions of membership, as well as the duties and powers of senior officers and bodies. Certain bodies and officers were involved in responding on the CSA's behalf to the Birarda allegations including the Executive Committee, the President and CEO, and the General Secretary.

The 2008 CSA By-laws include a goal to ensure that *“all participants are welcome in our sport regardless of race, gender, religion, age, language, or ability in an environment free from discrimination and harassment.”*<sup>33</sup> This is listed as the first of ten goals.

In 2008, the CSA was composed of six categories of membership including Association membership, League membership, Professional Club membership, Associate membership, and Life membership. Several conditions of membership were provided including *“(ii) To be in good standing a member must be in compliance with the By-Laws, Rules and Regulations of the Association.”*<sup>34</sup>

#### Bodies

In 2008, the CSA was comprised of four bodies:

- *the Board – as the Governing and Legislative Body*
- *The Executive Committee - as the Executive Body*
- *The General Secretariat – as the Administrative Body*
- *Standing and ad-hoc committees – who advise and assist the Executive Committee and Board of Directors in fulfilling its duties*<sup>35</sup>

The President represented the CSA legally and presided *“over the Board, The Executive Committee Meetings and the Committees of which he/she has been appointed Chair.”* The President was responsible for *“a) Ensuring the implementation of decisions passed by the*

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<sup>33</sup> Canadian Soccer Association, By-laws, 2008.

<sup>34</sup> Canadian Soccer Association, By-laws, Article 6, 2008.

<sup>35</sup> Canadian Soccer Association, By-laws, Article 10, 2008.

*Board of Directors and the Executive Committee through the General Secretary; b) Oversee the work of the General Secretariat; c) Relations between CSA and Associations, members, political bodies, Confederations, and FIFA.”<sup>36</sup>*

According to the By-laws, the General Secretary is the Chief Executive of the General Secretariat. The General Secretary’s responsibilities include: *“Implementing decisions passed by the members at all General Meetings, by the Board and Executive Committee in compliance with the President’s directives.”<sup>37</sup>*

A Board of Directors comprised of Officers and Directors conducted CSA business. This includes eight Officers who together comprise the Executive Committee. The composition of the Executive Committee includes the President, General Secretary, two Vice-Presidents, Treasurer, and three Directors at Large. The Executive Committee *“shall possess and may exercise all the powers of the Board in the direction of the Affairs of the Association, save and except only such acts as must by law be performed by the Board itself.”<sup>38</sup>* The Executive Committee played a key role in the September 2008 Birarda allegations, including voting to suspend and then terminate Birarda following the investigation report and recommendations, as well as issuing the (ill-fated) glossed-over press release to the effect that Birarda’s departure was a mere *“mutual parting of ways”*.

### Committees

Board Standing committees include a Finance Committee, National Teams Committee, Technical Bodies (Technical Committee, Coaching Committee, Player Development, Referee Development, Sport Medicine), Competitions Committee, Governance Bodies (Constitution Committee, Harassment Prevention, Strategic Planning, Female Soccer), Judiciary Bodies (Discipline, Appeals). and Professional Soccer Committee.

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<sup>36</sup> Canadian Soccer Association, By-laws, Article 10, 2008.

<sup>37</sup> Ibid.

<sup>38</sup> Canadian Soccer Association, By-laws, Article 14, 2008.

Both the Competitions Committee and the National Harassment Prevention Committee played important roles related to harassment prevention in 2008. The Competitions Committee is responsible to administer and promote CSA National Amateur Club Competitions. The Terms of Reference for the Competitions Committee include *“To develop and promulgate Rules and Regulations governing National Club and All-Star competitions at youth and senior levels.”*<sup>39</sup> These rules, specific to CSA National Competitions, included specific provisions on harassment and reporting which are further explained in Chapter 3.5.

### National Harassment Prevention Committee

The NHPC was comprised of a Chair appointed by the Board of Directors, a Secretary (staff member), and at least three other members. The IRT interviewed the past Chair of the NHPC and the Secretary. According to former CSA staff, the NHPC was formed in either late 2003 or early 2004 as this committee is listed in the 2004/05 CSA Directory.

Joyce Stewart, NHPC Chair, was described as the de facto *“go to person”* and *“Joyce was the harassment policy in a nutshell.”* In 2008, Ms. Stewart described her role as a National Harassment Officer as follows:

*“In my role as a National Harassment Officer [2008], I provided:*

- *Assistance to three provinces in the review and investigation of Harassment Complaints they had received*
- *Acted as an advisor for the National office*
- *Appointed Harassment Officers for each of the National Allstar/Club Championships.”*<sup>40</sup>

The IRT learned that there were no formal meetings of the NHPC in 2007 due to resource commitments to host the U-20 World Cup.<sup>41</sup> However, the NHPC did present two workshops including an annual presentation to the CSA Competitions Committee and workplace harassment sessions for both staff and supervisors of the CSA National Office. These sessions

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<sup>39</sup> Canadian Soccer Association, By-laws, Article 23, 2008.

<sup>40</sup> Canadian Soccer Association, “National Harassment Prevention Committee AGM Report”, February 2009.

<sup>41</sup> Canadian Soccer Association, “National Harassment Prevention Committee AGM Report”, February 2008.

were planned again for 2008. Much of the harassment training that took place in 2008 fell to the Chair of the NHPC, who was a representative of the Ontario Soccer Association. In fact, according to the Chair of the NHPC, the Harassment Policy was modeled after Ontario Soccer Association policies.

The IRT reviewed a 45-slide Harassment Prevention Seminar that was presented to the CSA Board of Directors on 27 August 2005. This included information on the legal concept of duty of care described as follows: *“The Duty of Care refers to the LEGAL OBLIGATION organizations have to protect people, especially children and other vulnerable individuals from harm that might arise in their programs and activities.”*<sup>42</sup> Other topics in the seminar included the following:

- *Trends and Issues*
- *Athletes’ Perception of Harassment*
- *1997 Canada Games Athlete Survey on Harassment*
- *Complaint Processes*
- *Investigation Summary*
- *Investigation Recommendations*

The Chair of the NHPC advised that additional harassment education sessions were organised for the Board of Directors and attendees at some Annual General Meetings in subsequent years.

The IRT is not aware of any in-person harassment education sessions delivered by the NHPC to any of the National Teams, including the U-20 WNT. This is corroborated by two interviews of CSA staff members who said there was no harassment training provided to the U-20 WNT. This is further corroborated by interviews with three former U-20 WNT players who said that no harassment training or education sessions were conducted with the U-20 WNT team in 2008.

The CSA was not responsible for harassment education and training of provincial athletes, including grassroots participants; this training was the responsibility of Provincial and Territorial Organisations (‘PTOs’). However, while the Harassment Policy clearly states that harassment

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<sup>42</sup> Canadian Soccer Association, “CSA Board of Directors Harassment Seminar”, 25 August 2005.

training for national athletes was the CSA's responsibility, when asked, former CSA executives attested to the fact that no formalised or centralised harassment education and prevention training for players had been delivered by the CSA in 2008. This included both national team athletes as well as participants at the grassroots level.

The NHPC AGM Report dated February 2008 articulated the following actions:

- *“Reviewing the CSA Workplace Harassment Policy to ensure it is current*
- *Reviewing the CSA Harassment Policy*
- *Assessing the risk elements of the national teams, especially the younger age players in a senior environment*
- *Working with the provincial associations to ensure they have identified their provincial harassment officers*
- *Identify other elements of risk that the Association needs to address.”*<sup>43</sup>

Although there was no harassment training provided to members of the U-20 WNT in 2008, the *“risk elements of the national teams, especially the younger age players in a senior environment”* are acknowledged in the NHPC AGM Report. It is important to note that although the U-20 WNT did not receive the benefit of in-person harassment training sessions, the Competitions Committee that was responsible for organising the National Amateur Club Championships ('NACC') was deliberate in providing harassment information to participants, as well as to CSA representatives attending the Championships, and to provincial representatives who competed (refer to Chapter 3.7 Harassment Prevention and Reporting at National Club Championships). The NHPC was focused on volunteers and the risk mitigation policies of provincial associations. The same attention to harassment prevention was not paid to CSA National Teams, including the U-20 WNT.

The 2008 NHPC AGM Report also notes that there were two cases of harassment presented in 2007. *“One was resolved to the satisfaction of both parties, the other complaint was denied because the complainant would not provide sufficient information to support the complaint.”* Although several CSA executives told the IRT they were not aware of any other harassment

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<sup>43</sup> Canadian Soccer Association, National Harassment Prevention Committee, “Annual General Meeting Report”, February 2008.

complaints beyond the Birarda allegations, the 2008 AGM Report submitted by the NHPC suggests otherwise. Failure to recall these specific complaints in 2007 could be a reflection of the significant time that has passed, as well as the leadership upheaval within the CSA.

In February 2009, the NHPC provided the following recommendations to the CSA Executive Committee:

*“The CSA National Harassment Prevention Committee recommends the following:*

- *A presentation on the legal principles of “Duty of Care: and “Vicarious Liability” is made to the CSA Board of Directors at a scheduled Board meeting.*
- *Receive the endorsement from the CSA Executive and/or CSA Board of Directors to ensure that Risk Management workshops are part of the AGM programs effective AGM 2010.*
- *Consider the establishment of a CSA National Risk Management Committee that would act as the liaison between members of the Executive Committee.”<sup>44</sup>*

Together, the 2008 and 2009 AGM Reports of the National Harassment Prevention Committee reveal a highly motivated committee in a nascent stage of development. The recommendations made to the CSA Executive Committee demonstrate that processes related to risk management were a priority for the NHPC.

The AGM Report submitted by the NHPC in February 2009 makes no reference to the allegations against Birarda nor to the joint investigation that was undertaken during the 2008 reporting period when these events occurred. Former members of the NHPC interviewed by the IRT did not recall any involvement or knowledge of the Birarda complaints or investigation.

In 2010, the NHPC presented a report to the CSA Board of Directors as a summary of the Committee’s activities. This included developing a “*presentation workshop*” tool kit that could be used by PTOs to provide education and training workshops in the area of harassment and risk management.<sup>45</sup> No similar presentation workshop was developed for use by National Teams. The NHPC’s second objective was to review the existing CSA Harassment Policy.

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<sup>44</sup> National Harassment Prevention Committee, “Memorandum to CSA Executive Committee”, 27 April 2009.

<sup>45</sup> National Harassment Prevention Committee, “Report to CSA Board of Directors”, February 2010.

According to the report: *“The current policy includes employees, contract and others; along with volunteers. The liability associated with employees, contract and others can be significantly different than volunteers, and the Committee felt that the current Policy should be divided into two distinct policies – one for volunteers, and the other for employees, contract and others.”*<sup>46</sup>

### 3.6 Rules, Regulations, and Administrative Guide 2008

The 2008 CSA Rules, Regulations, and Administrative Guide includes key provisions related to harassment and abuse including a Harassment Policy and Standards of Conduct. The IRT questioned senior leaders and staff who were employed by the CSA in 2008 about the Harassment Policy.

Many of the CSA executives who were with the organisation in 2008 were unfamiliar with, or could not recall, the existence of a Harassment Policy. In fact, no one involved in the 2008 complaint process was familiar with the following Policy Statement on Discrimination and Harassment:

#### Policy Statement on Discrimination and Harassment

*“The Canadian Soccer Association (CSA) is committed to creating and maintaining a sport and work environment in which all individuals are treated with respect and dignity. Each individual has the right to participate and work in an environment which promotes equal opportunities and prohibits discriminatory practices.*

*The CSA is committed to providing an environment free of harassment on the basis of race, nationality or ethnic origin, colour, religion, age, sex, sexual orientation, marital status, family status or disability.*

*In keeping with this policy, the CSA encourages the reporting of all incidents of harassment regardless of who the harasser may be and is committed to a process that is*

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<sup>46</sup> National Harassment Prevention Committee, “Report to CSA Board of Directors”, February 2010.

*widely published in the soccer community, available to all participants and easy to follow and implement.*

*Notwithstanding this policy, any person who experiences harassment continues to have the right to seek assistance from the provincial human rights commission.”<sup>47</sup>*

The IRT finds that the CSA fell short in its commitment to provide “a process that is widely published in the soccer community, available to all participants and easy to follow and implement.” Many CSA staff including those in senior positions had no knowledge of the complaint process that was followed with respect to the Birarda complaints; this includes the Deputy General Secretary who was described as the General Secretary’s “right-hand man”. The lack of transparency in documenting the CSA’s actions in relation to the 2008 Birarda harassment complaints is inconsistent with the spirit and intent of the Policy Statement on Discrimination and Harassment.

#### Applicability of Harassment Policy

The Harassment Policy “applies to all employees as well as to all directors, officers, volunteers, coaches, athletes, officials, administrators, members and participants who are under the jurisdiction of the CSA.”<sup>48</sup> Although all CSA executives were bound by the Harassment Policy, the processes were not followed, specifically related to the reporting and resolution of complaints.

The Harassment Policy includes the following language as to its application:

*“This policy applies to harassment which may occur during the course of all CSA business, activities, and events. It also applies to harassment occurring outside of those situations, when the harassment is occurring between individuals covered by this policy and when such harassment adversely affects relationships within the CSA’s work and sport environment.”<sup>49</sup>*

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<sup>47</sup> Canadian Soccer Association, Harassment Policy, Article 1, 2008.

<sup>48</sup> Canadian Soccer Association, Harassment Policy, Article 2, 2008.

<sup>49</sup> Ibid.

Because the alleged misconduct occurred during a U-20 WNT training camp, the Harassment Policy applied to the September 28 complaint. However, the processes articulated in the Harassment Policy were not followed including the complaint procedures<sup>50</sup>, formal complaint investigation<sup>51</sup>, disciplinary sanctions<sup>52</sup>, production of reports<sup>53</sup>, and proper communication before, during, and after the process<sup>54</sup>. Because the complaint procedures were not followed, the complainants were not informed of the options available to them throughout the process.

### Definitions of Harassment

The following definitions of harassment are provided in the Harassment Policy at Article 4.1:

*“Harassment is improper behavior related to one or more prohibited grounds that is offensive and which the person knew, or ought reasonably have know [sic] would be inappropriate or unwelcome. The behavior can be verbal or physical and can occur on a one-time or continuous basis. A person does not have to intend to harass for the behavior to be harassment.*

*Harassment can take many forms but generally involves conduct, comment or display that is insulting, intimidating, humiliating, hurtful, demeaning, belittling, malicious, degrading or otherwise cause offense, discomfort, or personal humiliation or embarrassment to a person or group of persons.”*

Several examples of harassment are provided at Article 4 of the Harassment Policy including *“unwelcome remarks jokes, innuendo or teasing linked to a prohibited ground such as a person’s looks, body, attire, age, race, religion, sex or sexual orientation.”* The unwelcome and sexually suggestive nature of electronic communications made by Birarda to some athletes clearly constitutes harassment as defined by the Harassment Policy.

Examples of harassment also include *“acts of retaliation designed to punish an individual who has reported discrimination or harassment”* and *“threats of retaliation designed to dissuade*

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<sup>50</sup> Canadian Soccer Association Harassment Policy, Article 9, 2008.

<sup>51</sup> Canadian Soccer Association Harassment Policy, Article 10, 2008.

<sup>52</sup> Canadian Soccer Association Harassment Policy, Article 11, 2008.

<sup>53</sup> Canadian Soccer Association Harassment Policy, Article 12, 2008.

<sup>54</sup> Canadian Soccer Association Harassment Policy, Article 15, 2008.

*an individual from reporting discrimination or harassment*<sup>55</sup> Player witness accounts (unreported to CSA at the time) suggest that Birarda engaged in acts of retaliation against some U-20 WNT players who did not acquiesce to his demands, including reduced playing time and demeaning verbal treatment at team practices (Refer to Chapter 6: Player Feedback).

The Harassment Policy at Article 4.3 defines sexual harassment as *“unwelcome sexual remarks or advances, requests for sexual favours or other verbal or physical conduct of a sexual nature [...]”* Sexual harassment occurs when *“such conduct creates an intimidating, hostile, or offensive environment.”*<sup>56</sup> The Harassment Policy provides twelve examples of types of behaviors that may be considered sexual harassment. For example, *“unwelcome sexual flirtations, sexual remarks, advances, requests or invitations whether indirect or explicit.”*<sup>57</sup> The Harassment Policy also outlines examples of retaliation that constitute sexual harassment. According to this definition and the evidence provided, the IRT finds that Birarda’s behavior toward certain players (although unreported at the time) constituted sexual harassment.

### Responsibilities

In the course of its day-to-day activities, the Executive Committee failed to appoint *“four (4) appropriately qualified persons, two male and two female, to serve as National Harassment Prevention Officers”*<sup>58</sup> as required under Article 8 of the Harassment Policy. The only appointed National Harassment Prevention Officer was Joyce Stewart. Other Harassment Prevention Officers were appointed on an ad hoc basis by the National Harassment Prevention Committee for the specific purpose of supporting the National Amateur Club Championships. No specific information was provided with regards to the qualifications and training, if any, provided to the aforementioned Harassment Prevention Officers – other than Joyce Stewart.

Article 5.1 of the Harassment Policy provides clear accountabilities concerning the “Responsibilities of the Persons in Charge” including that *“The Officers, Board Members, Head*

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<sup>55</sup> Canadian Soccer Association Harassment Policy, Article 4.1, 2008.

<sup>56</sup> Canadian Soccer Association Harassment Policy, Article 4.3, 2008.

<sup>57</sup> Canadian Soccer Association Harassment Policy, Article 4.3, 2008.

<sup>58</sup> Canadian Soccer Association Harassment Policy. Article 8, 2008.

*of Delegation of the CSA are expected to contribute positively to the development of an environment in which harassment does not occur.”*

More pointedly, Article 5.1 of the Harassment Policy entitled “Responsibilities of the People in Charge” provides that the Executive Committee is responsible for:

- *“ensuring that investigation of formal complaints of harassment is conducted in a sensitive, responsible and timely manner;*
- *imposing appropriate disciplinary or corrective measures when a complaint of harassment has been substantiated, regardless of the position or authority of the offender;*
- *supporting and assisting any employee or member of the CSA who experiences harassment by someone who is not an employee or member of the CSA;*
- *ensuring that this policy is posted on the web-site and the information is contained in the Guide;*
- *appointing Harassment Prevention Officers and investigators (with the exception of third-party professionals), providing training and resources they need to fulfill their responsibilities under this policy;*
- *appointing case review panels and appeal bodies and providing the resources and support they need to fulfil their responsibilities under this policy; and maintaining records as required under this policy.”*

The IRT finds that the Executive Committee fell short of complying with several of these policy requirements. While it did ensure that the investigation was conducted in a sensitive and timely manner, the Executive Committee failed to impose appropriate discipline beyond the provisional suspension and the agreed-upon mutual parting of ways that led to Birarda voluntarily stepping aside.

The IRT also finds that little if any support was provided to the U-20 WNT players at the time, especially those who had experienced trauma. And, while it is unclear if the Harassment Policy was posted on the website at the time, few were aware of its existence. Although Anne Chopra was appointed to undertake the September investigation, the complaints were neither directed to a Harassment Prevention Officer nor a Case Review Panel.

Finally, given the IRT's difficulty in tracking down various documents related to Birarda and the treatment of the allegations, the IRT also finds that records were not maintained as required under the Harassment Policy. As discussed throughout this Report, (i) no records exist or were provided to the IRT concerning the 2008 complaints against Birarda or of the actions led by the Executive Committee including the Terms of Reference of the investigation, the ensuing investigation report, and the recommendations; (ii) no record exists or was provided to the IRT of the Executive Committee's deliberations and vote to suspend then terminate Birarda, and their communications of the same to the Board; all of these documents, minutes of deliberations and decisions should have been recorded and maintained *de rigueur* based on fundamental good governance principles.

#### National Harassment Prevention Officers

At Article 8, the Harassment Policy calls for the appointment of Harassment Prevention Officers, whose role is described as follows:

*"The role of Harassment Prevention Officers is to receive complaints, assist in informal resolution of complaints and preparation of formal written complaints that are referred to the Executive Committee for further investigation. The Harassment Prevention Officers shall deal with complaints affecting National Teams, National Training Centre programs and in any national events under the auspices of the CSA. In carrying out their duties under this policy, Harassment Prevention Officers shall be directly responsible to the CSA Executive Committee.*

*All Harassment Prevention Officers will be required to have a Canadian Police Information Centre ("CPIC") check to ensure their suitability for this role has not been compromised by a conviction in [sic] offences concerning children.*

*The CSA shall ensure that the Harassment Prevention Officers receive appropriate training and support for carrying out their responsibilities under this policy."*

None of the former CSA executives interviewed could recall the appointment of National Harassment Prevention Officers by the Board of Directors, with the exception of Joyce Stewart. The Executive Committee did not involve Harassment Prevention Officers in the complaint process involving Bob Birarda as prescribed in the Harassment Policy.

## Complaint Procedures

Article 9 of the Harassment Policy provides:

***“For the purpose of this section of the policy a person who experiences harassment is referred [sic] to as the ‘complainant’ even when no formal complaint is filed.***

*(1) A person who considers that they have been subjected to harassment is encouraged to make it known to the person responsible for the conduct that the behavior is unwelcome, offensive and contrary to CSA policy.*

*(2) If the complainant does not wish to confront the person responsible for the conduct directly or if the conduct continues after it is brought to the attention of the person responsible for the conduct, the complainant should:*

*(a) speak to a Harassment Prevention Office [sic]; or*

*(b) **report the matter to an ‘official’ of the CSA, for the purpose of this section, an official is any person in a responsible staff or volunteer position.** In that event, the official should then refer the matter to an [sic] Harassment Prevention Officer.*

- [...]”  
(emphasis is IRTs)

Not a single U-20 WNT player directly filed a formal complaint to the CSA. The allegations were reported to Even Pellerud “a responsible official of the CSA” by former National Team player Andrea Neil. And although the CSA complaint procedures did not anticipate circumstances where a third-party could refer an allegation to the CSA as did Andrea Neil, pursuant to the relevant provisions of Article 9 in bold above, the U-20 WNT players are nonetheless considered “complainants” under the Harassment Policy.

## Disciplinary Sanctions

Article 11 of the Harassment Policy provides for a range of disciplinary sanctions as follows:

*“In recommending disciplinary sanctions, the panel may consider the following options, singly or in combination, depending on the severity of the harassment:*

- *a verbal apology*
- *a written apology*
- *a letter of reprimand from the CSA*
- *a fine or levy*
- *removal of certain privileges of membership or employment*
- *temporary suspension without pay*
- *termination of employment contract*
- *expulsion from membership; or*
- *any other remedy as may be appropriate*

*o Within (7) days of receipt of the report, the Case Review Panel, the Executive Committee shall consider the recommendations of the Case Review Panel and make a decision as to the appropriate sanction with shall be contained in a Final Report.*

*o Where no appeal is made as provided for in the following section on Appeals, then the decision will be implemented by the Executive Committee of the CSA.*

*o The complainant will be informed of the outcome of the proceedings and of any discipline or other action taken by the Executive Committee. If the complainant is not satisfied with the outcome of the investigation, the complainant will be reminded of the continuing right to file a complaint with the provincial Human Rights Commission.”*

No Case Review Panel was constituted to make recommendations concerning disciplinary sanctions against Birarda. Although the Executive Committee voted to terminate Birarda, the CSA never terminated him. None of the disciplinary sanctions available to the CSA were imposed with the exception of a temporary letter of suspension jointly imposed by the Vancouver Whitecaps and the CSA during the course of the investigation.

There was no Case Review Panel appointed, no Final Report of the investigation issued, and no indication that complainants were apprised of their right to file a complaint with the provincial Human Rights Commission.

### Disciplinary Action

Article 6 of the Harassment Policy deals with disciplinary action and reads:

*“Employees, members or registrants of the CSA against whom a complaint of harassment is substantiated may be subject to discipline, according to the severity of the substantiated conduct, up to and including dismissal from [sic] employment, termination of membership or registration or a life time [sic] suspension from all soccer activities for a limited time period or permanently, depending on the nature of the conduct.”*

The Executive Committee and Whitecaps acted swiftly in provisionally suspending Birarda pending the results of the September 2008 investigation. Although the Executive Committee voted to terminate Birarda following the investigation the CSA, effectually allowed Birarda to voluntarily resign rather than be officially terminated. Although the IRT recognizes and acknowledges the CSA’s legal limitations as a result of Birarda’s resignation, the fact remains that he received no formal discipline or suspension from the CSA which allowed him to eventually return to coaching youth soccer. As a result, CSA’s unwillingness and inability to impose discipline on Birarda at the time has been highly criticized by former CSA staff, Board members, and players.

## Reports

The Harassment Policy states at Article 12.1 that:

*“Where the proceedings under this policy results in a finding of harassment, a copy of the report of the Case Review Panel and the Final Report shall be placed in the personnel or membership file of the person against whom the complaint was made. Unless the findings of the panel are overturned upon appeal, these reports shall be retained for a period of ten (10) years unless new circumstances dictate that the reports should be kept for a longer period of time.”*

There were no proceedings involving a report of the Case Review Panel, no written Final Report was issued, and no record of the Executive Committee’s finding of harassment was established, retained or maintained.

## Communication

The Harassment Policy includes requirements at Article 15 that the CSA regularly review all of its “*coaching education material*” to ensure this material is up-to-date as it concerns “*protecting its youth from any potential sexual abuse or breach of CSA Harassment Prevention Policy.*” Article 15 also provides that:

*“CSA is required to create a special page on the CSA Website outlining the philosophy, the guidelines on procedures for dealing with a case of harassment along with the names and telephone numbers of the National Harassment Prevention Officers and that the respective Provincial Association Harassment Prevention Officer be contacted. A notation should be noted on the CSA website that the full Harassment Prevention Policy is available upon request.”*

The IRT was unable to verify if these requirements were met in 2008. Joyce Stewart, the sole appointed National Harassment Prevention Officer, told the IRT that “*no one had my phone number nor direct email.*”

In any event, the IRT finds that the Harassment Policy should not only have been made available “*upon request*” but have been readily and conspicuously accessible to all.

### 3.7 Harassment Prevention and Reporting at Canadian National Amateur Club Championships (‘NACC’) – A comparative analysis

This section of the Report examines processes related to harassment education, support, and reporting at the NACC in 2008 as a means of comparison with the U-20 WNT. The NACC is an annual event organised by the Competitions Committee for age group club championships. This comparative analysis demonstrates knowledge and application of some of the provisions of the Harassment Policy that were not similarly applied to the U-20 WNT.

The primary role of the Competitions Committee was, and still is, to organise the NACC. This annual event includes club-based teams representing provinces and territories who register to participate. The event attracts approximately 400 players as well as coaches, support staff, and other officials. It is a multi-day event typically organised on Thanksgiving weekend in

Canada. The age group categories have evolved over the years and currently involve U-15 and U-18 age group championships for boys and girls. The IRT interviewed both former and current staff who were members of the CSA Competitions Committee. The purpose of these interviews was to determine how the Competitions Committee dealt with harassment in 2008 and then compare such processes with those of the U-20 WNT.

The Competitions Committee also organised male and female all-star competitions in the summer described as being of a higher caliber than the club championships; these competitions involved provincial teams in different age groups (U-14, U-16 changed to U-15, U-17). These were described as a “*highlight*” that attracted a lot of interest from university programs and scouts who would attend these games “*especially on the girls’ side.*” Currently, the all-star game format is no longer held. Representatives of the Competitions Committee acknowledged that it is possible that members of the U-20 WNT could have competed in a club or all-star championship. One of the U-20 WNT players interviewed by the IRT confirmed that she did participate in a U-16 Canadian National Amateur Club Championship prior to becoming a member of the U-20 WNT. However, because of their elite status, very few of the players on the 2008 U-20 WNT would have competed contemporaneously in either the NACC or the all-star competitions in 2007 or 2008. The IRT nonetheless raises this point because certain players on the U-20 WNT who also competed on a club or all-star team may have benefited from some anti-harassment education at some time.

Members of the Competitions Committee were asked to describe processes related to harassment education and reporting associated with the NACC. The IRT reviewed separate Rules and Regulations for National and Regional Competitions (‘NACC Rules’), a document that was in force at the NACC<sup>59</sup>. The NACC Rules also include a Code of Conduct and a Code of Ethics. The purpose of the Code of Ethics “*is used to facilitate the understanding and encouragement of ethical behavior on the part of athletes coaches, officials, volunteers, and professional administrators (the ‘participants’).*”<sup>60</sup>

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<sup>59</sup> Canadian Soccer Association, “Rules and Regulations for National and Regional Competitions”, undated.

<sup>60</sup> Canadian Soccer Association, “Rules and Regulations for National and Regional Competitions, Article 8.4 Code of Conduct”, undated.

Article 1.7 of the NACC Rules states that *“Any written allegation of harassment shall be referred to the CSA Rep who shall immediately refer the complaint to the Harassment Officer assigned to the competition by the CSA Harassment Committee.”* A CSA representative was assigned to the NACC and physically attended the event. Harassment Officers also were assigned to the event, but did not attend in person. They were made available upon request via telephone consultation.

Harassment Officers were assigned to the NACC on an ad hoc basis from amongst the membership of the Harassment Committee rather than from a standing roster of National Harassment Prevention Officers appointed by the CSA Board of Directors. A member of the Competitions Committee told the IRT that *“I never felt there was enough training for [harassment officers appointed from the Harassment Committee] to be confident in how they dealt with it.”* She went on to cite a specific example of a harassment officer from one province *“who screwed things up regarding a case in P.E.I.”* This further illustrates the ad hoc nature of how Harassment Officers were selected and deployed for the NACC. Furthermore, it demonstrates a lack of attention to training as required by the Article 5.1 of the Harassment Policy which states: *“The CSA shall ensure that Harassment Prevention Officers receive appropriate training and support for carrying out their responsibilities under this policy.”*

Joyce Stewart, Chair of the NHPC, was described as being highly visible at the NACC; she provided ad hoc direction to parents, coaches, and others about harassment at several of these events. According to one former CSA staff member, *“I wouldn’t have been able to tell you how many times we got into situations at National Championships and she was always there to help and to guide.”* Players with the U-20 WNT did not enjoy similar access to an in-person harassment resource person like Joyce Stewart, nor did they appear to have access to “National Harassment Prevention Officers” as prescribed in the Harassment Policy . According to one former CSA staff member, *“As far as I know they (harassment officers) were not there with national team camps.”*

The CSA had advised the Competitions Committee that harassment training was going to be a requirement and *“all Board members and all coaches were supposed to do it.”* It is unclear if *“all coaches”* included National Team coaches nor is it clear how this requirement was monitored, if at all. The time period for this training requirement was “mid-2000s”. Provinces

were provided with the opportunity to have their coaches complete the harassment training developed by Ms. Stewart; some provinces took advantage of this opportunity sooner than others. *“Not all provinces took to it the way we (Newfoundland) did”* and it was influenced by the respective provincial or territorial representative. This requirement was eventually replaced with mandatory “Respect in Sport” training for coaches.

It is noteworthy that CSA representatives who attended the NACC were provided with a comprehensive 41-page handbook that encompassed multiple functions of CSA representatives including roles, relationships, communications, behavior, discipline procedures, and hosting standards. The handbook included the full text of the Harassment Policy as an appendix.<sup>61</sup>

#### The self-addressed envelopes reporting mechanism

Former members of the Competitions Committee also described a process for harassment reporting that was made available to participants at the NACC. According to this process, a “Canadian Soccer Association Complaint Form” was made available to players as a reporting mechanism for harassment. Players who wanted to make a complaint had access to a Complaint Form – described as *“completely confidential”* – along with an envelope that was self-addressed to the General Secretary of the CSA.

These envelopes were made available to players through PTO representatives who were responsible for their teams. Furthermore, all coaches were advised of this process at a pre-tournament meeting. It was explained to the IRT that a *“process was followed”* when the CSA received any such complaints to ensure that the complaint fell within the CSA jurisdiction and the Harassment Policy and if not it was referred to the relevant PTO<sup>62</sup>. However, no records of any such harassment complaints exist via this reporting mechanism.

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<sup>61</sup> Canadian Soccer Association, “CSA Rep Handbook”, 2008.

<sup>62</sup> For example, in an undated 2008 report to the CSA Board of Directors, the Competitions Committee provided a written account of a *“Yukon Hazing Incident”* that took place at the U-14 National Amateur Club Championships in PEI. The matter was referred to the Yukon Soccer Association to investigate and take the necessary action. This is an example of the documentation of a written account of alleged harassment, and a process of referring the complaint to provincial jurisdiction.

Neither the NACC Rules nor the Harassment Policy provide for or refer to the NACC complaint reporting process involving self-addressed envelopes. The IRT further underlines that the process of asking players to submit a complaint directly to the General Secretary is inconsistent with the Harassment Policy.

The IRT reviewed the Complaint Form which requires the signature of the complainant and the signature of the provincial representative. Former CSA executives interviewed by the IRT were unfamiliar with this reporting procedure, as were members of the U-20 WNT who were asked about this process. Both the Acting General Secretary and General Secretary between 2007 and 2021 indicated that they received no harassment complaints through this “envelope” process. The only harassment complaints they recalled during this period were the 2008 Birarda allegations.

Despite the flawed harassment reporting procedures in place at the NACC by way of self-addressed envelopes, it appears that the Competitions Committee was conscientious and acted in good faith in educating themselves and participants about harassment. For example, Competitions Committee meeting minutes dated 29-30 March 2008 state: *“The Committee noted that the Harassment Risk Management Session that was held on Friday was very informative and very beneficial to the Committee.”* The IRT was not informed of similar presentations to U-20 WNT coaching staff or players.

The IRT finds that while various support systems were in place for participants at the NACC (including PTO representatives, the assigned CSA representative, appointed Harassment Officers, and the Chair of the Harassment Prevention Committee), players on the U-20 WNT did not have access to the same level of support, education, and reporting procedures concerning harassment. This is corroborated through IRT interviews with former U-20 WNT staff members and former players who explained that there was never any dedicated harassment education and training provided to the U-20 WNT in, or prior to, 2008.

### 3.8 Summary of Institutional Failures

1. The CSA fell short in delivering on its Policy Statement on Discrimination and Harassment.
2. In 2008, the CSA Board of Directors operated according to a management team approach. The shortcomings of this model were documented by the CSA in September 2008 as follows: *“The result is invariably a lack of consistency in decisions, dissatisfied board members, resentful staff and a dangerous lack of attention to planning and accountability matters.”*
3. The CSA Harassment Policy was poorly communicated and poorly understood, from players to senior executives within the organisation.
4. There was a lack of formality and documentation related to job descriptions, reporting relationships, and performance reviews which led to uncertainty for many employees and poor organisational accountability across the CSA.
5. There was a lack of oversight of the Women’s U-20 WNT program and a *“disconnect between the Association and Women’s team which operates relatively independently as team [sic] being in Vancouver”* according to the 2008 Road to Excellence Evaluation Report.
6. The CSA did not follow the procedures of their own Harassment Policy as it concerned the investigation, case management, and discipline of Bob Birarda.
7. In the face of a sexual harassment allegations, the CSA Executive Committee did not *“appoint two individuals, a male and a female to investigate the complaint”* as required under Article 10.4 of the Harassment Policy.
8. The Executive Committee failed to appoint *“four (4) appropriately qualified persons, two male and two female, to serve as National Harassment Prevention Officers”* as required under Article 8 of the Harassment Policy.
9. The Executive Committee failed to appoint a Case Review Panel *“Within fourteen (14) days of receiving the investigation report”* as required under Article 10.6 of the Harassment Policy.
10. The CSA failed to meet its obligations under Article 10.5 of the Harassment Policy which states, *“The results of the investigation shall be contained in a written report which may include material obtained during the course of the investigation and may also include recommendations based on the results of the investigation.”*
11. The Executive Committee failed to impose appropriate disciplinary sanctions on Birarda according to Article 11 of the Harassment Policy. Although the Executive Committee acted swiftly to provisionally suspend Birarda and voted to terminate him based on the Ombudswoman’s recommendations, they allowed him the opportunity to resign from his position without acknowledging his harassment. The

lack of disciplinary sanctions allowed Birarda to eventually return to coaching youth soccer.

12. The decisions made by the CSA Executive Committee concerning Birarda were not recorded in a transparent manner and shared with the Board or membership thus demonstrating poor accountability.
13. Although various support systems were in place for participants at the National Amateur Club Championships (including PTO representatives, the assigned CSA representative, appointed Harassment Officers, and the Chair of the Harassment Prevention Committee), players on the U-20 WNT did not have access to the same level of support, education, and reporting procedures concerning harassment.
14. The CSA did not meet its obligations to support and assist players on the U-20 WNT players during or after the May and September 2008 investigations. Furthermore, Canada Soccer failed to embrace a second opportunity to support and assist players following several player statements in 2019.
15. The CSA press release that characterized Birarda's departure as being in the mutual interest of both parties without so much as addressing the harassment was a gross mischaracterisation of the circumstances and failed the victims of the harassment, their teammates, and the organisation as a whole.

## Chapter 4: Bob Birarda

### 4.1 History

Bob Birarda was appointed to the Head Coach position of the U-20 WNT on 21 December 2007, although correspondence from Canada Soccer states that he was hired “*in early 2008.*”<sup>63</sup> Prior to this appointment, Birarda was an assistant coach with the WNT under Head Coach Even Pellerud. He also served as an assistant coach with the CSA’s women’s youth team under Head Coach Ian Bridge.<sup>64</sup> At the time of being appointed as the Head Coach of the U-20 WNT, Birarda has been employed as the Head Coach of the Vancouver Whitecaps WT for several years, including when the team won the USL Women’s League championship in 2006. The USL Women’s League was an elite amateur development league that operated in the United States and Canada. Birarda maintained his employment as the Head Coach of the Whitecaps WT while also assuming the Head Coaching duties with the U-20 WNT. Canada Soccer described Birarda’s deployment with the U-20 WNT as a part-time (honorarium) role.

Prior to working for the CSA, Birarda ran a very successful soccer academy in Richmond, British Columbia called Total Soccer Systems (‘TSS’). Many players who were on the U-20 WNT in 2008 had evolved through TSS with Birarda as their coach. Birarda was known, especially in Western Canada, as being a great tactical and technical coach and very approachable by many. However, he also became increasingly cocky and controlling as he moved ahead in the CSA coaching ranks according to some individuals..

According to CSA officials, following Birarda’s departure, the CSA had no further engagement with him.

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<sup>63</sup> Canada Soccer, “Letter to FIFA Ethics Committee”, 10 November 2021.

<sup>64</sup> CBC Sports, “Birarda Appointed Canadian Women’s U-20 Coach”, 21 December 2007. Online [Birarda appointed Canadian women's U-20 coach | CBC Sports](#) (Last accessed March 8 2022).

## 4.2 Hiring Process

The hiring process for the U-20 WNT Head Coach position appeared much less rigorous compared to the hiring of the Men's and Women's Senior National Team Head Coach positions - described as "*Board level appointments*" that "*were a priority for the Board*".

Most former CSA executives and staff members could not recall or were unfamiliar with the hiring process for Bob Birarda. The IRT received conflicting accounts of who hired Birarda. According to Canada Soccer, Birarda was appointed by Even Pellerud. According to Pellerud, hiring Birarda was not his responsibility. Although he said he recommended Birarda for the U-20 WNT Head Coach position, he said it was the CSA who administered the process and whatever hiring arrangements were made. This is corroborated by documents reviewed by the IRT including the minutes of the Board of Director's 6 December 2008 meeting, a report provided by the General Secretary, and a Chairman's Activity Report (submitted to the Board of Directors meeting) that outlines the confirmation of selection committee members in respect to the appointment of "Women's U-20 Coach."<sup>65</sup>

The minutes of the Board of Directors meeting subsequent to Birarda's departure makes no mention of the coaching change. There is only one reference to the hiring process for the U-20 WNT Head Coach in the 2008 Board and Executive Committee minutes reviewed by the IRT.

A reference to the U-17 and U-20 Men's National Team coaching vacancy and "*updating the previously circulated job description for the Executive Committee's approval*" was made in the 21 June 2008 Executive Committee meeting minutes which confirms that: 1) The Executive Committee directed the process of hiring of coaches; and 2) Job descriptions were provided, even for "part-time" positions. Yet, the CSA could not find Birarda's job description as Head Coach of the U-20 WNT. This again points to the CSA's lack of oversight of the U-20 WNT and the philosophy that allowed Birarda to run things as he saw fit.

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<sup>65</sup> Canadian Soccer Association, "Chairman's Activity Report", 20 January 2008.

### 4.3 Employment Status with CSA

The IRT was not provided with a written contract or other instrument pertaining to Birarda's appointment and it remains unclear whether or not he entered into a formal written contractual agreement with the CSA. It was not uncommon for some staff within the CSA to not have a written employment contract in 2008. For example, one former CSA staff member who started with the organisation in 2004 did not have a job description or written contract until 2010. If a written agreement existed with Birarda, it would have been signed by a designate of the CSA as prescribed by the By-laws; the Women's National Team Coach did not have the authority to alone appoint Birarda to the position.

The IRT was told by several former staff that Birarda's employment status was not as a full-time employee of the CSA. Rather, his head coaching role was described as being part-time with remuneration via an honorarium. A payment process was described to the IRT when Birarda acted in previous roles as an assistant coach and scout with the Women's National Team program; this process involved Birarda and the U-20 WNT Manager signing a timesheet that was remitted to the CSA for payment. It is unclear if this payment process continued when Birarda was appointed to the Head Coach position.

Documents reviewed by the IRT infer that Birarda did have an employment contract with the CSA. For example, a suspension letter jointly issued to Birarda on 3 October 2008 by the Vancouver Whitecaps and the CSA states, "*That evidence of breach of any of these conditions shall result in immediate steps, including but not limited to termination of your contract with the Whitecaps Football Club Ltd. and Canadian Soccer Association.*"<sup>66</sup> This letter was signed by Birarda further supporting the IRT's belief that an employment contract may have existed with the CSA.

In addition, the IRT requested Birarda's complete human resource file from Canada Soccer including any and all employment agreements, termination agreements, performance management documentation, and job description. Birarda's letter of resignation was provided

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<sup>66</sup> Canadian Soccer Association and Vancouver Whitecaps, "Letter of Suspension issued to Bob Birarda", 3 October 2008.

to the IRT from other sources. Although the IRT was not provided with a copy of a written CSA contract or his job description, Birarda's signed letter of suspension confirms that he had a legal employment relationship with both organisations. Furthermore, the IRT has reviewed T4 tax forms issued in 2006 and 2008 to Birarda that list the employer as: *"The Canadian Soccer Association."*

However, the IRT was not provided with an employment agreement, job description or other human resource documentation. The IRT is unaware of any severance agreement between Canada Soccer and Birarda; the IRT was not provided with a copy and cannot confirm the same.

The Harassment Policy included in the 2008 Rules, Regulations, and Administrative Guide indicates that the policy *"applies to all employees as well as to all directors, officers, volunteers, coaches, athletes, administrators, members and participants who are under the jurisdiction of the CSA."* As such, based on the foregoing it can be concluded that as a coach and employee, the Harassment Policy applied to Birarda.

#### 4.4 Coaching License

Canada Soccer is *"responsible for the development and certification of all coaches working with players across all environments in Canada through its Coach Education and Certification Program."*<sup>67</sup> The tracking of coach licensing falls under the responsibility of the Registrar of Canada Soccer. According to a Canada Soccer staff member involved in the Licensing program, *"probably 90% of coaches in Canada don't have a License, but they have grassroots training and a certificate."*

The term 'Licence' refers to a level of competency and training required to coach different levels of soccer. It is non-revokable once achieved; as explained by a Canada Soccer staff member, *"You can't take away training or educational progression"* and that is what a

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<sup>67</sup> Canada Soccer, "Coach Education and Certification", Online: [Coach Education & Certification - Canada Soccer](#) (Last Accessed: 1 May 2022).

coaching Licence represents. In 2008, coaching Licences were described as *“technical and tactical back then”* and did not include Safe Sport training that is more commonplace today.

Licences can and do expire. If a Licence expires, a coach is required to renew the Licence to continue to coach at the same level. This is tracked by Canada Soccer to ensure that coaches have the minimum required Licensing standard.

A Licence does not grant Canada Soccer any regulatory authority over coaches as would, for example, a Licence to practice medicine. However, coaches cannot coach at specified levels within the sport of soccer without the correct Licence. The letters associated with coaching licences (e.g. “A”, “B”, “C”) pertain to graduated levels of completion. For example, a “C” Licence *“is the entry-level course for the Licensing Stream pathway and prepares the coach to progress to the Development Stream and Performance Stream.”*<sup>68</sup>

A coaching Licence is different than being registered to coach. Coaching registration is administered at the club level and *“filters its way up”* to Canada Soccer according to a staff member interviewed by the IRT. In order to coach, a person needs to register with their local club, including completion of a police background check. The provincial registrar then provides information to the national registrar. If a registration is suspended, then a person is not permitted to coach. The IRT learned that it was difficult to revoke or disallow a coaching registration in 2008; a Canada Soccer staff member explained that *“to suspend a coach back then you would need to dig deep into policy to see how and who would be able to suspend coaches, their registration.”* A local club can decide to refuse to allow someone to register.

A more recent policy enacted by Canada Soccer entitled “Regulation for the registration and control of coaches” provides greater clarity and accountability than what existed in 2008. This policy lays out clearly who is responsible for what and now gives Canada Soccer the

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<sup>68</sup> Canada Soccer, “Coach Education and Certification”, Online: [Coach Education & Certification - Canada Soccer](#) (Last Accessed: 1 May 2022).

authority to suspend coaches. According to Canada Soccer suspending coaches back in the 2008 “was not a common practice and not really enshrined in the Rules in the past.”

Canada Soccer confirmed that Birarda held a “B” Licence required to coach the U-20 WNT in 2008. The B Licence is described as “the first step on the Performance Stream pathway and prepares the coach to progress to the Canada Soccer A Licence. The B Licence continues the facilitation of learning opportunities so that the coach may work effectively with senior players in the Performance Stream.”<sup>69</sup> According to Canada Soccer, Birarda received his B Licence on 16 May 2006 and it expired after a five year period in 2011. In 2008, the Licence was valid for five years but today the Licence is valid for three years.

Although Birarda was required to hold a B Licence to coach the U-20 WNT, he was not required to hold a B Licence for the coaching assignments he accepted after leaving the U-20 WNT, which may explain why he let his B Licence lapse.

Because of how Birarda’s departure from the CSA was communicated as a mutual parting of ways, and perhaps more importantly because no disciplinary sanctions arose in the form of a termination, there was no disciplinary record that club teams in British Columbia could rely upon to deny Birarda the opportunity to register to coach.

Finally, Canada Soccer confirmed that there is no “national registry per se”. This is simply a list of individuals with Licences. Local and provincial registries are maintained provincially. Provinces then share a breakdown of their registered coaches with Canada Soccer without names or identifying information.

#### 4.5 Reporting and Supervision

The CSA organisational structure in 2008 indicates that “Women’s Under-20” reported directly to the Women’s National Team Coach & Director of WNT Programs. This was the reporting relationship described to the IRT by several former CSA executives. However, there is a lack of

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<sup>69</sup> Canada Soccer, “Coach Education and Certification – B Licence”, Online: [B Licence - Canada Soccer](#) (Last Accessed: 1 May 2022).

clarity as it concerns this supposed reporting relationship. No job description for the U-20 WNT Head Coach position was provided to the IRT that would confirm the reporting relationship. The IRT was not provided with a job description that outlines responsibilities associated with the role of Director of WNT Programs. Moreover, the WNT Head Coach disputes that he was Birarda's supervisor. According to him, he was a friend of Bob Birarda and acted as an informal mentor to Birarda. He claims that he did not supervise or manage Birarda's performance in any official capacity. Players interviewed by the IRT did not recall seeing Even Pellerud or any CSA officials attend U-20 WNT practices or team events.

Irrespective of any official reporting relationship that may have existed "on paper", it is evident to the IRT that Birarda functioned with little to no supervision and performance management processes, except that which is described through the May and September 2008 complaints. Birarda was able to exert much control over his players with few checks and balances. He operated in relative isolation from the CSA head office in Ottawa and the technical office in Toronto. According to one former CSA staff member, *"National teams were their own entity. They were the gods. It was just complete faith in those men."* This statement is echoed by numerous players who said *"Basically, he was God"*.

With no one directing or overseeing him, and given his expansive personality, power, influence and control over the U20-WNT and its players, Birarda ran the team as he saw fit, moved players around at his whim and engaged in what should have been identified by CSA as highly questionable if not flatly proscribed relationships, communications, and activities with his female players (e.g. sexting, flirting, discussing personal relationships, making sexual overtures, going out at night with players, total disregard for the rule of two, and blurring of other professional boundaries).

## 4.6 The 2008 Complaint/Reporting Process

The duality of Bob Birarda's role as Head Coach of both the Whitecaps WT and U-20 WNT was described as being problematic by one former CSA executive.

When asked by the IRT to whom a victim, who was both a Whitecaps WT and U-20 WNT player might have directed a complaint, this individual went on to concede that it would have been confusing to know to whom the players would report to and make complaints.

Additionally, and in any event, another individual stated that at the time *"the girls would surely not dare make a complaint."* This is an illuminating statement that corroborates player statements that expressed concern over the power imbalance in the relationship between Birarda as the Head Coach and the players (Refer to Chapter 6 Player Feedback).

In fact, another IRT finding is that a contributing factor to many U-20 WNT players leaving the sport before they had reached their full potential in 2007 and 2008 was the impact that Birarda's harassment had on them at the time. This was certainly the main factor that victims of Birarda voiced for their decision to leave the sport. Victims the IRT spoke to were clear on the fact that they never would have reported Birarda's harassment at the time *"even if you had put the number for a hotline on a billboard in front my house"*. The reason given for the staunch reluctance to report was because of Birarda's god-like persona, the grooming techniques he had applied to the players and their parents, his general control over the team and, more specifically, his ability to control playing time.

## 4.7 Sexual Harassment

The Harassment Policy at Article 4.3 defines sexual harassment as *"unwelcome sexual remarks or advances, requests for sexual favours or other verbal or physical conduct of a sexual nature [...]."* Sexual harassment occurs when *"such conduct creates an intimidating, hostile, or offensive environment."*<sup>70</sup> The Harassment Policy provides twelve examples of types

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<sup>70</sup> Canadian Soccer Association, Harassment Policy, Article 4.3, 2008.

of behaviors that may be considered sexual harassment including “*unwelcome sexual flirtations, sexual remarks, advances, requests or invitations whether indirect or explicit.*”<sup>71</sup> The Harassment Policy further outlines examples of retaliation that also constitute sexual harassment. Relying on this definition, and the direct and hearsay evidence provided to it, the IRT finds that Birarda’s behavior toward certain players constituted sexual harassment.

The sexual harassment allegations reported to the CSA by a third-party in 2008 revolved around Birarda sending inappropriate and sexually suggestive texts to some players. Upon being informed of these allegations, the CSA acted swiftly (although as established above not in accordance with its Harassment Policy) to investigate the matter, which although not egregious on its face warranted immediate attention (notably in light of the fact it was the second allegation of a similar nature brought forward in four months). The investigations conducted by Anne Chopra, whom CSA relied upon to complete in a professional, thorough manner, did not yield any additional complaints or expanded allegations as far as the IRT has been informed. Regrettably, the CSA had no reason, and was given no reason, to believe that Birarda’s harassment extended beyond the inappropriate texting, for which CSA disciplined him by way of suspension and a negotiated “mutually agreed” departure rather than an outright termination.

The Harassment Policy also provides at Article 5.2 that: “*The CSA take the view that intimate sexual relations between coaches and adult athletes while not against the law can have harmful effects on the individual athlete involved, on other athletes and coaches and on the CSA’s public image.*”

As expanded upon in Section 6.2, in its interviews with players, the IRT has been made privy to direct and hearsay evidence, which outlines various other instances of sexual harassment, including sexual relations as defined in Article 5.2, that players were victim to at the hands of Birarda. In February 2022, “*Birarda pleaded guilty to three counts of sexual assault and one count of touching a young person for a sexual purpose. The charges stem from the complaints*

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<sup>71</sup> Canadian Soccer Association, Harassment Policy, Article 4.3, 2008.

*of four women who were teens when he coached them. The offences were committed between 1988 and 2008. The victims' names are protected by a publication ban.”<sup>72</sup>*

As various players and coaching staff indicated to the IRT, Birarda was a smooth operator, who groomed those around him and had significant control and influence over players, parents, and coaching staff.

The IRT finds that the limited complaints of sexual harassment brought against him and the limited investigation that was conducted by Anne Chopra - within a short period of time and by only interviewing a limited number of players who may or may not have been the victims - simply did not allow the CSA to become aware of the full extent of the problem.

As past wrongs and shortcomings cannot now be corrected, the Review’s purpose is thus rightly to identify the CSA’s shortcomings in the misapplication of its Harassment Policy and to provide recommendations going forward to ensure such instances of harassment, notably sexual harassment, can be avoided altogether or properly addressed in accordance with applicable regulations and established Safe Sport practices when they do occur, and that survivors of such trauma can be provided with the support they need and deserve.

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<sup>72</sup> CBC, “Sentencing for former Whitecaps coach details persistent communication with victims that turned sexual”, Online: [Sentencing for former Whitecaps coach details persistent communication with victims that turned sexual | CBC News](#) (Last Accessed: 16 June 2022).

## Chapter 5: 2008 Complaints and Investigation

### 5.1 Introduction

The IRT's examination of the CSA's institutional processes concerning the May and September 2008 complaints against Birarda included a review of documents requested by the IRT and provided by Canada Soccer as well as player statements, interviews, and other documents obtained by the IRT. The May complaint was made directly to the Vancouver Whitecaps organisation while the September complaint was made to the CSA indirectly by way of a former player who had been apprised of allegations of harassment from U-20 WNT players.

Key CSA positions that were involved in the complaint process include the Head Coach and Director of the WSNT (Even Pellerud), the General Secretary (Peter Montopoli), and the President and CEO (Dominique Maestracci). All of these individuals voluntarily consented to an interview with the IRT and were cooperative.

The purpose of the IRT's review of the May 2008 complaint is not to assess the actions of the Vancouver Whitecaps, which are outside the IRT's Terms of Reference, but to document the communications between the Whitecaps and the CSA and to assess the actions of the CSA after being apprised of the complaint.

During the course of the IRT's interview process, notwithstanding the passage of time which may have confounded memories, it became apparent that there were very few people within the CSA that were involved, let alone aware, of the May and September 2008 complaints or the CSA's treatment of the same. This included one former CSA executive who told the IRT that he did not know about the May Whitecaps' complaint. This individual acknowledged to the IRT that he *"thought it was bizarre that for the (period of time he was at CSA) he knew and heard nothing about this."* The reporting of the complaint within the CSA organisational structure involved a small cadre of individuals and did not follow the processes outlined in the CSA's Harassment Policy<sup>73</sup>.

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<sup>73</sup> Which as explained above was included in the CSA Rules, Regulations, and Administrative Guide 2008.

As explained in Chapter 3, although the CSA generally failed to follow the Harassment Policy, the President, General Secretary, and Executive Committee did act quickly to investigate the September allegations when they were brought to their attention.

## 5.2 Board and Executive Committee Minutes

The process for distributing the meeting minutes of CSA committees was included in the 21 June 2008 minutes of the Executive Committee, including the following process that was outlined for the Executive Committee:

### “EXECUTIVE COMMITTEE MINUTES

- |   |                             |
|---|-----------------------------|
| 1) Meeting held   |                             |
| 2) Draft minutes produced                                   | 1-7 days                    |
| 3) Draft minutes circulated to committee chair for review   | 1-14 days                   |
| 4) Revised draft minutes circulated to committee for review | 1-21 days                   |
| 5) Revised draft minutes circulated to Board for review     | 1-28 days                   |
| 6) Minutes confirmed at next Executive Committee meeting    | next meeting” <sup>74</sup> |

The vote and decision by the Executive Committee to terminate Birarda should thus have been shared with the Board at a subsequent meeting. However, in the meeting minutes of 15 October, one week after Birarda stepped aside from the team, there is no record of the decision and no mention of Birarda.

The lack of documentation on either complaint came as a surprise to one former member of the Executive Committee who was present during the vote to terminate Birarda. This member suggested to the IRT that the meeting minutes of the Executive Committee “*should have been standard procedure*” and “*any decision would have been reported and minutes circulated.*” Even if the vote to terminate Birarda was conducted in camera<sup>75</sup>, the vote should have been recorded as a matter of good governance practice.

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<sup>74</sup> Canadian Soccer Association, “Distribution of Minutes of CSA Committees”, 13 June 2008.

<sup>75</sup> Based on the IRT’S research, all Board and Executive discussions and votes on anything related to Birarda have been in camera. The lack of transparency in their processes is something that should be redressed in the future as outlined in the IRT’s recommendations.

Another former CSA staff member familiar with CSA administrative procedures looked for documentation everywhere concerning the May and September complaints and could not find anything. *“This is what troubles me...that there are no paper trails. This kind of stuff can never happen again,”* commented the former staff member. The staff member also commented that *“Everything was held behind closed doors and there is no record of what was done.”* These comments were made with respect to CSA governance practices generally in 2008. CSA governance practices were described as being *“dysfunctional”* and at the time there was *“a Board [Executive Committee] within a Board.”* According to a former CSA staff member, *“The Board would rubber-stamp everything and there was no oversight.”* The power of the Executive Committee was a product of the ineffective Board model described in Chapter 3.2. No one interviewed by the IRT could explain why there was a lack of transparency in communicating decisions involving Birarda.

A lone reference to Birarda is provided in the 21 June 2008 Executive Committee meeting minutes wherein it states: *“Peter [Montopoli] advised the Executive Committee that he will confirm with Even [Pellerud] that Bob Birarda will be able to go to the (Beijing) Olympic Games as an assistant coach.”*<sup>76</sup> This Executive Committee meeting took place shortly after the May 2008 Whitecaps’ complaint, investigation, and performance management recommendations concerning Birarda that were made known to the CSA by the Vancouver Whitecaps. However, there is no reference to these issues in any of the Executive Committee or Board meeting minutes provided to the IRT.

A summary of the 2008 Board of Director’s meeting minutes included limited references to the U-20 WNT. Any information concerning harassment was provided by the National Harassment Prevention Committee which focused on policy development and the education and training of staff, executives, and participants competing in the NACC.

The Competitions Committee provided a report to the Board on 29-30 March 2008 that included an update to Rule 1.7 concerning written allegations of harassment associated with the NACC. This demonstrates that processes regarding harassment reporting at the NACC were top-of-mind amongst the Competitions Committee and the Chair of the NHPC who was highly

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<sup>76</sup> Canadian Soccer Association, “Executive Committee Meeting Minutes”, 21 June 2008.

visible at these Championships. There was no similar attention paid to harassment reporting for players and staff associated with the U-20 WNT. Not surprisingly, a 2008 December NHPC technical report concerning the 2008 U-17 and U-20 Women’s World Cup teams states “[...] a meeting with the NCCP took place and it was agreed that the program needed a complete overhaul [...].”<sup>77</sup>

The Executive Committee met on 15 October 2008, one week after Bob Birarda left his position with the CSA; but there is no mention of his departure.

The Executive Committee’s final meeting of 2008 took place on 5 December. This included a report on the FIFA U-20 Women’s World Cup Chile that expressed the following: “[...] the team was at a disadvantage technically and physically. The lack of investment in these programs was evident.”

### 5.3 May 2008 Complaint

Table 2 summarizes key events and actions associated with the May 2008 complaint.

Table 2: May 2008 Complaint Summary

2008/May 8	Whitecaps President agrees to meet some players at a coffee shop. Sport Law Strategy Group (‘SLSG’) report confirms that in <i>“May 2008 Whitecaps were alerted that a player had received inappropriate text messages from a coach.”</i>
2008/May 23	Whitecaps Team Manager contacts Greg Anderson, Whitecaps’ Director, Professional Teams to advise that a player had come forward about inappropriate texts from Bob Birarda.
2008/May 23-26	<i>“The matter was investigated (by Anne Chopra ) and corrective actions taken”</i> (SLSG Report, p.14).
2008/May 26	Anne Chopra sends an email with recommendations following her meetings with Bob Birarda, and two players.
2008/May 30	Whitecaps’ Player who made complaint leaves the Whitecaps.

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<sup>77</sup> Canadian Soccer Association, “Board of Directors Meeting Minutes”, 6 December 2008.

2008/June 3	Emails between Anne Chopra and the Whitecaps about required training for Bob Birarda. Bob Lenarduzzi and Greg Anderson speak to Even Pellerud, Head Coach and Director of the WSNT, about the complaint.
2008/June 4	Even Pellerud and Greg Anderson call Peter Montopoli at the CSA to notify him of the complaint.
2008/June 4	Email correspondence from Greg Anderson (Whitecaps) to Peter Montopoli (CSA), and Even Pellerud (CSA) providing contact information for Anne Chopra, hired by Whitecaps. Email indicates that <i>“she is aware you may be calling.”</i>
2008/June 4	Email correspondence from Anne Chopra to Greg Anderson (Whitecaps) indicating that Peter Montopoli called her. Chopra suggests <i>“You may want to invite them (CSA) to join you re. meeting with Bob...”</i>
2008/June 4	Reply email to Anne Chopra from Greg Anderson wherein it states, <i>“We therefore permit the free flow of information between the CSA, Whitecaps and Anne Chopra as it relates to the specific situation of inappropriate communication between Bob Birarda and a player.”</i>
2008/June 6	Birarda signs a commitment letter with Whitecaps to complete sensitivity training and conduct himself appropriately. Note: this letter is unsigned and undated but it is inferred that it was signed on or about June 6.
2008/June 6	Email correspondence from Even Pellerud to Greg Anderson (Whitecaps), Bob Lenarduzzi (Whitecaps), Peter Montopoli (CSA) confirming a conversation with Birarda. Also, the email states that Pellerud spoke to a senior veteran player and that <i>“the case is dead amongst the players.”</i>

The May 2008 complaint was made directly to the Vancouver Whitecaps who were competing in the USL W-League at the time. This information was provided in the 2019 investigation report by the Sport Law and Strategy Group (‘SLSG’) that was initiated by the Vancouver Whitecaps. When the complaint was made, Birarda was acting in his full-time capacity as the Head Coach of the Whitecaps WT and was also employed as the part-time Head Coach of the U-20 WNT. The employment status of Birarda with the CSA in 2008 has no bearing on the applicability of the CSA’s Harassment Policy to Birarda<sup>78</sup> or to the responsibilities of the people in charge.<sup>79</sup>

The May 2008 complaint was based on sexually suggestive text messages Birarda sent to a Whitecaps WT player. The player also was listed as a member of Canada’s U-20 WNT program. Shortly after the complaint was made, the player left the Whitecaps.

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<sup>78</sup> Canadian Soccer Association, Harassment Policy, Article 2, 2008.

<sup>79</sup> Canadian Soccer Association, Harassment Policy, Article 5.1, 2008.

On 23 May 2008, Greg Anderson, Director Professional Teams for the Whitecaps was informed of the complaint by the Whitecaps' Team Manager. At the time, Anderson was a member of the CSA Board of Directors, elected to the position on 2 May 2008.<sup>80</sup> Anderson also was the Chair of the Professional Soccer Committee and a Member of the Player Development Committee for Canada Soccer in 2008.

### Anne Chopra

Anne Chopra was employed as the Ombudswoman for the Law Society of British Columbia when she was first retained Whitecaps to investigate the May complaint and also when she was retained by the CSA and Vancouver Whitecaps to investigate the September complaint. According to Ms. Chopra's publishing website, her role as Ombudswoman included *"providing conflict resolution, education, coaching and training to individuals and firms."*<sup>81</sup> According to Ms. Chopra's LinkedIn profile, her experience includes over 18 years as the Ombudswoman with responsibilities including *"investigations, coaching and mediation of workplace issues including (harassment and discrimination)."*<sup>82</sup>

Ms. Chopra provided an invoice for services rendered to the CSA and Vancouver Whitecaps on behalf of a numbered business called C3 Capital Inc. In the absence of Terms of Reference for the September 2008 investigation, the IRT analysed her invoice to develop an understanding of the scope and time allocated to the investigation.

Ms. Chopra was invited to participate in an interview, but did not respond to the IRT's request.

### The May investigation

On 26 May, Anne Chopra emailed Greg Anderson and recommended that *"Bob should receive some one-on-one coaching and some formal procedures should be put in place about*

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<sup>80</sup> Canadian Soccer Association, "Board of Directors Meeting Minutes," 2 May 2008.

<sup>81</sup> Anne Chopra, "About the Author", publishing website. Online: [Anne Chopra - Influence Publishing](#) (Last accessed March 8 2022).

<sup>82</sup> Anne Chopra, LinkedIn Profile. Online: [\(99+\) Anne Chopra | LinkedIn](#) (Last accessed March 8 2022).

*interactions with the players for all employees and coaches.*<sup>83</sup> Subsequently, Anne Chopra provided Greg Anderson with the following overview of the training she was planning for Birarda:

*“I wanted the training to encompass the following:*

*Review of perception of his position. Re-visiting what gives him satisfaction in his position?*

*Review of the policy (my concern is u and I have to go thru the policy) and adopt a policy before I undertake to give him training.*

*Behavioral examples of what is acceptable and not acceptable behavior and speak about personal and professional boundaries. The greying of boundaries; social and celebration after events etc.*

*Anything else you would like reviewed.*

*I wanted you to review the policy and have your comments available to me and subsequently consider your comments along with my review.*

*Is he going away next week and you would like us to have some preliminary meeting?”*<sup>84</sup>

There is no indication that the CSA sought out confirmation from the Whitecaps that they had implemented any of the above noted recommendations upon being informed of the complaint and investigation in the following week.<sup>85</sup>

It appears the Whitecaps first alerted the CSA of the complaint on 3 June 2008 when Bob Lenarduzzi and Greg Anderson called Even Pellerud, Head Coach and Director of the WSNT. . On 3 June Greg Anderson sent an email to Anne Chopra in which he indicated that “ [...] *Bob Lenarduzzi and I just met with Even (the senior national team coach) to discuss a number of items including the situation with Bob Birarda. Upon discussion, we feel that we should probably alert the CSA that the issue has come up.*”<sup>86</sup> The fact that the Whitecaps reported this information to Even Pellerud and not to CSA executives in Ottawa is a reflection of the insular nature of how the U-20 WNT operated in Vancouver.

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<sup>83</sup> Email, Anne Chopra to Greg Anderson, 26 May 2008.

<sup>84</sup> Email, Anne Chopra to Greg Anderson, 3 June 2008.

<sup>85</sup> The IRT has reviewed copies of emails from the Whitecaps to the CSA.

<sup>86</sup> Email, Greg Anderson to Anne Chopra, 3 June 2008.

In the same 3 June email, Anderson communicates the following information to Anne Chopra: *“Bob is leaving on Sunday for 2 weeks of U20 national team qualifying in Mexico. I think it would be beneficial for you to meet with him at least once before he goes. I think that your list of topics for review is good. I will review the CSA policy this afternoon for first thing in the morning.”* The IRT is not aware of why Anderson intended to consult a CSA policy or which policy he consulted. Although invited to do so by the IRT, Anderson was not interviewed.

The 3 June email from Greg Anderson to Anne Chopra infers a concern about Birarda traveling with the U-20 WNT to Mexico and includes a sense of urgency for Anne Chopra to *“meet with him at least once before he goes.”* The IRT is not aware of any similar concern or vigilance on behalf of the CSA regarding Birarda’s travel to Mexico with the U-20 WNT although they were apprised of the May complaint prior to the team’s departure. One of the players interviewed by the IRT described a disturbing incident involving Birarda and team members that took place during this same trip to Mexico.<sup>87</sup>

On 4 June, Even Pellerud and Greg Anderson called Peter Montopoli, CSA General Secretary, to notify him of the complaint as well as to provide contact information for Anne Chopra who conducted her investigation on behalf of the Whitecaps between 23-26 May.<sup>88</sup>

Various communications followed between the Whitecaps and the CSA between 4 June and 6 June as outlined in Figure 2. Anne Chopra was given permission by the Whitecaps to *“permit the free flow of information between the CSA, Whitecaps and Anne Chopra as it relates to the specific situation of inappropriate communication between Bob Birarda and a player.”*<sup>89</sup>

On 31 May Anne Chopra sent Greg Anderson an email encouraging a conversation between Birarda and Even Pellerud.

*“If Bob [Birarda] can speak to Even and stay on point and be clear but not become defensive or be the way he was with us, I would say he should speak to Evan [sic].”*

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<sup>87</sup> This incident is explained in Chapter 6.2: Player Interviews Conducted by the IRT.

<sup>88</sup> According to the SLSG report, between May 23 – 26 *“The matter was investigated [by Anne Chopra] and corrective actions taken.”*

<sup>89</sup> Email, Greg Anderson to Anne Chopra, 4 June 2008.

*Otherwise both of you can speak to Evan [sic] at the same time. It has to be a measured approach. No making issue larger, but apprising everyone of the correct information. If is a judgement call. Can Bob be brief and to the point, and not defensive etc.*

*I think you could approach it from a policy issue. We had an incident with the text messaging...as a result we hired a [sic] expert to advice us on policies and boundaries [...].”<sup>90</sup>*

Anderson responded as follows: *“Thanks for the email. I think that Bob (Lenarduzzi) should speak to him. I think he will talk to him anyway. I have sent him an email with specific instructions. I will follow-up with Even after.”<sup>91</sup>*

On 6 June, Even Pellerud sent an email to the Whitecaps and the CSA General Secretary in which he recounted a conversation with Birarda. The full text of the email is provided as follows:

*“Had a quiet talk over 90 mins today – he [Birarda] is indeed tired now, but handles it fine and appreciates the process. I have also touched base with a veteran in my group today, and she confirmed the case is dead amongst the players. Well handled guys, a lot of compliments to you, Greg – well done! Cheers, Even”<sup>92</sup>*

Although Even Pellerud spent over 90 minutes speaking with Birarda, there is no documentation that anyone from the CSA took the time to speak to players on the U-20 WNT about the May complaint after the investigation concluded.

Following the complaint and subsequent investigation, Birarda had a counseling session with Anne Chopra on 6 June. Birarda signed a commitment letter that stated he would undertake sensitivity training and would conduct himself appropriately. The Commitment Letter is entitled *“Boundaries and Workplace Training For the Whitecaps Club (the “Club”)*” but the version reviewed by the IRT is unsigned and undated. The letter states the following:

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<sup>90</sup> Email, Anne Chopra to Greg Anderson, 31 May 2008.

<sup>91</sup> Email, Greg Anderson to Anne Chopra, 31 May 2008.

<sup>92</sup> Email, Even Pellerud to Greg Anderson, Peter Montopoli, Bob Lenarduzzi, 6 June 2008.

*"I have been advised and understand that there is acceptable and unacceptable behavior in the workplace and as it relates to my position as Coach, I understand I am in a position of trust and power.*

*At this time, I undertake to:*

- *Attend this one-one coaching session;*
- *Given my full attention to the information and education being provided by the Club;*
- *Be honest and open to the information, concepts and learning; and*
- *Understand the seriousness of the issue and training and education.*

*Subsequent to this said training I shall agree to conduct myself in accordance with the Club's policies (a copy of which shall be furnished to me) and the training provided to me."<sup>93</sup>*

Some CSA officials interviewed by the IRT were aware of corrective actions that Birarda had to fulfill following the May complaint. However, Canada Soccer was neither able to provide any documentation with respect to these requirements nor confirm that any remedial actions were effectively taken. The IRT also is unaware of the CSA conducting any monitoring of Birarda's successful completion of these undertakings.

The May 2008 complaint arose out of Birarda's actions as the full-time Head Coach of the Whitecaps WT. While a strict interpretation of applicable policies leads to the conclusion that the May complaint was under the Whitecaps jurisdiction, as it did not occur during the course of "CSA business, activities, and events" as outlined at Article 2 of the Harassment Policy, the Harassment Policy goes on at Article 2 to read that "*it also applies to harassment occurring outside those situations when the harassment is occurring between individuals covered by this policy and when such harassment adversely affects relationships within the CSA's work and sport environment*". The Whitecaps rightly alerted the CSA to the May complaint because it affected U-20 WNT players and coaches.

The IRT asked several CSA officials about any actions they took after being made aware of the May complaint and was advised that the General Secretary spoke to the Head Coach, WNT and instructed him to monitor Birarda to ensure that this does not happen again. However, none of the U-20 WNT players interviewed by the IRT received any specific guidance or support from the CSA following the May complaint, including recommendations to be vigilant concerning any

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<sup>93</sup> Vancouver Whitecaps, "Commitment Letter", undated.

unwelcome behavior on the part of Birarda or encouraging them to report any behaviours of concern.

Critically, the CSA's inaction further to the May complaint and investigation was a missed opportunity for the CSA to educate U-20 WNT players about the Harassment Policy, reporting procedures, and support mechanisms for players experiencing harassment.

#### 5.4 September 2008 Complaint

Table 3 summarizes key events and actions associated with the September 2008 complaint.

Table 3: September 2008 Complaint Summary

2008/Sept. 26	Allegations were reported to the Head Coach of the Women's National Team by Andrea Neil.
2008/Sept. 26	Even Pellerud informed the General Secretary of complaints alleging Birarda was sending unwelcome sexualized text messages to some players during a U-20 WNT training camp in Vancouver.
2008/Sept. 26	The General Secretary informed the President and CEO of the complaint. The President and CEO instructed the General Secretary to fly to Vancouver to look into the matter.
2008/Sept. 26	The CSA contacted the Whitecaps and both organisations agreed to jointly support an investigation and selected Anne Chopra to conduct the investigation.
2008/Sept. 29	Telephone meeting by phone with Anne Chopra and senior representatives of the Whitecaps and CSA.
2008/Sept. 29	Whitecaps suspend Birarda and removed access to Apartment suite during investigation according to 2019 Sport Law and Strategy Group report.
2008/October 2	Discussions between Anne Chopra, Whitecaps and CSA officials about approach, planned in-person meeting in Vancouver and letter of suspension.
2008 /October 3	Letter of suspension issued to Birarda jointly by Whitecaps and CSA indicating his suspension from coaching and related duties of both Whitecaps and CSA.
2008/October 5	In-person meeting at office of Anne Chopra in Vancouver including Whitecaps and CSA representatives, Bob Birarda, among others.
2008/October ?	CSA votes to terminate Birarda effective immediately.
2008/October 8	In-person meeting in Vancouver including Anne Chopra, Whitecaps and CSA representatives, and Bob Birarda.

- 2008/October 8 Letter from Bob Birarda to Peter Montopoli confirming mutual agreement *“that we have come to a mutual agreement that there is a need for a coaching change for the U20 Women’s National team effective immediately and accordingly I am stepping aside”*.
- 2008/October 8 Meeting with selected players attended by Whitecaps and CSA executives and Ian Bridge to inform players of the coaching change. Scripted communications prepared in advance of this meeting including a prepared statement by Birarda.
- 2008/October 9 Joint media statement advising that Birarda was no longer employed by either organization and that the departure was a mutual decision.

### The Allegations

On 26 September, *“the CSA received a similar complaint regarding the coach’s [Birarda] behavior in that program”* and *“the Whitecaps worked in collaboration with the CSA to determine next steps.”*<sup>94</sup> According to Canada Soccer, *“During the late summer/early fall of 2008 Even Pellerud informed Canada Soccer Sr. staff of complaints alleging Mr. Birarda was sending unwelcome text messages with sexual overtones to certain players during a Women’s U-20 National Team camp in Vancouver, BC.”*<sup>95</sup>

Numerous sources indicate that the September allegations were reported to Even Pellerud by Andrea Neil, who had recently retired from the WNT. Andrea Neil corroborated the same in her statement *“A Game of Two Halves”* wherein she indicated she began to hear rumours from players and reported this to *“a high-performance coach”* given the seriousness of the allegations (Refer to Chapter 6.3 Player Statements 2019).

After being informed of the allegations, Even Pellerud told the IRT that he contacted the General Secretary with the information. The General Secretary then informed the President and CEO about the allegations. Dominique Maestracci promptly instructed Peter Montopoli to get on a plane to Vancouver and look into the matter further.

In addition to drawing attention to inappropriate text messages , the allegations once again pointed to a power imbalance between Birarda and the players that allowed such activity to

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<sup>94</sup> Sport Law and Strategy Group, *“Review of Safe Sport and HR Practices”*, 13 December 2019.

<sup>95</sup> Canada Soccer, *“Letter to FIFA Ethics Committee”*, 10 November 2021.

fester, according to one individual interviewed by the IRT; *“These were the words that continually came out, it was the same problem [as the May complaint].”* This is corroborated through interviews with other CSA executives, including one who told the IRT that the September complaint(s) included *“allegations concerning Bob Birarda that he would have sent some messages with sexual connotations to women on the U-20 team during a training camp.”* Player interviews conducted by the IRT confirm that the allegations involved inappropriate sexualized text messages.

#### Investigation into September complaint

The CSA’s assessment was that the allegations of the September complaint fell under the CSA’s jurisdiction because, pursuant to Article 2.1 of the Harassment Policy, at the time of the complaint, the U-20 WNT was in a training camp preparing for the FIFA U-20 Women’s World Cup in Chile.

On or about 26 September, the CSA invited the Whitecaps to jointly support an investigation considering the previous complaint made to the Whitecaps in May and the close cooperation between the two programs. *“It stood to reason that we made them aware of it”* according to one senior CSA executive. *“We felt it was proper that the Whitecaps were involved because [Birarda] was a full-time coach [of the Whitecaps] and it [the September complaint] involved some of their [Whitecaps’] players.”* According to a former CSA executive, *“because the Whitecaps had a history with the Ombudsperson and a certain extent we did without having anything official back to the June (2008) timeframe, it only stood to reason we would reengage the Ombudsperson to do what we would interpret as an investigation.”*

Together, the Whitecaps and the CSA agreed to appoint Anne Chopra to conduct the investigation. CSA executives interviewed by the IRT did not recall any formal written agreement or Terms of Reference other than to investigate the September complaint. *“I do not recall there were set out Terms of Reference other than to investigate any allegations that were going on in the camp against Bob Birarda”*, stated one CSA executive. The IRT was not provided with any contract or Terms of Reference in respect to Anne Chopra’s investigation.

*“The Ombudsperson [Anne Chopra] was asked to conduct an investigation as the Whitecaps did, and she conducted her investigation in a confidential manner which we as Canada Soccer understood were best practices at the time.”* Anne Chopra was thus retained to conduct the investigation *“on a confidential basis”* according to one former CSA executive; however, there are no Terms of Reference that define confidentiality requirements and the IRT has not been able to confirm that a non-disclosure agreement had been completed. According to a former CSA executive: *“a lot of words have been said about non-disclosure, but honestly I do not remember having an agreement with Anne Chopra regarding non-disclosure”*.

### The investigation

On 26 September Greg Anderson emailed Anne Chopra and provided the following information:

*“Please feel free to speak with the CSA regarding the situation as we discussed. I understand that these discussions with the CSA will be covered under our retainer. The CSA may request that you speak with their harassment officer – we support this conversation. Please let me know if you need more information.”*<sup>96</sup>

The only harassment officer recalled by former CSA executives was Joyce Stewart who told the IRT that she was never approached by Anne Chopra and never spoke to Anne Chopra.

On 26 September, Greg Anderson emailed Even Pellerud and advised that *“Anne would like to have a fact-finding conversation with the player [...] to understand the nature of the situation.”*<sup>97</sup> On 27 September, Pellerud responded by email to Anderson in which he states, *“I have talked to my source and ask [sic] her to connect with Anne as advised [sic]. Now let us all make sure that we move slowly and with utmost sensitivity so nobody is hurt without reason. My source has asked to be protected at this time!”*<sup>98</sup>

Although the IRT has no information regarding who Ann Chopra spoke to in the course of her investigation, the IRT has learned that the investigation unfolded over a matter of less than two weeks which was acknowledged by one former CSA executive as being *“rather quick because*

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<sup>96</sup> Email, Greg Anderson to Anne Chopra, 26 September 2008.

<sup>97</sup> Email, Greg Anderson to Even Pellerud, 26 September 2008.

<sup>98</sup> Email, Even Pellerud to Greg Anderson, 27 September 2008.

*we needed to make a decision and his actions were not proper and he needed to be removed and he was removed.*” However, many players were highly critical of the limited scope of the investigation including several who were not afforded the opportunity to be interviewed by Anne Chopra (Refer to Chapter 6: Player Feedback).

The IRT obtained a copy of Anne Chopra’s invoice which provides an itemized summary of work. In absence of written Terms of Reference, the invoice provides a summary of the work conducted and the time allocated to various tasks associated with the investigation. The invoice for services was dated 12 October 2008 and includes a total of 41 billable hours; the total amount of \$15,375 (+HST) was split equally between the Whitecaps and the CSA.

An analysis of the invoice by the IRT indicates the following breakdown of responsibilities by the Ombudswoman as it concerned the investigation:<sup>99</sup>

<u>Services:</u>	<u>Billable Hours:</u>
<i>“Liaison with Whitecaps &amp; CSA including calls, meeting preparation, strategy, attending meetings”</i>	24 hours
<i>“Senior Player and Passive Investigation”</i>	8.5 hours
<i>“6-9 October”</i>	8.5 hours

The billing for 6-9 October included discussions with the Whitecaps, CSA, lawyers, and *“To all calls and emails from players, Whitecaps, and CSA re scripting, investigation and all strategy and approach [...]. ”*

Anne Chopra did not respond to the IRT’s interview request; thus she was not available to provide further explanation as to the conduct of her investigation. However, the invoice serves as a record of the work conducted. It appears that the majority of Ms. Chopra’s work involved administrative tasks and liaising with the Whitecaps, CSA, and legal representation. *“Senior Player and Passive Investigation”* included billings itemized as follows: *“(i) To discussion of*

<sup>99</sup> Anne Chopra, “Invoice for Services”, 12 October 2008.

*approach and strategy; (ii) To receipt of numerous calls (unknown numbers and follow ups) and emails from senior players re: workplace issue; and (iii) To receipt of follow-up emails, to corresponding and to calls and returning same and notes and discussions with the players and abstaining from completing the same.”* The final category of billing during the 6-9 October period appears to include both administrative tasks and some additional player contacts. Therefore, the IRT estimates the amount of time spent on the player component of the investigation itself (contacting and interviewing players, and related tasks) is between 8.5 and 17 hours. Based on its assessment of the information in its possession, the IRT finds that the investigation into the September complaint was wholly inadequate.

### The suspension

According to a 2019 Report issued by the Sport Law and Strategy Group<sup>100</sup>, following a telephone meeting on 29 September between Anne Chopra and executives of the Whitecaps and the CSA, the Whitecaps suspended Birarda and removed his access to the Monteray apartment complex in Vancouver. The IRT was unable to independently verify this suspension which conflicts with other documentation reviewed, including a letter of suspension jointly issued by the Whitecaps and the CSA to Birarda on 3 October.

Discussions continued between Anne Chopra and Whitecaps and CSA officials on 2 October about Birarda, a planned in-person meeting in Vancouver, as well as a letter of suspension to be issued against Birarda pending the results of the investigation. Communication between the CSA and the Whitecaps on 1 October 2008 confirmed that, “[...] *the CSA Ex. Co. [Executive Committee] has approved the recommendation of suspension pending investigation.*”<sup>101</sup>

Following this discussion, on 3 October, a letter of suspension was jointly issued to Birarda by the Whitecaps and the CSA. The letter of suspension provided official notification that Birarda was “**NOT**” to undertake any of the following:

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<sup>100</sup> Sport Law and Strategy Group, “Review of Safe Sport and HR Practices”, 13 December 2019.

<sup>101</sup> Canadian Soccer Association, “Email to Vancouver Whitecaps re. recommendation of suspension of Bob Birarda”, 1 October 2008.

- *“Represent yourself as the Coach of the Whitecaps or CSA;*
- *Interact directly or indirectly, in person, by phone, by texting or any other means of communication with any member(s) or player(s) of the Whitecaps or CSA (excluding Senior management staff of the two groups);*
- *Attend any game, training session or function which would put you in close proximity with the members or players of the Whitecaps or CSA.”<sup>102</sup>*

On 5 October an in-person meeting took place at Anne Chopra’s office in Vancouver including representatives of the Whitecaps , CSA, and Birarda. The IRT is not privy to any details of this meeting.

### The termination/resignation

According to one former CSA executive, *“Based on the outcomes of the investigation which included unwelcome text messages with sexual overtones, the recommendation from Anne Chopra was that he should no longer be coaching the U-20 Women’s National Team.”* The CSA executive added, *“once they (CSA) received her recommendations, the CSA and Whitecaps agreed to follow her recommendations and decided to terminate Bob Birarda’s role as coach.”*

The account of the former CSA executive is corroborated by a letter issued by Canada Soccer to the FIFA Ethics Committee on 10 November 2021 wherein it states, *“[...] the Canada Soccer Board and Vancouver Whitecaps Executives made the decision to terminate the coach immediately, October 8, 2008.”<sup>103</sup>* However, the IRT was advised by several former CSA executives that the decision to terminate Birarda was made by the CSA Executive Committee and not the Board of Directors. In fact, several members of the CSA Board of Directors were unaware of the decision to terminate Birarda.

On 8 October another in-person meeting took place in Vancouver including Anne Chopra, Whitecaps and CSA representatives, and Birarda. The IRT is not privy to the conversation that took place but can infer from what followed that all parties agreed that it was in their best

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<sup>102</sup> Canadian Soccer Association and Vancouver Whitecaps, “Letter of Suspension”, 3 October 2008.

<sup>103</sup> Canada Soccer, “Letter to FIFA Ethics Committee”, 10 November 2021.

“mutual” interests for Birarda to quietly resign even if the Whitecaps and CSA later declared, and still maintain, that he was terminated.

On 8 October Bob Birarda issued a letter addressed to Peter Montopoli wherein it states, “I confirm that we have come to a mutual agreement that there is a need for a coaching change for the U20 Women’s National Team immediately and accordingly I am stepping aside.”<sup>104</sup>

### The handling of Birarda’s departure

According to a former CSA executive, “the organisation [CSA] was guided by the Ombudsperson and legal” with respect to the strategy concerning Bob Birarda’s departure. This strategy is alluded to in Anne Chopra’s 12 October invoice which references “scripting” pertaining to meetings attended by Birarda as well as scripting related to media and player messaging. This was done to “protect the organisation, that’s what lawyers do and it was in accordance with what were common practices at the time” according to one former CSA executive. The CSA, with legal advice, structured and communicated the decision to mutually part ways with Birarda. Unfortunately, by doing so, the U-20 WNT players were left without any public acknowledgment of the harassment inflicted by Birarda.

In 2021 in response to a request for information from the FIFA Ethics Committee about Canada Soccer’s handling of the Birarda complaints, the disgraced coach’s departure was characterised as follows by the General Secretary: “On October 9, 2008, Canada Soccer and the Vancouver Whitecaps following proper guidance from legal counsel, informed the news media and the public of the termination of Mr. Birarda.”<sup>105</sup> This statement mischaracterized Birarda’s departure from the CSA which was communicated as a “mutual parting of ways” - not a termination - according to the joint media statement. Players were frustrated and confused as to how Birarda’s departure was communicated as indicated in various player statements made in 2019. Instead of acknowledging Birarda’s abuse and implementing the Executive Committee’s decision to terminate Birarda, Canada Soccer misled players and obfuscated the true reason for his departure: his continued harassment of players and abuse of the power

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<sup>104</sup> Bob Birarda, “Letter of Resignation”, 8 October 2008.

<sup>105</sup> Canada Soccer, “Letter to FIFA Ethics Committee”, 10 November 2021

imbalance between Birarda and players on the team. Moreover, the CSA's failure to terminate Birarda and impose disciplinary sanctions afforded him the opportunity to continue coaching, putting other players at potential risk.

On 8 October a meeting was held in Vancouver with selected players to inform them of the coaching change.<sup>106</sup> The IRT was unable to determine which players were invited to this meeting or why only certain players were invited to attend. None of the U-20 WNT players interviewed by the IRT were informed about this meeting. The IRT was advised by a former CSA executive that this meeting took place on the same day the media statement was issued. This meeting was attended by executives of the Whitecaps and Canada Soccer, as well as the incoming U-20 WNT coach Ian Bridge. The IRT was informed that Victor Montagliani spoke on behalf of the CSA and Bob Lenarduzzi spoke on behalf of the Whitecaps. The players were told that Birarda was no longer the Head Coach and was being replaced by Ian Bridge. The IRT reviewed the scripted speaking notes that were prepared for the player meeting the day Birarda was dismissed. The full text of the draft CSA speaking notes reads:

*"Introductions:*

- *Victor Montagliani, CSA VP & Bob Lenarduzzi, Whitecaps President*

**Victor Montagliani:**

- *Thanks everyone for coming.*
- *We appreciate you making yourselves available on such short notice.*
- *Our purpose in asking you to come this afternoon is to make each of you aware of a change with respect to Bob Birarda's role with the Women's U-20 National Team program and the Whitecaps; and to make you aware of the message that will be going out to the media early tomorrow morning.*
- *The CSA and Whitecaps have been working in coordination through this process.*
- *Many of you are aware of some of the challenges that Mr. Birarda has been dealing with, including his health and limited time for his own personal obligations.*
- *Accordingly, and effective immediately, Mr. Birarda will no longer be the Head Coach of Women's U-20 National Team.*
- *It is a mutual decision to part ways, Mr. Birarda, and the CSA agree that it is in the best interest for all parties concerned.*

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<sup>106</sup> Email, Greg Anderson to Peter Montopoli (with speaking notes attached), 8 October 2008.

- *As such, the CSA is pleased to announce the appointment of Ian Bridge to the position of Head Coach for the Women’s U-20 National Team and he will lead the team through to the completion of the FIFA Women’s U-20 World Cup competition.*
- *I will now ask Ian [Bridge] to read a statement which Mr. Birarda has prepared for the Team.”<sup>107</sup>*

The speaking notes drafted by Birarda read:

**Script from Bob Birarda, to the Women’s U-20 National Team, as read by Ian Bridge:**

*As of today, I will no longer be the coach of the Women’s U-20 National Team.*

*I will take this time/opportunity to focus on managing my personal obligations, including my family and my health, as in the last year I have not had any opportunity to rest, reflect, recover, catch my breath, or spend any time with my family.*

*I wish you all the best success, individually and as a team and I know that you will be in good hands with Ian as your new head coach.”*

There is no acknowledgement of Birarda’s harassment in his prepared statement and no mention of any decision to terminate him. On the contrary, the statements are self-serving on behalf of the CSA and Birarda. Concern was expressed for Birarda’s personal challenges. No such concern was expressed for the welfare of the U-20 WNT players by the CSA. However, in the scripted comments prepared for the Whitecaps’ President for the same meeting, he acknowledges that *“the CSA and Whitecaps have been made aware of a number of concerns and complaints. We have taken these concerns very seriously, because one of our primary objectives is to ensure that there is a safe and positive environment for the development and progress of our players.”* The Whitecaps’ President also told the players that *“It is a mutual decision to part ways,”* mirroring the comments prepared for the CSA Vice President.

The scripted comments also included a section entitled *“Potential Questions”* that demonstrates tacit acknowledgement by the Whitecaps and the CSA that there were *“problems”* that might be brought up by players in attendance. These potential questions included the following:

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<sup>107</sup> Speaking notes for player meeting the day Birarda was dismissed, undated.

*“When did you first hear about these problems?  
What steps?  
I thought you were going to do more in May, why didn’t you?  
How come Bob was allowed to stay in the apartment?  
How can you let him get away with these things?”*

The IRT has no further information concerning what was discussed at this meeting, including what questions the players may have asked officials in attendance on behalf of the Whitecaps and the CSA.

A former CSA executive told the IRT that *“Anne Chopra was retained on an as-needed basis with any player to work through any of the ongoing issues they may have had.”* However, the IRT cannot independently verify if this was communicated to players and if any players met with Anne Chopra following the conclusion of her investigation for any type of mental health support or counselling. Furthermore, no one with the CSA could verify Anne Chopra’s qualifications to offer trauma-informed counseling and mental health support.

The speaking notes for the Whitecaps President state that *“Anne is available to you if you would like to speak to someone other than Whitecaps or CSA staff, about anything confidential, or to voice your recommendations for moving forward. We will make every effort to consider these recommendations in policies and procedures moving forward.”* There is nothing in the scripted speaking notes that directly references counseling and mental health support available to players.

A former CSA executive also told the IRT that Anne Chopra had a conversation with the police concerning the allegations and *“she confirmed that from a police perspective the police would not get involved.”* This is corroborated by the same Canada Soccer letter to the FIFA Ethics Committee wherein it states, *“The investigation carried out by the Ombudswoman advised that there would be no further undertaking by the police.”*

## Chapter 6: Player Feedback

### 6.1 Introduction

The IRT identified a total of twenty-six former players who participated as either a member of the U-20 WNT program, the Whitecaps WT or the Women's Senior National Team in 2008. The IRT contacted a total of twenty-two players through publicly available email or social media accounts (LinkedIn, Instagram) who were invited to participate in an interview. The invitation included a letter from Professor Richard H. McLaren and provided information about the Terms of Reference for the Review and the independence of MGSS in conducting the Review. A dedicated confidential email address also was provided.

A total of five players responded to the invitation, including three who declined to participate. Two players consented to an interview. The IRT conducted a total of three player interviews, including one joint interview at the invitation of Rubin Thomlinson. As noted in Chapter 1.5, there were several limitations that precluded greater participation of former players.

The IRT also relied on several public statements by former players to further develop an understanding of the relationship between the players and Birarda in 2008. This includes: i) 2019 blog by Ciara McCormack; ii) 2019 Collective Statement by the U-20 WNT pool; iii) 2019 Personal Statement by Hana Taijji; and iv) 2019 Statement "A Game of Two Halves" by Andrea Neil. The information in these public statements was helpful in assessing and corroborating other information obtained by the IRT throughout the Review.

### 6.2 Player Interviews

The three players interviewed by the IRT provided important insights regarding their experiences with Birarda and the U-20 WNT program. This includes direct accounts of harassment by Birarda. The players also shared their recollection of the training environment associated with the U-20 WNT in 2008 as well as feedback about the 2008 investigations and how Birarda's departure was communicated to them.

As this Review is not meant to be an investigation or reinvestigation of complaints or allegations, detailed accounts of the harassment are not provided below nor is the identity of the players who were interviewed by the IRT.

#### Summary of the techniques used by Birarda to harass players

- Birarda operated with minimal to no supervision and held significant power over the program and players. He was described as a “*serious power-hungry coach*” who had a “*serious god complex*.” He abused his position of power to groom, intimidate, threaten, and sexually harass certain players.
- Birarda’s behavior went unchecked because of the siloed nature of the U-20 WNT in Vancouver, poor comprehension of harassment policies and reporting procedures amongst the players on the team, and Birarda’s façade. He was considered “*untouchable*” because of his power and influence over the players.
- Birarda weaponized his power, via threats and promises, to manipulate players. He was described by one player as “*the ultimate manipulator*.”
- Players were reluctant to come forward to report Birarda’s behavior either because the behavior was normalised by Birarda, or for fear of being ostracised including the loss of playing time or getting cut from the team.
- Birarda’s grooming involved both the carrot and the stick. The carrot included promises of playing time, attention, and praise from the Head Coach, including statements like “*You are going to be the next Andrea Neil*.” The stick included threats of reduced playing time and being cut from the team. The IRT has evidence that Birarda carried through on these threats involving players who did not acquiesce to his advances or flirtations.
- Birarda engaged in textbook grooming of players including parents. He built trust with players and their families who considered him infallible because of his reputation as a great coach.
- Birarda “*played favourites*” with certain players who were considered part of the “*inner circle*”, and shunned and bullied others who did not consent to his flirtatious advances. This included examples of bullying players at practice in front of teammates. Players were told to “*suck it up*”, an excuse used by Birarda to normalise “*verbal jabs*” that players needed to accept as a normal part of being on a high-performance team.

- Birarda played favourites mostly with older players on the U-20 WNT which put additional pressure on younger players; pressure to either “*play the [favourites] game*”, or pressure to keep quiet. In either case, younger players were led to believe that “*playing along*” with Birarda was the only way to move forward.
- Birarda normalised behaviors that constitute harassment including encouraging an “*open relationship*” with players that went beyond established guidelines for professional boundaries between coaches and athletes. For example, asking personal questions about boyfriends. Birarda also confided in some players about his own personal issues and shared information about other players as a way to further encourage this “*open relationship*.”

#### Summary of player impacts arising from Birarda’s harassment

- Anxiety and fear of reprisal. One player described unrelenting text messages and telephone calls from Birarda that demanded a response or she would face “*a huge fallout*.”
- Self-doubt, guilt, and self-blame. Because Birarda attempted to normalise his harassment, some players questioned themselves and felt they were responsible for the harassment.
- Depression. This was a result of Birarda’s harassment, but also the concomitant effects including: i) strained relationships with teammates and family members (who also considered Birarda infallible as they had also been groomed; ii) feeling like they had no other option but to quit the sport of soccer altogether; and iii) general self-doubt.
- Lack of trust in the CSA and the processes designed to support and protect athletes.
- Feeling robbed of positive memories related to a sport for which they had sacrificed so much.

#### Summary of player feedback on how the U-20 WNT operated in 2008

- The relationship between the Whitecaps WT and the U-20 WNT was described as being “*intertwined*” and the Whitecaps WT served as the “*de facto national team*.”
- Birarda was described as being very close friends with Even Pellerud, Head Coach and Director of the WSNT, but Pellerud was rarely seen at U-20 WNT practices except to scout occasionally. Players interviewed by the IRT were unaware of any reporting relationship

between Birarda and Pellerud. According to one player, “as far as I know, he never reported to anyone. It was 100% Bob Birarda.”

- Many of the players on the Whitecaps WT lived in an apartment complex in Vancouver called the Monterey, and continued to live in the apartment when the Whitecaps WT season transitioned to training camps for the U-20 WNT. Players confirmed that Birarda lived at the apartment complex which was characterized as being “freaking weird” by one player. They also expressed relief when Birarda moved out of the apartment.
- Players did not receive any in-person harassment education or training and were unaware of how to report a complaint. None of the players were familiar with National Harassment Prevention Officers.
- The players did not recall having to sign a player agreement with the U-20 WNT, but some recalled having to sign a travel form, and a Sport Canada agreement with respect to funding related to their status as a carded athlete.

#### Summary of player feedback on the investigation and communication from the CSA

- None of the players interviewed by the IRT participated in the investigation conducted by Anne Chopra arising from the May complaint. Some were unaware of the investigation altogether.
- No one from the CSA reached out to the U-20 WNT players following the May 2008 complaint and investigation according to the players interviewed by the IRT.
- None of the players interviewed by the IRT were invited to participate in the Ombudswoman’s investigation of the September complaint. They were unfamiliar with the name Anne Chopra.
- Players were dissatisfied with the investigation conducted by the Ombudswoman and considered the investigation incomplete because not all of the players were invited to participate.
- None of the players interviewed by the IRT were invited to participate in the team meeting with Whitecaps and CSA executives in which Birarda’s departure was communicated as a “mutual decision to part ways.” These players were under the wrong impression that Birarda was terminated by the CSA; including one player who said she was relieved that he would never be able to coach again.

- None of the players interviewed by the IRT were contacted by the CSA following the September 2008 complaint and none were offered support or access to counseling services.
- None of the players interviewed by the IRT received any direct communication from the CSA following the publication of various player statements in 2019.
- Players were dissatisfied with the CSA reaction, both in 2008 and 2019, and cannot believe the CSA did not do more or say more both before and after Birarda pleaded guilty to criminal charges.

### Player comments and recommendations to Canada Soccer

- Canada Soccer has done a very good job with its current policies but emphasis must be placed on educating players and raising awareness.
- More safety measures for players and outlets for players to speak to.
- As a show of good faith and to make amends to players, Canada Soccer should offer to pay for counseling to those women who were affected by Birarda.

### 6.3 Player Statements 2019

Public statements by former players in 2019 drew attention to the historical allegations of harassment against Birarda, as well as frustrations with how the investigation and communication with players were handled in 2008. The first statement was a blog by former Whitecaps WT player Ciara McCormack on 25 February 2019.<sup>108</sup> McCormack is an Irish national who did not participate as a member of Canada’s National Team program but knew many of the Canadian players who were teammates on the Whitecaps. The McCormack blog helped to pave the way for subsequent statements including: i) Andrea Neil, “A Game of Two Halves”<sup>109</sup>; ii) “A Collective Statement” issued by former U-20 WNT players<sup>110</sup>; and iii) “A

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<sup>108</sup> Ciara McCormack, Blog: “A Horrific Canadian Soccer Story – The Story No One Wants to Listen To, But Everyone Wants to Hear”, 25 February 2019.

<sup>109</sup> Andrea Neil, “A Game of Two Halves”, 26 March 2019.

<sup>110</sup> Statement by Former U-20 National Team players, “A Collective Statement”, 8 April 2019.

Personal Statement by Hana Taiji”<sup>111</sup>. Significant media attention followed these statements and has continued to the present day. The IRT cannot independently verify which of the specific allegations made in these 2019 player statements were included in the complaint made to the Vancouver Whitecaps in May 2008 or the allegations brought forward by Andrea Neil in 2008 to the Head Coach of the Women’s National Team. However, multiple sources confirmed that the allegations in 2008 focused on sexually harassing text messages.

Collectively, these statements galvanized attention to the issues experienced by these former players in 2008. These statements also gave rise to two subsequent reviews in 2019. One review was completed by the Sport Law and Strategy Group on behalf of the Vancouver Whitecaps, and another was completed Rubin and Thomlinson LLP on behalf of British Columbia Soccer.

Several themes emerged across these four statements which are summarised as follows.

#### 1. Renewed Claims of Harassment by Birarda

“A Collective Statement” states, *“During our time as part of the U20’s, we each witnessed incidents of abuse, manipulation, or inappropriate behavior towards players.”* Several examples of maltreatment are provided including sexually harassing emails, physical sexual harassment (Birarda rubbing a teammate’s thigh while in the car), one-on-one meetings including sexual innuendo used as a threat tied to playing time, among others. The sexually harassing emails, one-on-one meetings, and carrying through on threats tied to playing time were confirmed by the player interviews conducted by the IRT.

Hana Taiji was a former U-20 WNT player who provided the following account of harassment by Birarda:

*“During the time I played for Coach Birarda, I was both subject of and a witness to his targeted humiliations, attempts at intimidation and uncomfortably suggestive, inappropriate behavior. For me the experience was deeply destabilizing and damaging*

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<sup>111</sup> Hana Taiji, “A Personal Statement by Hana Taiji”, 8 April 2019.

*to my dream of playing at the highest level of Canadian soccer. But, I acknowledge that some of my teammates had it much worse.”*

In her statement “A Game of Two Halves,” Andrea Neil provided the following account:

*“In 2008, scarcely out of my uniform, I began to hear a lot of rumours and stories about troubles within the Women’s Whitecaps and U20 Women’s National Team from athletes closely related to the two heavily connected programs. Concerned about the seriousness of the allegations, I contacted a high-performance coach within Canada Soccer and alerted him to the issue.”*

The IRT confirmed from multiple sources including players, former CSA executives, and Even Pellerud himself that it was Pellerud, Head Coach and Director of the WSNT, who was provided with this information from Neil.

## 2. Dissatisfaction with the 2008 Investigations

Many players expressed skepticism and dissatisfaction with the investigations conducted in 2008 by Anne Chopra. In fact, several players were not invited to participate in either the May or September investigations including the three players interviewed by the IRT.

The concern over the September 2008 investigation by the Whitecaps and the CSA is illustrated in the following statement by Andrea Neil:

*“Firstly, during the 2008 investigation into the circumstances that surrounded the Women’s Whitecaps and U20 WNT, very few of the athletes involved were interviewed by the independent fact-finder running the investigation for Canada Soccer and the Whitecaps. Considering the seriousness of the accusations that were coming from some parts of the team, why were the vast majority of players, some of whom were central to the allegations, not spoken to as part of the process? In my opinion, the scope of the investigation was actually quite limited, and I think the soccer community deserves to know why the Whitecaps and Canada Soccer chose to conclude it as quickly as they did.”*

The question posed by Neil as to why the scope of the investigation was quite limited remains unanswered. Although the CSA acted quickly in investigating the concerns brought forward by

Neil to Even Pellerud, their haste in doing has fueled scepticism amongst players and allegations of a cover-up. The IRT has no evidence to support allegations of a cover-up by anyone associated with Canada Soccer.

Faced with the allegations of inappropriate texting, the CSA acted swiftly, even if in no way in accordance with the Harassment Policy, to investigate the allegations and take action with regards to Birarda. The CSA was unaware of the full extent and egregiousness of the Birarda problem as the September 2008 investigation never yielded such information. The CSA was committed to making the issue go away and actively took the steps to do so by removing Birarda from the fold.

### 3. Poor Communication and Support from the CSA

The players who were signatories to the Collective Statement state that they *“were never informed of the reason for his dismissal, nor were our parents.”* This is corroborated in part by the content of the scripted speaking notes that were prepared in advance of a meeting with a few invited players to inform them of the coaching change on 8 October. The players were frustrated that Birarda’s misconduct was not mentioned in the media release following his dismissal. Birarda’s misconduct was not communicated to any of the players by the CSA as the reason for his dismissal.

The Collective Statement claims that the players were not *“provided a platform to discuss Bob Birarda’s behavior. No third-party organization, nor the authorities, stepped in to provide an outlet for these conversations. There was never any follow-up to ensure the health and safety of the athletes on our team.”* This is echoed by Andrea Neil who stated that *“Nor, to my knowledge, did either organization ever reach out and offer support to any of the players on the team, some of whom still carry the scars of their experience to this day.”*

Players who signed the Collective Statement took exception to how Birarda’s departure was communicated publicly, including the following statement that appeared in the Vancouver Sun on 10 October 2008: *“The departure was a mutual decision which the association and Mr. Birarda agreed was in the best interest of both parties,”* the CSA said in a news release.” This

statement did not acknowledge any of the harassment allegations as the reason for Birarda's dismissal. In her 2019 statement, Andrea Neil commented on her surprise at how Birarda's departure was publicly communicated. *"I, like many others, was understandably puzzled when the inquiry then concluded with the "mutual decision" to part ways."* The IRT finds that characterizing the departure as being in the mutual interest of both parties without so much as addressing the harassment was a gross mischaracterisation of the circumstances and failed the victims of the harassment, their teammates, and the organisation as a whole.

#### 4. Concern over Birarda Coaching

Many players were unaware that Birarda had returned to coaching and expressed concerns that there were no restrictions placed on his ability to coach. According to "A Collective Statement," *"We come forward 10 years later because some of us didn't know he was still coaching [after his departure from the U-20 WNT in 2008], and we all look back at our experience with Canada Soccer and the Vancouver Whitecaps and think the situation should have been handled differently."*

Andrea Neil spoke to Anne Chopra about one of the investigator's recommendations nearing the completion of her inquiry. According to Neil, *"She told me that she would be informing the organizations that the staff member at the centre of the investigation [Birarda] should avoid future roles such as coaching, as she felt that he could not manage what she called the power imbalance between his role as a coach and his relationship with the players."* This statement by Neil is corroborated by other evidence reviewed by the IRT. However, Birarda was not formally terminated by the CSA; rather, he agreed to step aside, negotiated as a mutual decision. As such, there was no disciplinary record that another soccer organisation could rely upon to prevent Birarda from coaching. Additionally, as explained in Chapter 4.4 any criticism related to the fact that CSA failed to revoke Birarda's Coaching License is misguided. A coaching license at the time could not effectively be revoked as it was merely a certificate of completion of coach training requirements and not enrolment in an actual coaching registry.

## 6.4 Canada Soccer Response to 2019 Player Statements

Following the 2019 player statements, the IRT learned from multiple sources that Canada Soccer's Board of Directors had discussed the issue and there was some form of outreach from a Board member to selected players as a way to open the door to the larger pool of former U-20 WNT players to discuss the information provided in the player statements. The IRT confirmed that a former Board member had signed a letter, approved by the Board, which was sent to two former players involved in the complaint process following publication of the 2019 player statements.

The IRT also learned that some former U-20 WNT players communicated directly with Canada Soccer following the 2019 player statements, including one who stated, "*I have communicated directly with Canada Soccer over the past few years.*" The IRT was not provided with copies of player correspondence with Canada Soccer and cannot independently verify the nature of this correspondence. In May 2019 Jason Devos, Director of Development for Canada Soccer, emailed and spoke to Ciara McCormack following her player blog to try and clarify some misinformation. In November 2019 Devos again reached out to McCormack via email to offer to meet in Vancouver, but she declined to meet. Devos and McCormack exchanged additional emails in October 2021, January 2021, and April 2021.<sup>112</sup>

Devos also made an in-person presentation to the WNT on 25 October 2021 to address concerns that the team had expressed concerning Safe Sport and Canada Soccer. The presentation included an update on improvements to the Safe Sport policies and processes that had been enacted by Canada Soccer in recent years as summarized in Table 4.

Although both the Vancouver Whitecaps and British Columbia Soccer Association chose to launch independent reviews following the allegations made in the 2019 player statements, Canada Soccer chose not to. The IRT was informed by a representative of British Columbia Soccer that the provincial body reached out to Canada Soccer in 2019 to discuss the possibility of a joint review, but Canada Soccer declined. The IRT was told by a Canada Soccer executive

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<sup>112</sup> Jason Devos, "Email summary to Bob Copeland", 6 May 2022.

that, *“because he [Birarda] was 95% a Whitecaps’ employee, we felt it was best viewed from a Whitecaps’ lens.”*

However, a former Board member did inform the IRT that she strongly urged the Canada Soccer Board to take accountability for the trauma that numerous U-20 WNT players suffered at the hands of Birarda, to acknowledge that they were being truthful and to help them heal their wounds. She maintains that Canada Soccer and its leadership did not take allegations against Birarda seriously then and still fail to acknowledge the seriousness of what occurred. Her suggestion, and the draft letter that she had written to try to address these concerns, were both flatly rejected from members of the Executive Committee and the Board who instead voted to send a *“diluted, soft letter to the victims”*. This alternate letter was subsequently sent to two former players and according to one person interviewed utterly failed to accomplish anything other than to reinforce the players’ perception that Canada Soccer was never going to take responsibility either for the trauma they lived whilst playing for the U-20 WNT or for the shortcomings of the Ombudswoman’s investigation, report and recommendations, which to her were all deficient. The IRT can confirm that the letter that was sent further broadened the players’ distrust in the organization - past and present – and anyone affiliated to it.

The IRT finds that failure to take accountability for what occurred in 2008 has resulted in Canada Soccer doing a disservice to itself, to its current staff who are working in good faith on Safe Sport mechanisms, and more importantly to players, past and present, who deserve the protection of their national federation. As stated by an individual interviewed *“You can’t look forward without reconciling the past. You must reconcile the past. If you do not, it does not matter what you do going forward because it’s not anchored in a solid foundation”*.

## 6.5 Canada Soccer Statement

On 12 November 2021 Canada Soccer issued a statement that announced it engaged McLaren Global Sport Solutions to conduct an independent Review.

*“Canada Soccer has the highest regard for the safety of all involved in the game. We commend individuals who have come forward to report allegations of abuse and encourage all who have experienced similar incidents at any level to do the same. We*

*are truly sorry that any player has had to experience such distress and are fully committed to support these individuals and the change necessary to ensure Safe Sport for all. Canada Soccer has initiated a transparent, third-party independent investigation of the processes that occurred in 2008 that led to the removal of former Women's U-20 National Team Coach, Bob Birarda. The purpose is to fully understand what occurred and to develop recommendations and best practices for any future investigations to better protect all participants of our sport.”<sup>113</sup>*

Following the issuance of this statement, MGSS commenced its independent Review of Canada Soccer.

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<sup>113</sup> Canada Soccer, “Canada Soccer Statement Safe Sport”, 12 November 2021.

## Chapter 7: Safe Sport Policy Evolution

### 7.1 Introduction

Canada Soccer has clearly made noteworthy progress since 2008 to improve its policies and procedures concerning harassment. “Safe Sport” is the term used by Canada Soccer and other National Sport Organizations to refer to the prevention of harassment and other forms of maltreatment. This Chapter provides a summary of Canada Soccer’s current regulatory approach to Safe Sport.

Between 2008 and 2012, significant efforts were made to improve the CSA’s governance structure. The CSA Board of Governors approved a new strategic plan in September 2008 including a new “Policy Board Model” for governance. This process included consultation with FIFA and resulted in the CSA re-writing its statutes as well as developing new policies and processes concerning harassment. Current executives of Canada Soccer refer to “pre-2012” and “post-2012” as it concerns the significance of governance changes, including moving to a competency-based governance model with elected and appointed Board members.

Along with the change in governance structure, a new CSA Harassment Policy came into force on 15 June 2010<sup>114</sup>. The CSA’s Harassment Policy was replaced with the Code of Conduct and Ethics in 2017 followed by the development of the Canada Soccer Disciplinary Code in 2020.

The following chronology illustrates the recent advances made by Canada Soccer in the area of Safe Sport and coach education including partnerships with the Canadian Centre for Child Protection and The Respect Group. Canada Soccer has also consulted with Dr. Jean Côté and Dr. Jennifer Turnnidge, Queen’s University; Dr. Côté is world-renowned in the area of child and

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<sup>114</sup> Further being reviewed by the National Harassment Committee in response to Bill 168 Workplace Harassment which achieved Royal Assent at Queen’s Park, Workplace Safety and Insurance Board, “Preventing Workplace Violence Bill 168,” undated. Online: <https://www.wsib.ca/en/preventing-workplace-violence-bill-168> (Last accessed April 27 2022). Bill 168 is an amendment to the Province of Ontario’s *Occupational Health and Safety Act* that strengthened protections for workers from workplace violence and workplace harassment and requiring employers to have procedures in place for workers to report incidents as well as investigate incidents of workplace violence, harassment or threats of violence that may occur in the workplace. As the legal seat of Canada Soccer is in Ontario, it is bound by Bill 168.

youth development in sport, and Dr. Turnnidge completed her Ph.D. in transformational coaching.

Table 4: Chronology of Safe Sport Advancements

Sept. 2016	▪ Director of Development hired
Jan. 2017	▪ Sheldon Kennedy Child Advocacy Centre visit
Feb. 2017	▪ Manager of Development Operations hired
March 2017 - July 2018	▪ Canada Soccer Club Licensing Program build and launch
July 2018	▪ Working relationship established with Canadian Centre for Child Protection and Queen’s University
Aug. 2018	▪ Children’s Licence pilot in Richmond Hill, ON.
Oct. 2018	▪ Long-term partnership signed with The Respect Group
Oct. 2018 - Jan.2019	▪ Manager of Coach Education & Master Coach Developer hired
Jan. 2019	▪ New Canada Soccer Coach Education Pathway released
March 2019	▪ Nationwide rollout of the Canada Soccer Children’s Licence
May 2019	▪ Canada Soccer Strategic Plan approved
May 2019	▪ Canada Soccer Safe Sport roster approved
May 2019	▪ Canada Soccer attends National Safe Sport Summit in Ottawa
May 2020	▪ Canada Soccer introduces the Regulations on the Registration and Control of Coaches
Sept. 2020	▪ Canada Soccer signs the Responsible Coaching Movement Pledge
Sept. 2020	▪ Canada Soccer participates in OTP Safe Sport e-Summit
Sept. 2021	▪ Canada Soccer meet with SDRCC to discuss the National Independent Safe Sport Mechanism
Oct. 2021	▪ Canada Soccer Safe Sport Presentation to Women’s National Team

At present, the Director of Development is functionally responsible for Canada Soccer’s Safe Sport initiatives. At Canada Soccer’s 2022 Annual Meeting of the Members, a representative of the IRT attended as an observer including sessions on Safe Sport and the Club Licensing Model. The Director of Development provided a comprehensive overview of Safe Sport progression and stated that *“we have made a commitment to be the safest NSO in the country [...] now is the time to hold people to standards.”*<sup>115</sup> He went on to provide members with practical recommendations to achieve the new standards including coaching education and

<sup>115</sup> Canada Soccer Annual Meeting of the Members, “Safe Sport Presentation”, 5 May 2022.

compliance with the Club Licensing Model, adding that “...this is about culture, creating standards, certification, tracking, and accountability.” The Acting General Secretary reaffirmed Canada Soccer’s commitment to Safe Sport in his remarks to members including a statement that club licensing and Safe Sport are “pivotal to the growth and development of this organisation.”

Several important resources are provided on Canada Soccer’s website under the heading “Safe Sport Roster” which refers to “a progressive package of programs, policies, and procedures designed to ensure that all organizations that offer soccer programming in Canada create safe, fun, and welcoming experiences for all participants.”<sup>116</sup> These resources include a comprehensive “Guide to Safety” that is further described in Section 7.1 below.

Table 5: List of Safe Sport and Related Resources – Canada Soccer Website

Guide to Governance	<a href="#">CanadaSoccer_Guide_To_Governance_EN.pdf</a>
Club Licensing Program	<a href="#">Club Licensing Program - Canada Soccer</a>
Guide to Safety	<a href="#">CanadaSoccer_Guide_Safety_EN.pdf</a>
Rule of Two	<a href="#">CanadaSoccer_RuleOfTwo_EN.pdf</a>
Guide to Accessibility and Inclusion	<a href="#">20210412_GuidetoAccessibilityandInclusion_EN.pdf (canadasoccer.com)</a>
National Soccer Registry	<a href="#">National Soccer Registry - Canada Soccer</a>
Whistleblower Policy	<a href="#">Whistleblowing Policy (canadasoccer.com)</a>

Some important resources are difficult to locate or are not provided on the Canada Soccer website including the Disciplinary Code and the Code of Conduct and Ethics. Although both of these Codes are referenced in the Guide to Safety, the web hyperlinks do not work. The IRT recommends that the Whistleblower Policy, Disciplinary Code, and Code of Conduct and Ethics be more easily accessible on the Canada Soccer website.

<sup>116</sup> Canada Soccer, “Safe Sport Roster,” Online: [Canada Soccer Safe Sport Roster - Canada Soccer](#) (Last Accessed: 10 May 2022).

## Reporting Complaints

Canada Soccer has introduced new policies, procedures and third-party relationships which strengthen its ability to receive complaints and respond to harassment allegations, including improved duty to report provisions and a Whistleblower Policy as further described in Section 7.5.

### 7.2 Canada Soccer Guide to Safety

The Canada Soccer Guide to Safety (“the Guide”) is an element of the Canada Soccer Club Licensing Program and “presents information, best practices and principles, and guidance to support safe environments and participation.”<sup>117</sup> The Guide is a comprehensive reference document that includes information about child protection, the responsible coaching movement, anti-bullying, and psychological safety, among other important topics. The responsible coaching movement includes information about the rule of two, screening, respect training, and ethics training. The Guide includes a list of tools and templates. For example, a child protection questionnaire (Commit to Kids), steps to creating a code of conduct, and sample guidelines for adults interacting with children (Commit to Kids). This illustrates Canada Soccer’s commitment to Safe Sport best practices through working with other expert organisations in child protection.

### 7.3 Code of Conduct and Ethics

In 2008, the Code of Conduct (then titled “Code of Conduct Supporting Rule XII Discipline”) was housed under the CSA’s Rules and Regulations and Administrative Guide and was “a guide for members in their conduct in certain specified areas”<sup>118</sup>. The Code of Conduct solely consisted of a 1-page document outlining moral and ethical responsibilities that all members involved in sport should ensure were adhered to. These included: “to treat others equitably and fairly”<sup>119</sup>, “to avoid conflicts of interest”<sup>120</sup>, “to protect data”<sup>121</sup>, “to maintain the CSA’s reputation”<sup>122</sup>

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<sup>117</sup> Canada Soccer, “Guide to Safety,” Online: [CanadaSoccer\\_Guide\\_Safety\\_EN.pdf](#) (Last Accessed: 10 May 2022).

<sup>118</sup> CSA Constitution and Administrative Guide, Section five. Code of Conduct.

<sup>119</sup> Code of Conduct, Article 2.

<sup>120</sup> Code of Conduct, Article 3.

and “*not to harass other members.*”<sup>123</sup> Interestingly, the Code of Conduct read that it was not intended to be exhaustive or to provide specific guidance in every circumstance and that “*specific questions should be addressed to the CSA office.*” Based on the IRT’s review of the 2008 Birarda allegations, these obligations neither appear to have been monitored nor institutionalized in 2008.

The current Code of Conduct (now titled the “Code of Conduct and Ethics”) is a lengthier and more fulsome policy intended to ensure a safe and positive environment for all Canada Soccer members. It raises awareness of the expectation for all Canada Soccer stakeholders to consistently behave appropriately in accordance with Canada Soccer’s core values. Section 6 obliges all members to report any behavior prohibited by the Code to a confidential discipline e-mail, and in writing. The subsequent provisions provide instructions for those who have witnessed certain violating behavior. Disciplinary sanctions for breaches of the Code of Conduct and Ethics are now found in the newly improved Canada Soccer Disciplinary Code.

A broader spectrum of individuals is subject to the current Code of Conduct and Ethics as are activities that take place both on and off the field. This is an improvement over the 2008 Code of Conduct which defined “member” as “*any individual, team, group, or association involved in representing the sport at any level of capacity*” with no further specifications. The broad application and broad definitions within the current Code of Conduct demonstrate a stringent and all-encompassing application to all involved with Canada Soccer.

The current Code of Conduct and Ethics also provides wider responsibilities and accountabilities regarding harassment. For example, Section 5 explicitly references “Team Personnel-Athlete Relationships” and provides that “*Team Personnel must recognize the power inherent in the position of team personnel and respect and promote the rights of all participants in sport.*” It expressly forbids team personnel from engaging in a sexual relationship with an athlete under the age of 18 and forbids team personnel in a position of power, trust, or authority from having an intimate or sexual relationship with an athlete over the

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<sup>121</sup> Code of Conduct, Article 4.

<sup>122</sup> Code of Conduct, Article 5.

<sup>123</sup> Code of Conduct, Article 6.

age of 18. Not only does such a provision underline Canada Soccer's commitment to protecting trust and in place of parents (in loc Parenti) relationships but it, in turn, refers to a substantive provision into the Code of Conduct and Ethics which can be used to found disciplinary action in the event such breaches occur. Section 5 also imputes individual responsibilities on "*Directors and Staff, Team Personnel, Athletes, Match Officials and Spectators and Parents.*" The Code of Conduct and Ethics now outlines the key role all these groups have in reporting unsportsmanlike behavior and respecting Safe Sport rules. The Section goes further by listing specific Code of Conduct and Ethics violations to look out for. This community-based approach that educates all members, not just staff, on the responsibilities and commitments to Safe Sport is a clear improvement on Canada Soccer's commitment to raising awareness and to regulating the conduct of all members.

#### 7.4 Disciplinary Process

The Canada Soccer Disciplinary Code outlines the disciplinary processes and sanctions to be followed when there is a breach of FIFA Laws of the Game, Canada Soccer Code of Conduct and Ethics, Canada Soccer Rules and Regulations, Canadian Anti-Doping Policy, FIFA Anti-Doping Regulations, and any Canada Soccer Competition Regulations.

The current Disciplinary Code emphasizes the independent nature of the judicial bodies that deal with complaints of misconduct and clearly articulates the process in which complaints are filed and the judicial body they are referred to (including the Ethics Committee, the Disciplinary Committee, and the Player's Status Committee). It outlines a broad and detailed process for receipt and processing of all complaints of misconduct, including harassment, and explains the procedure for dealing with the same. It also provides a non-exhaustive list of disciplinary sanctions that may arise as a result of such misconduct.

Broader in scope than its predecessors, the Code of Conduct and Ethics provides for Canada Soccer's expanded oversight of numerous instances of misconduct in comparison to the 2008 Rules and Regulations which provided for a narrower CSA authority over matters of misconduct to Provincial and Territorial Associations.

## 7.5 Whistleblower Policy ('WP')

The Whistleblower Policy is an independent, third-party-operated mechanism put in place in 2017 to supplement the Code of Conduct and Ethics, covering conflicts of interest, gifts and hospitality, other conduct violations such as bullying and harassment, and any applicable provincial or federal laws governing whistleblowing actions. The policy exists to encourage and enable all Canada Soccer members to report any action or suspected action taken within the association that is illegal, fraudulent, or a violation of a By-law. This is a marked improvement from 2008 when there were no policies or protocols enabling anonymous complaints.

A strength of this newly formed policy is the duty to report that it imposes on all Canada Soccer members. Where an employee or Director (acting in good faith and on the basis of reasonable belief) becomes aware of actual, suspected, or intended misconduct, unlawful activity, suspicious fiscal management, or other accountability concerns, they have a duty to report such misconduct or incidents immediately.

The IRT reviewed Canada Soccer's current 2021 Whistleblower Policy ('WP') and interviewed key staff and volunteers associated with its implementation including both the present and past Chair of the Ethics Committee. The IRT also consulted with the Sport Law firm (formerly Sport Law & Strategy Group) who is designated as the "External Service Provider" ('ESP'), as well as Xpera Corporation who is contracted to operate the Whistleblower telephone hotline.

Although the current WP represents a positive step forward for Canada Soccer as a complaint reporting mechanism, the IRT has identified several shortcomings in the current WP that require remedial action; recommendations are provided in Chapter 8.

As written, the WP is not user-friendly for an end-user and includes technical policy language and processes that may be confusing or overwhelming for some to navigate. Once a concern is reported (via email or telephone), the processes between the two external service providers who are designated to receive reports and the Chair of the Ethics Committee must be streamlined and made consistent. Attention also needs to be paid to ensure that the call agents on the Whistleblower Hotline are trained in trauma-informed interviewing techniques

and emergency referrals. Although the Ethics Committee is referenced in the By-laws and Disciplinary Code of Canada Soccer<sup>124</sup>, a standalone Terms of Reference does not exist for this committee. Implementing the IRT's recommendations will ensure that Canada Soccer has a best-in-class Whistleblower Policy.

## 7.6 Canada Soccer Club Licensing Program

The Canada Soccer Club Licensing Program is designed to guide member organizations throughout Canada toward best principles for organizational development both on and off the field. For some organizations, this may involve progressing to higher classifications within the licensing program, while for others, the focus will be on making improvements within the current classification. Member Associations meeting the criteria of each classification within the Club Licensing Program are to be recognized accordingly by Canada Soccer.

Specifically with respect to Safe Sport, all current Licensure procedures describe very detailed requirements. The National Youth Club License requires that clubs adhere to the Canada Soccer Code of Conduct and Ethics (demonstrating integration with policies at large), that they have a Code of Conduct to protect children, guidelines for appropriate/inappropriate conduct between adults/children, a policy outlining reporting obligations regarding inappropriate conduct and a policy outlining reporting obligations regarding suspicions of child abuse reported to law enforcement. The requirement for local clubs to produce their own policies allows them to amend and input unique provisions catered to their communities while also ensuring they meet national requirements. The corresponding Licensing Support Manual outlines examples of supporting documentation that will meet the obligations for every criterion in the policy; making it clear and achievable for applicants. The Member Association Licenses (1 and 2) similarly outline Safe Sport-related criteria and required documents. The requirements are vast and also cover the need for coaches and team personnel to have completed proper Background Screening, including a Criminal Record Check (CRC) with Vulnerable Sector Check (VSC) or Enhanced Police Information Check (E-PIC) within the last 3 years. These detailed requirements demonstrate active implementation of soccer safety and

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<sup>124</sup> The Ethics Committee is mentioned in Section 11 – Judicial Bodies – of the Canada Soccer By-laws, and Article XVI and Article XVII of the Canada Soccer Disciplinary Code.

ensure that Clubs have resources in place when incidents arise that may be better suited to a local administration.

## 7.7 National Soccer Registry

The National Soccer Registry has been designed to provide a unified system to provide real-time access to the attraction, retention, progression, and transition of coaches, referees, administrators, and volunteers from grassroots to high performance in support of the Safe Sport Roster. It also serves as a “backbone” of the Safe Sport Roster and Licensing Program and provides Canada Soccer and its members with a robust reporting system to address retention factors that cause young players to leave the sport. In 2008, there was no such registry to track the movement of coaches, referees, volunteers, etc. This newly developed unified system provides real-time access to track the movement of different Canada Soccer members and ensure that individuals who have committed offences or other forms of misconduct can be tracked and prevented from participating in certain capacities with Canada Soccer. This updated registry will allow members’ actions to be closely monitored to protect players and ensure safety in sport.

## 7.8 Coach Education Certification and Registration

Canada Soccer has updated its Rules and Regulations for the Registration and Control of Coaches in support of Safe Sport. Coaches must now complete: (1) Appropriate Canada Soccer Coach Education Program workshops for the respective age and stage of their athletes; (2) Various “Coaching Association of Canada’s National Coaching Certification Program” workshops; and (3) “Respect in Sport” online training to educate coaches to recognize, understand, and respond to issues of bullying, abuse, harassment, and discrimination. More uniform training that provides comprehensive and detailed expectations allows for a diminishing of ambiguity related to certain conduct that is or is not appropriate between coaches and their players. This training emphasizes the role of coaches in Safe Sport.

## 7.9 Rule of Two

Canada Soccer strongly recommends the imposition of the Rule of Two by all its member organizations. The Rule of Two is a requirement of the “Responsible Coaching Movement” and provides that there will always be individuals who are screened including NCCP-trained or certified coaches with an athlete in situations where the athlete is potentially vulnerable. More specifically, one-on-one interactions between a coach and an athlete, without another individual present, must be avoided in all circumstances except medical emergencies. The Rule of Two has proven to be an effective rule in ensuring that athletes feel safe in their interactions with their coaches and other persons in positions of authority.

## 7.10 Guide to Accessibility and Inclusion

Canada Soccer’s Guide to Accessibility and Inclusion is a component of the Club Licensing Program which “*presents information, resources, and guidance to support the development of accessible, inclusive, and welcoming soccer environments.*” Canada Soccer has succeeded in producing a highly robust document that builds upon the knowledge of myriad other sport and community organisations. This includes references and tools adopted from the following organisations.

- Aboriginal Sport Circle
- Canadian Association for the Advancement of Women in Sport and Physical Activity
- Canadian Centre for Ethics and Sport
- Canadian Paralympic Committee
- Canadian Parks and Recreation Association
- Coaching Association of Canada
- Community Foundations of Canada (Vital Signs)
- Institute for Canadian Citizenship
- Mental Health Commission of Canada
- High Five
- Jumpstart
- Play by the Rules
- KidSport
- New Path Youth and Family Services
- Ontario Hockey Federation
- Ontario Soccer Association
- Saskatchewan Soccer Association

- Sport for Life Society
- The Respect Group
- True Sport Foundation
- Truth and Reconciliation Commission
- Volunteer Canada

The Guide includes several policy templates and implementation guides designed to help stakeholders build capacity related to accessibility and inclusion. According to Canada Soccer, developing capacity *“includes learning to recognize the barriers that other people face, learning to act accountably when we have inadvertently made a space less safe or inclusive and learning to recognize our unconscious biases”* (Canadian Paralympic Committee, 2019).

### 7.11 Universal Code of Conduct to Prevent and Address Maltreatment in Sport (‘UCCMS’) and the Abuse Free Sport Independent Reporting Mechanism

The Universal Code of Conduct to Prevent and Address Maltreatment in Sport (‘UCCMS’) was published in January 2020<sup>125</sup> following extensive consultation with the Canadian sport community who together expressed overwhelming support to proceed with a pan-Canadian code of conduct with harmonised definitions and sanctions. This drafting was led by the Canadian Centre for Ethics in Sport in conjunction with the Sport Information Research Centre (‘SIRC’). The UCCMS addresses maltreatment broadly and comprehensively, covering all types of conduct that inflict physical or psychological harm by a person against another person, within the sport community. That harm can be caused in a number of ways including through psychological, physical or racial maltreatment.

Adoption and integration of the UCCMS (version 5.1) into organisational policies and procedures became a condition of all federally funded, national-level sport organisations by 1 April 2021. This meant that federally funded NSOs could either adopt the UCCMS as written, or incorporate the UCCMS into an organisation’s existing policies, ensuring consistency of definitions and commitment to the general principles outlined in the policy. At the time it was introduced, version 5.1 of the UCCMS provided common definitions, scope of application, sanctions, and information about public disclosure. This version of the policy did

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<sup>125</sup> UCCMS version 5.1. Online: [Canadian Safe Sport Program \(sirc.ca\)](https://www.sirc.ca) (Last Accessed: 10 June 2022).

not provide any operational details on how a national independent reporting mechanism would be structured to implement and administer the UCCMS as this work was being developed.

Subsequent to the publication of the UCCMS version 5.1, the SDRCC was chosen to develop and operate a national independent mechanism for NSOs. On 31 May 2022, the SDRCC released an updated version of the UCCMS.<sup>126</sup> This includes more precise definitions pertaining to the scope of application. For example, “The UCCMS applies to all *Participants* as determined by the *Adopting Organisation*.” This definition recognises the differences that exist across NSOs in terms of jurisdiction over participants, and provides for flexibility in how each NSO may define “*Participants*”. The Scope of Application in the current version of the UCCMS also includes information about “Investigations and Disciplinary Review”, “Context in which the UCCMS is in Effect”, “Sport-Specific Considerations”, and “Amendments.”

According to Canada Soccer’s Whistleblower Policy, the WP “*applies to all categories of membership defined in the Association’s Bylaws and to Officials, players and individuals employed or engaged by the Association.*”<sup>127</sup> The IRT learned that “*individuals engaged by the Association*” includes only those players who are associated with the national team program, or who participate in Canada Soccer organised events. For example, players covered by the WP include those on a national team; this also is intended to cover players during a training camp or selection process who may not make a final roster cut. Also, the WP is intended to cover all players during their participation in the annual National Amateur Club Championships operated by Canada Soccer, including those who are not affiliated with the national team program. Therefore, by extension, the IRT considers this understanding of “*individuals engaged by the Association*” to be analogous to how Canada Soccer would define “*Participants*” as required by the UCCMS Policy version 6.0. Therefore, should Canada Soccer become a signatory and adopt the Abuse Free Sport Independent Mechanism, the Abuse Free Sport process would be limited in its application to “*Participants*” as so defined. This means that the vast majority of grassroots soccer participants registered through a provincial or territorial organisation would not have access

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<sup>126</sup> UCCMS version 6.0.

<sup>127</sup> Canada Soccer, “Whistleblower Policy”, 27 November 2021.

to the Abuse Free Sport Independent Mechanism unless their respective PTO also becomes a signatory to Abuse Free Sport, or should Canada Soccer modify their definition of “Participants”.

Negotiations are ongoing between a multitude of National Sport Organisations, including Canada Soccer, and Abuse Free Sport. At the time of writing this Report, Canada Soccer has signed a pledge to join Abuse Free Sport, but has not yet become a signatory to the nascent organisation as many operational details remain to be determined. It is vital for Abuse Free Sport and Canada Soccer to clearly delineate who has – or does not have - access to the various reporting processes offered by the two organisations; moreover, the interoperability of these processes must be unambiguous to those who wish to report a concern.

## 7.12 Conclusion

The above offers a brief summary of the improvements made by Canada Soccer concerning its policies and strategic focus on Safe Sport. This strategic attention to Safe Sport includes significantly greater accountabilities for Canada Soccer and all of its stakeholders that are bound by its policies and rules. In addition to strengthening its internal policies and procedures, Canada Soccer’s commitment to building capacity for Safe Sport within the soccer ecosystem is evident, but requires additional investment. Given the nascent stage of some of these elements, including the Club Licensing Program, it will be important for Canada Soccer to ensure that it has the capacity to monitor compliance with its Safe Sport requirements while providing ongoing support to its members.

Today, Canada Soccer’s approach to Safe Sport is guided by the following Values Statement:

*“We LEAD with unwavering INTEGRITY. HONESTY guides our actions. Our decisions are FAIR and ETHICAL. We thrive with EXCELLENCE. Our PASSION fuels our performance on and off the field of play. We are ACCOUNTABLE to our stakeholders. TRANSPARENCY directs our communication. We RESPECT and INCLUDE all.”*

There is unwavering support from members as it concerns the commitment to Safe Sport policies and principles, as evidenced from the IRT’s attendance at Canada Soccer’s May 2022

AGM. But capacity was raised as an issue. Canada Soccer understands the issues related to capacity and has developed several tools, templates, and guides to assist members.

Canada Soccer's commitment to Safe Sport and the passion and dedication of its staff to become leaders in Safe Sport are positive themes that consistently emerged in the interview process. One long-serving Canada Soccer staff member well versed in the history of harassment and Safe Sport policies within the organization provided the following assessment of the progression of Canada Soccer's policies.

*"We pushed...we've come a long way. [...] Independence on judicial bodies, greater expertise in harassment, That has been a big game-changer."*

Some former U-20 WNT players also acknowledged the improvements that have been made concerning Safe Sport, but stressed the importance of educating players, raising awareness, and ensuring there are safety measures for players and outlets to support players.

Although policy development is a positive step forward in changing the institutional landscape, it is critical that attention be paid to implementation. Systematic monitoring, evaluation and compliance of these new Safe Sport policies and initiatives is crucial for Canada Soccer to ensure that is effectively delivering on its policies and promises. Writing policies is easy; successful and transparent implementation of these policies is always the bigger challenge. As Canada Soccer is committed to the same, time will serve as a witness to the effectual practical success of its commitment. Certainly, the public issuance of this Report is a positive step towards Canada Soccer's accountability and transparency concerning Safe Sport.

## Chapter 8: Recommendations

### Player Relationships

1. Positively engage current and former players, identify areas for improvement, and invite constructive recommendations and player perspectives concerning Safe Sport.
2. Be willing to understand and grasp the severity of the trauma that the 2008 U-20 WNT players experienced at the hands of Birarda. Canada Soccer needs to commit to reconciling the past if it wants to move forward positively.
3. Commit to providing mental health support to those who experienced harassment at the hands of Birarda in the past and to all other athletes who may report or experience trauma through their association with Canada Soccer.

### Governance

4. Maintain strict report, decision making and discipline records:
  - of all submissions of concern, reports and complaints made or received by any individual, through a Whistleblower mechanism or other
  - of all decisions taken (written and reasoned decisions ideally)
  - of all discipline imposed (and with direct reference to what regulatory document)
5. Ensure complete transparency, and thus accountability, of Executive Committee and Board and Judicial Committee decisions in all Safe Sport matters.
6. Being ever mindful of confidentiality, draft, record, maintain and share with interested parties (e.g. the Board) all minutes of decisions relating to harassment issues, notably substantiated complaints and disciplinary actions.
7. Ensure that any person against whom a complaint or submission of concern has been filed is placed on an internal risk registry.
8. Ensure increased organisational transparency by publishing the number of complaints through whistleblower or misconduct policies as applicable.
9. As a condition of taking office, all executive and Board members should sign a form attesting that they have read and are apprised of all regulatory documents including, but not limited to, the Disciplinary Code, the Code of Conduct and Ethics, the Whistleblower Policy, and all other pertinent Safe Sport recommendations.

## Practical

10. Include URL weblinks for all policies listed within the “Safe Sport Roster” on the Canada Soccer website.
11. Ensure that Harassment Policies and all information relating to the filing and reporting of complaints is readily accessible in a conspicuous place on the website, regularly disseminated to all players, coaches, and staff, referred to in all Player Agreements and attached to any relevant player information guides that are disseminated.
12. Ensure that the complaint reporting process is simple, easy to understand and follow, and confidential.
13. Expand in-person Safe Sport education sessions for National Team players, coaches, and staff.
14. Canada Soccer should develop a Safe Sport, Inclusion, and Community Engagement Strategy which may apply to players, IST, coaches, officials, referees, staff, and more. The strategy must not be static and should seek the engagement of all stakeholders in developing inclusionary goals related to accessibility and Safe Sport. This will encourage knowledge and understanding of Safe Sport across the organisation.
15. Solicit coach performance reviews from national team athletes.
16. Consider developing an e-learning platform to provide mandatory Safe Sport education for all Canada Soccer stakeholders as a condition of taking office, or participating in Canada Soccer activities (e.g. executive, Board members, staff, coaches, players, etc.)

## Canada Soccer Disciplinary Code

17. Include more detail for Section VII “*Information Reporting Requirements*” that are similar to what is outlined in 2.2.7 “*Maltreatment Related to Reporting*” of the UCCMS. For example, what does one do if they witness instances of harassment? What are one’s obligations in those specific instances?
18. Draft written standalone Terms of Reference documents for all Judicial Bodies and other Committees related to or involved in Safe Sport, including the Ethics Committee, Disciplinary Committee, and Appeals Committee. This includes qualifications required to stand as a member of the respective Committees, term of service, meetings, confidentiality, communications, and detailed responsibilities. It is further recommended that there should be at least one lawyer on each Committee and one person trained or possessing some experience in safeguarding/Safe Sport. In any event, the content of the

By-laws and CSDC referring to the Judicial Bodies needs to be revised for accuracy and consistency (in theory and in practice which they currently are not).

19. Provide minimal qualifications and criteria for being nominated to sit on each Judicial Committee.
20. Ensure that members of all Judicial Committees sign conflict of interest/independence and impartiality forms (yearly or per term if applicable).
21. Clarify the difference between the reference to “*Serious Violations*” in Section VII and the reference to “*Serious Infringements*” in Article 3 of Annex A using definitions. If they are the same, clarify and ensure consistency.

### Code of Conduct and Ethics

22. Insert a protocol summary under the Duty of Disclosure. An individual seeking out this policy to review whether they witnessed an action that severs the policy may not be aware of the disciplinary regulations or steps, and what corresponding policies they are found in. A brief “how to” protocol summary in this central location may encourage more individuals to become comfortable with the reporting process and understand their role moving forward.
23. Indicate the relationship of the Code of Conduct and Ethics to other Canada Soccer Safe Sport policies.
24. Ensure the Code is reviewed and circulated to all stakeholders on an annual basis. (If the latest version of the Code is in fact dated 2017, then this is not being achieved).

### Whistleblower Policy

25. Re-draft the Whistleblower Policy with attention to the following:
  - Make it easier to report a concern. How to report a concern should be more visible and accessible to users. Under the “Play” and “Safe Sport” tabs on the Canada Soccer website, provide a new direct link to “How to Report a Concern.”
  - Provide clear conspicuous links and referrals for those in crisis or emergency situations to direct their call to the police or other emergency services.
  - Provide greater clarity in describing to whom the WP applies including but not limited to players and individuals “*engaged by the Association*”; provide examples and a non-exhaustive list.

- Include terminology that encourages any individual who has information about potential abuse to report it, even if they are not bound by or subject to the WP.
- The 2008 complaint procedures did not foresee third-party complaints and applicability of the complaint procedures in such circumstances. Current policies should be modified where needed to widen the definition of complainant to encourage greater reporting of maltreatment, harassment, and other trauma by all Canada Soccer stakeholders (e.g.: application of the Disciplinary Code and Whistleblower policy).
- Rename the “External Service Provider” the “Independent Ombudsperson”. This provides greater clarity as it concerns the roles and responsibilities of the Independent Ombudsperson who is different from the external service provider who operates the Whistleblower Hotline.
- Streamline the internal management and flow of complaints irrespective of how they are received (either by email or via the Whistleblower Hotline).
- Formalise a process to interview and select future Chairs of the Ethics Committee (As well ideally as Chairs of other judicial bodies), including demonstrated experience in all key areas of responsibility as outlined in the WP.
- Ensure that call agents are trained in trauma-informed interviewing techniques, as well as equipped to refer callers to crisis or emergency services if required.
- Update and clarify processes both in the WP and online to rectify all confusion and conflicting information.
- Update the “Whistleblower Process Flowchart” to reflect the recommendations provided herein.
- Request PTOs to submit their respective WP for Canada Soccer review.
- Ensure that PTOs post the current version of the WP on their own website.
- Canada Soccer to provide links to all provincial whistleblower policies on its website.

### Club Licensing Program

26. Make the Professional and/or National Club Licensing Process publicly available (not currently accessible on the website).

### Canada Soccer Guide to Safety

27. The Rule of Two should be incorporated into a policy or be a standalone policy to ensure it is mandated to be followed. Non-adherence to this policy should result in an appropriate sanction. As part of the policy, encouraging reporting of violations and education as a sanction should also be strongly considered.

## Coach Education, Certification, and Registration

28. All players associated with Canada Soccer should be subject to a general education requirement where they are made aware of the specific obligations of coaches in circumstances of harassment and other instances of misconduct. Players, and other team personnel, should be able to recognize various circumstances of misconduct and understand their role and the coaches' role in these situations.

## Athlete Agreements

29. Canada Soccer develop and implement a standardised athlete agreement between all national team players and Canada Soccer.

30. The IRT recommends that Canada Soccer consult the following publications developed by AthletesCAN in developing its athlete agreement:

- The Future of Athlete Agreements in Canada: [the future of athlete agreements in canada \(athletescan.ca\)](#)
- Athlete Agreement Template (Annotated): [athlete agreement annotated template - final eng 2.pdf \(athletescan.ca\)](#)

## Other Recommendations

31. The growing complexity and impacts of Safe Sport should be reflected in more attention to how Safe Sport is structured within the organisation. Under the direction of a new General Secretary, there is an opportunity to hire a dedicated position for Safe Sport as its own functional area of responsibility within Canada Soccer's evolving organisational structure.

32. Hire a dedicated full-time position to manage and coordinate human resource functions, and to ensure compliance with HR policies. Robust human resource processes including performance reviews can impact Safe Sport by identifying issues and implementing performance management strategies. For example, many progressive sport organisations have systematic processes whereby players can provide anonymous feedback to their coaches. However, no such process is formalised within Canada Soccer.

33. Canada Soccer is advised to follow a stricter adherence to the UCCMS and corresponding use of proper UCCMS terms throughout all policies for consistency. These terms should also be defined when utilized in each policy.

34. Definitions and terms across Canada Soccer policies and protocols need to be updated for consistency. Although seemingly a minor issue, lack of consistency in the usage of terms

causes confusion (and potential legal issues). Every important regulatory document should be consistent in language, terminology, and definitions.

35. Integrate Match Official conduct and respect provisions in various policies like the Code of Conduct and Ethics, Disciplinary Code, and other Safe Sport Guides.
36. Learning from the shortfalls of the CSA-Whitecaps relationship in 2008, Canada Soccer should ensure that all future partnerships and relationships are grounded on written agreements that are well-defined (legally, practically, operationally, and administratively) so that, at minimum, jurisdiction for disciplinary issues arising from the same and roles, responsibilities and accountabilities are clear for all parties.
37. The Safe Sport, tab/page on the Canada Soccer website lacks clarity, URL links, reporting procedures, and access to regulatory documents. It does not reflect all of the work and progress that Canada Soccer has accomplished. This needs to be remedied as soon as possible.
38. The recommendations provided herein should be incorporated into Canada Soccer's strategic plan as well as the technical development operational plan, with clear timelines for monitoring progress and ensuring completion.

## ACRONYMS USED IN THE REPORT

Birarda:	Bob Birarda
CSA:	Canadian Soccer Association
CSPA:	Canadian Soccer Players' Association
ESP:	External Service Provider
GKF:	Greg Kerfoot Family Trust
IRT:	Independent Review Team
MGSS:	McLaren Global Sport Solutions
MLS:	Major League Soccer
NACC:	National Amateur Club Championships
NCCP:	National Coaching Certification Program
NHPC:	National Harassment Prevention Committee
NSO:	National Sport Organisation
OTP:	Own The Podium
PFACan:	Professional Footballers Association Canada
PTOs:	Provincial and Territorial Organisations
SIRC:	Sport Information Resource Centre
SLSG:	Sport Law & Strategy Group
SDRCC:	Sport Dispute Resolution Centre of Canada
U-20 WNT:	U-20 Women's National Team 2008
UCCMS:	Universal Code of Conduct to Prevent and Address Maltreatment in Sport
WSNT:	Women's Senior National Team
WP:	Whistleblower Policy
Whitecaps WT:	Vancouver Whitecaps FC Women's Team