



**Bicycle Motocross Australia Incorporated**

**NATIONAL MEMBER PROTECTION POLICY**

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## **PREFACE**

BMX Australia (BMXA) is committed to the health, safety and general well-being of all its members and supporters. The organisation is dedicated to providing a safe, friendly and prosperous environment for members and providers participating in any BMXA activities.

Our organisation greatly values the social and cultural significance of sport for individuals and for the community. We all have the right to enjoy our sport, at whichever level and in whatever capacity we participate.

As an organisation, we are determined to be a leader in ensuring harassment-free and non-discriminatory practices are implemented for the diverse range of all our riders, coaches, officials, administrators, volunteers and supporters.

I commend this Member Protection Policy to you and hope that you are inspired to reach your potential in BMX in a safe and enjoyable manner.

Mark Louis  
General Manager

## BMX AUSTRALIA INC

### PART A: NATIONAL MEMBER PROTECTION POLICY

#### 1. Introduction

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

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

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

#### 2. Purpose of this policy

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This National Member Protection Policy ("policy") will work towards maintaining ethical and informed decision-making and responsible behaviours within our sport. 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 our sport [at the national level] of his or her legal and ethical rights and responsibilities and the standards of behaviour that are required.

The policy attachments outline 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, BMXA 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 BMXA and has been incorporated into our Regulations in accordance with rule 40 of the BMXA Constitution. The policy starts on 8 September 2012 and will operate until replaced. This policy and/or its attachments may be amended from time to time by a resolution of the Board in accordance with the BMXA Constitution. Copies of the policy and its attachments can be obtained from our office, or website at [www.bmxaustralia.com.au](http://www.bmxaustralia.com.au).

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

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

#### 3. Who this Policy Applies To

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This policy applies to the following organisations and individuals:

- BMXA;
- BMXA Members;
- constituent associations;
- affiliated clubs;
- persons appointed or sitting on boards, committees and sub-committees of BMXA or constituent associations;
- Employees, officials and volunteers appointed or elected by BMXA or a constituent association;
- support personnel (e.g. managers, physiotherapists, psychologists, masseurs, sport trainers);
- coaches (including assistant coaches) who:
  - are appointed and/or employed by BMXA or constituent associations (whether paid or unpaid);or
  - have an agreement (whether or not in writing) with BMXA or a constituent association;
- Cyclists who enter or participate in any activity or event (including camps and training sessions) which are held or sanctioned by BMX or a constituent association;
- Any person or organisation, who or which is a member of, or affiliated to, BMXA or a constituent association;
- Any other person or organisation who, or which agrees in writing or otherwise to be bound by this policy; and
- Parents, guardians, spectators and sponsors to the full extent that is possible.

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

#### **4. Responsibilities of the Organisation**

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BMXA and Constituent Associations must:

- Adopt, implement and comply with this policy;
- Publish, distribute and promote this policy and the consequences of breaches;
- Promptly deal with any breaches or complaints made under this policy in a sensitive, fair, timely and confidential manner;
- Apply this policy consistently;
- Recognise and enforce any penalty imposed under this policy;
- Ensure that a copy of this policy is available or accessible to the persons and associations to whom this policy applies.

BMXA must:

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

#### **5. Individual Responsibilities**

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Individuals bound by this policy are responsible for:

- Making themselves aware of the policy and complying with its standards of behaviour;
- Complying with our screening requirements and any state/territory Working with Children checks;
- Placing the safety and welfare of children above other considerations;
- Being accountable for their behaviour;

- Following the procedures outlined in this policy if they wish to make a complaint or report a concern
- about possible child abuse, discrimination, harassment or other inappropriate behaviour; and
- Complying with any decisions and/or disciplinary measures imposed under this policy.

## **6. Position Statements**

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### **6.1 Children Protection**

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

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

#### **6.1.1: Develop Codes of Conduct for Adults and Children**

BMXA will ensure that the organisation has codes of conduct that specify standards of conduct and care when dealing and interacting with children, particularly those in the organisation's care. The organisation will also implement a code of conduct to address appropriate behaviour between children.

The code of conduct will set out professional boundaries, ethical behaviour and unacceptable behaviour. (See Part B)

#### **6.1.2: Choose Suitable Employees and Volunteers**

BMXA will ensure that the organisation takes all reasonable steps to ensure that it engages the most suitable and appropriate people to work with children (in prescribed positions).

This may be achieved using a range of screening measures. Such measures will aim to minimise the likelihood of engaging (or retaining) people who are unsuitable to work with children.

BMXA will ensure that working with children checks/criminal history assessments are conducted for employees and volunteers working with children, where an assessment is required by law.

If a criminal history report is obtained as part of their screening process, the BMXA will ensure that the criminal history information is dealt with in accordance with relevant state requirements. (See Part C)

#### **6.1.3: Support, Train, Supervise and Enhance Performance**

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

#### **6.1.4: Empower and Promote the Participation of Children In Decision-Making And service Development**

BMXA will promote the involvement and participation of children and young people in developing and maintaining child-safe environments.

#### **6.1.5: Report and Respond Appropriately To Suspected Abuse and Neglect**

BMXA will ensure that volunteers and employees are able to identify and respond to children at risk of harm.

BMXA will make all volunteers and employees aware of their responsibilities under respective state laws if they have suspicion on reasonable grounds that a child has been or is being abused or neglected. (See Part E)

In addition to any legal obligation, if any person feels another person or organisation bound by this policy is acting inappropriately towards a child or is breaching the code(s) of practice set out they may make an internal complaint. Please refer to our complaints procedure outlined in attachment D1 of this policy. This will explain what to do about the behaviour and how the BMXA will deal with the problem.

## **6.2 Taking Images of Children**

Images of children can be used inappropriately or illegally. BMXA 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. We also require the privacy of others to be respected and disallow the use of camera phones, videos and cameras inside changing areas, showers and toilets.

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

We require our Members, Member States and Clubs to do likewise.

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

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

If any person feels they are being harassed or discriminated against by another person or organisation bound by this policy, please refer to our complaints procedure outlined in attachment D1 of this policy. This will explain what to do about the behaviour and how the BMXA will deal with the problem.

## **6.4 Sexual Relationships**

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

Should a sexual relationship exist between an athlete and coach, BMXA will consider whether any action is necessary. Factors that may be relevant in this consideration are the age and maturity of the athlete relative to the coach, the financial or emotional dependence of the athlete on the coach, and the likelihood of the relationship having any adverse impact on the athlete and/or other athletes. If it is determined that the sexual relationship is inappropriate, action may be taken to stop

the coaching relationship with the athlete. Action may include transfer, a request for resignation or dismissal from coaching duties.

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

## **6.5 Pregnancy**

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

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

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

## **6.6 Gender Identity**

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

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

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

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

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

## **6.7 Alcohol Policy**

BMXA recommends that State Associations and their member Clubs adhere to strict guidelines regarding the responsible consumption of alcohol. Generally, alcohol should not be available nor be consumed at a sporting event at which children under 18 are participants in the sport. Responsible service and consumption of alcohol should apply to any alcohol to be consumed after



the competition has concluded, including light alcohol and soft drinks always being available; wherever possible, food being available to be consumed when alcohol is available and transport policies. Guidance can be obtained from the “Alcohol Management Policy” available at <http://www.goodsports.com.au/goodsports/pages/sample-policies.html>.

## 6.8 Smoking Policy

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

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

## 6.9 Cyber Bullying/Safety

Bullying and harassment in all forms is regarded by BMXA as unacceptable in this 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 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 club, league or peak sporting body.

## 6.10 Social Networking Websites Policy

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

- 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);
- Always ask for a person’s permission before posting their picture on a social networking forum;
- Never comment on rumours, do not deny or affirm them or speculate about rumours; and
- Always use social network forums to add value and promote the sport in a positive way.

## 7. Complaints Procedures

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### 7.1 Complaints

BMXA aims to provide a simple procedure for complaints based on the principles of procedural fairness (natural justice). Any person (**a complainant**) may report a complaint about a person/s or organisation bound by this policy (**respondent**). Such complaints should be reported to the MPIO.

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 club and state level should be referred to the national body.

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

All complaints will be dealt with promptly, seriously, sensitively and confidentially. BMXA's complaint procedures are outlined in attachment D1.

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

## **7.2 Improper Complaints & Victimisation**

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

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

## **7.3 Mediation**

BMXA aims to resolve complaints with a minimum of fuss. Complaints may be resolved by agreement between the people involved with no need for disciplinary action. Mediation allows those involved to be heard and to come up with mutually agreed solutions.

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

## **7.4 Tribunals**

Every organisation bound by this policy will recognise and enforce any decision made, and form of discipline imposed, by a tribunal or appeals tribunal of BMXA.

A tribunal may be formed to hear a formal Complaint that has been referred by MPIO, or an alleged breach of the policy. Procedures for a tribunal established to hear a complaint made under this policy are set out in Attachment D5.

BMXA's disciplinary tribunal hearings procedure is outlined in clause 13 of the BMXA Constitution and set out in the BMXA By-Laws.

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

- referred to the tribunal described under this policy;
- referred to a BMXA disciplinary tribunal; or
- not suitable for referral to a tribunal.

## **8. 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 do anything contrary to this policy, including but not limited to:

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

## **9. Disciplinary Measures**

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### **9.1 Objectives**

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

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

### **9.2 Individual**

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

- A direction that the individual make a verbal and/or written apology;
- A written warning;
- A direction that the individual attend counselling to address their behaviour;
- A withdrawal of any awards, scholarships, placings, records, achievements bestowed in any tournaments, activities or events held or sanctioned by the BMXA;
- 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 BMXA 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;
- Any other form of discipline that the designated person or tribunal considers appropriate.

### 9.3 Organisation

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

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

### 9.4 Factors to consider

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

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

## 10. Dictionary

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

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

**Affiliated club** means the same meaning set out in the BMXA Constitution.

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

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

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

- Neglect (e.g. failing to give food, water, shelter or clothing or to protect a child from danger or foreseeable risk of harm or injury).

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

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

**Complaint Handler/Manager** means a person appointed under this policy to investigate a Complaint

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

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

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

#### **Examples of Discrimination**

- **Age:** A club refuses to allow an older person to coach a team simply because of age.
- **Breastfeeding:** A member of the club who is breastfeeding a baby in the club rooms is asked to leave.
- **Disability:** A player is overlooked for team selection because of mild epilepsy.
- **Family responsibilities:** A club decides not to promote an employee because he has a child with a disability even though the employee is the best person for the job.
- **Gender Identity:** A transgender player is harassed when other players refuse to call her by her female name.
- **Homosexuality:** An athlete is ostracised from her team after it becomes known that she is a lesbian.
- **Marital Status:** A player is deliberately excluded from team activities and social functions because she is single
- **Pregnancy:** A woman is dropped from a squad when she becomes pregnant.
- **Race:** An Italian referee is not permitted to referee games with a high proportion of Italian players on one team because of his race.
- **Sex:** Specialist coaching is only offered to male players in a mixed team.

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

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

It does not matter whether the harassment was intended: the focus is on the impact of the behaviour. The basic rule is if someone else finds it harassing then it could be harassment.

Harassment may be a single incident but is usually repeated. It may be explicit or implicit, verbal or non-verbal, and includes electronic cyber communication.

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

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

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

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

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

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

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

**Member** means a member of BMXA, a State Association or an Affiliated Club

**Member Protection Information Officer (MPIO)** means a person trained to be the first point of contact for a person reporting a complaint under, or a breach of, this Policy. The MPIO provides impartial and confidential support to the person making the complaint.

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

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

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

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

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

**Role-specific codes of conduct (or behaviour)** means standards of conduct required of certain roles (e.g. coaches).

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

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

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

- Rape
- Indecent assault
- Sexual assault

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

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

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

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

## **PART B: CODES OF BEHAVIOUR**

### **BMX AUSTRALIA**

#### **CODE OF CONDUCT**

##### **1. PURPOSE**

The purpose of the BMX Australia (**BMXA**) Code of Conduct (Code) is to describe the type of behaviour BMXA is seeking to promote and encourage its members and supporters to adopt.

##### **2. GOVERNANCE**

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

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

##### **3. KEY PRINCIPLES**

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

##### **4. KEY ELEMENTS**

All persons who are bound by this code shall:

- Act in a manner which is compatible with the interests of BMXA;
- Accord people involved in BMX with the appropriate courtesy, respect and regard for their rights and obligations;
- Treat people's property with respect and due consideration of its value;
- Show a positive commitment to BMXA's policies, rules, procedures, guidelines and agreements;
- Respect the law and customs of the places they visit;
- Respect the confidentiality of information which they receive in the course of fulfilling their duties;
- Uphold the standing and reputation of BMX within Australia;
- Not misuse provided funds or property belonging to another party; and
- Observe and comply with the Anti-Doping Rules set out in the BMXA's Doping Policy.



## 5. UNACCEPTABLE BEHAVIOUR

This list that follows provides examples of behaviour deemed to be unsuitable and not in the best interests of the sport of BMX:

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

## **PART C: SCREENING / WORKING WITH CHILDREN CHECK REQUIREMENTS**

### **Background to Working with Children Checks**

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 our national, state or club Member Protection Policies.

The attachments to this part 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

Please note: WWCC exemptions may apply for cross-border workers

[last updated May 2011]

## **ATTACHMENT C1: SCREENING REQUIREMENTS - FOR STATES/TERRITORIES WITHOUT WORKING WITH CHILDREN CHECKS SUCH AS ACT AND TASMANIA**

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

BMXA will, and also requires State Associations and Affiliated Clubs (**member organisations**) to:

1. Identify positions 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 C2) 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 isn't provided or it reveals that the person doesn't satisfactorily meet any of the clauses in the MPD. We 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 we will not appoint them 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 to sign a consent form for a national police check.
6. Possibly request (or ask the person to request) a national 'Part Exclusion' police check from our relevant police jurisdiction. This check excludes irrelevant records. If the police check indicates a relevant offence, we will provide an opportunity for the person to give an explanation, and then we 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 unsatisfied we will not appoint them to the role/position.
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 our policy. If unsatisfied, we will 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 the club has available to it. Where it is not practical to complete the police check prior to the person commencing in the position, we 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 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 that the documents be returned to them. 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.

## ATTACHMENT C2: MEMBER PROTECTION DECLARATION

### Background

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

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
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 BMXA may consider to constitute a risk to its members, employees, volunteers, athletes or reputation by engaging me.
7. I will notify the CEO of the organisation(s) engaging me immediately upon becoming aware that any of the matters set out in clauses 1 to 6 above has changed.

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

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

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

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

Name:.....

Signature:.....

Date: .....

## ATTACHMENT C3: WORKING WITH CHILDREN CHILD PROTECTION REQUIREMENTS

The following information was updated in April 2012. It is subject to change at any time.

### 1. QUEENSLAND

A person will need a Working with Children Check (“WWC Check”), also known as a **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*, for at least:

- Eight consecutive days; or
- Once a week for each week during a period of four weeks; or
- Once a fortnight for each fortnight during a period of eight weeks; or
- Once a month for each month during a period of six months.

Once a person is checked and approved, they are issued with a blue card. Volunteers and paid employees employed in a sporting organisation 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.

Police Officers and registered teachers do not need to apply for a blue card when providing child related services that fall outside of their professional duties. They should however apply to the Commission for an exemption card.

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).

As a result of changes and improvements to the blue card system as at the 1<sup>st</sup> of April, 2011 and 1<sup>st</sup> July, 2011 more people will be screened and have their criminal histories monitored. State Government employees and volunteers who work with Children will now be screened through the Commission. It will be compulsory for employers/organisations to notify the Commission if they employ someone who already holds a blue card.

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. It is important to note that Blue Cards issued for applicants received after 1 April 2010 will now be valid for three years, instead of two. Volunteers who are under 18 years of age do not require a Blue Card; however, employees under 18 years of age do require a blue card. 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:

- Visit: [www.ccyipcq.qld.gov.au](http://www.ccyipcq.qld.gov.au) or
- Call: 1800 113 611

### 2. NEW SOUTH WALES

The *Commission for Children and Young People Act 1998* (NSW) provides minimum standards for those who work with children. All organisations within NSW that employ people in child-related employment (in a paid or unpaid capacity) must meet the requirements of the Working With Children Check (“WWC Check”). Child related employment is defined as work which primarily involves direct unsupervised contact with children. Applicants applying for paid positions need to sign a Background Check Consent Form, and then submit a Background Check Request Form to the approved screening agency for them to conduct the WWC Check. The WWC Check involves two elements:

1. Excluding people with convictions for serious sex and violence crimes against children; and
2. Background checking for preferred applicants for primary child-related employment, ministers of religion and authorised carers

If you need to do the WWC Check, you will need to register with the appropriate Approved Screening Agency. Approved Screening Agencies are the agencies appointed by the Government to carry out the WWC. As of the 1<sup>st</sup> of March 2010 the Approved Screening Agency functions at Sport and Recreation were moved to the NSW Commission for Children and Young People.

Sporting organisations are responsible for managing the WWC Check process. Individuals cannot apply for a WWC Check 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. It is important to note that there are new online WWC Check forms and also clearer online employer guidelines.

Under the relevant NSW Child Protection Legislation all paid and unpaid applicants for child-related employment need to sign a Prohibited Employment Declaration, which confirms that they are not a prohibited person. No one should be employed in child-related employment who refuses to sign the Prohibited Employment Declaration.

Background checks are currently not available for volunteers. Volunteers must certify they are not convicted of serious sex or violence offences that prohibit them from child-related employment. From May 2010, it has been compulsory for self-employed people in child-related employment to hold a certificate which confirms that they are not a prohibited person.

People not eligible for the WWC Checks can apply for a National Police Check through NSW Police (visit:[www.police.nsw.gov.au/](http://www.police.nsw.gov.au/)).

Any relevant employment proceedings should be reported to the Commission for Children and Young People for any paid and unpaid employees. A relevant employment proceeding involves any inappropriate conduct with or in the presence of a child or children.

The Act does not stipulate an age at which WWC Checks become mandatory for employees in child-related employment, so all employees in such settings, including people under 18 years of age, are required to obtain a WWC Check.

A WWC Check 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. People returning from leave into the same child-related employment do not need to be re-checked. Existing employees are only checked if they are recruited to a new position with a different range of child-related contact, within the organisation.

For more information, including the required forms:

- Visit: [www.kids.nsw.gov.au](http://www.kids.nsw.gov.au)
- [www.dsr.nsw.gov.au/children/resources.asp](http://www.dsr.nsw.gov.au/children/resources.asp) or 02 9006 3700
- [www.check.kids.nsw.gov.au/](http://www.check.kids.nsw.gov.au/); or
- Call: 02 9286 7219

### 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 Western Australia (WA). The *Working with Children (Criminal Record Checking) Act 2004* (the Act) aims to protect children from harm by providing a high standard of compulsory national criminal record check for people wishing to work in paid or unpaid child-related work or volunteer child-related work in WA.

A person is considered to be working in ‘child-related work’ if their usual duties and 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 of age. Further details about exemptions can be found on the website below. Only those considered to be working in child-related work under the Act may apply.

Applicants will be issued with either:

- An Assessment Notice in the form of a WWC Check 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 carrying out child-related work (including voluntary work)

It is an offence for employers, volunteer organisations and education providers to engage in child – related work without a WWC Check Card. It is also an offence for employees, volunteers and students to carry out child-related work without doing so. The Act provides a five day grace period in most cases to provide reasonable flexibility and allow for unforeseen circumstances.

Additionally, WWC Checks are only concerned with child-related offences, therefore employers may require that employees or volunteers obtain both a WWC Check and a National Police Check, Information on obtaining a National Police Check can be obtained from the Western Australia Police at [www.police.wa.gov.au/](http://www.police.wa.gov.au/).

For more information:

- Visit: [www.checkwwc.wa.gov.au/](http://www.checkwwc.wa.gov.au/); or
- Call: 1800 883 979 (toll free)

#### **4. VICTORIA**

The Working With Children Check (“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. WWC Checks are valid for five years and must be renewed if you intend to continue to undertake ‘child-related work’ after your WWC Check Card expires. Should you require a WWC Check Card you must apply for a WWC Check Card by the 30<sup>th</sup> of June 2011.

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). As of the 1<sup>st</sup> of December, 2010 the Assessment Notice became the WWC Check Card and not the A4-Style Assessment Notice. Cardholders can now show employers and organisations who employ them in ‘child-related work’, the card itself, as legal proof that they have passed the Check. 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.

Card holders do not need to apply for a new WWC Check Card when they change their employer or volunteer organisation, unless they are moving from volunteer status to paid work status.

People under 18 years of age do not require a WWC Check Card.

Police Checks can also be obtained via Victoria Police at <http://www.police.vic.gov.au/>

For more information:

- Visit: [www.justice.vic.gov.au/workingwithchildren/](http://www.justice.vic.gov.au/workingwithchildren/); or
- Call: 1300 652 879

## 5. SOUTH AUSTRALIA

In South Australia the requirement to conduct criminal history assessments for people working with children is being phased-in over three years.

For recreation and sporting organisations this requirement commences from 1 January 2012 and is to be completed by 31 December 2013.

The obligation to conduct the Criminal History Assessment rests with the organisation providing the service. Organisations who provide services wholly or partly for children in South Australia therefore must comply with this requirement, so must include these requirements in their MPP documentation

The organisation may conduct a criminal history assessment themselves or apply to a third party (such as the state sporting body for an assessment and letter of clearance).

### **Assessments required for prescribed positions**

All staff and volunteers who occupy a prescribed position (as set out under section 8B (8) of the South Australian *Children's Protection Act 1993*) are required to undergo a criminal history assessment once every three years unless an exemption applies. (see below)

Criminal history assessments are also required prior to the appointment of new staff or volunteers to prescribed positions.

This includes all people who regularly work with or around children in an unsupervised capacity or have access to children's records.

### **Procedure for conducting criminal history assessments**

Note: The *Children's Protection Act 1993* enables organisations to decide the manner in which they will conduct criminal history assessments. Please choose the option below that reflects the method of assessment that your organisation has adopted.

#### **Option 1**

A National Police Check (**NPC**) from South Australia Police will be required for all persons taking on a role in a prescribed position prior to their appointment and then at three yearly intervals or as requested by the board.

For many volunteers the cost for this application will be covered under the Volunteer Organisation Authorisation number (**VOAN**) through the governing body/SSO.

South Australia Police require the explicit written consent of the applicant prior to the release of criminal history information. The NPC application form is available from [http://www.police.sa.gov.au/sapol/services/information\\_requests/national\\_police\\_certificate.jsp](http://www.police.sa.gov.au/sapol/services/information_requests/national_police_certificate.jsp)

On receipt of the NPC the applicant must present the letter for viewing and recording to the organisation.

Where a person has no disclosable criminal history, the assessment is successfully completed and no further action in respect to an assessment is required.

Where an individual does have a criminal history, the organisation must assess this information in accordance with Standard 5 of the *Standards for dealing with information obtained about the criminal history of employees and volunteers who work with children*.  
<http://www.dcsi.sa.gov.au/pub/Default.aspx?tabid=281>

Each assessment is conducted on its individual merits and with consideration to the inherent requirements of the position. As required by *the Standards for dealing with information obtained about*



*the criminal history of employees and volunteers who work with children*, principles of procedural fairness and natural justice are applied throughout the decision-making process and the individual is provided an opportunity to confirm or dispute the information contained within the report and to provide contextual information for consideration during the assessment process.

Criminal history information will not be retained once a decision has been made regarding the person's suitability to work with children. No criminal history information will be retained beyond three months.

In accordance with its legal requirements, the organisation will retain the following information regarding its decision:

- That a criminal history report was obtained
- How the criminal history information affected decision making processes
- Statutory declarations (where applicable)

The [NSO/organisation] may obtain a further criminal history assessment for a staff member or volunteer at any time that they believe it necessary or desirable for the purpose of maintaining a child safe environment.

New applicants for employment, membership and volunteer positions will be provided with the opportunity to confirm or dispute the information contained within the National Police Certificate report and to provide contextual information if they wish before the assessment is conducted.

The [NSO/organisation] will communicate to the applicant the decision not to employ or engage them or to accept their application for membership. They will not be provided with the reasons for this decision.

There will be no appeal to this decision.

## **Option 2**

A current letter of clearance from the Department for Communities and Social Inclusion (**DSCI**) Screening Unit is a requirement for all persons taking on a role in a prescribed position prior to their appointment and then at three yearly intervals.

The cost of obtaining a letter of clearance will be negotiated between the organisation, the club or applicant.

The organisation may obtain a further criminal history assessment for an employee at any time that the organisation believes it necessary or desirable for the purpose of maintaining a child safe environment.

The informed written consent of the applicant or employee is required prior to conducting a criminal history assessment. The Screening Unit's informed consent form is available from <http://www.dcsi.sa.gov.au/pub/Default.aspx?tabid=934>

- Information relating to a persons criminal history and the assessment process is managed securely and confidentially and in accordance with the *Standards for dealing with information obtained about the criminal history of employees and volunteers who work with children* issued by the Chief Executive, Department for Families and Communities.  
<http://www.dcsi.sa.gov.au/pub/Default.aspx?tabid=281>

### **Other evidence (optional)**

Where appropriate, the organisation may utilise a number of forms of evidence (obtained within the last three years) to assess a person's suitability to work with children. This includes:

- A National Police Certificate that does not expressly state that it cannot be used as a clearance to work with children
- A letter of clearance to work with children from the Department for Families and Communities Screening Unit
- A valid and current interstate working with children check.

Acceptance of other forms of evidence is at the discretion of the organisation and is subject to the person completing a 100-point check to confirm the true identity of the applicant.

This organisation may also at its discretion seek a statutory declaration for any employee(s) or volunteer(s) who have been citizens or permanent residents of another country other than Australia since turning 18 years of age.

### **Exemptions from the requirement to conduct criminal history assessments**

In accordance with guidelines, the following persons are exempt from the requirement to undertake a criminal history assessment, unless:

- The organisation determines otherwise; or
- That person is also involved in a function or event conducted by the organisation its affiliated associations or clubs which involves the care of children in overnight accommodation:
  - A person volunteering in an activity in which their child ordinarily participates;
  - A person who volunteers who is less than 18 years of age;
  - A person working or volunteering for a short-term event or activity of less than 10 days duration or for no more than 1 day in any month;
  - A person occupying a position in which all work involving children is undertaken in the physical presence of the child's parents or guardians and in which there is ordinarily no physical contact with the children;
  - A person who undertakes, or a position that only involves, work that is primarily provided to adults or the community generally and is not provided to any child on an individual basis;
  - An organisation that provides equipment, food or venues for children's parties or events but does not provide any other services to children;
  - A person who has regular contact with a child as part of an employment relationship with that child (such as a person working alongside a child or supervising an employee who is a child);
  - A person who is appointed as a police officer or is a registered teacher. (Police officers and teachers are already subject to comprehensive criminal history assessments as a prerequisite for employment).

For more information, visit:

- <http://www.dcsi.sa.gov.au/pub/Default.aspx?tabid=281>
- <http://www.recsport.sa.gov.au>

## **6. NORTHERN TERRITORY**

The *Care and Protection of Children Act 2007* (NT) highlights a number of initiatives the Northern Territory Government has designed to help keep children safe and prevent harm and exploitation of children, amongst other things.

From 1 July 2011, it will be mandatory for employees and volunteers aged 15 years and over who have contact or potential contact with children to hold a Working With Children Clearance Notice ("**WWC Clearance Notice**"). WWC Clearance Notices are designed to keep children safe by preventing those who pose a risk to the safety of children from working with them, in either paid or volunteer work. People who receive a WWC Clearance Notice will receive an Ochre Card which acts as proof that you hold a WWC Clearance Notice.

The Children Clearance Screening has three components:

1. A National Police Records Check;
2. Employment History; and
3. Other material

It is the responsibility of the person who wants to work or volunteer with children to apply for the WWC Clearance Notice and ensure that it remains valid.

From the 1<sup>st</sup> of July, 2011, penalties will apply to people who gain employment in "child related" work without a WWC Clearance Notice.

Individual organisations may also have their own policies that require people working with children and young people to undergo a Police Check. The Northern Territory Police Department provides information on obtaining Police Checks at [www.pfes.nt.gov.au](http://www.pfes.nt.gov.au).

For more information:

- Visit: <http://www.workingwithchildren.nt.gov.au>; or
- Call: 1800 SAFE NT (1800 723 368)

## **7. AUSTRALIAN CAPITAL TERRITORY**

There is no formal legislation or relevant screening program in the ACT. Individual employers may require police checks at their discretion.

There are no legal statutes that require people working with children to undergo a police check. However, services contracted to the Government are required to employ “fit and proper” people. This is interpreted as a requirement to obtain a National Police Check. The Australian Federal Police provide National Police Checks for residents in the ACT.

For more information including forms and fees:

- Visit: [www.aifs.gov.au](http://www.aifs.gov.au); and
- [www.afp.gov.au/what-we-do/police-checks/national-police-checks.aspx](http://www.afp.gov.au/what-we-do/police-checks/national-police-checks.aspx)

## **8. TASMANIA**

Similar to the ACT, there is no formal legislation or relevant screening program in Tasmania. Individual employers may require police checks at their discretion.

A screening program does exist for persons engaged in the childcare industry. It is a requirement of the Department of Education that safety screening is undertaken for the following:

- Child care staff;
- Home base child carers; and
- Volunteers and students, including those under 18 years of age.

A Working with Children and other Vulnerable People Policy will be finalised and submitted for the consideration of the Government and it is anticipated that legislation will be introduced into the Tasmanian Parliament in 2011. It is expected that the working with children checks will be phased in over five years commencing in 2011.

Police Checks can be obtained from the Tasmanian Police Department at [www.police.tas.gov.au](http://www.police.tas.gov.au).

For more information:

- Visit: [www.aifs.gov.au](http://www.aifs.gov.au); and
- [www.education.tas.gov.au](http://www.education.tas.gov.au)

## **PART D: COMPLAINT HANDLING PROCEDURES**

### **Attachment D1: COMPLAINTS PROCEDURE**

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All complaints will be kept confidential and will not be disclosed to another person without the complainant's consent except if law requires disclosure or if disclosure is necessary to effectively deal with the complaint.

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

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

#### **INFORMAL APPROACHES**

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

In the first instance, you (**the Complainant**) should try to sort out the problem with the person or people involved (**respondent**) if you feel able to do so.

##### **Step 2: Contact a Member Protection Information Officer**

Talk with BMXA's MPIO if:

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

The MPIO or nominee will:

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

##### **Step 3: Outcomes from initial contact**

After talking with the MPIO you may decide:

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

#### **FORMAL APPROACHES**

##### **Step 4: Making a Formal complaint**

If your complaint is not resolved or informal approaches are not appropriate or possible, you may:

- make a formal complaint in writing to the MPIO; or
- approach a relevant external agency such as an anti-discrimination commission, for advice.

On receiving a formal complaint and based on the material you have provided, the MPIO will decide whether:

- they are the most appropriate person to receive and handle the complaint;
- the nature and seriousness of the complaint warrants a formal resolution procedure;
- to refer the complaint to mediation;
- to take no further action because the complaint is improper, insignificant or vexatious, or has been adequately dealt with through informal or other processes;
- to appoint a person to **investigate** (gather more information on) the complaint;
- to refer the complaint to a hearings tribunal under this policy and described in Attachment D5;
- to refer the matter to the matter to BMXA's disciplinary tribunal described under the BMXA Constitution and Regulations;
- to refer the matter to the police or other appropriate authority; and/or
- to implement any interim arrangements that will apply until the complaint process set out in these Procedures is completed.

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

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

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

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

#### **Step 5: Investigation of the complaint**

- A person may be appointed under Step 4 to conduct an investigation and provide a written report to the MPIO who will determine what further action to take. Such investigation will be conducted in accordance with Attachment D3. It must be made clear to all parties that the investigator is not seeking to resolve the matter, nor to decide whether any breach of this policy has occurred, nor to impose any penalty.
- Any decision about disciplinary action must be referred to an independent tribunal, and wherever possible, mediations should be conducted by an independent mediator.
- If the complaint is referred to mediation, it will be conducted in accordance with Attachment D2 or as otherwise agreed by you and the respondent and the mediation provider;
- If the complaint is referred to the member protection hearings tribunal, the hearing will be conducted in accordance with Attachment D5;
- If the complaint is referred to the police or other appropriate authority, BMXA will use its best endeavours to provide all reasonable assistance required by the police or other authority.

#### **Step 6: Reconsideration of initial outcome/investigation or appeal**

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

You or the respondent(s) may be entitled to appeal. The grounds and process for appeals under this Policy are set out in Attachment D5.

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

The MPIO will document the complaint, the process and the outcome. This document will be stored in a confidential and secure place. If the complaint was dealt with at a state/district level, the information will be stored in the state association office. If the matter is of a serious nature, or if the matter was escalated to and/or dealt with at the national level, the original document will be stored at the national office with a copy stored at the state office.

### **EXTERNAL APPROACHES**

There are a range of other options available depending on the nature of your complaint. If you feel that you have been harassed or discriminated against, you can seek advice from your State or Territory anti-discrimination commission without being obliged to make a formal complaint. If the commission advises you that the problem appears to be harassment within its jurisdiction, you may lodge a formal complaint with the commission.

Once a complaint is received by an anti-discrimination commission, it will investigate. If it appears that unlawful harassment or discrimination has occurred, the commission will conciliate the complaint confidentially. If this fails, or is inappropriate, the complaint may go to a formal hearing where a finding will be made. The tribunal will decide upon what action, if any, will be taken. This could include financial compensation for such things as distress, lost earnings or medical and counselling expenses incurred.

If you do lodge a complaint under anti-discrimination law, you may use an appropriate person (e.g. an MPIO) as a support person throughout the process. It is also common to have a legal representative, particularly at the hearing stage of a complaint.

You could also approach another external agency such as the police.

## Attachment D2: MEDIATION

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Mediation is a process during which people in conflict are helped to communicate with each other to identify the areas of dispute and to make decisions about resolving it. This attachment outlines the general procedure of mediation that will be followed by BMXA.

1. Mediation will **not** be recommended if:
  - The respondent has a completely different version of the events and will not deviate from these;
  - The complainant or respondent are unwilling to attempt mediation;
  - Due to the nature of the complaint, the relationship between the complainant and the respondent(s) or any other relevant factors, the complaint is not suitable for mediation; or
  - The matter involves proven serious allegations, regardless of the wishes of the Complainant.
2. If mediation is chosen, the MPIO will, under the direction of BMXA and in consultation with the complainant and the respondent(s), arrange for a mediator.
3. The mediator's role is to assist the complainant and respondent(s) reach an agreement on how to resolve the problem. The mediator, in consultation with the complainant and respondent(s), will choose the procedures to be followed during the mediation. At a minimum, an agenda of issues for discussion will be prepared by the mediator.
4. The mediation will be conducted confidentially and without prejudice to the rights of the complainant and the respondent(s) to pursue an alternative process if the complaint is not resolved.
5. At the end of a successful mediation the mediator will prepare a document that sets out the agreement reached which will be signed by them as their agreement.
6. If the complaint is not resolved by mediation, the complainant may:
  - a. Write to the MPIO to request that the MPIO reconsider the complaint in accordance with **Step 4**; or
  - b. Approach an external agency such as an anti-discrimination commission.

## **Attachment D3: INVESTIGATION PROCESS**

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

1. We will provide a written brief to the investigator clarifying terms of engagement and roles and responsibilities. The investigator will:
  - Interview the complainant and record the interview in writing.
  - Convey full details of the complaint to the respondent (s) so that they can respond.
  - Interview the respondent to allow them to answer the complaint, and record the interview in writing.
  - Obtain statements from witnesses and other relevant evidence to assist in a determination, if there is a dispute over the facts
  - Make a finding as to whether the complaint is:
    - substantiated (there is sufficient evidence to support the complaint);
    - inconclusive (there is insufficient evidence either way);
    - unsubstantiated (there is sufficient evidence to show that the complaint is unfounded); and/or
    - mischievous, vexatious or knowingly untrue.
  - Provide a report to the MPIO documenting the complaint, investigation process, evidence, finding and, if requested, recommendations.
2. We will provide a report to the complainant and the respondent(s) documenting the complaint, the investigation process and summarising key points that are substantiated, inconclusive, unsubstantiated and/or mischievous.
3. The complainant and the respondent(s) will be entitled to support throughout this process from their chosen support person/adviser.
4. The complainant and the respondent(s) may have the right to appeal against any decision based on the investigation. Information on our appeals process is in Attachment D5.



## **Attachment D4: PROCEDURE FOR HANDLING ALLEGATIONS OF CHILD ABUSE**

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An allegation of child abuse is a very serious matter and must be handled with a high degree of sensitivity. It is not the responsibility of anyone working in BMXA in a paid or unpaid capacity to decide whether or not child abuse has taken place. However, there is a responsibility to act on any concerns by reporting these to the appropriate authorities. The following outlines the key steps to follow. More information can be obtained from State or Territory government agencies.

### **Step 1 – Initial Receipt of an Allegation**

If a child or young person discloses an allegation involving harm or abuse to them or another child, then it is crucial that you:

- Stay calm;
- Listen, be supportive and do not challenge or undermine what the child says;
- Reassure the child that what has occurred is not the fault of the child;
- Be honest with the child and explain that other people may need to be told in order to stop what is happening;
- Ensure you are clear about what the child has said but do not elicit detailed information, ask leading questions or offer an opinion;
- Act promptly to accurately record the discussion in writing;
- Do not discuss the details with any person other than those detailed in these procedures; and
- Do not contact the alleged offender.

### **Step 2 – Report allegations**

- Immediately report any allegation or disclosure of child abuse or situation involving a child at risk of harm, to the police and/or government child protection agency. You may need to report to both.
- Contact the relevant child protection agency or police for advice if there is **any** doubt about whether the complaint should be reported (for example, the allegation may relate to poor/inappropriate practice).
- If the child's parent/s is suspected of committing the abuse, you should report the allegation to the relevant government agency.
- If the allegation involves anyone to whom our policy applies, then also report the allegation to the CEO of BMXA so that they can manage the situation (e.g. contact the parents following advice from the authorities, deal with any media enquiries and manage steps 3 and 4).

### **Step 3 – Protect the child and manage the situation**

- The MPIO, CEO or other senior management will assess the risks and take interim action to ensure the child's/children's safety. Action BMXA may implement includes 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 MPIO, CEO or other senior management will consider the kind of support that the child/ren and parents may need (e.g. counselling, helplines, support groups).
- The MPIO, CEO or other senior management will address the support needs of the alleged offender.
- The MPIO, CEO or other senior management will also put in place measures to protect the child and the person against whom the complaint is made from victimisation and gossip. If the person is stood down, it should be made clear to any persons aware of the incident that this does not mean the respondent is guilty and a proper investigation will be undertaken.

### **Step 4 – Internal action**

- Where there is an allegation made against a person to whom this policy applies, there may be three types of investigations:
  - Criminal (conducted by police)
  - Child protection (conducted by child protection authority)
  - Disciplinary or misconduct (conducted by BMXA)

- Irrespective of the findings of the child protection and/or police inquiries, BMXA will assess the allegation to decide whether the person should be reinstated, banned, have their employment or position terminated or any other action.
- The decision-maker(s) will be a Tribunal of BMXA and it will consider all the information, including the findings of the police, government agency and/or court, and determine a finding, recommend action and explain its rationale for the action. This may be a difficult decision particularly where there is insufficient evidence to uphold any action by the police.
- If disciplinary action is to be taken, the procedures outlined in Clause 9 of the policy will be followed.
- If disciplinary action is taken, BMXA will advise and provide a report to the relevant government authority should this be required (e.g. the NSW Commission for Children and Young People requires notification of relevant employment proceedings).

## **Attachment D5: HEARINGS & APPEALS TRIBUNAL PROCEDURE**

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The following will be followed by hearings tribunals established by BMXA to hear national member protection related complaints where determined appropriate by the MPIO under step 4 of Attachment D1.

### **Preparation for Tribunal Hearing**

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

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

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

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

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

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

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

### **Tribunal Hearing Procedure**

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

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

### **Appeals Procedure**

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

## PART E: REPORTING REQUIREMENT AND DOCUMENTS

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

### 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.

### 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.

### 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/>

## **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/>

## **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.families.sa.gov.au/childsafes](http://www.families.sa.gov.au/childsafes).

## 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/)

## 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)

## 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)





**Attachment E2: CONFIDENTIAL RECORD OF FORMAL COMPLAINT**

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

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

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

**Attachment E3: CONFIDENTIAL RECORD OF CHILD ABUSE ALLEGATION**

Before completing, ensure the procedures outlined in attachment D4 have been followed and advice has been sought from the relevant government agency and/or police.

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

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

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