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**Australian Sports Commission**

## 2012 - MEMBER PROTECTION POLICY

### 1. PURPOSE OF THIS MEMBER PROTECTION POLICY

This Member Protection Policy aims to ensure the core values, good reputation and positive behaviours and attitudes of MA are maintained. It assists us in ensuring that everyone involved in our sport is treated with respect and dignity, is safe and protected from abuse. This policy also ensures that everyone in our sport is aware of their legal and ethical rights and responsibilities. The policy also reflects our support for the principles and values that are the essence of Australian sport - of fairness, respect, responsibility and safety.

The policy contains the procedures that support our commitment to eliminating discrimination, harassment, child abuse and other forms of inappropriate behaviour from our sport. As part of this commitment, MA 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 the MA and has been incorporated into our regulations in accordance with clause 71 of the MA Constitution. The policy starts on January 1, 2007 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 Constitution. Copies of this policy and its attachments can also be obtained from our office, or website at [www.ma.org.au](http://www.ma.org.au).

### 2. WHO THIS MEMBER PROTECTION POLICY APPLIES TO:

This policy applies to the following organisations and individuals:

- MA,
- Members,
- Persons appointed or sitting on Boards, Committees and sub-committees of MA and members,
- Employees, officials and volunteers appointed or elected by MA or members,
- Support personnel such as Managers, physiotherapists, psychologists, masseurs, sport trainers),
- Coaches (including assistant coaches) who:
  - Are appointed and/or employed by MA or members (whether paid or unpaid), or
  - Have an agreement (whether or not in writing) with MA or a member,
- Riders who enter or participate in any activity or event (including camps and training sessions) which are held or sanctioned by MA or a member,
- Any person or organisation, who or which is a member of, or affiliated to, MA, or a member,
- 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 extent that is possible.

This policy will continue to apply to a person even after they have stopped their membership, association or employment with MA if disciplinary action relating to an allegation of child abuse against that person has commenced.

### **3. CODE OF CONDUCT**

MA requires every individual and organisation bound by this policy to:

1. Be ethical, fair and honest in all their dealings with other people and MA,
2. Treat all persons with respect and courtesy and have proper regard for their dignity, rights and obligations,
3. Always place the safety and welfare of children above other considerations,
4. Comply with MA's Constitution, rules and policies including this policy,
5. Operate within the rules and spirit of the sport,
6. Comply with all relevant Australian laws (Federal and State), particularly anti-discrimination and child protection laws,
7. Be responsible & accountable for their conduct, and
8. Abide by the Code of Conduct outlined in Attachment A of this policy.

### **4. ORGANISATIONAL RESPONSIBILITIES**

MA must:

1. Adopt, implement and comply with this policy,
2. Publish, distribute and otherwise promote this policy and the consequences for breaching it,
3. Promote appropriate standards of conduct at all times,
4. Promptly deal with any breaches of, or complaints made under this policy in an impartial, sensitive, fair, timely and confidential manner;
5. Apply this policy consistently without fear or favour,
6. Recognise and enforce any penalty imposed under this policy,
7. Ensure that a copy of this policy is available or accessible to the persons to whom this policy applies,
8. Appoint or have access to appropriately-trained people to receive and handle complaints and allegations and display the names and contact details in a way that is readily accessible, and
9. Monitor and review this policy at least annually.

Members must:

1. Adopt, implement and comply with this policy,
2. Publish, distribute and otherwise promote this policy and the consequences for breaching it,
3. Promote appropriate standards of conduct at all times,
4. Promptly deal with any breaches of or complaints made under this policy in an impartial, sensitive, fair, timely and confidential manner,
5. Apply this policy consistently without fear or favour,
6. Recognise and enforce any penalty imposed under this policy,
7. Comply with their respective State-specific child protection requirements (See Attachment C), and
8. Ensure that a copy of this policy is available or accessible to the persons to whom this policy applies.

## 5. INDIVIDUAL RESPONSIBILITIES

Individuals bound by this policy are responsible for:

1. Making themselves aware of the policy and complying with the standards of conduct outlined in this policy,
2. Consenting to a National Police check if the individual holds or applies for a role that involves direct and unsupervised contact with people under the age of 18 years,
3. Complying with all other requirements of this policy,
4. Co-operating in providing a discrimination, child abuse and harassment free sporting environment,
5. Being aware of State-specific child protection requirements, and
6. Understanding the possible consequences of breaching this policy.

## 6. POLICY POSITION STATEMENTS

### 6.1 Child Protection Policy

Every person and organisation bound by this policy must always place the safety and welfare of children above all other considerations.

MA acknowledges that its staff and volunteers provide a valuable contribution to the positive experiences of its junior participants. MA aims to ensure this continues and to protect the safety and welfare of its junior participants. Several measures will be used to achieve this such as:

1. Prohibiting any form of abuse against children,
2. Providing opportunities for our juniors to contribute to and provide feedback on our program development,
3. Carefully selecting and screening people whose role requires them to have direct and unsupervised contact with children. (See Clause 7),
4. Ensuring our Codes of Conduct, particularly for roles associated with junior sport, are promoted, enforced and reviewed,
5. Providing procedures for raising concerns or complaints (See Clause 10), and
6. Providing education and/or information to those involved in our sport on child abuse and child protection.

MA requires that any child who is abused or anyone who reasonably suspects that a child has been or is being abused by someone within its sport, to report it immediately to the Police or relevant Government agency and the Member Protection Information Officer ("MPIO"). Descriptions of the sorts of activity which may be abuse are in the definitions at Clause 13.

All allegations of child abuse will be dealt with promptly, seriously, sensitively and confidentially. A person will not be victimised for reporting an allegation of child abuse and the privacy of all persons concerned will be respected. MA's procedures for handling allegations of child abuse are outlined in Clause 9.1.

If anyone bound by this policy reasonably suspects that a child is being abused by their parent/s, they are advised to contact the relevant Government department for Youth, Family and Community Services in their State or Territory.

### 6.2 Taking Images of Children

Images of children can be used inappropriately or illegally. MA requires that individuals and associations, 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. MA 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. MA

also requires the privacy of others to be respected and disallows the use of camera phones, videos and cameras inside changing areas, showers and toilets.

If MA uses an image of a child it will not name or identify him/her or use both the first name and surname of the child unless it has first, wherever possible, obtained consent to do so from the parent/guardian. MA will not display personal information such as residential address, email address or telephone numbers without gaining consent from the parent/guardian. MA acknowledges that information about individual's hobbies, likes/dislikes, school, etc can be used as grooming tools by paedophiles or other persons. As such, MA will take reasonable care when publishing such information in a public forum.

MA requires its members, member associations and clubs to do likewise.

### **6.3 Anti-Discrimination and Harassment Policy**

MA aims to provide a sport environment where all those involved in its activities are treated with dignity and respect, and without harassment or discrimination.

MA recognises that all those involved in its activities cannot enjoy themselves, perform to their best, or be effective or fully productive if they are being treated unfairly, discriminated against or harassed because of their age, disability, family responsibilities, gender identity, homosexuality or sexual orientation, irrelevant medical or criminal record, marital status, political belief, pregnancy or breastfeeding, race, religion, sex, social origin and/or Trade Union membership/activity.

MA prohibits all forms of harassment and discrimination based on personal characteristics listed in the definitions. Discrimination and harassment are extremely distressing, offensive, humiliating and/or threatening and create an uncomfortable and unpleasant environment. In most circumstances discrimination and harassment are against the law.

Descriptions of some of the types of behaviour which could be regarded as harassment or discrimination are provided in the Definitions at Clause 13.

If any person feels they are being harassed or discriminated against by another person or organisation bound by this policy, please refer to Clause 16 of the MA constitution.

### **6.4 Sexual Relationships Policy**

MA takes the position that sexual relationships between coaches and adult athletes that they coach should be avoided. MA takes the view that such relationships, while not necessarily constituting unlawful harassment, can have harmful effects on the individual athlete involved, on other athletes and coaches, and on the sport's public image.

Such relationships tend to be intentionally or unintentionally exploitative because there is usually a disparity between coaches and athletes in terms of authority, power, maturity, status and dependence. MA's policy position is similar to other organisations who disallow professionals such as teachers, doctors and counsellors to have sexual relationships with their clients or students.

Should a sexual relationship develop between an athlete and coach, MA will investigate whether any action against the coach is necessary. Factors that may be relevant to consider 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.

If an athlete attempts to initiate an intimate sexual relationship, the coach must take personal responsibility for discouraging such approaches, explaining the ethical basis for such action. The coach may wish to approach MA or a MPIO if they feel harassed.

The law is always the minimum standard for behaviour within MA and therefore sex with a child is a criminal offence.

## 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. MA will not tolerate any discrimination or harassment against pregnant women.

Motorcycling is a dangerous sport in which serious physical injury and even death are inherent risks.

Pregnant women should be aware that their own health and wellbeing, and that of their unborn children, should be of utmost importance when making decisions about the way they participate in motorcycle sport.

MA recommends that pregnant women wanting to participate in motorcycle sport consult with medical professionals, make themselves aware of the facts about pregnancy in motorcycle sport, and ensure that they make informed decisions about participation. MA strongly recommends that a pregnant woman consult closely with her doctor should she decide to continue to participate whilst pregnant.

MA will only require pregnant women to sign a disclaimer if we require other participants to sign one in similar circumstances. MA will not require women to undertake a pregnancy test.

## 6.6 Gender Identity Policy

MA is committed to providing an inclusive sporting environment where transgender or transsexual people involved in its activities are able to contribute and participate. MA expects everyone who is bound by this policy to treat people who identify as transgender or transsexual 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 against a person who identifies as transgender or transsexual or who is thought to be transgender or transsexual.

Descriptions of some of the types of behaviour which could be regarded as transgender or transsexual discrimination or harassment are provided in the Definitions at Clause 13.

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 Clause 10 of this policy. This will explain what to do about the behaviour and how MA will deal with the problem.

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

MA 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, MA will seek advice on the application of those laws in the particular circumstances.

MA is aware that the International Olympic Committee (IOC) has established criteria for selection and participation in the Olympic Games. Where a transgender or transsexual 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 MA.

MA notes that drug testing procedures and prohibitions also apply to people who identify as transgender or transsexual. A person receiving treatment involving a prohibited substance or method, as described on the WADA prohibited list, should apply for a therapeutic use exemption.

## 6.7 Alcohol Policy

MA recommends that every person and organisation bound by this policy adhere to strict guidelines regarding the responsible service and consumption of alcohol in accordance with all local, state and territory or federal laws, regulations and codes. Responsible service of alcohol should comply with individual licencing requirements and should protect the safety and wellbeing of all members.

## 6.8 Smoking Policy

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

- There is to be no smoking in the pit area, grand stands and/or high volume spectator areas
- Buildings shall remain smoke-free zones
- Members and affiliated Clubs should adhere to all applicable smoking laws, regulations and codes in relation to designated outdoor smoking areas to protect the safety and wellbeing of participants.

## 6.9 Cyber Bullying/Safety

Bullying and harassment in all forms is regarded as unacceptable in motorcycle sport. Given the emergence of new telephone and internet social networks, the opportunity for unwanted and improper comments and statements has dramatically increased. Messages or statements made in these ways using these means of communication are largely instantaneous, and can easily be abused. Others may also manipulate a person by encouraging a statement to be made on twitter or facebook, for example, when the writer may be upset or vulnerable. Bullying has the potential to cause great anxiety and distress to the person who has been the target of any comments or statements. In some cases, bullying is regarded as a criminal offence punishable by imprisonment, amongst other things. Frustration at an official, riders, team member, coach, or sporting body should never be communicated on social network channels, but rather by way of reasoned and logical verbal and written statements and where appropriate, complaints, to the relevant controlling club, league or peak sporting body.

## 6.10 Social Networking Websites Policy

MA 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 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).

Caution recommendations:

- Do not include personal information of yourself or others in social media channels;
- Do not use offensive, provocative or hateful language;
- Use your 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);
- Never post a photo of a child or young person without permission from the child's parent or guardian (see taking images of children policy)
- Always ask for an adults permission before posting their pictures 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. MEMBER PROTECTION POLICY - SCREENING**

MA will implement screening procedures for people who currently occupy or who apply for any work (paid or voluntary) that involves direct and unsupervised contact with people under the age of 18 years.

Screening under this policy is not a replacement for any other procedure required by law. The requirements under the law of each State and Territory are set out in Attachment C and MA and member organisations must comply with these requirements. If State or Territory legislation sets an equivalent or higher standard of screening, the requirement to screen people need not be followed.

Under this policy MA and Members are required to comply with the screening process as set out in Attachment C(1) or the Working with Children Check (WWCC) laws in the relevant State or Territory as set out in Attachment C(2).

## **8. MEMBER PROTECTION INFORMATION OFFICERS (MPIOs)**

MA and members shall be responsible for appointing such number of MPIOs as they consider appropriate. It is the role of a MPIO to:

1. Provide a point of contact for persons wishing to make a complaint under this policy,
2. Inform complainants of the options and procedures for resolution of complaints under this policy;
3. Refer complaints or allegations of breaches of this policy to the organisation which appointed him/her; and
4. Carry out the functions assigned to MPIOs throughout this policy.

## **9. CHILD ABUSE PROCEDURES**

An allegation of child abuse is a very serious matter and must be handled with a high degree of sensitivity.

The following is a basic outline of the key processes to follow. More information can be obtained from the relevant State or Territory Government agency.

1. Any complaints, concerns or allegations of child abuse should be made or referred to a MPIO who should obtain and clarify basic details (if possible) but should not elicit detailed information about the abuse. The initial response of the person that receives the complaint from the child (or person on behalf of the child) is crucial to the well-being of the child. It is important for the person receiving the information to:
  - Listen to, be supportive and do not dispute what the child says,
  - Reassure the child that what has occurred is not the fault of the child,
  - Ensure the child is safe,
  - Be honest with the child and explain that other people may need to be told in order to stop what is happening, and
  - Ensure that what the child says is quite clear but do not elicit detailed information about the abuse. You should avoid suggestive or leading questions.
2. Any individual or organisation to which this policy applies, should immediately report any incident of a serious or a criminal nature to the police and other appropriate authority. If the allegation is of a criminal nature, report the incident immediately to the police. If the allegation involves a child at risk of harm you may need to report to both the police and the relevant government agency.
3. The MPIO should assess the risks and take interim action to ensure the child's/children's safety. Some options could include redeployment of the alleged offender to a non-child related position, supervision of the alleged offender or removal/suspension from their duties until the allegations are finally determined. The support needs of the person against whom the complaint is made should also be addressed.

4. Any further investigation by MA into allegations of a more serious or criminal nature should only be carried out upon advice from the Police and relevant Government agency.
5. For allegations of a less serious nature (e.g. verbal abuse) and independent person with appropriate expertise shall be appointed to make contact and meet with each of the people involved to obtain details of the allegation. Strict confidentiality, impartiality, fairness and due process must be maintained at all times.
6. If disciplinary action is to be taken, follow the procedures outlined in Clause 12 of this policy.

## **10. COMPLAINTS PROCEDURE**

MA aims to provide an easy to use, confidential and trustworthy procedure for complaints based on the principles of natural justice. Any person may report a complaint (complainant) about a person/s or organisation bound by this policy if they reasonably believe that a person/s or a sporting organisation has breached this policy. A complaint should be reported to a MPIO.

A complaint may be reported as an informal or formal complaint. The complainant decides whether the complaint will be dealt with informally or formally unless the MPIO considers that the complaint falls outside the parameters of this policy and would be better dealt with another way.

All complaints will be dealt with promptly, seriously, sensitively and confidentially.

### **10.1 Informal Complaint Resolution Procedure**

If a complainant makes an approach to MA, a full member, a club or a person within these organisations, it is desirable that the complainant also seeks the advice of a MPIO who will:

1. Listen to the complainant in an empathetic, supportive manner;
2. Inform the complainant about their possible options;
3. Act as a support person for the complainant, including supporting them through any mediation process if the complainant wishes;
4. Keep the matter confidential;
5. Inform the relevant government authority, if required by law; and
6. Consult by seeking advice from the relevant state or territory authority that administers the relevant law.

A complainant may seek to try and resolve the complaint by mediation in accordance with Clause 10.3.

If, following this information complaint procedure, the complaint is not resolved informally, the complainant may make a formal complaint to the CEO of MA. Nothing in this policy prevents the complainant taking action under State or Federal legislation. It is not necessary to provide a written complaint under this clause.

### **10.2 Vexatious Complaints & Victimisation**

MA aims to ensure our complaints procedure has integrity and is free of unfair repercussions or victimisation. If at any point in the complaint process the MPIO considers that a complainant has knowingly made an untrue complaint or the complaint is vexatious or malicious, the matter may be referred to the Board or a judicial committee appointed by the Board for appropriate action which may include disciplinary action against the complainant.

MA will also take all necessary steps to make sure that people involved in a complaint are not victimised by anyone for coming forward with a complaint or for helping to sort it out. Disciplinary measures will be imposed on anyone who victimises another person for making a complaint.

### **10.3 Mediation**

MA aims to sort out complaints with the minimum of fuss wherever possible. In many cases, complaints can be sorted out 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 a mediator. Lawyers are not able to negotiate on behalf of the complainant and/or respondent.

Mediation may occur either before or after an investigation of a complaint. If a complainant wishes to try and resolve the complaint with the assistance of a mediator, the MPIO will, in consultation with the complainant, arrange for a mediator to mediate the complaint.

### **10.4 Tribunals**

A hearings tribunal may be formed to hear a formal complaint that has been referred by MPIO, or an alleged breach of the policy. MA's tribunal hearings procedure is outlined in clause 16 of the MA constitution and in Chapter 6 of these GCRs.

## **11. BREACHES OF THIS MEMBER PROTECTION POLICY**

It is a breach of this policy for any person or organisation to which this policy applies, to have been found to have:

1. Done anything contrary to this policy,
2. Breached the code of conduct,
3. Brought MA into disrepute,
4. Failed to follow MA policies and procedures for the protection, safety and welfare of children,
5. Appointed or continued to appoint a person to a role that involves working with children and young people contrary to this policy,
6. Discriminated against or harassed any person,
7. Victimised another person for reporting a complaint,
8. Engaged in a sexually inappropriate relationship with a person that the person supervises, or has influence, authority or power over,
9. Disclosed to any unauthorised person or organisation any MA information that is of a private, confidential or privileged nature,
10. Made a complaint they knew to be untrue, vexatious, malicious or improper,
11. Failed to comply with a penalty imposed after a finding that the individual or organisation has breached this policy,  
or
12. Failed to comply with a direction given to the individual or organisation during the discipline process.

## **12. FORMS OF DISCIPLINE**

If an individual or organisation to which this policy applies breaches this policy, 1 or more forms of discipline may be imposed. These may include making a verbal or written apology, paying a fine, being suspended or de-registered or having a person's appointment or employment terminated. More information on the range of disciplinary measures and the factors that will be considered before imposing discipline is included in the MA Constitution and these GCRs.

## **13. DEFINITIONS**

This Clause 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.

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

**Child abuse** relates to 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. Children may be harmed by both 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; giving bad nutritional advice; 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 10 of this policy.

**Complainant** means the person making a complaint.

**Constitution** means the Constitution of MA in force from time to time.

**Discrimination** means treating or proposing to treat someone less favourably than someone else because of a particular characteristic in the same or similar circumstances in certain areas of public life (this is direct discrimination). The law also covers indirect discrimination. This is imposing or intending to impose an unreasonable requirement, condition or practice that is the same for everyone, but which has an unequal or disproportional effect on individuals or groups with particular characteristics. The characteristics covered by discrimination law across Australia are:

- Age,
- Disability,
- Family/carer responsibilities,
- Gender identity/transgender status,
- Homosexuality and sexual orientation,
- Irrelevant medical record,
- Irrelevant criminal record,
- Physical features,
- Political belief/activity,
- Pregnancy and breastfeeding,
- Race,
- Religious belief/activity,
- Sex or gender,
- Social origin,
- Trade Union membership/activity,
- Some States & Territories include additional characteristics.

Discrimination is not permitted in the areas of employment (including volunteer and unpaid employment); the provision of goods and services; the selection or otherwise of any person for competition or a team (domestic or international); the entry or otherwise of any rider or other person to any competition; obtaining or retaining membership of an organisation (including the rights and privileges of membership).

Requesting, assisting, instructing, inducing or encouraging another person to engage in discrimination may also be discriminatory conduct.

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

Unlawful harassment includes the above but is either sexual or targets a person because of their race, sex, pregnancy, marital status, sexuality or other characteristic (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 or repeated. It may be explicit or implicit, verbal or non-verbal.

Discrimination and harassment are not permitted in the areas of employment (including volunteer and unpaid employment); the provision of 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 rider or other person to any competition; 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 females only who are 12 years of age or over 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 sporting activity.

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

Whether or not the behaviour is harassment is determined from the point of view of the person receiving the harassment. The basic rule is if someone else finds it harassing then it could be harassment. Harassment may be a single incident or repeated. It may be explicit or implicit, verbal or non-verbal.

It is also a breach of discrimination law to victimise a person who is involved in making a complaint of discrimination or harassment. For example, a rider is ostracised by her male coach for complaining about his sexist behaviour to another club official or for supporting another rider who has made such a complaint.

Public acts of racial hatred which are reasonably likely in the circumstances 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 state and territories also prohibit public acts that vilify on other grounds such as homosexuality, gender identity, hiv/aids, religion and disability - see vilification.

**Junior** means a person under the age of eighteen (18) years who is participating in an activity of MA.

**Mediator** means a person appointed to mediate complaints made under this policy. It is preferable that the mediator has relevant skills, qualifications and/or training in mediation.

**Member** means any member recognised as such under the MA constitution.

**Member protection** is a term used by the Australian sport industry to describe the practices and procedures that protect members – both individual members such as riders, coaches and officials, and the member organisations such as clubs, full members, other affiliated associations and the national body. Member protection involves:

- Protecting those that are involved in sport activities from harassment, abuse, discrimination and other forms of inappropriate behaviour
- Adopting appropriate measures to ensure the right people are involved in an organisation, particularly in relation to those involved with juniors, and
- Providing education.

**Member Protection Information Officer (MPIO)** means a person appointed under Clause 8.1 Of this policy trained to be the first point of contact for a person reporting a complaint under, or a breach of, this policy. The MPIO provides confidential information and moral support to the person with the concern or who is alleging harassment or a breach of this policy. They help the complainant deal with any emotions they may have about what has happened and operate as a sounding board as the complainant decides what they want to do. The MPIO may accompany the complainant in anything they decide to do, if it feels appropriate and they are happy to do it.

**Natural justice** incorporates the following principles:

- A person who is the subject of a complaint must be fully informed of the allegations against them,
- A person who is the subject of a complaint must be given full opportunity to respond to the allegations and raise any matters in their own defence,
- All parties need to be heard and all relevant submissions considered,
- Irrelevant matters should not be taken into account,
- No person may judge their own case,
- The decision maker/s must be unbiased, fair & just,
- The penalties imposed must not outweigh the 'crime'.

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

**Policy and this policy** mean this Member Protection Policy.

**Respondent** means the person who is being complained about.

**Sexual harassment** means unwanted, unwelcome or uninvited behaviour of a sexual nature which makes 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 & 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 a complaint under government legislation (e.g. Anti-discrimination) or under this policy, or for supporting another person to make a complaint.

**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.

**Young people/person** means people in the 13 – 18 year age group.

## ATTACHMENT C - CHILD PROTECTION REQUIREMENTS

### SCREENING/WORKING WITH CHILDREN CHECK REQUIREMENTS

#### BACKGROUND

Child protection is about keeping children safe from harm/abuse. Child abuse is illegal, and all states and territories have their own systems and laws that cover screening and/or the reporting and investigation of cases of child abuse.

Working with Children Check (WWCC) laws aim to prevent people who pose a risk from working with children as paid employees or volunteers. In New South Wales, Queensland, Western Australia, Victoria Northern Territory and South Australian laws require individuals involved in areas such as sport and recreation to undertake a check to determine their suitability to work (in a paid or volunteer capacity) with children. This is done by checking certain criminal history and other matters. In some states this also involves reviewing relevant findings from disciplinary proceedings. There are also requirements placed on organisations.

The Australian Capital Territory and Tasmania are currently reviewing their screening laws. New requirements and amendments will be added to this policy as they are introduced. There is no current screening process or formal legislation, however, individual employers or sporting organisations may require police checks at their discretion.

Please be aware that state and territory WWCC requirements may also apply to individuals who visit states with screening laws. For example, if a state association or club takes players U18 into New South Wales for training camps, competition or other activities, those travelling with the teams must comply with NSW law.

The state WWCC requirements apply regardless of MA's Member Protection Policy or any similar policy adopted by a member organisation.

The following attachments provide:

- summary information on state and territory WWCC requirements and where to obtain more information and relevant forms
- our Member Protection Declaration (for all states/territories except NSW who must complete a Prohibited Employment Declaration provided by the NSW Commission for Children and Young People)
- our screening requirements for people residing in ACT and Tasmania

**The MA Member Protection Declaration is provided at Attachment B.**

#### C(1) - SCREENING REQUIREMENTS

*For States/Territories without Working With Children Checks such as ACT and Tasmania*

This attachment sets out the screening process for people in MA who work, coach, supervise or have regular unsupervised contact with people under the age of 18 years.

MA will, and also requires state associations and clubs to:

1. Identify positions (paid or voluntary) that involve working, coaching, supervising or regular unsupervised contact with people under the age of 18 years.

2. Obtain a completed Member Protection Declaration (MPD) (Attachment B) from all people who are identified in the above step and keep it in a secure place.
3. Provide an opportunity for a person to give an explanation if a MPD is not provided or it reveals that the person does not satisfactorily meet any of the clauses in the MPD. MA (or the state association or club) will then make an assessment as to whether the person may be unsuitable to work with people under the age of 18 years. If unsatisfied, it will not appoint the person to the role/position.
4. Where possible, check a person's referees (verbal or written) about his/her suitability for the role.
5. Ask the people identified in step 1 (including people applying for a position and people who currently occupy a position that involves direct and unsupervised contact with people under the age of 18 years) to sign a consent form for a national police check.
6. Request (or ask the person to request) a national 'Part Exclusion' police check from the relevant police jurisdiction. This check excludes irrelevant records. If the police check indicates a relevant offence, MA (or the member organisation) will provide an opportunity for the person to give an explanation, and then it will make an assessment as to whether the person may pose a risk to or be unsuitable to work with people under the age of 18 years. If MA (or the member organisation) remains unsatisfied then it will not appoint the person to the role.
7. Make an assessment as to whether the person may be unsuitable to work with people under the age of 18 years if the person does not agree to a national police check after explaining why it is a requirement under MA's policy. If unsatisfied, MA (or the member organisation) will:
  - (a) in the case of an existing employee/volunteer, transfer the person to another role which does not require them to work directly and unsupervised with people under the age of 18 years. If this is not possible, then end the appointment; or
  - (b) in the case of someone applying for the position/role, not appoint them.
8. Decide whether to offer the person the position taking into account the result of the police check and any other information MA (or the member organisation) has available to it. Where it is not practical to complete the police check prior to the person commencing in the position, MA (or the member organisation) will complete the check as soon as possible, and if necessary, act immediately on the outcome.
9. Protect the privacy of any person who is checked and maintain confidentiality of any information obtained through the checking process.
10. Return information collected during screening (such as a completed MPD form, police records and referee reports) to the relevant person if that person is not appointed to the position, or otherwise destroy such records within 28 days of the date of the decision or the expiry of any appeal period, unless within that time the person requests that the documents be returned to him/her. For appointed persons, information will be kept on file in a secure location.

Where a national police check is obtained under this member protection policy, another organisation which is also required to screen may obtain a copy of the national police check provided that the consent of the relevant person is obtained and the national police check was performed in the immediately preceding two years.

## C(2) – WORKING WITH CHILDREN CHILD PROTECTION REQUIREMENTS

The following information was updated in April 2011. It is subject to change at any time.

### 1. QUEENSLAND

A person will need a Working with Children Check, also known as the blue card, if they propose to work in a paid or voluntary capacity or to carry on a business in a child-related area regulated by the Commission for Children and Young People and Child Guardian Act 2000. Once a person is checked and approved they are issued with a "blue card." Volunteers and paid employees employed in sporting organisations generally fall under the 'churches, clubs and associations' category of regulated employment. Volunteers and paid employees employed in private businesses may fall under the 'sport and active recreation' category of regulated employment. The check is a detailed national criminal history check including charges and investigations relating to children.

People such as those with previous convictions involving children are disqualified from applying for or renewing a blue card (refer to website below for details).

A blue card remains current for two years. Existing card holders will be notified by the Queensland Commission for Children and Young People and Child Guardian before their card expires.

In addition to obligations regarding the blue card, employers must develop and implement a written child protection risk management strategy and review it each year.

For more information on the blue card, including current forms: [www.ccyg.qld.gov.au](http://www.ccyg.qld.gov.au) or call 1800 113 611

### 2. NEW SOUTH WALES

All organisations within NSW that employ people in child-related employment (in a paid or volunteer capacity) must meet the requirements of the Working with Children Check (WWCC). Child related employment is work which primarily involves direct unsupervised contact with children. The WWCC involves the following:

1. Ensuring all paid employees in a child-related position sign an Applicant Declaration and Consent Form which declares they are not prohibited from working with children.
2. Submitting all applicants for paid employment to NSW Commission for Children and Young People for a Working With Children Background Check.
3. All volunteers and students on placement whose work is categorised as 'child-related employment' must sign a Volunteer/Student Declaration; except those volunteers who mentor disadvantaged children in family-like relationships, or provide intimate personal care (e.g. bathing or toileting) for disabled children. These volunteers require a Working With Children Background Check. (see 1. and 2. above)
4. Reporting relevant employment proceedings for any paid and unpaid employees to the Commission for Children and Young People. A relevant employment proceeding involves any reportable conduct committed outside of work as well as in the workplace with or in the presence of a children.

Sporting organisations are responsible for managing the WWCC process. Individuals cannot apply for a WWCC directly. Sporting organisations should register with the NSW Commission for Children and Young People providing a contact who will receive the information on the background checks.

A WWCC is valid for employment in that position within the organisation. Short-term employees (where that person is being employed for periods of less than six months and returning for short periods throughout a 12 month period) only need to be checked once every 12 months.

For more information, including the required forms visit: <https://check.kids.nsw.gov.au/index.php> or contact 02 9286 7219 during business hours.

### 3. WESTERN AUSTRALIA

The Working with Children Check (WWC Check) is a compulsory and rigorous criminal record check for certain people who carry out 'child-related work' in WA. A person is in 'child-related work' if the usual duties of their work involves, or is likely to involve contact with a child in connection with specified categories of work (see the website below for further details) It includes child-related work carried out by paid employees, volunteers, unpaid people and the self-employed. Parents volunteering in connection with their child's activity are exempt (although this does not apply to overnight camps); however they should still be required to complete the non-WWC Check screening process. There are other exemptions, for example volunteers under 18 years old. Further details about exemptions can be found on the website below. Only those in child-related work under the Act may apply.

Applicants will be issued with either:

- An Assessment Notice in the form of a WWC Card enabling them to be in all types of child-related work for three years unless there are new offences of concern.
- An Interim Negative Notice, which prohibits them from child-related work until a final decision is made on their application.
- A Negative Notice, which prohibits them from child-related work.

There are set obligations and strong penalties for non-compliance including for employers and volunteer co-coordinators. For more information: [www.checkwwc.wa.gov.au](http://www.checkwwc.wa.gov.au) or call 1800 883 979 (toll free)

### 4. VICTORIA

The Working with Children (WWC) Check creates a mandatory minimum checking standard across Victoria. The Working with Children Act 2005 requires that some people who work or volunteer in child-related work require a WWC Check. The check involves a national police records check and a review of relevant findings from prescribed professional disciplinary bodies (currently only the Victorian Institute of Teaching). There is an exemption for volunteers whose own children are involved in the particular activity; however they should still be required to complete the screening process.

A person who has no criminal or professional disciplinary history will be granted an assessment notice. This notice will entitle the person to undertake child-related work in Victoria and is valid for five years (unless revoked). A person deemed unsuitable to work or volunteer with children will be given a negative notice and cannot work in child-related work in Victoria.

For more information: [www.justice.vic.gov.au/workingwithchildren](http://www.justice.vic.gov.au/workingwithchildren) or call 1300 652 879

### 5. SOUTH AUSTRALIA

There are provisions under the Children's Protection (Miscellaneous) Amendment Act 2005 that apply to non-government and volunteer organisations that are entrusted with the care of children or who regularly come into contact with children. Part of the Government regulations are 'Seven Principles of Good Practice' which clubs and organisations are expected to adopt as proactive and preventative strategies. These principles are to help prevent and minimise opportunities for abuse and to appropriately respond when abuse occurs or is suspected.

The principles can be assessed at the following link:

[http://www.recsport.sa.gov.au/training-development/documents/Keep\\_Children\\_Safe\\_Guidelines.pdf](http://www.recsport.sa.gov.au/training-development/documents/Keep_Children_Safe_Guidelines.pdf)

Criminal history assessments (checks) are likely to be mandatory for most positions in sporting organisations from 2010/2011. Some exemptions could apply.

Staff and volunteers who work with children are mandated notifiers and have a legal obligation to report any suspected child abuse and/or neglect.

For more information: <http://www.dfc.sa.gov.au/pub/Default.aspx?tabid=281>

## 6. NORTHERN TERRITORY

From January 2010, all persons employed in child related work, either paid or as a volunteer, must hold a valid clearance notice issued by the SAFE NT Screening Authority. There are penalties for failure to comply. Sports coaches, trainers, team administrators, officials and volunteers of Sporting Organisations that deal with children are included under the legislative requirements.

Clearance notices are valid for two years from date of issue unless revoked, and are transferable within employment fields. As a part of the assessment process, SAFE NT will consider the applicant's criminal history record and other relevant information.

For more information contact 1800 SAFE NT (1800 723 368)

### C(3) CHILD PROTECTION REPORTING REQUIREMENT AND DOCUMENTS

The following information was updated in November 2011. It is subject to change at any time.

#### 1. QUEENSLAND

If you have a reason to suspect a child in Queensland is experiencing harm, or is at risk of experiencing harm, you need to contact Child Safety Services:

- During normal business hours - contact the Regional Intake Service.
- After hours and on weekends - contact the Child Safety After Hours Service Centre on 1800 177 135 or (07) 3235 9999. The service operates 24 hours a day, seven days a week.

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

Queensland Police Service has a number of child protection and investigation units across Queensland. To contact the Queensland Police Service, contact the Police District Communication Centre nearest you.

If you aren't sure who to call, or for assistance to locate your nearest child safety service centre, contact Child Safety Services' Enquiries Unit on 1800 811 810. Child safety service centres have professionally trained child protection staff who are skilled in dealing with information about harm or risk of harm to children.

#### 2. NEW SOUTH WALES

Anyone who suspects, on reasonable grounds, that a child or young person is at risk of being neglected or physically, sexually or emotionally abused, should report it to Community Services.

Reasonable grounds is the standard that reporters must use in deciding whether or not to report to Community Services. It does not mean that reporters are required to confirm their suspicions or provide solid proof before making a report. A useful rule of thumb is to consider whether another person, when faced with similar information, would also draw the same conclusion.

You can make a report by phoning the Child Protection Helpline on 132 111 (TTY 1800 212 936) for the cost of a local call, 24 hours a day, 7 days a week.

### 3. WESTERN AUSTRALIA

If you are concerned about a child's wellbeing, contact the Department for Child Protection's district office closest to where the child lives or the Crisis Care Unit after hours.

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

If you make a report or disclose relevant information to the Department for Child Protection, there is legislative protection for the notifier. These are:

- Protection of identity - with some exceptions, your identity must not be disclosed without your consent. For further information, refer to section 240 of the Children and Community Services Act 2004
- Legal protection – you are not subject to legal liability under State law providing the information is provided in good faith.
- Professional protection – authorised disclosure of information cannot be held to constitute unprofessional conduct or a breach of professional ethics. As a result you cannot be disciplined by your professional body or incur any formal professional negative consequences at your workplace.

When you contact the Department, the Duty Officer will gather and record information that you provide and decide how best to respond. The type of information that the officer will gather includes:

- details about the child/young person and family
- the reasons you are concerned
- the immediate risk to the child
- whether or not the child or family has support
- what may need to happen to make the child safe
- your contact details, so that the officer can call you to obtain further information if required or to provide feedback.

You do not need to have all the details about the child or family when you contact the Department for Child Protection

For more information: <http://www.dcp.wa.gov.au/ChildProtection/>

### 4. VICTORIA

Some professionals such as doctors, nurses, police and school teachers are legally obliged to report suspected child abuse. In addition, any person who believes on reasonable grounds that a child needs protection can make a report to the Victorian Child Protection Service. It is the Child Protection worker's job to assess and, where necessary, further investigate if a child or young person is at risk of harm.

For more information: <http://www.dhs.vic.gov.au/>

## 5. SOUTH AUSTRALIA

Staff and volunteers who work with children are mandated notifiers and have a legal obligation to report any suspicion of child abuse and/or neglect that they may form in the course of their employment or volunteer activity based on reasonable grounds. This obligation extends to persons holding a management position whose duties include direct responsibility for, or direct supervision of the provision of services to children.

Reports are made to the CHILD ABUSE HELP LINE 13 14 78

A reasonable suspicion must be based on facts, for example:

- A disclosure of abuse by a child
- Professional judgement, based on the notifier's experience and observations

The organisation has an obligation to make each affected person aware of this legal obligation.

There is no obligation that recreation or sporting organisations require mandated reporters to undertake formal external training in the recognition of child abuse.

The law also stipulates that no person shall threaten or intimidate, or cause damage, loss or disadvantage to another person because that person has made a notification or proposes to make a notification pursuant to the Children's Protection Act 1993.

For more information: [www.dcsi.sa.gov.au](http://www.dcsi.sa.gov.au)

## 6. NORTHERN TERRITORY

In the Northern Territory any person who believes that a child is being, or has been, abused or neglected is required by law to report their concerns.

Reports should be made to the 24 hour Centralised Intake Service by using the free-call phone number 1800 700 250.

Remember, you do not need to prove abuse or neglect, you need only report your concerns. The Care and Protection of Children Act provides legal protection against civil or criminal liability for people who make reports in good faith.

The Act also makes it clear that making a report does not breach any requirements of confidentiality or professional ethics.

For more information: [http://www.childrenandfamilies.nt.gov.au/Child\\_Protection/](http://www.childrenandfamilies.nt.gov.au/Child_Protection/)

## 7. AUSTRALIAN CAPITAL TERRITORY

Care and Protection services is responsible for facilitating coordination across government for the care and protection of children and young people. Care and Protection services and an After Hours service, provide a continuum of service delivery to children and young people considered 'at risk' of serious harm.

Care and Protection Services is authorised to collect personal information under the Children and Young People Act 2008 to ensure the safety and wellbeing of children and young people in the ACT. The information collected may be disclosed to government and non-government agencies (including but not limited to the Australian Federal Police, ACT Children's Court, the Family Court, Health and Education Directorates and community organisations) to assist in ensuring the safety and wellbeing of children and young people. Information identifying a person making a child protection report is treated with the highest confidentiality and will not be disclosed except where a Court orders the disclosure.

For more information: [http://www.dhcs.act.gov.au/ocyfs/services/care\\_and\\_protection](http://www.dhcs.act.gov.au/ocyfs/services/care_and_protection)

## 8. TASMANIA

Most professionals who provide services to children and families in Tasmania are 'mandatory reporters' of child abuse, under the Children, Young Persons and their Families Act 1997. This includes, but is not limited to, the following groups:

- DHHS employees
- Child Care providers
- Dentists, dental therapists or dental hygienists
- Police officers and probation officers
- Psychologists
- Registered medical practitioners and nurses
- School principals and teachers
- Volunteers and employees of any organisation that provides health, welfare, education, care or residential services and which receives government funding.

To make an urgent notification about abuse or neglect to Child Protection Services, please ring 1300 737 639 at any time.

Child Protection Services prefer to talk to a notifier in order to aid them in gathering information. However, if it is after hours and you are a mandatory reporter, an online notification can also be made.

For more information: [http://www.dhhs.tas.gov.au/children/child\\_protection\\_services](http://www.dhhs.tas.gov.au/children/child_protection_services)

