



AUSTRALIAN RUGBY UNION LIMITED  
(ACN 002 898 544)

## **MEMBER PROTECTION POLICY**

## STATEMENT FROM CHIEF EXECUTIVE OFFICER

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This Member Protection Policy aims to ensure the Australian Rugby Union's core values, good reputation and positive behaviours and attitudes are maintained. It reiterates the ARU's commitment to ensuring that every person involved in rugby is treated with respect and dignity, and is safe and protected from abuse. Through this Policy, the ARU aims to ensure that everyone involved in Rugby is aware of their legal and ethical rights and responsibilities.

This Policy also provides the procedures that support the ARU's commitment to eliminating discrimination, harassment, child abuse and other forms of inappropriate behaviour from rugby.

The ARU is committed to providing an environment safe for children, which is free from harassment and abuse for everyone, and promotes respectful and positive behaviour and values. This Policy, along with the ARU's Code of Conduct, form the basis of appropriate and ethical conduct which everyone involved in rugby must abide by.

This Member Protection Policy is an essential part of the ARU's proactive and preventative approach to tackling inappropriate behaviour.

**Bill Pulver**  
**Chief Executive Officer**  
**Australian Rugby Union Limited**

## REVIEW HISTORY OF ARU MEMBER PROTECTION POLICY

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<b>Version</b>	<b>Date reviewed</b>	<b>Contents</b>	<b>Date endorsed</b>
<i>One</i>	<i>February 2008</i>	<i>New Policy</i>	<i>December 2007 (ARU Board)</i>
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## **PART A: MEMBER PROTECTION POLICY**

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### **1. Australian Rugby Union Core Values**

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Professionalism, teamwork, integrity, pride, energy and innovation form Australian Rugby Union's (**ARU**) core values.

### **2. Purpose of this Policy**

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This Member Protection Policy (**Policy**) aims to maintain ethical and informed decision making and responsible behaviours within rugby. It outlines our commitment to a person's right to be treated with respect and dignity and to be safe and protected from abuse. This Policy informs everyone involved in rugby of his or her legal and ethical rights and responsibilities and the standards of behaviour that are required.

The Policy attachments provide the procedures that support the ARU's commitment to eliminating Discrimination, Harassment, Child Abuse and other forms of inappropriate behaviour from rugby. As part of this commitment, the Rugby Bodies 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 ARU and is effective immediately and will operate until replaced. This Policy and/or its attachments may be amended from time to time by the ARU. Copies of the Policy and its attachments can be obtained from the ARU's website [www.rugby.com.au/policies](http://www.rugby.com.au/policies).

Definitions used in this Policy are set out at clause 11.

### **3. Who this Policy Applies To**

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This Policy applies to the following, whether they are in a paid or unpaid/voluntary capacity:

- Individuals sitting on boards, committees and sub-committees;
- Employees and volunteers;
- Support personnel (e.g. managers, physiotherapists, psychologists, masseurs, sport trainers);
- Coaches and assistant coaches;
- Athletes and players;
- Referees and other officials;
- Members, including life members;
- Member Unions;
- Affiliated Unions and associated organisations;
- Rugby Bodies;
- Any other person or organisation that is a member of or affiliated to any Rugby Body;
- 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 the Rugby Body if disciplinary action has commenced.

#### **4. Code Of Behaviour**

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The ARU requires every individual and organisation bound by this Policy to:

- 4.1 Be ethical, fair and honest in all their dealings with other people, organisations and Rugby Bodies including the ARU;
- 4.2 Treat all persons with respect and courtesy and have proper regard for their dignity, rights and obligations;
- 4.3 Always place the safety and welfare of children above other considerations;
- 4.4 Comply with the ARU's by-laws and policies (including the ARU's Code of Conduct By-Law and this Member Protection Policy) and the IRB Laws of the Game and Regulations;
- 4.5 Operate within the spirit of the sport;
- 4.6 Comply with all relevant Australian laws (Federal and State), particularly anti-discrimination and child protection laws; and
- 4.7 Be responsible and accountable for their conduct.

#### **5. Organisational Responsibilities**

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The Rugby Bodies must:

- 5.1 Adopt, implement and comply with this Policy;
- 5.2 Publish, distribute and otherwise promote this Policy and the consequences for breaching it;
- 5.3 Promote appropriate standards of conduct at all times;
- 5.4 Promptly deal with any breaches of or complaints made under this Policy in an impartial, sensitive, fair, timely and confidential manner;
- 5.5 Apply this Policy consistently without fear or favour;
- 5.6 Recognise and enforce any penalty imposed under this Policy;
- 5.7 Ensure that a copy of this Policy is available or accessible to the persons and organisations to whom this Policy applies;
- 5.8 Appoint a person(s) to receive and handle complaints and allegations (ARU and Member Unions must appoint a trained Member Protection Information Officer (**MPIO**), all other Rugby Bodies must appoint a Member Protection Contact (**MPC**) or an MPIO) and display the names and contact details in a way that is readily accessible; and
- 5.9 Monitor and review compliance with this Policy at least annually.

#### **6. Individual Responsibilities**

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Individuals bound by this Policy are responsible for:

- 6.1 Making themselves aware of the Policy and complying with the standards of behaviour outlined in this Policy;
- 6.2 Consenting to a Police Check (if required) if the individual holds or applies for a role that involves direct and unsupervised contact with people under the age of 18 years.
- 6.3 Complying with all other requirements of this Policy;

- 6.4 Co-operating in providing a sporting environment that is free from Discrimination, Child Abuse and Harassment; and
- 6.5 Understanding the possible consequences of breaching this Policy.

## **7. Position Statements**

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### **7.1 Child Protection**

The ARU is committed to the safety and well-being of all children and young people who participate in our sport or access our services. Every person and organisation bound by this Policy must always place the safety and welfare of children above all other considerations at all times to ensure that a child-safe environment is maintained.

The ARU acknowledge the valuable contribution made by the Rugby Bodies, staff, members and volunteers and we encourage their active participation in providing a safe, fair and inclusive environment for all junior participants.

#### **7.1.1 Identify and analyse risk of harm**

The ARU 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.

#### **7.1.2 Develop codes of behaviour**

The ARU will develop and promote a code of behaviour that sets out the conduct we expect of adults when they deal and interact with children involved in our sport, especially those in our care. We will also implement a code of behaviour to promote appropriate conduct between children.

These codes will clearly describe professional boundaries, ethical behaviour and unacceptable behaviour. (Refer to the attachments in Part A of this policy.)

#### **7.1.3 Choose suitable employees and volunteers**

The ARU will take all reasonable steps to ensure that our organisation engages 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.

The ARU will ensure that Working with Children Checks are conducted for all employees and volunteers who work with children, where an assessment is required by law. If a criminal history report is obtained as part of their screening process, we will handle this information confidentially and in accordance with the relevant legal requirements. (Refer to the attachments in Part B of this policy.)

#### **7.1.4 Support, train, supervise and enhance performance**

The ARU, and the organisations bound by this Policy, will comply with their legal obligations to ensure that all their employees and volunteers who work with children have ongoing supervision, support and training. Our goal is develop their skills and capacity and to enhance their performance so we can maintain a child-safe environment.

#### **7.1.5: Empower and promote the participation of children**

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

#### **7.1.6: Report and respond appropriately to suspected abuse and neglect**

The ARU will take reasonable steps to 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 the attachments in Part B 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 the attachments in Part C of this policy.)

## **7.2 Taking Images of Children**

Images of children can be used inappropriately or illegally. The ARU requires that individuals and Rugby Bodies, wherever possible, obtain permission from a child's parent/guardian before taking an image of a child that is not their own and ensure the parent/guardian knows the way the image will be used. They should also make sure the parent/guardian understands how the image will be used.

The ARU also requires the privacy of others to be respected and we do not allow the use of camera phones, videos and cameras inside changing areas, showers and toilets.

If the ARU uses an image of a child it will avoid naming or identifying the child or publish personal information such as residential address, email address or telephone number, without gaining parental/guardian consent. The ARU will not display information about hobbies, likes/dislikes, schools etc as this information can be used as grooming tools by pedophiles or other persons.

The ARU will only use appropriate images of a child, relevant to rugby and ensure the child is suitably clothed in a manner that promotes rugby. The ARU will, wherever possible, seek permission from the parents/guardians of the children before using the images.

The ARU requires Rugby Bodies to do likewise.

## **7.3 Anti-Discrimination and Harassment**

The ARU aims to provide a sport environment where all those involved in its activities are treated with dignity and respect..

The ARU 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, Harassed or bullied.

The ARU prohibits all forms of Harassment, Discrimination or bullying based on personal characteristics listed in the Definitions. Discrimination, Harassment and bullying are extremely distressing, offensive, humiliating and/or threatening and create an uncomfortable and unpleasant environment. In some circumstances Discrimination, Harassment and bullying 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 11.

If any person feels they are being harassed or discriminated against or bullied by a person or organisation bound by this Policy, they may make an internal complaint. In some circumstances, they may also be able to make a complaint to an external organisation.. The complaints procedure is outlined in Part C of the Policy.

#### **7.4 Sexual Relationships**

The ARU takes the view that intimate relationships (whether or not of a sexual nature) between coaches and adult players they coach, while not necessarily constituting harassment, can have a harmful effect on the player, on other players and on the public image of Rugby.

These relationships may be perceived to be exploitive because there is usually a disparity between coaches and players in terms of authority, maturity, status, influence and dependence. Given there is always a risk that the relative power of the coach has been a factor in the development of such relationships, they should be avoided by coaches at all levels. In the event that an athlete attempts to initiate an intimate relationship, the coach must take personal responsibility for discouraging such approaches, explaining the ethical basis for such actions.

The coach or player may wish to approach the MPC if they feel harassed. The complaints procedure is outlined in Part C of this Policy.

#### **7.5 Pregnancy**

The ARU is committed to providing an inclusive sporting environment for pregnant women involved in its activities. The ARU expects everyone bound by this Policy to treat pregnant women with dignity and respect and to remove any unreasonable barriers to participation in rugby that disadvantage them. The ARU will not tolerate any unlawful Discrimination or Harassment against pregnant women or women who may become pregnant.

Descriptions of some of the types of behaviour which could be regarded as pregnancy Discrimination or Harassment are provided in the Definitions at clause 11.

While many sporting activities are safe for pregnant women to participate in, there are particular risks that apply to playing rugby during pregnancy. The risks are such that pregnant women must obtain medical advice before playing rugby. The Rugby Body will take reasonable care to ensure the safety, health and well being of pregnant women and their unborn children. Pregnant women should be aware that their own health and wellbeing, and that of their unborn children, are of utmost importance in their decision making about the extent and manner in which they participate in rugby.

#### **7.6 Gender Identity**

The ARU is committed to providing an inclusive sporting environment where transgender or transsexual people involved in its activities are able to contribute and participate. The ARU expects everyone who is bound by this Policy to treat people who identify themselves as transgender or transsexual fairly and with dignity and respect. This includes acting with sensitivity and respect where a person is undergoing gender transition. The ARU 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 11.

The ARU 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, Rugby Bodies will facilitate transgender or transsexual persons participating in rugby of the sex with which they identify.

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



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

The ARU 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 World Anti-Doping Agency's Prohibited List, should apply for a standard Therapeutic Use Exemption.

### **7.7 Responsible Service and Consumption of Alcohol**

The ARU is committed to conducting sporting and social events in a manner that promotes the responsible service and consumption of alcohol. The ARU recommends that all Rugby Bodies adhere to strict guidelines regarding the service and responsible consumption of alcohol.

In general, our policy is that:

- alcohol-free social events will be provided for young people and families;
- food and low-alcohol and non-alcoholic drinks will be available at events we hold or endorse where alcohol is served; and
- safe transport options will be promoted as part of any event we hold or endorse where alcohol is served.

Further guidance on developing an Alcohol Policy is available at: [www.playbytherules.net.au](http://www.playbytherules.net.au).

### **7.8 Smoke-free Environment**

The ARU recommends the following with respect 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 Rugby Body or representative team, on and off the field.

### **7.9 Cyber Bullying/Safety**

Bullying and harassment in all forms is regarded by the ARU as unacceptable. 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. Bullying has the potential to cause great anxiety and distress to the person who has been the target of any comments or statements.

The ARU will not tolerate abusive, discriminatory, intimidating or offensive statements being made online. In some cases, bullying is regarded as a criminal offence punishable by imprisonment, amongst other things.

Frustration at a referee, team-mate, 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 Rugby Body.

## 7.10 Social Networking Websites

The ARU acknowledges the enormous value of social networking websites, such as Facebook and Twitter, to promote our sport and celebrate the achievements and success of the people involved in our sport.

We expect all people bound by this policy to conduct themselves appropriately when using social networking sites to share information related to our sport.

Social media postings, blogs, status updates and tweets:

- must not use offensive, provocative or hateful language;
- must not be misleading, false or injure the reputation of another person;
- should respect and maintain the privacy of others;
- should promote the sport in a positive way.

Further guidance on developing a Communications Policy is available at [www.playbytherules.net.au](http://www.playbytherules.net.au).

## 8. Complaints Procedures

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### 8.1 Complaints

The ARU 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 (**Respondent**) if they reasonably believe that a person/s or a Rugby Body has breached this Policy.

In the first instance, complaints should be reported to the relevant the Rugby Body Member Protection Information Officer (MPIO) or Member Protection Contact (MPC).

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:

- State level or involves people operating at the state level, then the complaint should be reported to and handled by the relevant state association in the first instance; or
- Club level or involves people operating at the club level, then the complaint should be reported to and handled by the relevant club in the first instance.

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

A Complaint may be handled informally or formally. The Complainant will usually indicate his or her preferred option unless the Rugby Body considers that the Complaint falls outside the parameters of this Policy and would be better dealt with another way. For example, the law may require that the complaint/allegation be reported to an appropriate authority.

All Complaints will be dealt with promptly, seriously, sensitively and confidentially. The complaint procedures, including to whom the Complaint should be reported, are outlined in attachment C of this Policy.

Individuals and Rugby Bodies may also seek to have their complaint handled by an external agency under anti-discrimination, child protection, criminal or other relevant legislation.

## **8.2 Improper Complaints and Victimisation**

The ARU aims to ensure the complaints procedure has integrity and is free of unfair repercussions or Victimisation against the person making the complaint. The Rugby Body will also take all necessary steps to make sure that people involved in a Complaint are not victimised. Disciplinary measures will be imposed on anyone who victimises another person for making a Complaint or supporting another person's complaint.

If at any point in the complaint process the Rugby Body considers that a Complainant has knowingly made an untrue Complaint or the Complaint is malicious or intended to cause distress to the Respondent,, the matter may be referred to the Rugby Body's Conduct Committee for appropriate action, which may include disciplinary action against the Complainant.

## **8.3 Mediation**

The Rugby Body aims to resolve complaints quickly and fairly. Complaints may be resolved by agreement between the people involved with no need for disciplinary action.

Mediation is a confidential process that allows those involved in a complaint to discuss the issues or incident in question and come up with mutually agreed solutions. It 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 Rugby Body Member Protection Information Officer (MPIO) or Member Protection Contact (MPC) will, in consultation with the Complainant & and the person complained about (*Respondent*), arrange for an independent mediator where possible.

More information on the mediation process is outlined in attachment C of this Policy.

## **8.4 Conduct Committees**

A Conduct Committee may be formed to hear a formal Complaint that has been referred by a Rugby Body for an alleged breach of the Policy. The Conduct Committee hearings procedure is outlined in attachment C of this Policy.

A Complainant or Respondent may lodge an appeal where a decision was made by the Rugby Body or the relevant Rugby Body's Conduct Committee not to take any action or to take disciplinary action. The grounds for appeal and appeals process are outlined in attachment C of this Policy.

Every organisation bound by this Policy will recognise and enforce any decision made, and form of discipline imposed, by a Conduct Committee or Conduct Tribunal under this Policy.

## **9. What is a Breach of this Policy**

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

- Done anything contrary to this Policy;
- Failed to follow ARU policies and procedures for the protection, safety and welfare of children;
- Appointed or continued to appoint a person to a role that involves working with children and Young People contrary to this Policy;
- Discriminated against, harassed or bullied (including cyber-bullying) any person ;

- Victimised another person for reporting or supporting a Complaint;
- Engaged in a sexually inappropriate relationship with a person that the person supervises, or has influence, authority or power over;
- Verbally or physically assaulted another person, intimidated another person or created a hostile environment within the sport;
- Made a Complaint they knew to be untrue, vexatious, malicious or improper;
- Failed to comply with a penalty imposed after a finding that the individual or organisation has breached this Policy; or
- Failed to comply with a direction given to the individual or organisation during the discipline process in relation to an alleged breach of this Policy.

## **10. Forms of Discipline**

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If an individual or organisation to which this Policy applies breaches this Policy, one 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 at attachment C of this Policy.

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 evidence and information presented and the seriousness of the breach; and
- Be determined in accordance the ARU constitution, by laws and/or this Policy.

### **10.1 Individual**

Subject to contractual and employment requirements, if a finding is made that an individual has breached the ARU's Member Protection Policy, one or more of the following forms of discipline may be imposed by Conduct Committee or Conduct Tribunal:

- 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, placings, records, achievements bestowed in any tournaments, activities or events held or sanctioned by the Rugby Body;
- 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 the Rugby Body 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 Conduct Committee or Conduct Tribunal considers appropriate.

## 10.2 Organisation

If a finding is made that a Rugby Body has breached the ARU's Member Protection Policy, one or more of the following forms of discipline may be imposed by Conduct Committee or Conduct Tribunal:

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

## 10.3 Factors to consider

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

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

## 11. Definitions

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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 clause 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 Union** means Australian Junior Rugby Football Union Ltd., Australian Rugby Football Schools Union Inc., Australian Services Rugby Union, Australian Universities Rugby Union, Australian Barbarian Rugby Club Inc., Australian Women's Rugby Football Union, Classic

Wallabies Inc., and New South Wales Country Rugby Union Ltd or any other Union in affiliation with the ARU.

**ARU** means Australian Rugby Union Limited.

**Child** means a person who is under the age of 18 years (see also definition of Young People)

**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; 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 this Policy.

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

**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 disproportionate 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;
- 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 their age.

**Breastfeeding:** A member of the club who is breastfeeding her baby in the club rooms is asked to leave.

**Disability:** A junior player is overlooked because of his 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 contract worker is harassed when employees refuse to call her by her female name.

**Homosexuality:** An athlete is ostracised from her team after she tells a team mate 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 dismissed from her job as team doctor when she becomes pregnant.

**Race:** A Tongan referee is not permitted to referee games with a high proportion of Tongan players on one team because of his race.

**Sex:** Specialist training courses offered to male match officials and not to female match officials.

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.

**Harassment** means any type of behaviour that the other person does not want and is likely to make the person feel intimidated, insulted or humiliated. Unlawful harassment can target a person because of their race, sex, pregnancy, marital status, sexual orientation or some other personal characteristic protected by law (see the list under "Discrimination").

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 people on other grounds such as homosexuality, gender identity, HIV/AIDS, religion and disability (see also "Vilification").

**IRB** means the International Rugby Board.

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

**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 a player (including an amateur or non-contract player), a referee, touch judge or other match official, a selector, coach, trainer, manager or other team official, or an individual involved in the organisation, administration or promotion of Rugby including a director, other officer or employee of a Rugby Body;

**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 players, coaches and officials, and the member organisations such as clubs, state associations, 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 Contact (MPC)** means a person or group of people identified by a Rugby Body as a Member's first point of contact under this Policy. In the absence of an appointed MPC, a designated person in authority identified by a Rugby Body shall fulfil this role. The MPC provides confidential information and support to the Complainant. 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.

**Member Protection Information Officer (MPIO)** means a person "trained" to deal with complaints under, or breaches of, this Policy. The MPIO provides confidential information and moral support to the Complainant. 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. Where required, a MPIO will also provide advice and assistance to MPCs.

**Member Union** means New South Wales Rugby Union Limited, Queensland Rugby Union Limited, Australian Capital Territory and Southern New South Wales Rugby Union Limited, Victorian Rugby Union Inc., South Australian Rugby Union Limited, Western Australian Rugby Union Inc., Tasmanian Rugby Union Inc. and Northern Territory Rugby Union Inc.

**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 and just; and
- 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/people who is/are being complained about.

**Rugby Body** means the ARU, any Member Union or Affiliated Union of the ARU, or any Rugby Union, club or other body in membership with or affiliated to a Member Union or Affiliated Union.

**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; or
- 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 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** means people in the 13 – 18 year age group.

## **PART B: EMPLOYMENT SCREENING / WORKING WITH CHILDREN CHECK REQUIREMENTS**

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The ARU are committed to providing a child-safe environment. As part of this, the ARU 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.

The ARU, including our Member Unions and all Rugby Bodies, 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.

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.

### **ATTACHMENTS**

- Attachment B1: Screening requirements (for the Australian Capital Territory and Tasmania)
- Attachment B2: Member Protection Declaration
- Attachment B3: Working with Children Check requirements

## ATTACHMENT B1: EMPLOYMENT SCREENING REQUIREMENTS

*(For Tasmania only: all other states/territories refer to C3)*

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This attachment sets out the recommended screening process for people associated with a Rugby Body who work, coach or have regular unsupervised contact with Children and Young people under the age of 18 years in a State or Territory that does not have specific *Working With Children Checks*.

Screening under this Policy is not a replacement for any other procedure required by law. If State or Territory legislation sets an equivalent or higher standard of screening, that higher standard must be adhered to. It is each Rugby Body's responsibility to ensure they are aware of and abide by their relevant legal obligations as they exist from time to time.

Under the ARU Member Protection Policy, each Rugby Body (for State or Territory that does not have specific *Working With Children Checks*) should follow provisions as outlined below:

1. Identify all positions where people work, coach or have regular unsupervised contact with Children and Young People under the age of 18.
2. Obtain a completed Member Protection Declaration (**MPD**) (Attachment B2) from all people who are bound by this Policy if they occupy or apply for a position that involves working with Children and Young People under the age of 18 years. The MPD will be kept in a secure place.
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. Check a person's referees (verbal or written) about his/her suitability for the role and his/her suitability for the position.
5. 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, 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, ask the person to provide an explanation, and then make an assessment about the person's suitability to work with Children and Young People. If not fully satisfied, the Rugby Body 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, the Rugby Body will complete the check as soon as possible. The Rugby Body will act immediately if the results of the check highlight any issues of concern.
9. Protect the privacy of each person who undertakes the screening process and keep all information we obtain strictly confidential.
10. 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 the Rugby Body will be kept on file in a secure location.

**ATTACHMENT B2: MEMBER PROTECTION DECLARATION**

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Each Rugby Body has a duty of care to all those associated with our organisation and our sport. It is a requirement of the ARU's Member Protection Policy, the Rugby Body must check the background of each person who works, coaches or has regular unsupervised contact with Children and Young People under the age of 18.

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 the Rugby Body may consider to constitute a risk to its members, employees, volunteers, athletes or reputation by engaging me.
7. I will notify the President of the Rugby Body engaging me immediately upon becoming aware that any matter set out above has changed.

Declared in the State/Territory of .....

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

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**Consent of Parent/Guardian (on behalf of 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 B3: WORKING WITH CHILDREN CHECK REQUIREMENTS**

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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](http://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.

### **Australian Capital Territory**

Contact the Office of Regulatory Services

Website: [www.ors.act.gov.au/community/working\\_with\\_vulnerable\\_people](http://www.ors.act.gov.au/community/working_with_vulnerable_people)

Phone: 02 6207 3000

### **New South Wales**

Contact the Commission for Children and Young People

Website: [www.kids.nsw.gov.au](http://www.kids.nsw.gov.au)

Phone: 02 9286 7276

### **Northern Territory**

Contact the Northern Territory Screening Authority

Website: [www.workingwithchildren.nt.gov.au](http://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](http://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/childsafes](http://www.families.sa.gov.au/childsafes)

Phone: 08 8463 6468.

### **Victoria**

Contact the Department of Justice

Website: [www.justice.vic.gov.au/workingwithchildren](http://www.justice.vic.gov.au/workingwithchildren)

Phone: 1300 652 879

## **Western Australia**

Contact the Department for Child Protection

Website: [www.checkwwc.wa.gov.au](http://www.checkwwc.wa.gov.au)

Phone: 1800 883 979

## **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 C: COMPLAINTS HANDLING PROCEDURES**

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To ensure due process, consistency and that the principles of Natural Justice are followed in all aspects of handling or conducting Complaints, allegations, investigations, committees and disciplinary measures, the Rugby Bodies will follow and implement the following procedures.

### **ATTACHMENTS**

- Attachment C1: Complaints Procedure
- Attachment C2. Procedure For Handling Allegations Of Child Abuse
- Attachment C3. Mediation Procedure
- Attachment C4. Investigation Procedure
- Attachment C5. Conduct Committee and Appeals Procedure

## **ATTACHMENT C1: COMPLAINTS PROCEDURE**

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

**All Complaints will remain confidential.** The Rugby Body 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**, the full details of the Complaint will be provided 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.

**Informal and formal procedures** are available to resolve Complaints. Individuals and organisations can also **complain to external organisations** under anti-discrimination, child protection and other relevant laws.

### **Informal approaches**

#### **Step 1: Talk with the other person** (if safe, reasonable and appropriate)

If the Complainant feels confident to do so, approach the other person(s) to discuss the issues and try and resolve the problem directly.

#### **Step 2: Contact a Member Protection Information Officer and/or Member Protection Contact**

The Complainant is encouraged talk with their Rugby Body's Member Protection Information Officer (MPIO) and/or Member Protection Contact (MPC) if:

- the first step is not possible or reasonable;
- you are not sure how to handle the problem by yourself;
- you want to talk confidentially with someone and find out what options are available to resolve the problem, or;
- the problem continues after you approached the other person.

The names and contact details of MPIO and/or MPC should be available on the relevant Rugby Body's website.

The MPIO or MPC will:

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



### Step 3: Decide how to resolve the problem

After talking with the MPIO or MPC, you may decide:

- there is no problem;
- the problem is minor and you do not wish to take the matter forward;
- to try and resolve the problem yourself, with or without a support person;
- to resolve the problem with the help of someone impartial, such as a Mediator; or
- to resolve the matter through a formal process.

### Formal approaches

#### Step 4: Making a formal Complaint

If it is not possible or appropriate to resolve your Complaint through an informal process, the Complainant may:

- make a formal Complaint in writing to their Rugby Body; or
- approach a relevant external agency, such as an anti-discrimination or equal opportunity commission, for advice.

After receiving a formal Complaint, and based on the material provided, the Rugby Body will decide:

- whether they are the appropriate entity to receive and handle the Complaint. If they are not, they will promptly refer the Complaint to the appropriate Rugby Body and advise the Complainant who the Complaint has been referred to;
- the most appropriate person to receive and handle the Complaint;
- the nature and seriousness of the Complaint requires a formal resolution procedure;
- to refer the Complaint to **mediation**;
- to appoint a person to **investigate** the Complaint;
- to refer the complaint to a **Conduct Committee** (the hearing will be conducted in accordance with Attachment C5);
- 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 is completed.

In making the decision(s) outline above, the Rugby Body will take into account:

- whether the person handling the Complaint has had any personal involvement in the circumstances and if someone else should handle the Complaint;
- the Complainant's wishes, and the wishes of the Respondent, regarding how the Complaint should be handled;
- the relationship between the Complainant and the Respondent (e.g. an actual or perceived power imbalance between you and the respondent);
- whether the facts of the Complaint are in dispute; and
- the urgency of the Complaint, including the possibility that you might face further unacceptable behaviour while the Complaint process is underway.

If the Rugby Body is the appropriate person to handle the complaint, the following steps are necessary:

- provide the information received from the Complainant to the Respondent(s) involved and ask for their side of the story;
- decide if there is enough information to determine whether the matter alleged in your Complaint did or didn't happen; and/or
- determine what, if any, further action to take, including disciplinary action in accordance with this policy.

#### **Step 5: Investigating the complaint**

In some cases, an investigation may be required to determine the facts surrounding the Complaint. Our investigations procedure is outlined in Attachment C4.

Following the investigation, a written report will be provided to Rugby Body's Conduct Committee who will determine what further action to take.

- If the Complaint is referred to **mediation**, we will follow the steps outlined in Attachment C3 or as agreed by the Complainant, the Respondent and the Mediator;
- If the Complaint is referred to a **conduct committee**, the hearing will be conducted according to the steps outlined in Attachment C5;
- If the Complaint is referred to the **police or another external agency**, we will endeavour to provide all reasonable assistance required by the police or the agency.

#### **Step 6: Reconsidering a Complaint or appealing a decision**

If mediation is unable to resolve the matter, the Complainant may request that the Rugby Body reconsider the Complaint in accordance with Step 3.

The Complainant or the Respondent(s) may also appeal a decision made by at a conduct committee. The grounds and process for appeals are set out in Attachment C5.

#### **Step 7: Documenting the resolution**

The Rugby Body will record the Complaint, the steps taken to resolve it and the final outcome. This information will be stored in a confidential and secure place. If the Complaint was dealt with at the state/district level, the information will be stored by the respective Member Union. If the matter is of a serious nature, or if it was dealt with at the national level, the original document will be stored by the ARU and a copy stored by the respective Member Union.

#### **Approaching external organisations**

If the Complainant feels they have been harassed or discriminated against, they 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 C2: 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](http://www.playbytherules.net.au).

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

All people working with a Rugby Body 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 details for advice or to report an allegation of child abuse are detailed below.
- 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 matter to their Member Union's MPIO so that he or she can manage the situation.

### Step 3: Protect the child and manage the situation

- The Member Union MPIO will assess the risks and take interim action to ensure the child's/children's safety. Some options that the Member Union or Rugby Body could implement 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 Member Union MPIO 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 a Rugby Body.

- The Member Union MPIO will consider what services may be most appropriate to support the child and his or her parent/s.
- The Member Union MPIO will consider what support services may be appropriate for the alleged offender.
- The Member Union MPIO 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 the Conduct Committee of the Member Union).
- Regardless of the findings of the police and/or child protection agency investigations, the Member Union MPIO 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 Conduct Committee of the Member Union 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 to be taken, follow the procedures outlined in Attachment C5 of the Policy. Complete the report form in Part D of this Policy. Retain the original in a secure place.
- The Member Union will provide the relevant government agency with a report of any disciplinary action we take, where this is required.

#### **Step 4 – Further clarify and investigate allegation**

Where there is an allegation made against a person to whom this Policy applies, there may be three types of investigations:

- Criminal (conducted by the police);
- Child protection (conducted by child protection authority); or
- Disciplinary or misconduct (conducted by the Conduct Committee of the Member Union).
- Seek advice from the police and relevant government agency as to whether the Member Union should carry out its own internal investigation (in addition to or in conjunction with any police or relevant government agency investigation).

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

<b>Australian Capital Territory</b>	
ACT Police Non-urgent police assistance Ph: 131 444 <a href="http://www.afp.gov.au">www.afp.gov.au</a>	Office for Children, Youth and Family Services <a href="http://www.dhcs.act.gov.au/ocyfs/services/care_and_protection">www.dhcs.act.gov.au/ocyfs/services/care_and_protection</a> Ph: 1300 556 729
<b>New South Wales</b>	
New South Wales Police Non-urgent police assistance Ph: 131 444 <a href="http://www.police.nsw.gov.au">www.police.nsw.gov.au</a>	Department of Community Services <a href="http://www.community.nsw.gov.au">www.community.nsw.gov.au</a> Ph: 132 111
<b>Northern Territory</b>	
Northern Territory Police Non-urgent police assistance Ph: 131 444 <a href="http://www.pfes.nt.gov.au">www.pfes.nt.gov.au</a>	Department of Children and Families <a href="http://www.childrenandfamilies.nt.gov.au">www.childrenandfamilies.nt.gov.au</a> Ph: 1800 700 250
<b>Queensland</b>	
Queensland Police Non-urgent police assistance Ph: 131 444 <a href="http://www.police.qld.gov.au">www.police.qld.gov.au</a>	Department of Communities <a href="http://www.communities.qld.gov.au/childsafety">www.communities.qld.gov.au/childsafety</a> Ph: 1800 811 810
<b>South Australia</b>	
South Australia Police Non-urgent police assistance Ph: 131 444 <a href="http://www.sapolice.sa.gov.au">www.sapolice.sa.gov.au</a>	Department for Communities and Social Inclusion <a href="http://www.dcsi.sa.gov.au">www.dcsi.sa.gov.au</a> Ph: 131 478
<b>Tasmania</b>	
Tasmania Police Non-urgent police assistance Ph: 131 444 <a href="http://www.police.tas.gov.au">www.police.tas.gov.au</a>	Department of Health and Human Services <a href="http://www.dhhs.tas.gov.au/children">www.dhhs.tas.gov.au/children</a> Ph: 1300 737 639
<b>Victoria</b>	
Victoria Police Non-urgent police assistance Ph: (03) 9247 6666 <a href="http://www.police.vic.gov.au">www.police.vic.gov.au</a>	Department of Human Services <a href="http://www.dhs.vic.gov.au">www.dhs.vic.gov.au</a> Ph: 131 278
<b>Western Australia</b>	
Western Australia Police Non-urgent police assistance Ph: 131 444 <a href="http://www.police.wa.gov.au">www.police.wa.gov.au</a>	Department for Child Protection <a href="http://www.dcp.wa.gov.au">www.dcp.wa.gov.au</a> Ph: (08) 9222 2555 or 1800 622 258

### **ATTACHMENT C3: MEDIATION PROCEDURE**

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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 makes sure that the process is as fair as possible for all concerned.

The general approach to mediation by a Rugby Body are set out below.

1. The Rugby Body will appoint a Mediator to help resolve the Complaint. This will be done under the direction of Rugby Body 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. 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 to the Rugby Body to request that the Complaint be referred to the Conduct Committee to reconsider the complaint in accordance with **Step 3**
  - approach an external agency, such as an anti-discrimination or equal opportunity commission, to resolve the matter.

The ARU 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 C4: INVESTIGATION PROCESS

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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 we conduct will be fair to all people involved.

If the Rugby Body decides that a Complaint should be investigated, they will follow the steps outlined below.

1. Provide a written brief to the investigator that sets out the terms of engagement and his or her roles and responsibilities. The investigator will:
  - interview the Complainant and record the interview in writing;
  - provide full details of the complaint to the Respondent(s) so that they can respond;
  - interview the Respondent(s) to allow them to answer the Complaint and record the interview in writing;
  - obtain statements from witnesses and collect other relevant evidence, 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)
    - **mischievous, vexatious or knowingly untrue.**
  - provide a report to the Rugby Body's Conduct Committee documenting the complaint, the investigation process, the evidence, the finding(s) and, if requested, any recommendations.
2. 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 or adviser (e.g. Rugby Body MPIO or other person).
4. The Complainant and the Respondent(s) may have the right to appeal any decision based on the investigation. Information on our appeals process is in Attachment C5.



## ATTACHMENT C5: CONDUCT COMMITTEE AND APPEALS PROCEDURE

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The following procedures will be followed by Conduct Committees established by the Rugby Body.

### Conduct Committee

1. A Conduct Committee will be constituted by the Rugby Body following the procedures outlined herein, to investigate and hear a Complaint that has been referred to it by a Rugby Body.
2. The Secretary or President of the Rugby Body (or person acting in a similar or equivalent role) will organise for a Conduct Committee to be convened. The Conduct Committee members will be provided with a copy of all the relevant correspondence, reports or information received relating to the Complaint/allegations.
3. The Conduct Committee shall consist of three members nominated by the Secretary or President of the Rugby Body (or person acting in a similar or equivalent role). One of the three participants must be appointed as Chairperson.
  - (a) The Conduct Committee will not include any person who has any actual or perceived conflict of interest, preconceived opinions, vested interests or personal involvement relating to the Complaint.
  - (b) The Conduct Committee will comprise at least one person who has knowledge, and preferably experience, of any relevant laws relating to the Complaint.
  - (c) If a member of the Conduct Committee cannot continue once the Conduct Committee Hearing has commenced, the discontinuing member may be replaced if it is considered appropriate by the Committee Chairperson. Factors to consider should include the circumstances of the Complaint and the ability of the new Conduct Committee member to be reasonably and impartially informed of the hearing evidence up until the time of their appointment. If the Committee Chairperson believes it is not appropriate for a new Conduct Committee member to be appointed then the Committee will be rescheduled to a later date. The Committee Chairperson will inform the Rugby Body of the need to reschedule, and the Rugby Body will organise for the Conduct Committee Hearing, with a new Conduct Committee to be reconvened.
4. The Conduct Committee investigation and hearing will be scheduled as soon as practicable, but must allow adequate time for the person(s) being complained about to prepare to respond to the Complaint.
5. The Rugby Body will inform the person making the Complaint (**Complainant**) and the person being complained about (**Respondent**) by written notification that a Conduct Committee hearing will take place. The written notification will outline:
  - That the person has a right to appear at the Conduct Committee hearing to defend the Complaint/allegation (whether in person or by telephone or video link);
  - Details of the Complaint (if there is more than one Complaint these should be set out separately);
  - The date, time and venue of the Conduct Committee hearing;
  - That they can make either verbal or written submissions to the Conduct Committee;
  - That they may arrange for witnesses to attend the Conduct Committee in support of their position; and
  - An outline of any possible penalties that may be imposed if the Complaint is found to be true.

A copy of any information / documents that have been given to the Conduct Committee (eg investigation report findings) will also be provided to both the Complainant and Respondent.

6. The Respondent(s) will be allowed to participate in all Rugby Body activities and events, pending the decision of the Conduct Committee, including any available appeal process, unless the Rugby Body believes it is warranted to exclude the Respondent(s) from all or some Rugby Body activities and events, after considering the nature of the Complaint.
7. If the Complainant believes the details of the Complaint are incorrect or insufficient they should inform the Rugby Body as soon as possible so that the Respondent and the Conduct Committee members can be properly informed of the Complaint.
8. In addition, the Rugby Body must notify it applicable Member Union and the ARU about the nature of the Complaint being referred to the Conduct Committee.
9. The Conduct Committee will have power to regulate its own procedure. Subject to its obligation to give proper consideration to the matter before it, a Committee should generally conduct hearings with as little formality, and with as much expedition, as is permitted by the nature of the matter.
10. After the Conduct Committee has completed the hearing, the Committee Chairperson must prepare a written statement of its factual findings, decision (including any disciplinary measures imposed) and reasons and provide copies of that statement to the Respondent(s), the Complainant, the relevant Rugby Body, the Member Union and the ARU. The letter to the Respondent(s) and the Complainant should also outline, if allowed, the process and grounds for an appeal to be made.

#### **Appeals Procedure**

11. Subject to paragraph 16, a Complainant or a Respondent may appeal:
  - (a) the decision of the Conduct Committee on the grounds that a denial of Natural Justice has occurred or that the disciplinary measure(s) imposed is unjust and/or unreasonable; or
  - (b) the decision of the Rugby Body not to take action,  
to the Conduct Committee of that Rugby Body's Member Union.
12. A person wanting to appeal in accordance with paragraph 11 must lodge a letter stating their intention and the basis for their appeal with the secretary of the Member Union within 10 business days of the relevant decision. If the letter of appeal is not received by the secretary of the Member Union within the relevant time period the right of appeal will lapse.
13. A Member Union which receives a letter of appeal against a decision of a Conduct Committee must notify the ARU of that appeal within 5 business days of receiving such letter.
14. Subject to ARU Intervention (as outlined below), on receipt of a letter of appeal under paragraph 13, the Member Union shall convene a Conduct Committee to review the earlier decision. Based on such review the Conduct Committee:
  - (a) may refuse to hear the appeal;
  - (b) may conduct a fresh investigation of the alleged breach, however it may have reference to documents prepared by a Conduct Committee in the course of the initial investigations into the alleged breach;
  - (c) may confirm, modify or dismiss the decision of the Conduct Committee;
  - (d) may confirm, modify or dismiss the disciplinary measure imposed (taking into account any relevant aggravating or mitigating circumstances);
  - (e) must make a statement in writing stating its findings of fact, reasons and decision and send copies of that statement to the Respondent(s), the Complainant, the relevant Rugby Body and the ARU.
15. Member Unions will act promptly to conduct the review, hearing (if applicable) and issue a written statement of its findings.

16. Any appeal against an adverse finding made by the Conduct Committee of a Member Union must be made to the ARU Conduct Tribunal adopting the same procedures set out in 11-15 above save for the substitution of "Member Union" with "ARU".
17. The decision of the ARU Conduct Tribunal will be final.

#### **ARU Intervention**

18. Where the ARU receives notification of a formal Complaint from a Rugby Body, or an appeal to a Member Union under clause 13, the ARU has the right to:
  - (a) declare that the investigation and hearing must be conducted by the ARU Conduct Tribunal if, in the opinion of the ARU, the Complaint negatively affects, or has potential to negatively affect, the image of the ARU or the game of Rugby; or
  - (b) appoint a representative to the Conduct Committee investigating/hearing the Complaint, in place of an existing Committee member that would otherwise sit. If there is any dispute, the ARU may determine which Committee member is to be replaced by the ARU representative; or
  - (c) be given the opportunity to be heard by the Conduct Committee.
19. The ARU must notify the Conduct Committee hearing the Complaint or the appeal (as applicable), of its decision whether to exercise the rights in paragraphs (a), (b) or (c) above.
20. No decision, with the exception of an interim decision, can be made by a Rugby Body (including a Member Union) until the ARU has received notice (and the opportunity to intervene under paragraph 19).

#### **ARU Conduct Tribunal**

21. The ARU will establish from time to time a tribunal to investigate and conduct hearings in relation to Complaints, to impose appropriate disciplinary measures and to hear appeals from the Committee of a Member Union (**Tribunal**).
22. The Tribunal will consist of three members, to include:
  - (a) as the Chairperson, a senior legal practitioner. Preference will be given to a person with prior experience in proceedings related to Rugby matters;
  - (b) two other members to be selected in the ARU's absolute discretion.
23. The Tribunal will have power to regulate its own procedure. Subject to its obligation to give proper consideration to the matter before it, the Tribunal should generally conduct hearings with as little formality, and with as much expedition, as is permitted by the nature of the matter.

#### **Review of Committee decision by Tribunal**

24. In addition to the Tribunal's role defined above, the Tribunal may, at the request of the ARU, review the decision of the Conduct Committee of any Rugby Body.
25. The Tribunal:
  - (a) may conduct a fresh investigation of the alleged Complaint, however it may have reference to documents prepared by a Conduct Committee in the course of the initial investigations into the alleged breach; or
  - (b) may confirm, modify or dismiss the decision of the Conduct Committee; or
  - (c) may confirm, modify or dismiss the disciplinary measure imposed (taking into account any relevant aggravating or mitigating circumstances); and/or
  - (d) must make a statement in writing stating its findings of fact, reasons and decision and send copies of that statement to the Respondent(s), the Complainants, the Rugby Body and the ARU.

## **PART D: REPORTING DOCUMENTS/FORMS**

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The ARU will ensure that all the complaints received, both formal and informal, are properly documented and this includes recording how the complaint was resolved and the outcome of the complaint. This information, and any additional records and notes, will be treated confidentially and stored in a secure place.

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

The ARU will ensure that everyone who works with our organisation in a paid or unpaid capacity understands how to appropriately receive and record allegations of child abuse and neglect and how to report those allegations to the relevant authorities in their state or territory.

The ARU requires Rugby Bodies to do likewise.

### **ATTACHMENTS**

- Attachment D1: Confidential record of informal complaint
- Attachment D2. Confidential record of formal complaint
- Attachment D3. Confidential record of child abuse allegation

**ATTACHMENT D1: 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"/> Athlete/player <input type="checkbox"/> Coach/Assistant Coach <input type="checkbox"/> Employee (paid) <input type="checkbox"/> Official	<input type="checkbox"/> Parent <input type="checkbox"/> Spectator <input type="checkbox"/> Support Personnel <input type="checkbox"/> Other .....
When/where did the incident take place?		
What are the facts relating to the incident, as stated by 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?		

**This record and any notes must be kept in a confidential and safe place.** Do not enter it on a computer system. If the issue becomes a formal complaint, this record is to be given to Rugby Body MPIO or MPC.

**ATTACHMENT D2: 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/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 .....	
Location/event of alleged incident		
Description of alleged incident		
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 heard by Tribunal:	Decision  Action recommended
If mediated:	Date of mediation:  Both/all parties present  Agreement  Any other action taken
If decision was appealed	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: <span style="float: right;">Date / /</span>
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 if it is taken to and/or dealt with at the state level, the original record must be provided to respective Member Union and a copy kept with the organisation where the complaint was first made.

### ATTACHMENT D3: CONFIDENTIAL RECORD OF CHILD ABUSE ALLEGATION

Before completing this form, please ensure that the steps outlined in Attachment C5 have been followed and advice has been sought from the police and/or the relevant child protection agency.

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 three witnesses, attach details to this form)	Name (1): Contact details: Name (2): Contact details: Name (3): Contact details:	
Interim action taken (if any)		
Police contacted	Who: When: Advice provided:	



Child protection agency contacted	Who: When: Advice provided:
CEO contacted	Who: When:
Police investigation (if any)	Finding:
Child protection agency investigation (if any)	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.** If required, they should be provided to the police and/or the relevant child protection agency.