



Cycling Australia

NATIONAL MEMBER PROTECTION POLICY

Version 5. Cycling Australia Member Protection Policy Effective from 1 January 2015

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CYCLING AUSTRALIA

PREFACE

Cycling Australia (**CA**) is committed to providing a safe, fair and inclusive sporting environment.

CA's Member Protection Policy (**MPP**) is an essential tool in the organisation's risk management strategy. The policy has been developed in conjunction with the Australian Sports Commission (**ASC**) as a resource for the protection of our members, including member states, clubs and individuals including members, administrators, coaches and officials.

Member protection involves:

- (a) protecting members from harassment, discrimination, vilification, abuse and other forms of inappropriate behaviour; and
- (b) ensuring the right people are involved in our organisation and in sport

The policy will explain

- the complaints handling process; and
- the disciplinary action that will be taken for any breaches

The safety and well-being of every member in the Australian cycling community is integral to the future of our sport. We need to have practices and procedures that create safe, welcoming and enjoyable environments.

We must meet legislative requirements, such as anti-discrimination and child protection laws, identify the potential for any incidents relating to harassment and abuse of our members and develop strategies to reduce the likelihood or severity of its occurrence.

The co-operation of member states, associations and clubs to effectively communicate and implement this policy across all members is critical.

CA takes all matters in relation to member protection seriously and will educate, enforce and assist with its delivery and implementation.

PART A: NATIONAL MEMBER PROTECTION POLICY

1. INTRODUCTION

A central goal of Cycling Australia (**CA**) is to develop the sport of cycling throughout Australia and internationally for the safety and enjoyment of its participating members.

CA is committed to providing a sport and work environment free of harassment and discrimination. CA aims to ensure the core values, good reputation and positive behaviours and attitudes of CA are maintained. CA believes that anyone who works for it, and everyone with whom it deals, has the right to be treated with respect and dignity. CA will not tolerate any type of behaviour, which will bring the sport of Cycling into disrepute, and this policy is an essential part of CA's proactive and preventative approach to tackling inappropriate behaviour. CA will therefore take all Complaints seriously, and will ensure they are dealt with promptly, sensitively and with confidentiality.

CA is committed to ensure that everyone associated with the organisation complies with this policy.

2. PURPOSE OF THIS POLICY

This National Member Protection Policy (**Policy**) aims to assist CA to uphold its core values and create a safe, fair and inclusive environment for everyone associated with our sport. It sets out our commitment to ensure that every person involved in our sport is treated with respect and dignity and protected from discrimination, harassment and abuse. It ensures that everyone involved in our sport is aware of their legal and ethical rights and responsibilities, as well as the standards of behaviour expected of them.

The policy attachments describe the practical steps we will take to eliminate discrimination, harassment, child abuse and other forms of inappropriate behaviour from our sport. As part of this commitment, CA will take disciplinary action against any person or organisation bound by this policy if they breach it.

This policy has been endorsed by the board of CA and has been incorporated into our By-Laws in accordance with clause 20 of the CA constitution. The policy starts on 1 July 2012 and will operate until replaced. This policy and/or its attachments may be amended from time to time by a resolution of the Board in accordance with the CA Constitution. Copies of the policy and its attachments can be obtained from our office, or website at www.cycling.org.au.

This policy has been based on the Australian Sports Commission (**ASC**) template and has been approved by the ASC.

For information on the rights, responsibilities and requirements for people involved in our sport at the Constituent Association and Affiliated Club level, please refer to the member protection policies of the relevant Constituent Association or Affiliated Club.

3. WHO THIS POLICY APPLIES TO

This policy applies to the following organisations and individuals:

- Cycling Australia;
- Constituent Associations;
- Affiliated Clubs
- Persons appointed or sitting on boards, committees and sub-committees of CA or Constituent Associations;
- Employees, officials and volunteers appointed or elected by CA or a Constituent Association;
- Support personnel (e.g. managers, physiotherapists, psychologists, masseurs, sport trainers);
- Coaches (including assistant coaches) who:

- are appointed and/or employed by CA or Constituent Associations (whether paid or unpaid); or
- have an agreement (whether or not in writing) with CA or a Constituent Association;
- Cyclists who participate in any activity or event (including camps and training sessions) which are held or sanctioned by CA or a Constituent Association;
- Any person or organisation, who or which is a member of, or affiliated to, CA or a Constituent Association;
- Any other person or organisation who, or which agrees in writing or otherwise to be bound by this policy; and
- Parents, guardians, spectators and sponsors to the full extent that is possible.

This policy will continue to apply to a person even after they have stopped their association or employment with CA if disciplinary action against that person has commenced.

4. RESPONSIBILITIES OF THE ORGANISATION

CA and Constituent Associations must:

- adopt, implement and comply with this policy;
- publish, distribute and promote this policy and the consequences of breaches;
- promote and model appropriate standards of behaviour at all times;
- promptly deal with any breaches or Complaints made under this policy in a sensitive, fair, timely and confidential manner;
- apply this policy consistently;
- recognise and enforce any penalty imposed under this policy; and
- ensure that a copy of this policy is available or accessible to the persons and associations to whom this policy applies.

CA must:

- use appropriately trained people to receive and manage complaints and allegations; and
- monitor and review this policy at least annually.

5. INDIVIDUAL RESPONSIBILITIES

Individuals bound by this policy must:

- make themselves aware of the policy (including the consequences for breach) and complying with its standards of behaviour;
- comply with our screening requirements and any state/territory Working with Children checks;
- place the safety and welfare of children above other considerations;
- be accountable for their behaviour;
- follow the procedures outlined in this policy if they wish to make a complaint or report a concern about possible child abuse, discrimination, harassment or other inappropriate behaviour; and
- comply with any decisions and/or disciplinary measures imposed under this policy.

6. POSITION STATEMENTS

6.1 Child Protection

CA is committed to the safety and wellbeing of all children and young people who participate in our sport or access our service. We support the rights of the child and will act without hesitation to ensure a child safe environment is maintained at all times. We also support the rights and wellbeing of our staff and volunteers and encourage their active participation in building and maintaining a secure environment for all participants

CA acknowledges that our staff, members and volunteers provide a valuable contribution to the positive experiences of children involved in our sport. CA aims to continue this and to take measures to protect the safety and welfare of children participating in our sport by:

6.1.1: Identify and Analyse Risk of Harm

CA will develop and implement a risk management strategy, including a review of our existing child protection practices, to determine how child-safe our organisation is and to identify any additional steps we can take to minimise and prevent the risk of harm to children because of the actions of an employee, volunteer or another person.

6.1.2: Develop Codes of Conduct for Adults and Children

CA will ensure that the organisation has codes of conduct that specify standards of conduct and care when dealing and interacting with children, especially those in the our care. We will also implement a code of conduct to address appropriate behaviour between children.

The codes of conduct will set out professional boundaries, ethical behaviour and unacceptable behaviour. (Refer to Part B of this Policy)

6.1.3: Choose Suitable Employees and Volunteers

CA, the Member Organisations and Affiliates, will ensure that the organisation takes all reasonable steps to ensure that it engages the most suitable and appropriate people to work with children, especially those in positions that involve regular unsupervised contact with children. This will include using a range of screening measures.

CA, the Member Organisations and Affiliates, will ensure that Working with Children Checks/criminal history assessments are conducted for employees and volunteers working with children, where an assessment is required by law.

If a criminal history report is obtained as part of their screening process, CA, the Member Organisations and Affiliates, will ensure that the criminal history information is dealt with in accordance with relevant state requirements. (Refer to Part C of this Policy)

6.1.4: Support, Train, Supervise and Enhance Performance

CA, and organisations bound by this policy, will ensure that volunteers and employees who work with children or their records have ongoing supervision, support and training such that their performance is developed and enhanced to promote the establishment and maintenance of a child-safe environment.

6.1.5: Empower and Promote the Participation of Children in Decision-Making and Service Development

CA will encourage children and young people to be involved in developing and maintaining a child-safe environment for our sport.

6.1.5: Report and Respond Appropriately To Suspected Abuse and Neglect

We will ensure that all our employees and volunteers are able to identify and respond appropriately to children at risk of harm and that they are aware of their responsibilities under state laws to make a report if they suspect on reasonable grounds that a child has been, or is being, abused or neglected. (Refer to Part E of this policy.)

Further, if any person believes that another person or organisation bound by this policy is acting inappropriately towards a child, or is in breach of this policy, he or she may make an internal complaint. (Refer to Part D of this policy.)

6.2 Taking Images of Children

Images of children can be used inappropriately or illegally. CA requires that individuals and organisations bound by this policy, wherever possible, obtain permission from a child's parent/guardian before taking an image of a child that is not their own and ensure that the parent knows the way the image will be used. We also require the privacy of others to be respected and disallow the use of camera phones, videos and cameras inside changing areas, showers and toilets.

If CA uses an image of a child it will avoid naming or identifying the child or it will, wherever possible, avoid using both the first name and surname. We will not display personal information such as residential address, email address or telephone numbers without gaining consent from the parent/guardian. We will not display information about hobbies, likes/dislikes, school, etc. as this information can be used as grooming tools by paedophiles or other persons. We will only use appropriate images of a child, relevant to our sport and ensure that the child is suitably clothed in a manner that promotes the sport, displays its successes, etc. Where possible we will seek permission to use these images.

CA requires its members, Constituent Associations and Affiliated Clubs to do likewise.

6.3 Anti-Discrimination and Harassment

CA aims to provide an environment where all those involved in our activities and events are treated with respect. CA recognises that people cannot participate, enjoy themselves or perform at their best if they are treated unfairly, discriminated against or harassed.

CA prohibits all forms of harassment, discrimination and bullying. This includes treating or proposing to treat someone less favourably because of a particular characteristic; imposing or intending to impose an unreasonable requirement, condition or practice which has an unequal or disproportionate effect on people with a particular characteristic; or any behaviour that is offensive, abusive, belittling, intimidating or threatening – whether this is face-to-face, indirectly or via communication technologies such as mobile phone and computers. Most forms of harassment, discrimination and bullying, based on personal characteristics such as those listed in the Dictionary at clause 10, are against the law.

If any person feels they are being harassed or discriminated against by another person or organisation bound by this policy, please refer to our complaints procedure outlined in Attachment D of this policy. This will explain what to do about the behaviour and how CA will deal with the problem.

6.4 Sexual Relationships

CA takes the position that consensual sexual relationships between coaches or officials and the adult athletes that they coach should be avoided as these relationships can have harmful effects on the individual athlete involved, on other athletes and coaches, and on the sport's public image. Such relationships may be, or may be perceived to be intentionally or unintentionally exploitative due to a disparity between coaches and athletes in terms of authority, power, maturity, status, influence and dependence.

Should a sexual relationship exist between an athlete and coach or official, CA will consider whether any action is necessary. Factors that may be relevant in this consideration are the age and maturity of the athlete relative to the coach, the financial or emotional dependence of the athlete on the coach, and the likelihood of the relationship having any adverse impact on the athlete and/or other athletes. If it is determined that the sexual relationship is inappropriate, action may be taken to stop the coaching relationship with the athlete. Action may include transfer, a request for resignation or dismissal from coaching duties.

In the event that an athlete attempts to initiate an intimate sexual relationship with a coach, the coach must take personal responsibility for discouraging such approaches, explaining the ethical basis for such action. The coach or athlete may wish to approach CA or the MPIO if they feel harassed. Our complaints procedure is outlined in Attachment D1 of this policy.

6.5 Pregnancy

Everyone bound by this policy must treat pregnant women with dignity and respect and any unreasonable barriers to participation by them in our sport should be removed. We will not tolerate any discrimination or harassment against pregnant women.

While many sporting activities are safe for pregnant women, there may be particular risks that apply to some women during pregnancy. Those risks will depend on the nature of the sporting activity and the particular pregnant woman's circumstances. Pregnant women should be aware that their own health and wellbeing, and that of their unborn children, should be of utmost importance in their decision making about the way they participate in our sport.

CA recommends that pregnant women wanting to participate in our sport consult with their medical advisers, make themselves aware of the facts about pregnancy in sport, and ensure that they make informed decisions about participation. We will only require pregnant women to sign a disclaimer if we require other participants to sign one in similar circumstances. We will not require women to undertake a pregnancy test.

If a pregnant woman feels she has been harassed or discriminated against by another person or organisation bound by this Policy, she may make a complaint (refer to Attachment D1 of this policy).

6.6 Gender Identity

Everyone bound by this policy must treat people who identify as transgender fairly and with dignity and respect. This includes acting with sensitivity and respect where a person is undergoing gender transition. We will not tolerate any unlawful discrimination or harassment of a person who identifies as transgender or transsexual or who is thought to be transgender. Descriptions of the types of behaviour which could be regarded as transgender discrimination or harassment are provided in the Dictionary at clause 10.

CA recognises that the exclusion of transgender people from participation in sporting events and activities has significant implications for their health, well-being and involvement in community life. In general CA will facilitate transgender persons participating in our sport with the gender with which they identify.

CA also recognises there is debate over whether a male to female transgender person obtains any physical advantage over other female participants. This debate is reflected in the divergent discrimination laws across the country. If issues of performance advantage arise, CA will seek advice on the application of those laws in the particular circumstances.

CA is aware that the International Olympic Committee (**IOC**) has established criteria for selection and participation in the Olympic Games. Where a transgender person intends competing at an elite level, we will encourage them to obtain advice about the IOC's criteria which may differ from the position taken by CA.

Drug testing procedures and prohibitions also apply to people who identify as transgender. A person receiving treatment involving a Prohibited Substance or Method, as described on the World Anti-Doping Agency's Prohibited List, should apply for a standard Therapeutic Use Exemption.

6.7 Alcohol Policy

CA recommends that Constituent Associations and Affiliated Clubs adhere to strict guidelines regarding the responsible consumption of alcohol. Generally, alcohol should not be available nor be consumed at a sporting event at which children under 18 are participants in the sport. Responsible service and consumption of alcohol should apply to any alcohol to be consumed after the competition has concluded, including light alcohol and soft drinks always being available; wherever possible, food being available to be consumed when alcohol is available and transport policies. Guidance can be obtained from the "Alcohol Management Policy" available at <http://www.goodsports.com.au/goodsports/pages/sample-policies.html>

6.8 Smoking Policy

The following policies should be applied to sporting and social events:

- No smoking shall occur at or near any sporting event or competition involving persons under the age of 18. This policy shall apply to coaches, players, trainers, officials and volunteers.
- Social functions shall be smoke free, with smoking permitted at designated outdoor smoking areas.
- Coaches, officials, trainers, volunteers and players will refrain from smoking and remain smoke free while involved in an official capacity for any of the Member Organisations or Affiliates on and off the bike.

6.9 Cyber Bullying/Safety

CA regards bullying and harassment in all forms as unacceptable in our sport. Bullying has the potential to cause great anxiety and distress to the person targeted by hurtful or derogatory comments or statements.

New technologies and communication tools, such as smart phones and social networking websites, have greatly increased the potential for people to be bullied through unwanted and inappropriate comments.

CA will not tolerate abusive, discriminatory, intimidating or offensive statements being made online. In some cases, bullying is a criminal offence punishable.

Frustration at a referee, teammate, coach or sporting body should never be communicated on social networking websites. These issues should instead be addressed – in a written or verbal statement or a complaint – to the relevant controlling club, league or peak sporting body.

6.10 Social Networking Websites Policy

CA acknowledges the emergence of new technology and communication mediums (new media), and wishes to enable such new media to be used to benefit the sport and its participants, and to applaud achievements. This can occur due to the immediate nature of communication to a wide audience using channels such as Facebook, Twitter, and SMS. However, participants within the sport need to be very mindful of a few key matters that could lead to inappropriate use of new media, at times unintended, and at other times without a proper understanding that once comments are made or published, they are in public for a long time, and hard to take back (retract). CA recommends:

- do not include personal information in social media channels;
- do not use offensive, provocative or hateful language;
- use best judgment – do not publish something that makes you the slightest bit uncomfortable, and never write/publish if you are feeling emotional or upset (or are intoxicated);
- ask for a person's permission before posting their picture on a social networking forum;
- never comment on rumours, do not deny or affirm them or speculate about rumours; and
- always use social network forums to add value and promote the sport in a positive way.

7. COMPLAINTS PROCEDURES

7.1 Complaints

CA aims to provide a simple, trustworthy and confidential procedure for complaints based on the principles of procedural fairness (natural justice). Any person (**a complainant**) may report a complaint about a person/s or organisation bound by this policy (**respondent**) if they feel they have been harassed, bullied or discriminated against or there has been a breach of this policy.

Such complaints should be reported to a complaints officer. The Complaints Officer should refer the complainant to an MPIO for support and information.

The lowest level at which a matter can be dealt with shall always be preferred. Therefore, if a Complaint relates to behaviour or an incident that occurred at the:

- Constituent Association level or involves people operating at the Constituent Association level, then the Complaint should be reported to and handled by the relevant Constituent Association in the first instance; or
- Affiliated Club level or involves people operating at the Affiliated Club level, then the Complaint should be reported to and handled by the relevant Affiliated Club in the first instance.

Only matters that relate to or occur at the national level and the most serious cases from club and state level should be referred to the national body.

A Complaint may be dealt with informally or formally. The complainant usually decides this unless the MPIO or other relevant person inside the Constituent Organisation or Affiliated Club considers that the complaint falls outside this policy and would be better dealt with another way and/or the law requires the Complaint/allegation to be reported to an appropriate authority.

All Complaints will be dealt with promptly, seriously, sensitively and confidentially. CA's complaint procedures are outlined in Attachment D1.

Individuals and organisations may also pursue their Complaint externally under anti-discrimination, child protection, criminal or other relevant legislation.

7.2 Improper Complaints & Victimisation

CA aims for our complaints procedure to have integrity and be free of unfair repercussions or victimisation against the person making the Complaint. If at any point in the complaints process Complaints Officer considers that a complainant has knowingly made an untrue complaint or the Complaint is malicious or intended to cause distress to the person complained of, the matter may be referred to the relevant person or tribunal for appropriate action which may include disciplinary action against the complainant.

CA will take all necessary steps to make sure that people involved in a Complaint are not victimised. Disciplinary measures can be imposed on anyone who harasses or victimises another person for making a complaint.

7.3 Mediation

CA aims to resolve complaints quickly, fairly and with a minimum of fuss. Complaints may be resolved by agreement between the people involved with no need for disciplinary action. The people involved in a formal complaint – the complainant and the person complained about – (respondent) – may also seek the assistance of a neutral third person or mediator. Mediation allows those involved to be heard and to come up with mutually agreed solutions

Mediation may occur before or after the investigation of a complaint. If a complainant wishes to resolve the complaint with the help of a mediator, the Complaint Officer will, where he or she determines it to be appropriate, arrange for a neutral third party mediator where possible. Lawyers are not able to negotiate on behalf of the complainant and/or the respondent. More information on the mediation process is outlined in attachment [D2].

7.4 Tribunals

A tribunal may be formed to hear a formal Complaint that has been referred by the Complaints Officer, or an alleged breach of the policy. Procedures for a tribunal established to hear a complaint made under this policy are set out in Attachment D4.

CA's disciplinary tribunal hearings procedure is outlined in clause 17 of the CA Constitution and set out in the CA By-Laws.

The CEO (or nominee) has discretion to determine whether a Complaint or allegation is to be:

- referred to the tribunal described under this policy;
 - referred to a CA disciplinary tribunal; or
 - not suitable for referral to a tribunal.
- Every organisation bound by this policy will recognise and enforce any decision made, and form of discipline imposed, by a tribunal or appeals tribunal of CA.

8. WHAT IS A BREACH OF THIS POLICY

It is a breach of this policy for any person or organisation to which this policy applies, to do anything contrary to this policy, including but not limited to:

- breaching the Code of Conduct (attachment B to this policy);
- failing to follow CA policies (including this policy) and procedures for the protection, safety and welfare of children;
- discriminating against, harassing or bullying (including cyber bullying) any person;
- victimising another person for reporting a complaint;
- engaging in a sexually inappropriate relationship with a person that they supervise, or have influence, authority or power over;
- verbally or physically assaulting another person, intimidating another person or creating a hostile environment within the sport;
- disclosing to any unauthorised person or organisation any CA information that is of a private, confidential or privileged nature;
- making a complaint they knew to be untrue, vexatious, malicious or improper;
- failing to comply with a penalty imposed after a finding that the individual or organisation has breached this policy; or
- failing to comply with a direction given to the individual or organisation during the discipline process.

9. DISCIPLINARY MEASURES

9.1 Objectives

If an individual or organisation to which this policy applies breaches this policy, one or more forms of discipline may be imposed. Any disciplinary measure imposed under this policy must:

- be applied consistent with any contractual and employment rules and requirements;
- be fair and reasonable;
- be based on the evidence and information presented and the seriousness of the breach; and
- be determined in accordance with CA's or a relevant affiliate's Constitution, By Laws, this policy and/or Rules of the sport of cycling.

9.2 Individual

Subject to contractual and employment requirements, if a finding is made by a Tribunal that an individual has breached this policy, one or more of the following forms of discipline may be imposed:

- A direction that the individual make a verbal and/or written apology;
- A written warning;
- A direction that the individual attend counselling to address their behaviour;
- A withdrawal of any awards, scholarships, placing, records, achievements bestowed in any tournaments, activities or events held or sanctioned by CA;

- A demotion or transfer of the individual to another location, role or activity;
- A suspension of the individual's membership or participation or engagement in a role or activity;
- Termination of the individual's membership, appointment or engagement;
- A recommendation that CA terminate the individual's membership, appointment or engagement;
- In the case of a coach or official, a direction that the relevant organisation de-register the accreditation of the coach or official for a period of time or permanently;
- A fine; or
- Any other form of discipline that the designated person or tribunal considers appropriate.

9.3 Organisation

If a finding is made that a Constituent Association or Affiliated Club has breached its own Member Protection Policy or this Policy, one or more of the following forms of discipline may be imposed by the designated person or tribunal:

- A written warning;
- A fine;
- A direction that any rights, privileges and benefits provided to that organisation by CA or the relevant Constituent Association be suspended for a specified period;
- A direction that any funding granted or given to it by CA or the relevant Constituent Association cease from a specified date;
- A direction that CA or the relevant Constituent Association cease to sanction events held by or under the auspices of that organisation;
- A recommendation to CA or the relevant Constituent Association that its membership of CA or the relevant Constituent Association be suspended or terminated in accordance with the relevant constitution or rules; and/or
- Any other form of discipline that the designated person or tribunal considers being reasonable and appropriate.

9.4 Factors to consider

The form of discipline to be imposed on an individual or organisation will depend on factors such as:

- Nature and seriousness of the breach;
- If the person knew or should have known that the behaviour was a breach;
- Level of contrition;
- The effect of the proposed disciplinary measures on the person including any personal, professional or financial consequences;
- If there have been relevant prior warnings or disciplinary action;
- Ability to enforce discipline if the person is a parent or spectator (even if they are bound by the policy); or
- Any other mitigating circumstances.

10. DICTIONARY

This Dictionary sets out the meaning of words used in this policy and its attachments without limiting the ordinary and natural meaning of the words. State/Territory specific definitions and more detail on some of the words in this dictionary can be sourced from the relevant State/Territory child protection commissions or equal opportunity and anti-discrimination commissions.

Abuse is a form of harassment and includes physical abuse, emotional abuse, sexual abuse, neglect, and abuse of power. Examples of abusive behaviour include bullying, humiliation, verbal abuse and insults.

Affiliated Club has the same meaning set out in the CA constitution.

Child means a person who is under the age of 18 years

Child abuse involves conduct which puts children at risk of harm (usually by adults, sometimes by other children) and often by those they know and trust. It can take many forms, including verbal and physical actions and by people failing to provide them with basic care. Child abuse may include:

- Physical abuse by hurting a child or a child's development (e.g. hitting, shaking or other physical harm; giving a child alcohol or drugs; or training that exceeds the child's development or maturity).
- Sexual abuse by adults or other children where a child is encouraged or forced to watch or engage in sexual activity or where a child is subject to any other inappropriate conduct of a sexual nature (e.g. sexual intercourse, masturbation, oral sex, pornography including child pornography or inappropriate touching or conversations).
- Emotional abuse by ill-treating a child (e.g. humiliation, taunting, sarcasm, yelling, negative criticism, name calling, ignoring or placing unrealistic expectations on a child).
- Neglect (e.g. failing to give food, water, shelter or clothing or to protect a child from danger or foreseeable risk of harm or injury).

Complaint means a complaint made under clause 7 of this policy.

Complainant means the person making a complaint.

Complaints Officer means person appointed by an organisation who is responsible for the administration of complaints and tribunals.

Discrimination means treating or proposing to treat someone less favourably than another person in the same or similar circumstances because of a particular characteristic (Direct Discrimination), or imposing or intending to impose an unreasonable requirement, condition or practice that is the same for everyone, but which has an unequal or disproportionate effect on individuals or groups with particular characteristics, even though it appears to treat all people the same (Indirect Discrimination). The characteristics covered by discrimination law across Australia include:

- Age;
- Disability;
- Family/carer responsibilities;
- Gender identity/transgender status;
- Homosexuality and sexual orientation;
- Irrelevant medical record;
- Irrelevant criminal record;
- Political belief/activity;
- Pregnancy and breastfeeding;
- Race;
- Religious belief/activity;
- Sex or gender;
- Social origin;
- Trade union membership/activity.

(Some States and Territories include additional characteristics such as physical features or association with a person with one or more of the characteristics listed above).

Examples of Discrimination

- Age: A club refuses to allow an older person to coach a team simply because of age.
- Breastfeeding: A member of the club who is breastfeeding a baby in the club rooms is asked to leave.
- Disability: A player is overlooked for team selection because of mild epilepsy.
- Family responsibilities: A club decides not to promote an employee because he has a child with a disability even though the employee is the best person for the job.

- Gender Identity: A transgender player is harassed when other players refuse to call her by her female name.
- Homosexuality: An athlete is ostracised from her team after it becomes known that she is a lesbian.
- Marital Status: A player is deliberately excluded from team activities and social functions because she is single
- Pregnancy: A woman is dropped from a squad when she becomes pregnant.
- Race: An Italian referee is not permitted to referee games with a high proportion of Italian players on one team because of his race.
- Sex: Specialist coaching is only offered to male players in a mixed team.

Further **examples of discrimination** are available on the Play by the Rules website: www.playbytherules.net.au/legal-stuff/discrimination

Harassment is any type of behaviour that the other person does not want and that is offensive, abusive, belittling or threatening. The behaviour is unwelcome and a reasonable person would recognise it as being unwelcome and likely to cause the recipient to feel offended, humiliated or intimidated.

Unlawful harassment is sexual or targets a person because of their race, sex, pregnancy, marital status, sexual orientation or some other personal characteristic protected by law (see characteristic list under discrimination).

It does not matter whether the harassment was intended: the focus is on the impact of the behaviour. The basic rule is if someone else finds it harassing then it could be harassment. Harassment may be a single incident but is usually repeated. It may be explicit or implicit, verbal or non-verbal, and includes electronic cyber communication.

Discrimination and harassment are not permitted in employment (including volunteer and unpaid employment); when providing sporting goods and services including access to sporting facilities; when providing education and accommodation; the selection or otherwise of any person for competition or a team (domestic or international); the entry or otherwise of any player or other person to any competition and the obtaining or retaining membership of clubs and organisations (including the rights and privileges of membership).

Some exceptions to state and federal anti-discrimination law apply. Examples include:

- holding a competitive sporting activity for boys and girls only who are under 12 years of age or of any age where strength, stamina or physique is relevant or
- not selecting a participant if the person's disability means he or she is not reasonably capable of performing the actions reasonably required for that particular sporting activity.

Requesting, assisting, instructing, inducing or encouraging another person to engage in discrimination or harassment may also be against the law.

It is also a breach of discrimination law to victimise a person who is involved in making a complaint of discrimination or harassment. Example: a player is ostracised by her male coach for complaining about his sexist behaviour or for supporting another player who has made such a complaint.

Public acts of racial hatred which are reasonably likely to offend, insult, humiliate or intimidate are also prohibited. This applies to spectators, participants or any other person who engages in such an act in public. Some states and territories also prohibit public acts that vilify on other grounds such as homosexuality, gender identity, HIV/AIDS, religion and disability – see vilification.

Mediator means an impartial/neutral person appointed to mediate Complaints.

Member means a member of CA, a Constituent Association or an Affiliated Club.

Member Protection Information Officer (MPIO) means a person trained to be the first point of contact for a person reporting a complaint under, or a breach of, this Policy. The MPIO provides impartial and confidential support to the person making the complaint. References to the MPIO in this policy may include an appropriate person nominated by the MPIO to fulfil the same duties. If no MPIO has been appointed, the CEO or such other nominated senior manager shall fulfil the relevant duties.

Natural justice (also referred to as procedural fairness) incorporates the following principles:

- both the Complainant and the Respondent must know the full details of what is being said against them and have the opportunity to respond;
- all relevant submissions must be considered;
- no person may judge their own case;
- the decision maker/s must be unbiased, fair and just;
- the penalties imposed must be fair.

Police check means a national criminal history record check conducted as a pre-employment, pre-engagement or current employment background check on a person.

Policy, policy and this policy means this Member Protection Policy.

Respondent means the person who is being complained about.

Role-specific codes of conduct (or behaviour) means standards of conduct required of people holding certain roles in the organisation (e.g. coaches, officials, umpires).

Sexual harassment means unwanted, unwelcome or uninvited behaviour of a sexual nature which could reasonably be anticipated to make a person feel humiliated, intimidated or offended. Sexual harassment can take many different forms and may include unwanted physical contact, verbal comments, jokes, propositions, display of pornographic or offensive material or other behaviour that creates a sexually hostile environment.

Sexual harassment is not behaviour based on mutual attraction, friendship and respect. If the interaction is between consenting adults, it is not sexual harassment.

Sexual offence means a criminal offence involving sexual activity or acts of indecency including but not limited to (due to differences under state/territory legislation):

- Rape
- Indecent assault
- Sexual assault
- Assault with intent to have sexual intercourse
- Incest
- Sexual penetration of child under the age of 16
- Indecent act with child under the age of 16
- Sexual relationship with child under the age of 16
- Sexual offences against people with impaired mental functioning
- Abduction and detention
- Procuring sexual penetration by threats or fraud
- Procuring sexual penetration of child under the age of 16
- Bestiality
- Soliciting acts of sexual penetration or indecent acts
- Promoting or engaging in acts of child prostitution
- Obtaining benefits from child prostitution
- Possession of child pornography
- Publishing child pornography and indecent articles.

Transgender is a general term applied to individuals and behaviours that differ from the gender role commonly, but not always, assigned at birth. It does not imply any specific form of sexual orientation.

Victimisation means subjecting a person or threatening to subject a person to any detriment or unfair treatment because that person has or intends to pursue their rights to make any complaint including a complaint under government legislation (e.g. anti-discrimination) or under this Policy, or for supporting such a person.

Vilification involves a person or organisation doing public acts to incite hatred towards, serious contempt for, or severe ridicule of a person or group of persons having any of the attributes or characteristics within the meaning of discrimination. Public acts that may amount to vilification include any form of communication to the public and any conduct observable by the public.

PART B: CODE OF BEHAVIOUR

Cycling Australia

CODE OF CONDUCT

1. PURPOSE

The purpose of the Code of Conduct (Code) is to describe the type of behaviour which Cycling Australia (CA) is seeking to promote and encourage its members and supporters to adopt.

2. GOVERNANCE

The code shall be known as Cycling Australia's Code of Conduct. The Code shall govern the conduct of all persons formally associated with cycling within Australia. In particular, it shall apply to:

- Persons acting for and on behalf of CA.
- Athletes, coaches, managers and support staff of CA.
- Persons participating in CA sanctioned events or activities.
- Officials, Commissaires and support personnel assisting or conducting CA events.
- CA appointed Delegates and employees of CA.

3. KEY PRINCIPLES

- CA wishes to operate in an environment where people show respect for others and their property. Respect is defined as consideration for another's physical and emotional well-being and possessions, to ensure no damage or deprivation is caused to either.
- CA wishes to operate in an environment that is free from harassment. Harassment is defined as any action directed at an individual or group that creates a hostile, intimidating or offensive environment. (Refer to ASC Guidelines for Harassment-Free Sport).
- CA wishes to operate in a non-discriminatory environment. Respect the right, dignity and worth of every human being - within the context of the activity; treat everyone equally regardless of gender, ethnic origin or religion.
- Persons to whom this Code applies acknowledge and agree to comply with the disciplinary and grievance procedures promulgated by CA. If any disciplinary action is taken, persons directly affected shall be given the opportunity to participate in those proceedings and the right to appeal against any decision against them.

4. KEY ELEMENTS

All persons who are bound by this code shall:

- Act in a manner which is compatible with the interests of CA;
- Accord people involved in cycling with the appropriate courtesy, respect and regard for their rights and obligations;
- Treat people's property with respect and due consideration of its value;
- Show a positive commitment to CA's policies, rules, procedures, guidelines and agreements;
- Respect the law and customs of the places they visit;

- Respect the confidentiality of information which they receive in the course of fulfilling their duties;
- Uphold the standing and reputation of cycling within Australia;
- Not misuse provided funds or property belonging to another party; and
- Observe and comply with the Anti-Doping Rules set out in the CA Doping Policy.

5. UNACCEPTABLE BEHAVIOUR

This list provides examples of behaviour deemed to be unsuitable and not in the best interests of the sport.

- ‘Sledging’ other athletes, officials or event organisers. Sledging is defined as a statement that is deemed to denigrate and/or intimidate another person, or behaviour likely to constitute emotional abuse.
- Excessive use of alcohol, acting in a way that becomes a public nuisance, or creating a public disturbance.
- Damaging another person’s property or depriving them of that property.
- Sexual relations between an appointed official and a junior athlete (under the age of consent), irrespective of the wishes and desires of the athlete. In all other cases such relations are strongly discouraged.
- Any physical contact with athletes shall be appropriate to the situation and be necessary for the further development of the athlete's skill.
- The use or encouragement of the use banned substances. (The banned substance list is as outlined under CA’s Anti-Doping Policy.)
- Statements which are deemed to denigrate the group that an individual is representing.
- Any type of gambling, betting or organisation of betting at any cycling event, while competing, officiating or undertaking a management role.
- Any form of harassment.

PART C: SCREENING / WORKING WITH CHILDREN CHECK REQUIREMENTS

We are committed to providing a child-safe environment. As part of this, we will recruit staff and volunteers who do not pose a risk to children.

Employment screening and Working with Children Checks can involve criminal history checks, signed declarations, referee checks and other appropriate checks that assess a person's suitability to work with children and young people.

Working with Children Check laws are currently in place in New South Wales, Queensland, Western Australia, Victoria, the Northern Territory and South Australia. Working with Children Check laws will take effect on 1 April 2015 in Tasmania.

CA, including our Constituent Associations and Affiliated Clubs, will meet the requirements of the relevant state or territory Working with Children Check laws.

Employment screening requirements will also be followed in the Australian Capital Territory and Tasmania (up to the date the Working with Children Check law takes effect).

Individuals travelling with children and young people to another state or territory in a work-related capacity must comply with the screening requirements of that particular state or territory.

ATTACHMENT C1: SCREENING REQUIREMENTS - FOR STATES/TERRITORIES WITHOUT WORKING WITH CHILDREN CHECKS [ACT AND TASMANIA. NOTE TASMANIA HAS WORKING WITH CHILDREN CHECK LEGISLATION WHICH COMMENCES ON 1 APRIL 2015 AT WHICH TIME REFER TO ATTACHMENT C3]

This attachment explains the process we will use to screen the people associated with our organisation who work, coach or have regular unsupervised contact with children and young people under the age of 18. We require our state associations and clubs to do the same.

1. We will identify all positions where people work, coach or have regular unsupervised contact with children and young people under the age of 18.
2. Before a person is offered such a position, we will ask him or her to complete a Member Protection Declaration ("MPD") (see Attachment C2).
3. If a person is unable to provide a MPD, or if he or she cannot satisfactorily answer the questions in the MPD, we will ask for an explanation. We will then make an assessment about the person's suitability to work with children and young people. If we are not fully satisfied, we will not appoint him or her to the position.
4. Where possible, we will check a person's referees (verbal or written) about his or her suitability for the position.
5. We will ask each person to sign a consent form for a national police check and explain why our policy requires a check to be undertaken.
6. If a person does not agree to a national police check, we will make an assessment about his or her suitability to work with children and young people.
7. If the national police check indicates that a "relevant offence" has been recorded, we will ask the person to provide an explanation. We will then make an assessment about the person's suitability to work with children and young people. If we are not fully satisfied, we will not appoint him or her to the position.
8. If it is not practical to complete the national police check prior to the person starting in the position, we will complete the check as soon as possible. We will act immediately if the results of the check highlight any issues of concern.
9. We will protect the privacy of each person who undertakes the screening process and keep all information we obtain strictly confidential.
10. We will return all the information collected as part of the screening process (e.g. completed MPD forms, national police checks and referee reports) to the relevant person if he or she is not appointed to the position. Alternatively, all records will be destroyed within 28 days of the date of the decision or the expiry of any appeal period unless, within that time, the person requests the documents to be returned to him or her. The records of all people appointed to our organisation will be kept on file in a secure location.

ATTACHMENT C2: MEMBER PROTECTION DECLARATION

Background

CA has a duty of care to all those associated with the sport at the national level and to the individuals and organisations to whom our Member Protection Policy applies. As a requirement of our Member Protection Policy, CA must enquire into the background of those who undertake any work, coaching or regular unsupervised contact with people under the age of 18 years.

Declaration

I (name) of

..... (address) born/...../.....

sincerely declare:

1. I do not have any criminal charge pending before the courts.
2. I do not have any criminal convictions or findings of guilt for sexual offences, offences related to children or acts of violence.
3. I have not had any disciplinary proceedings brought against me by an employer, sporting organisation or similar body involving child abuse, sexual misconduct or harassment, other forms of harassment or acts of violence
4. I am not currently serving a sanction for an anti-doping rule violation under an ASADA approved anti-doping policy applicable to me.
5. I will not participate in, facilitate or encourage any practice prohibited by the World Anti-Doping Agency Code or any other ASADA approved anti-doping policy applicable to me.
6. To my knowledge there is no other matter that CA may consider to constitute a risk to its members, employees, volunteers, athletes or reputation by engaging me.
7. I will notify the CEO of the organisation(s) engaging me immediately upon becoming aware that any of the matters set out in clauses 1 to 6 above has changed.

Declared in the State/Territory of

on/...../.....(date) Signature

Parent/Guardian Consent (in respect of a person under the age of 18 years)

I have read and understood the declaration provided by my child. I confirm and warrant that the contents of the declaration provided by my child are true and correct in every particular.

Name:.....

Signature:.....

Date:

ATTACHMENT C3: WORKING WITH CHILDREN CHILD PROTECTION REQUIREMENTS

Working with Children Checks aim to create a child-safe environment and to protect children and young people involved in our sport from physical and sexual harm.

They assess the suitability of people to work with children and young people and can involve:

- criminal history checks
- signed declarations
- referee checks, and
- other relevant background checks to assess a person's suitability to work with children and young people.

Working with Children Check requirements vary across Australia. [Fact Sheets](#) for each state and territory are available on the Play by the Rules website: www.playbytherules.net.

Detailed information, including the forms required to complete a Working with Children Check, are available from the relevant agencies in each state and territory.

New South Wales

Contact the Commission for Children and Young People

Website: www.kids.nsw.gov.au

Phone: 02 9286 7276

Northern Territory

Contact the Northern Territory Screening Authority

Website: www.workingwithchildren.nt.gov.au

Phone: 1800 SAFE NT (1800 723 368)

Queensland

Contact the Commission for Children and Young People and Child Guardian about the "Blue Card" system.

Website: www.ccypcg.qld.gov.au

Phone: 1800 113 611

South Australia

Contact the Department for Education and Child Development

Website: www.families.sa.gov.au/childsafe

Phone: 08 84 636 468

Victoria

Contact the Department of Justice

Website: www.justice.vic.gov.au/workingwithchildren

Phone: 1300 652 879

Western Australia

Contact the Department for Child Protection

Website: www.checkwwc.wa.gov.au

Phone: 1800 883 979

Tasmania

Contact the Department of Justice

Website: www.justice.tas.gov.au

Phone: 1300 13 55 13

Travelling to other states or territories

It is important to remember that when travelling to other states or territories, representatives of sporting organisations must comply with the legislative requirements of that particular state or territory.

In October 2011 at the Standing Council on Community, Housing and Disability Services, Commonwealth, state and territory ministers agreed to introduce, by late 2012, national exemptions to

Working with Children Checks for paid employees and volunteers who are required to cross state or territory borders for work related purposes.

These exemptions will be for up to 30 days in any 12 month period and will enable workers to participate in national and inter-jurisdictional activities on a short-term basis. This means that volunteers and workers with a valid check in their home state or territory will be able to participate in short-term activities across state and territory borders without the need for additional checks.

The Australian Sports Commission will provide more information as soon as it becomes available.

PART D: COMPLAINT HANDLING PROCEDURES

Background

All Complaints will be dealt with in a fair, timely, transparent manner. Complaints will be kept confidential and will not be disclosed to another person without the complainant's consent except if law requires disclosure or if disclosure is necessary to effectively deal with the Complaint.

Individuals and organisations may also pursue their Complaint externally under anti-discrimination, child protection or other relevant legislation.

If, as a complainant, you wish to remain anonymous, CA may have difficulty assisting you to resolve your Complaint. Procedural fairness (natural justice) means that CA is required to provide the person/people you have complained about with full details of the complaint so they have a fair chance to respond.

In accordance with clause 3 of this Policy, its application encompasses all CA and members including Affiliated Clubs and Constituent Association. In situations where the matter is relevant to an incident or event under direct responsibility or auspices of an Affiliated Club or Constituent Association, then the Complaint should be first directed to the respective Affiliated Club or Constituent Association (i.e. the organisation that has direct responsibility for the matter during which the incident occurred).

For the purposes of this policy and the application of the formal complaint procedure below, when a matter is being dealt with by an Affiliated Club or Constituent Association all references to CA or CEO of CA shall be read as the relevant Affiliated Club or Constituent Association or the principal administrator or Secretary of the relevant Affiliated Club or Constituent Association.

Where an affiliated State or Club deals with a complaint as an investigation or disciplinary matter, then the principles and procedures set out in the Affiliated Club or Constituent Association's equivalent of the CA (Disciplinary and Appeal) By-Laws 10 to 15, may also be applicable, depending on how the relevant MPIO (or other designated person) decides the Complaint shall be dealt with.

Attachment D1: COMPLAINTS PROCEDURE

INFORMAL APPROACHES

CA aims to support people associated with our sport to make and resolve any complaints they may have in a fair, timely and effective way.

We will keep all complaints confidential. We will not provide information about the complaint to another person without the complainant's consent, except if the law requires us disclose this information or if it is necessary to properly resolve the complaint.

To ensure **fairness for everyone involved**, we will provide the full details of the complaint to the person or people against whom the complaint has been made and ask for their response. As a result, it may be difficult for us to resolve complaints made anonymously.

We will provide **informal and formal procedures** to resolve complaints. Individuals and organisations can also **complain to external organisations** under anti-discrimination, child protection and other relevant laws.

Step 1: Talk with the other person (where this is reasonable, safe and appropriate)

In you feel comfortable to do so, you can approach the other person or people involved and try and resolve the problem directly.

Step 2: Contact a Member Protection Information Officer

We encourage you to talk with one of our MPIOs if:

- the first step is not possible/reasonable;
- you are not sure how to handle the problem by yourself;
- you want to talk confidentially about the problem with someone and obtain more information about what you can do; or
- the problem continues after you tried to approach the person or people involved.

The names and contact details for our MPIO's are available by contacting Cycling Australia at 02-9339 5800 or email info@cycling.org.au

The MPIO will:

- take confidential notes about your Complaint;
- try to find out the facts of the problem;
- ask what outcome/how you want the problem resolved and if you need support;
- provide possible options for you to resolve the problem;
- act as a support person if you so wish;
- refer you to an appropriate person (e.g. Mediator) to help you resolve the problem, if necessary;
- inform the relevant government authorities and/or police if required by law to do so;
- maintain confidentiality.

Step 3: Outcomes from initial contact

After talking with the MPIO, you may decide:

- there is no problem;
- the problem is minor and you do not wish to take the matter forward;
- to try and work out your own resolution (with or without a support person such as an MPIO);
- to seek a mediated resolution with the help of a third person (such as a mediator); or
- to seek a formal approach.

FORMAL APPROACHES

Step 4: Making a Formal complaint

If it is not possible or appropriate to resolve your complaint through an informal process, you may:

- make a formal complaint in writing to the Complaints Officer; or

- approach a relevant external agency such as an anti-discrimination or equal opportunity commission, for advice.

On receiving a formal complaint and based on the material the complainant has provided, the Complaints Officer will decide whether:

- they are the most appropriate person to receive and handle the Complaint;
- the nature and seriousness of the complaint warrants a formal resolution procedure;
- to take no further action because the complaint is improper, insignificant or vexatious, or has been adequately dealt with through informal or other processes;
- to refer the complaint to mediation;
- to appoint a person to investigate the complaint;
- to refer the complaint to a hearings tribunal constituted under this policy and described in Attachment D4;
- to refer the matter to CA's disciplinary tribunal described under the CA Constitution and By-laws (or the relevant affiliate's disciplinary tribunal described under that affiliates Constitution and By-Laws);
- to refer the matter to the police or other appropriate authority; and/or
- to implement any interim arrangements that will apply until the complaint process set out in these Procedures is completed.

In making the decision(s) outlined above, the Complaints Officer will take into account:

- whether they have had any personal involvement in the circumstances which means that someone else should handle the complaint;
- your wishes, and the wishes of the respondent, regarding the manner in which the complaint should be handled;
- the relationship between you and the respondent (for example an actual or perceived power imbalance between you and the respondent);
- the views of any person who might have been subjected to the alleged improper conduct of the respondent (including for example the athlete in circumstances where another person has made a complaint on their behalf);
- whether the facts of the complaint are in dispute; and
- the urgency of the complaint, including the possibility that you will be subject to further unacceptable behaviour while the complaint process is underway.

If the Complaints Officer is the appropriate person to handle the complaint they will, to the extent that these steps are necessary:

- put the information they have received from the complainant to the respondent and ask them to provide their side of the story;
- decide if they have enough information to determine whether the matter alleged in the Complaint did or did not happen; and/or
- determine what, if any, further action to take, including disciplinary action in accordance with this policy.

Step 5: Investigation/mediation/hearing

- A person may be appointed under Step 4 to conduct an investigation and provide a written report to the Complaints Officer who will determine what further action to take. Such investigation will be conducted in accordance with Attachment D3. It must be made clear to all parties that the investigator is not seeking to resolve the matter, nor to decide whether any breach of this policy has occurred, nor to impose any penalty.
- Any decision about disciplinary action must be referred to an independent tribunal, and wherever possible, mediations should be conducted by an independent mediator.
- If the complaint is referred to mediation, it will be conducted in accordance with Attachment D2 or as otherwise agreed by you and the respondent and the mediation provider.
- If the Complaint under this policy is referred to the member protection hearings tribunal, the hearing will be conducted in accordance with Attachment C5.
- If the complaint is referred to the police or other appropriate authority, CA will use its best endeavours to provide all reasonable assistance required by the police or other authority.
- Any costs relating to the complaint process set out in this policy (eg investigation, mediation and/or a tribunal hearing) are to be met by **the applicant** unless otherwise stated.

Step 6: Reconsideration of initial outcome/investigation or appeal

If, under the formal complaint process, mediation is unsuccessful, the complainant may request that the MPIO reconsider the complaint in accordance with **Step 4**.

Following a hearing, the complainant or the respondent(s) may be entitled to appeal. The grounds and process for appeals under this policy are set out in Attachment C5.

Step 7: Documenting the resolution

The Complaints Officer will document the complaint, the process and the outcome. This document will be stored in a confidential and secure place. If the Complaint was dealt with at an Affiliated Club or Constituent Association level, the information will be stored in the Affiliated Club or Constituent Association level office. If the matter is of a serious nature, or if the matter was escalated to and/or dealt with at the national level, the original document will be stored at the national office with a copy stored at the state/club office.

Approaching External Organisations

If you feel that you have been harassed or discriminated against, you can seek advice from your state or territory anti-discrimination or equal opportunity commission. There is no obligation to make a formal complaint. However, if the commission advises you that the issues appear to be within its jurisdiction, you may choose to lodge a formal complaint with the commission.

Once a complaint is received by the commission, it will investigate the matter. If it appears that unlawful harassment or discrimination has occurred, the commission will attempt to conciliate the complaint on a confidential basis. If this fails, or if it is not appropriate, the complaint may go to a formal hearing. The tribunal will make a finding and decide what action, if any, will be taken. This could include an apology or financial compensation for distress, lost earnings or medical and counselling expenses incurred.

If you do lodge a complaint with the commission, an appropriate person from our organisation (e.g. an MPIO) will be available to support you during the process. It is also common to have a legal representation, particularly if the complaint goes to a formal hearing.

Contact details for the state and territory anti-discrimination and equal opportunity commissions are available on the Play by the Rules website:

<http://www.playbytherules.net.au/resources/quick-reference-guide>.

Serious incidents, such as assault or sexual assault, should be reported to the police.

ATTACHMENT D2: MEDIATION

Mediation is a process that allows the people involved in a complaint to talk through the issues with an impartial person - the mediator - and work out a mutually agreeable solution.

The Mediator does not decide who is right or wrong and does not tell either side what they must do. Instead, he or she helps those involved to talk through the issues and make sure that the process is as fair as possible for all concerned.

Our approach to mediation follows the steps set out below.

1. The Complaints Officer will appoint a mediator to help resolve the complaint. This will be done under the direction of CA and in consultation with the complainant and the respondent(s).
2. The mediator will talk with the complainant and respondent(s) about how the mediation will take place and who will participate. At a minimum, the mediator will prepare an agenda of issues to be discussed.
3. All issues raised during mediation will be treated confidentially. We also respect the rights of the complainant and the respondent(s) to pursue an alternative process if the complaint is not resolved.
4. If the complaint is resolved by mediation, the mediator will prepare a document that sets out the agreement that has been reached. This agreement will be signed by the complainant and the respondent(s). We expect the parties involved to respect the terms of the agreement.
5. If the complaint is not resolved by mediation, the complainant may:
 - write the complaints officer to request that the complaints officer reconsider the complaint in accordance with **Step 4**;
 - approach an external agency, such as an anti-discrimination or equal opportunity commission, to resolve the matter.

We recognise that there are some **situations where mediation will not be appropriate**, including:

- when the people involved have completely different versions of the incident
- when one or both parties are unwilling to attempt mediation
- when the issues raised are sensitive in nature
- when there is a real or perceived power imbalance between the people involved
- matters that involve serious, proven allegations.

ATTACHMENT D3: INVESTIGATION PROCESS

There will be times when a complaint will need to be investigated and evidence gathered.

An investigation helps determine the facts relating to the incident, as well as possible findings and recommendations.

Any investigation that is conducted will be fair to all people involved.

If an investigation needs to be conducted to gather more information the following steps will be followed:

1. We will provide a written brief to the investigator clarifying terms of engagement and roles and responsibilities. The investigator will:
 - Interview the complainant and record the interview in writing.
 - Convey full details of the complaint to the respondent (s) so that they can respond.
 - Interview the respondent to allow them to answer the complaint, and record the interview in writing.
 - Obtain statements from witnesses and other relevant evidence to assist in a determination, if there is a dispute over the facts
 - Make a finding as to whether the complaint is:
 - substantiated (there is sufficient evidence to support the complaint);
 - inconclusive (there is insufficient evidence either way);
 - unsubstantiated (there is sufficient evidence to show that the complaint is unfounded); and/or
 - mischievous, vexatious or knowingly untrue.
 - Provide a report to the Complaints Officer documenting the complaint, investigation process, evidence, finding and, if requested, recommendations.
2. We will provide a report to the complainant and the respondent(s) documenting the complaint, the investigation process and summarising key points that are substantiated, inconclusive, unsubstantiated and/or mischievous.
3. The complainant and the respondent(s) will be entitled to support throughout this process from their chosen support person/adviser.
4. The complainant and the respondent(s) may have the right to appeal against any decision based on the investigation. Information on our appeals process is in Attachment D4.

ATTACHMENT D4: HEARINGS & APPEALS TRIBUNAL PROCEDURE

Hearings tribunals established by CA to hear national member protection related complaints where determined appropriate by the Complaints Officer under Step 4 of Attachment D1 will follow the steps set out below.

Preparation for Tribunal Hearing

1. A tribunal panel will be constituted following the rules outlined in CA's Constitution, to hear a complaint that has been referred to it. The number of tribunal members required to be present throughout the hearing will be three.
2. The tribunal members will be provided with a copy of all the relevant correspondence, reports or information relating to the complaint/allegations.
3. The tribunal hearing will be scheduled as soon as practicable, but must allow adequate time for the respondent to prepare their case for the hearing.
4. The tribunal panel will not include any person who has any actual or perceived conflict of interest, or bias regarding the matter.
5. The Complaints Officer will inform the respondent(s) in writing that a tribunal hearing will take place. The notice will outline:
 - That the person has a right to appear at the tribunal hearing to defend the complaint/allegation;
 - Details of the complaint, and details of all allegations and the clause of any policy or rule allegedly breached;
 - The date, time and venue of the tribunal hearing;
 - That they can make either verbal or written submissions to the tribunal;
 - That they may arrange for witnesses to attend the tribunal in support of their position (statutory declarations of witnesses not available or from character witnesses may also be provided to the tribunal);
 - An outline of any possible penalties that may be imposed if the complaint is found to be true;
 - That legal representation will not be allowed; and
 - If the respondent is a minor, they will be encouraged to have a parent or guardian present.

A copy of any information / documents that have been given to the tribunal (e.g. investigation report findings) will also be provided to the respondent.

The respondent(s) will be allowed to participate in all CA activities and events, pending the decision of the tribunal, including any available appeal process, unless the Tribunal Chair believes it is necessary to exclude the respondent(s) from all or some CA activities and events, after considering the nature of the complaint.

6. The Complaints Officer will notify the complainant in writing that a tribunal hearing will take place. The notice will outline:
 - That the person has a right to appear at the tribunal hearing to support their complaint;
 - Details of the complaint, including any relevant rules or regulations the respondent is accused of breaching
 - The date, time and venue of the tribunal hearing;
 - That they can make either verbal or written submissions to the tribunal;
 - That they may arrange for witnesses to attend the tribunal in support of their position (or provide statutory declarations from witnesses unable to attend); and
 - That legal representation will not be allowed.
 - If the respondent is a minor, they will be encouraged to have a parent or guardian present.

A copy of any information / documents that have been given to the tribunal (e.g. investigation report findings) will also be provided to the complainant.

7. If the complainant believes the details of the complaint are incorrect or insufficient they should inform the Complaints Officer as soon as possible so that the respondent and the tribunal panel members can be properly informed of the complaint.

8. It is preferable that the tribunal include at least one person with knowledge or experience of the relevant laws/rules (e.g. Discrimination).

Tribunal Hearing Procedure

9. The following people will be allowed to attend the tribunal hearing:
- The tribunal members;
 - The respondent(s);
 - The complainant;
 - Any witnesses called by the respondent;
 - Any witnesses called by the complainant;
 - Any parent / guardian or support person required to support the respondent or the complainant.
10. If the respondent(s) is not present at the set hearing time and the tribunal chairperson considers that no valid reason has been presented for their absence, the tribunal hearing will continue subject to the tribunal chairperson being satisfied that all tribunal notification requirements have been met.
11. If the tribunal chairperson considers that a valid reason for the non-attendance of the respondent(s) has been presented, or the tribunal chairperson does not believe the tribunal notification requirements have been met, then the tribunal will be rescheduled to a later date.
12. The tribunal chairperson will inform the Complaints Officer of the need to reschedule, and the Complaints Officer will organise for the tribunal to be reconvened.
13. The tribunal chairperson will read out the complaint, ask the respondent(s) if they understand the complaint and if they agree or disagree with the complaint.
14. If the respondent agrees with the complaint, he or she will be asked to provide any evidence or witnesses that should be considered by the tribunal panel when determining any disciplinary measures.
15. If the respondent disagrees with the complaint, the complainant will be asked to describe the circumstances that lead to the complaint being made.
- Reference may be made to brief notes.
 - The complainant may call witnesses.
 - The respondent(s) may question the complainant and witnesses.
16. The respondent(s) will then be asked to respond to the complaint.
- Reference may be made to brief notes.
 - The respondent may call witnesses.
 - The complainant may ask questions of the respondent and witnesses.
17. Both the complainant and respondent may be present when evidence is presented to the tribunal. Witnesses may be asked to wait outside the hearing until required.
18. The tribunal may:
- consider any evidence, and in any form, that it deems relevant.
 - question any person giving evidence.
 - limit the number of witnesses presented to those who provide any new evidence.
 - Require (to the extent it has power to do so) the attendance of any witness it deems relevant;
 - Act in an inquisitorial manner in order to establish the truth of the issue/case before it.
19. Video evidence, if available, may be presented. The arrangements must be made entirely by the person/s wishing to offer this type of evidence.
20. If the tribunal considers that at any time during the tribunal hearing there is any unreasonable or intimidatory behaviour from anyone, the chairperson may deny further involvement of the person in the hearing.
21. After all of the evidence has been presented the tribunal will make its decision in private. The tribunal must decide whether the complaint has been substantiated on the balance of probabilities (i.e. more probable than not). As the seriousness of the allegation increases, so too must the level of satisfaction of the tribunal that the complaint has been substantiated. The respondent will be

given an opportunity to address the Tribunal on disciplinary measures which might be imposed. Disciplinary measures imposed must be reasonable in the circumstances.

22. All Tribunal decisions will be by majority vote.
23. The tribunal chairperson will announce the decision in the presence of all those involved in the hearing and will declare the hearing closed, or may advise those present that the decision is reserved and will be handed down in written form at a later time.
24. Within 48 hours of the hearing, the tribunal chairperson will:
 - Forward to the Complaints Officer notice of the tribunal decision including any disciplinary measures imposed.
 - Forward a letter to the respondent(s) reconfirming the tribunal decision and any disciplinary measures imposed. The letter should also outline, if allowed, the process and grounds for an appeal. Where the matter is of unusual complexity or importance, the tribunal chairperson may inform the parties in writing within 48 hours that the decision will be delayed for a further 48 hours.
25. The Tribunal does not need to provide written reasons for its decision.

Appeals Procedure

26. A complainant or a respondent(s) who is not satisfied with the decision of an Complaints Officer at Step 4 in Attachment C1 in or a tribunal decision under this policy can lodge one appeal to CA on one or more of the following bases:
 - That a denial of natural justice has occurred;
 - That the disciplinary measure(s) imposed is unjust and/or unreasonable; or
 - That the decision was not supported by the information/evidence provided.
27. A person wanting to appeal must lodge a letter setting out the basis for their appeal with the CEO within 14 days of the relevant decision. An appeal fee of \$250 (which can be waived wholly or in part at the discretion of the Board) shall be included with the letter of intention to appeal.
28. If the letter of appeal is not received by the CEO within the time period the right of appeal lapses. If the letter of appeal is received but the appeal fee is not received by the relevant time, the appeal lapses.
29. The letter of appeal and notice of tribunal decision will be forwarded to the chair of the appeals tribunal to review and decide whether there are sufficient grounds for the appeal to proceed. The appeals chair may invite any witnesses to the meeting it believes are required to make an informed decision.
30. If the appellant has not shown sufficient grounds for appeal, then the appeal will be rejected. The appellant will be notified with reasons for the decision and the appeal fee will be forfeited.
31. If the appeal is accepted an appeal tribunal with a new panel will be convened to rehear the complaint and the appeal fee will be refunded.
32. The tribunal procedure shall be followed for the appeal.
33. The decision of an appeal tribunal will be final.

ATTACHMENT E1: CONFIDENTIAL RECORD OF INFORMAL COMPLAINT

Name of person receiving complaint		Date: / /
Complainant's Name	<input type="checkbox"/> Over 18 <input type="checkbox"/> Under 18	
Role/status	<input type="checkbox"/> Administrator (volunteer) <input type="checkbox"/> Parent <input type="checkbox"/> Athlete/player <input type="checkbox"/> Spectator <input type="checkbox"/> Coach/Assistant Coach <input type="checkbox"/> Support Personnel <input type="checkbox"/> Employee (paid) <input type="checkbox"/> Other <input type="checkbox"/> Official	
When/where did the incident take place?		
What are the facts relating to the incident as stated by the complainant		
What is the nature of the complaint (category/basis/grounds) Tick more than one box if necessary	<input type="checkbox"/> Harassment or <input type="checkbox"/> Discrimination <input type="checkbox"/> Sexual/sexist <input type="checkbox"/> Selection dispute <input type="checkbox"/> Coaching methods <input type="checkbox"/> Sexuality <input type="checkbox"/> Personality clash <input type="checkbox"/> Verbal abuse <input type="checkbox"/> Race <input type="checkbox"/> Bullying <input type="checkbox"/> Physical abuse <input type="checkbox"/> Religion <input type="checkbox"/> Disability <input type="checkbox"/> Victimisation <input type="checkbox"/> Pregnancy <input type="checkbox"/> Child Abuse <input type="checkbox"/> Unfair decision <input type="checkbox"/> Other	
What does the complainant want to happen to resolve the issue		
What other information has the complainant provided?		
What is the complainant going to do now?		

ATTACHMENT E2: CONFIDENTIAL RECORD OF FORMAL COMPLAINT

Complainant's Name	<input type="checkbox"/> Over 18 <input type="checkbox"/> Under 18	Date Formal Complaint Received: / /
Complainant's contact details	Phone: Email:	
Complainant's Role/position	<input type="checkbox"/> Administrator (volunteer) <input type="checkbox"/> Parent <input type="checkbox"/> Athlete/player <input type="checkbox"/> Spectator <input type="checkbox"/> Coach/Assistant Coach <input type="checkbox"/> Support Personnel <input type="checkbox"/> Employee (paid) <input type="checkbox"/> Other <input type="checkbox"/> Official 	
Name of person complained about (respondent)	<input type="checkbox"/> Over 18 <input type="checkbox"/> Under 18	
Respondent's Role/status	<input type="checkbox"/> Administrator (volunteer) <input type="checkbox"/> Parent <input type="checkbox"/> Athlete/player <input type="checkbox"/> Spectator <input type="checkbox"/> Coach/Assistant Coach <input type="checkbox"/> Support Personnel <input type="checkbox"/> Employee (paid) <input type="checkbox"/> Other <input type="checkbox"/> Official 	
Location/event of alleged incident		
Description of alleged issue		
Nature of complaint (category/basis/grounds) Tick more than one box if necessary	<input type="checkbox"/> Harassment or <input type="checkbox"/> Discrimination <input type="checkbox"/> Sexual/sexist <input type="checkbox"/> Selection dispute <input type="checkbox"/> Coaching methods <input type="checkbox"/> Sexuality <input type="checkbox"/> Personality clash <input type="checkbox"/> Verbal abuse <input type="checkbox"/> Race <input type="checkbox"/> Bullying <input type="checkbox"/> Physical abuse <input type="checkbox"/> Religion <input type="checkbox"/> Disability <input type="checkbox"/> Victimisation <input type="checkbox"/> Pregnancy <input type="checkbox"/> Child Abuse <input type="checkbox"/> Unfair decision <input type="checkbox"/> Other	
Methods (if any) of attempted informal resolution		

Formal resolution procedures followed (outline)	
If investigated:	Finding
If went to hearing tribunal:	Decision Action Recommended
If mediated:	Date of Mediation Both/all parties present Agreement Any other action taken
If went to appeals tribunal:	Decision Action Recommended
Resolution	<input type="checkbox"/> Less than 3 months to resolve <input type="checkbox"/> Between 3 – 8 months to resolve <input type="checkbox"/> More than 8 months to resolve
Completed by	Name: Position: Signature: / /
Signed by:	Complainant: Respondent:

This record and any notes must be kept in a confidential and safe place. If the complaint is of a serious nature, or is escalated to and/or dealt with at the national level, the original must be forwarded to CA and a copy kept at the club/state/district level (whatever level the complaint was made).

Attachment E3: PROCEDURE FOR HANDLING ALLEGATIONS OF CHILD ABUSE

If you believe a child is in immediate danger or a life-threatening situation, contact the Police immediately on 000.

Fact sheets on reporting allegations of child abuse in different states and territories are available at www.playbytherules.net.au.

We will treat any allegation of child abuse or neglect promptly, seriously and with a high degree of sensitivity.

All people working with CA in a paid or unpaid capacity have a duty to report any concerns to the appropriate authorities, following the steps outlined below.

Step 1: Receive the allegation

If a child or young person raises with you an allegation of child abuse or neglect that relates to them or to another child, it is important that you listen, stay calm and be supportive.

Do	Don't
Make sure you are clear about what the child has told you	Do not challenge or undermine the child
Reassure the child that what has occurred is not his or her fault	Do not seek detailed information, ask leading questions or offer an opinion.
Explain that other people may need to be told in order to stop what is happening.	Do not discuss the details with any person other than those detailed in these procedures.
Promptly and accurately record the discussion in writing.	Do not contact the alleged offender.

Step 2: Report the allegation

- Immediately report any allegation of child abuse or neglect, or any situation involving a child at risk of harm, to the police and/or the relevant child protection agency. You may need to make a report to both.
- Contact the relevant child protection agency or police for advice if there is **any** doubt about whether the allegation should be reported.
- If the allegation involves a person to whom this policy applies, then also report the allegation to the CEO of CA or nominee so that he or she can manage the situation.

Step 3: Protect the child and manage the situation

- The CEO or nominee will assess the immediate risks to the child and take interim steps to ensure the child's safety and the safety of any other children. This may include redeploying the alleged offender to a position where there is no unsupervised contact with children, supervising the alleged offender or removing/suspending him or her until any investigations have been concluded. Legal advice should be sought before any interim steps are made if the person is in paid employment with CA.
- The CEO or nominee will consider what services may be most appropriate to support the child and his or her parent/s.
- The CEO or nominee will consider what support services may be appropriate for the alleged offender.

- The CEO or nominee will put in place measures to protect the child and the alleged offender from possible victimisation and gossip.

Step 4: Take internal action

- Up to three different investigations could be undertaken to examine allegations that are made against a person to whom this policy applies, including:
 - a criminal investigation (conducted by the police)
 - a child protection investigation (conducted by the relevant child protection agency)
 - a disciplinary or misconduct inquiry/investigation (conducted by CA).
- Regardless of the findings of the police and/or child protection agency investigations, CA will assess the allegations to decide whether the alleged offender should return to his or her position, be dismissed, be banned or face any other disciplinary action.
- The CEO or nominee will consider all information relevant to the matter – including any findings made by the police, the child protection authority and/or court – and then set out a finding, recommend actions and the rationale for those actions.
- If disciplinary action is recommended, we will follow the procedures set out in Clause 9 of our Member Protection Policy.
- We will provide the relevant government agency with a report of any disciplinary action we take, where this is required.

Contact details for advice or to report an allegation of child abuse

Australian Capital Territory	
ACT Police Non-urgent police assistance Ph: 131 444 www.afp.gov.au	Office for Children, Youth and Family Services www.dhcs.act.gov.au/ocyfs/services/care_and_protection Ph: 1300 556 729
New South Wales	
New South Wales Police Non-urgent police assistance Ph: 131 444 www.police.nsw.gov.au	Department of Community Services www.community.nsw.gov.au Ph: 132 111
Northern Territory	
Northern Territory Police Non-urgent police assistance Ph: 131 444 www.pfes.nt.gov.au	Department of Children and Families www.childrenandfamilies.nt.gov.au Ph: 1800 700 250
Queensland	
Queensland Police Non-urgent police assistance Ph: 131 444 www.police.qld.gov.au	Department of Communities www.communities.qld.gov.au/childsafety Ph: 1800 811 810
South Australia	
South Australia Police Non-urgent police assistance Ph: 131 444 www.sapolice.sa.gov.au	Department for Communities and Social Inclusion www.dcsi.sa.gov.au Ph: 131 478

Tasmania	
Tasmania Police Non-urgent police assistance Ph: 131 444 www.police.tas.gov.au	Department of Health and Human Services www.dhhs.tas.gov.au/children Ph: 1300 737 639
Victoria	
Victoria Police Non-urgent police assistance Ph: (03) 9247 6666 www.police.vic.gov.au	Department of Human Services www.dhs.vic.gov.au Ph: 131 278
Western Australia	
Western Australia Police Non-urgent police assistance Ph: 131 444 www.police.wa.gov.au	Department for Child Protection www.dcp.wa.gov.au Ph: (08) 9222 2555 or 1800 622 258

ATTACHMENT E4: CONFIDENTIAL RECORD OF CHILD ABUSE ALLEGATION

Before completing, ensure the procedures outlined in attachment E3 have been followed and advice has been sought from the relevant government agency and/or police.

Complainant's Name (if other than the child)		Date Formal Complaint Received: / /
Role/status in sport		
Child's name		Age:
Child's address		
Person's reason for suspecting abuse (e.g. observation, injury, disclosure)		
Name of person complained about		
Role/status in sport	<input type="checkbox"/> Administrator (volunteer) <input type="checkbox"/> Parent <input type="checkbox"/> Athlete/player <input type="checkbox"/> Spectator <input type="checkbox"/> Coach/Assistant Coach <input type="checkbox"/> Support Personnel <input type="checkbox"/> Employee (paid) <input type="checkbox"/> Other <input type="checkbox"/> Official	
Witnesses (if more than 3 witnesses, attach details to this form)	Name (1): Contact details: Name (2): Contact details: Name (3): Contact details:	
Interim action (if any) taken (to ensure child's safety and/or to support needs of person complained about)		
Police contacted	Who: When: Advice provided:	
Government agency contacted	Who: When: Advice provided:	

CEO contacted	Who: When:
Police and/or government agency investigation	Finding:
Internal investigation (if any)	Finding:
Action taken	
Completed by	Name: Position: Signature: / /
Signed by	Complainant (if not a child)

This record and any notes must be kept in a confidential and safe place and provided to the relevant authorities (police and government) should they require them.