



# **POLICY TITLE: MEMBER PROTECTION POLICY VERSION 9**

<b>RELATED POLICIES:</b>	Disciplinary Policy
<b>RESPONSIBLE OFFICERS:</b>	Chief Executive Officer Executive and People & Culture Manager
<b>AUTHORITY:</b>	Bowls Australia Board
<b>APPLICABLE FORMS:</b>	Member Protection Declaration Confidential record of informal complaint Confidential record of formal complaint Confidential record of child abuse allegation
<b>APPROVED:</b>	July, 2016
<b>NEXT REVIEW DATE:</b>	Next ASC update

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## Preface

Bowls Australia (BA) is the governing body for the sport of bowls in Australia, with the sole mission to grow the sport of bowls. In pursuing such mission, BA is committed to the health, safety and general wellbeing of all its members and participants.

BA aims to ensure the core values, good reputation and positive behaviours and attitudes of BA are maintained. BA believes that anyone who works for it, and everyone with whom it deals, has the right to be treated with respect and dignity.

BA will not tolerate any type of behaviour which will bring the sport of bowls into disrepute, and this policy is an essential part of BA's proactive and preventative approach to tackling inappropriate behaviour. BA will therefore take all complaints seriously, and will ensure they are dealt with promptly and sensitively.

As Australians, we greatly value the importance of sport in our culture and our community, and we all have the right to enjoy our sport, at whichever level we participate in an environment that is free of harassment and discrimination.

I commend this Member Protection Policy to you and wish you all happy, safe and successful bowling.

**Nigel Smith**

President  
Bowls Australia

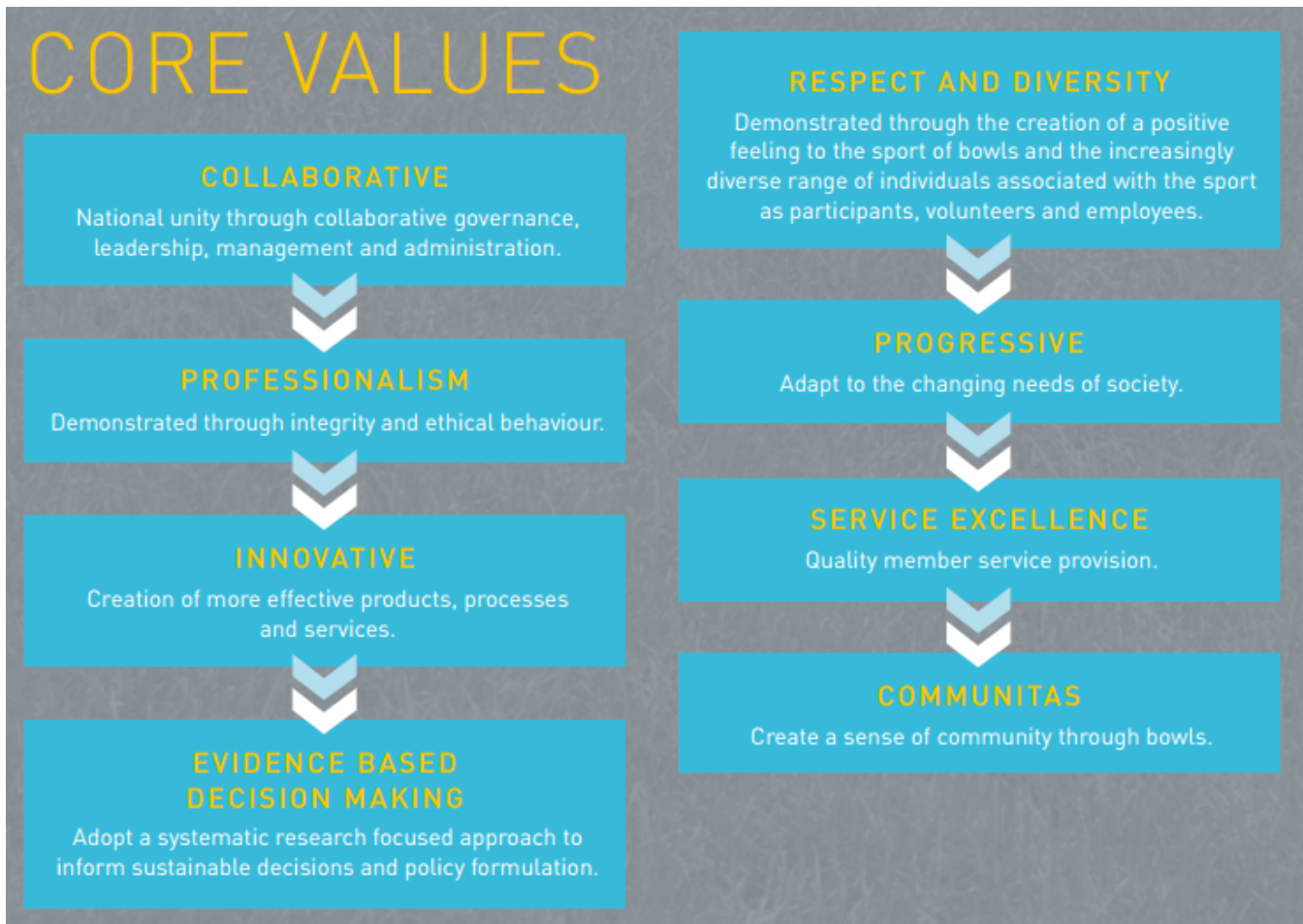
November 1, 2015

# PART A: NATIONAL MEMBER PROTECTION POLICY

## 1. Introduction

VISION: BOWLS – THE SPORT FOR LIFE

MISSION: TO GROW THE SPORT OF BOWLS



## **2. Purpose of this policy**

This BA National Member Protection Policy aims to assist BA to uphold its core values and create a safe, fair and inclusive environment for everyone associated with our sport. It sets out our commitment to ensure that every person bound by the policy is treated with respect and dignity and protected from discrimination, harassment and abuse.

It also seeks to ensure that everyone involved in our sport is aware of their key legal and ethical rights and responsibilities, as well as the standards of behaviour expected of them.

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

This policy has been endorsed by BA Board and has been listed on the official website. The policy starts on July 1, 2016 and will operate until replaced.

This policy and/or its attachments may be amended from time to time by resolution of the BA Board

The current policy and its attachments can be obtained from our website at: [www.bowlsaustralia.com.au](http://www.bowlsaustralia.com.au)

This policy will continue to apply to a person even after he or she has stopped their association or employment with BA if disciplinary action against that person has begun.

This policy also applies to all membership categories listed within the BA Constitution, including Member States, Associate Members, Individual Members and Organizational Members.

### **3. Who is bound by this policy**

This policy should apply to as many persons as possible who are involved with the activities of BA, whether they are in a paid or unpaid/voluntary capacity

- 3.1 persons appointed or elected to BA boards, committees and sub-committees;
- 3.2 employees of BA;
- 3.3 members of the BA Executive;
- 3.4 support personnel, including managers, physiotherapists, psychologists, masseurs, sport trainers and others;
- 3.5 coaches and assistant coaches;
- 3.6 athletes;
- 3.7 umpires and other officials;
- 3.8 members, including life members of BA; and
- 3.9 athletes, coaches, officials and other personnel participating in events and activities, including camps and training sessions, held or sanctioned by BA.
- 3.10 Parents, guardians, spectators and sponsors to the full extent that is possible, including where spectators, parents/guardians and sponsors, who or which agree in writing (whether on a ticket, entry form or otherwise) to be bound by this policy

This policy will continue to apply to a person even after he or she has stopped their association or employment with BA, if disciplinary action against that person has begun.

It is also intended this policy will apply to:

- 3.11 member associations
- 3.12 affiliated clubs and associated organizations

## **4. Organizational responsibilities**

BA and Member States must:

- 4.1 adopt, implement and comply with this policy;
- 4.2 ensure that this policy is enforceable;
- 4.3 publish, distribute and promote this policy and the consequences of any breaches of the policy;
- 4.4 promote and model appropriate standards of behaviour at all times;
- 4.5 deal with any complaints made under this policy in an appropriate manner;
- 4.6 deal with any breaches of this policy in an appropriate manner;
- 4.7 recognise and enforce any penalty imposed under this policy;
- 4.8 ensure that a copy of this policy is available or accessible to all people and organizations to whom this policy applies;
- 4.9 use appropriately trained people to receive and manage complaints and allegations of inappropriate behaviour - Member Protection Information Officers - MPIO; and
- 4.10 monitor and review this policy at least annually.

## **5. Individual responsibilities**

Individuals bound by this policy must:

- 5.1 make themselves aware of the contents of this policy;
- 5.2 comply with all relevant provisions of the policy, including any codes of conduct and the steps for making a complaint or reporting possible child abuse set out in this policy;



- 5.3 consent to the screening requirements set out in this policy and any state/territory Working with Children Checks if the person holds or applies for a role that involves regular unsupervised contact with a child or young person under the age of 18 or where otherwise required by law;
- 5.4 place the safety and welfare of children above other considerations;
- 5.5 be accountable for their behaviour;
- 5.6 comply with any decisions and/or disciplinary measures imposed under this policy.

## **6. Position statements**

### **6.1 Child protection**

BA is committed to the safety and well-being of all children and young people who participate in our sport or access our services. We support the rights of the child and will act at all times to ensure that a child-safe environment is maintained.

We acknowledge the valuable contribution made by our staff, members and volunteers and we encourage their active participation in providing a safe, fair and inclusive environment for all participants.

#### **6.1.1 Identify and analyze risk of harm**

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

#### **6.1.2 Develop codes of behaviour**

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

We will also implement a code of behaviour to promote appropriate conduct between children.

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

#### 6.1.3 Choose suitable employees and volunteers

We will take all reasonable steps to ensure that our organisation engages suitable and appropriate people to work with children, especially those in positions that involve regular unsupervised contact with children. This will include using a range of screening measures.

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

#### 6.1.4 Support, train, supervise and enhance performance

We will ensure that all our employees and volunteers who work with children have ongoing supervision, support and training. Our goal is to develop their skills and capacity and to enhance their performance so we can maintain a child-safe environment in our sport.

#### 6.1.5 : Empower and promote the participation of children

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

#### 6.1.6 : Report and respond appropriately to suspected abuse and neglect

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

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

## **6.2 Taking images of children**

There is a risk that Images of children may be used inappropriately or illegally. BA 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. They should also make sure the parent/guardian understands how the image will be used.

To respect people's privacy, we do not allow camera phones, videos and cameras to be used inside changing areas, showers and toilets which we control or are used in connection with our sport.

When using a photo of a child, we will not name or identify the child or publish personal information, such as residential address, email address or telephone number without the consent of the child's parent/guardian. We will not provide information about a child's hobbies, interests, school or the like, as this can be used by pedophiles or other persons to "groom" a child.

We will only use images of children that are relevant to our sport and we will ensure that they are suitably clothed in a manner that promotes participation in the sport. We will seek permission from the parents/guardians of the children before using the images. We require our member associations and clubs to do likewise.

## **6.3 Anti-discrimination and harassment**

BA is committed to providing an environment in which people are treated fairly and equitably and that is, as far as practicable, free from all forms of discrimination and harassment.

We recognise that people may not be able to enjoy themselves or perform at their best if they are treated unfairly, discriminated against or harassed.

### 6.3.1 Discrimination

Unlawful discrimination involves the less favourable treatment of a person on the basis of one or more of the personal characteristics protected by state or federal anti-discrimination laws.

The personal characteristics protected by anti-discrimination laws include attributes such as race, age, disability, gender and race. The full list of protected personal characteristics is in the “Definitions” set out in the Dictionary of Terms.

Discrimination can be either direct or indirect.

Direct discrimination occurs if a person treats, or proposes to treat, a person with a protected personal characteristic unfavourably because of that personal characteristic.

Indirect discrimination occurs if a person imposes, or proposes to impose, a requirement, condition or practice that will disadvantage a person with a protected personal characteristic and that requirement, condition or practice is not reasonable

For the purposes of determining discrimination, the offender’s awareness and motive are irrelevant.

### 6.3.2 Harassment

Harassment is any unwelcome conduct, verbal or physical, that intimidates, offends or humiliates another person and which happens because a person has a certain personal characteristic protected by State or Federal anti-discrimination legislation.

The offensive behaviour does not have to take place a number of times, a single incident can constitute harassment.

Sexual harassment is one type of harassment. Sexual harassment is unwelcome conduct, remarks or innuendo of a sexual nature. It covers a wide range of behaviours and can be verbal, written, visual or physical. Sexual harassment is not limited to members of the opposite sex.

### 6.3.3 Prohibition against discrimination and harassment

BA prohibits all forms of harassment and discrimination based on the personal characteristics listed in the “Definitions” set out in the Dictionary of Terms Clause 10.

Any person who believes they are being, or have been, harassed or discriminated against by another person or organisation bound by this policy is encouraged to raise their concerns with us. A person may make an internal complaint, and in some circumstances, they may also be able to make a complaint to an external organisation.

Refer to the attachments in Part D of this policy.

### 6.4 Intimate relationships

BA understands that consensual intimate relationships (including, but not limited to sexual relationships) between coaches or officials and adult athletes may take place legally. However, this policy will help ensure that the expectations of coaches or officials are clear and, to ensure that if an intimate relationship does exist or develop between a coach or official and an adult athlete, that relationship will be managed in an appropriate manner.

Coaches and officials are required to conduct themselves in a professional and appropriate manner in all interactions with athletes. In particular, they must ensure that they treat athletes in a respectful and fair manner, and that they do not engage in sexual harassment, bullying, favouritism or exploitation.

BA takes the position that consensual intimate relationships between coaches or officials and the adult athletes they coach should be avoided as they can have harmful effects on the athlete involved, on other athletes and coaches and on the sport’s public image. These relationships can also be perceived to be exploitative due to the differences in authority, power, maturity, status, influence and dependence between the coach or official and the athlete.

BA recommends that if an athlete attempts to initiate an intimate relationship with a coach or official, the coach or official should discourage the athlete’s approach and explain to the athlete why such a relationship is not appropriate.

If a consensual intimate relationship does exist or develop between an adult athlete and a coach or official, the coach or official is expected to ensure that the relationship is appropriate and that it does not compromise impartiality, professional standards or the relationship of trust the coach or official has with the athlete and/or other athletes.

In assessing the appropriateness of an intimate relationship between a coach or official and an adult athlete, relevant factors include, but are not limited to:

- the relative age and social maturity of the athlete;
- any potential vulnerability of the athlete;
- any financial or emotional dependence of the athlete on the coach or official;
- the ability of the coach or official to influence the progress, outcomes or progression of the athlete's performance and/or career;
- the extent of power imbalance between the athlete and coach or official;
- the likelihood of the relationship having an adverse impact on the athlete and/or other athletes.

It will often be difficult for a coach or official involved in an intimate relationship with an adult athlete to make an objective assessment of its appropriateness and accordingly they are encouraged to seek advice from a MPIO or the CEO to ensure that they have not involved themselves in inappropriate or unprofessional conduct.

Should it be determined that an intimate relationship between a coach or official and an adult athlete is inappropriate or unprofessional we may take disciplinary action against the coach or official up to and including dismissal.

Action may also be taken to stop the coaching relationship with the athlete. This could include a transfer, a request for resignation or dismissal from coaching duties.

Should a coach, official or athlete believe they are being, or have been, harassed they are encouraged to seek information and support from a MPIO or the CEO.

Our complaints procedure is outlined in Part D of this policy.

## **6.5 Pregnancy**

BA is committed to treating pregnant women fairly and to removing any unreasonable barriers to their full participation in our sport. We will not tolerate any discrimination or harassment against pregnant women.

BA will take reasonable care to ensure the continuing safety, health and wellbeing of pregnant women. We will advise pregnant women that there may be risks involved with their continuing participation in sport and encourage them to obtain medical advice about those risks.

Pregnant women should be aware that their own health and wellbeing, and that of their unborn child, is of utmost importance in their decision-making about the extent they choose to participate in our sport.

BA encourage all pregnant women to talk with their medical advisers, make themselves aware of the facts about pregnancy in sport and ensure that they make informed decisions about their participation in our sport. Pregnant women should make these decisions themselves, in consultation with their medical advisers and in discussion with BA.

BA will only require pregnant women to sign a disclaimer in relation to their participation in our sport whilst they are pregnant if all other participants are required to sign one in similar circumstances. We will not require women to undertake a pregnancy test.

Should a pregnant woman believes she is being, or has been, harassed or discriminated against by another person or organisation bound by this Policy, she may make a complaint.

Refer to the attachments in Part D of this policy.

## **6.6 Gender identity**

Gender identity means the gender-related identity, appearance or mannerisms or other gender-related characteristics of a person. This includes the way people express or present their gender and recognises that a person's gender identity may be an identity other than male or female. Some terms used to describe a person's gender identity include trans, transgender and gender diverse.

### 6.6.1 Gender identity discrimination and harassment

Federal, state and territory anti-discrimination laws provide protection from discrimination against people on the basis of their gender identity. See definition in Dictionary of terms.

BA is committed to providing a safe, fair and inclusive sporting environment all where people can contribute and participate. BA will not tolerate any unlawful discrimination or harassment of a person because of their gender identity.

All persons, regardless of gender identity, are entitled to be treated fairly and with dignity and respect at all times. We will not tolerate any unlawful discrimination or harassment of a person because of their gender identity.

This includes discrimination or harassment of a person who is transgender or transsexual, who is assumed to be transgender or transsexual or has an association with someone who has or is assumed to be transgender or transsexual.

Refer to the attachments in Part D of this policy.

We expect all people bound by this policy to act with sensitivity when a person is undergoing gender transition/affirmation.

If any person believes that they are being, or have been, harassed or discriminated against by another person or organisation bound by this policy because of their gender identity, they may make a complaint.

### 6.6.2 Participation in sport

BA recognises that excluding people from participating in sporting events and activities because of their gender identity may have significant implications for their health, wellbeing and involvement in community life.

BA are committed to supporting participation in our sport on the basis of the gender with which a person identifies.

Should issues of performance advantage arise, we will consider whether the established discrimination exceptions for participation in sport are relevant in the circumstances. Discrimination is unlawful unless an exception applies.



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.

### 6.6.3. Intersex status

Federal anti-discrimination law, and some state and territory anti-discrimination laws, provide protection from discrimination against a person on the basis of their intersex status. See Dictionary of terms.

BA is committed to providing a safe, fair and inclusive sporting environment where all people can contribute and participate. We will not tolerate any unlawful discrimination or harassment of a person because of their intersex status.

## 6.7 Responsible service and consumption of alcohol

BA is committed to conducting sporting and social events in a manner that promotes the responsible service and consumption of alcohol. BA also recommend that State Associations and member clubs follow strict guidelines regarding the service and consumption of alcohol.

Our policy is that when reasonably practicable:

- alcohol should not be available or consumed at sporting events involving children and young people under the age of 18;
- alcohol-free social events be provided for young people and families;
- food and low-alcohol and non-alcoholic drinks be available at events we hold or endorse where alcohol is served;
- a staff member is present at events we hold or endorse where alcohol is served to ensure appropriate practices in respect of the consumption of alcohol are followed;
- safe transport options be promoted as part of any event we hold or endorse where alcohol is served.

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

## **6.8 Smoke-free environment**

BA is committed to providing a safe and healthy environment at all sporting and social events that we hold or endorse.

Our policy is that when reasonably practicable:

- no smoking shall occur at or near sporting events involving children and young people under the age of 18.  
This policy shall apply to coaches, players, trainers, officials and volunteers;
- social events shall be smoke-free, with smoking permitted at designated outdoor smoking areas;
- and coaches, officials, trainers, volunteers and players will refrain from smoking while they are involved in an official capacity in our sport, both on and off the field.

## **6.9 Bullying**

BA is committed to providing an environment that is free from bullying. BA understand that bullying has the potential to result in significant negative consequences for an individual's health and wellbeing, and we regard bullying in all forms as unacceptable in our sport.

Bullying is characterised by repeated, unreasonable behaviour directed at a person, or group of persons, that creates a risk to health and safety. Bullying behaviour is that which a reasonable person in the circumstances would expect to victimise, humiliate, undermine, threaten, degrade, offend or intimidate a person. Bullying behaviour can include actions of an individual or a group.

Whilst generally characterised by repeated behaviours, one-off instances can amount to bullying. The following types of behaviour, where repeated or occurring as part of a pattern of behaviour, would be considered bullying:

- verbal abuse including shouting, swearing, teasing, making belittling remarks or persistent unjustified criticism;
- excluding or isolating a group or person;
- spreading malicious rumours; or
- psychological harassment such as intimidation.

Bullying includes cyber-bullying which occurs through the use of technology. New technologies and communication tools, such as smart phones and social networking websites, have greatly increased the potential for people to be bullied through unwanted and inappropriate comments.

BA will not tolerate abusive, discriminatory, intimidating or offensive statements being made online. Frustration at a referee, teammate, coach or sporting body should never be communicated on social networking websites. These issues should instead be addressed – in a written or verbal statement or a complaint – to the relevant controlling club, league or peak sporting body.

Should any person believe they are being, or have been, bullied by another person or organisation bound by this policy, he or she may make a complaint.

Refer to the attachments in Part D of this policy.

### **6.10 Social networking**

BA acknowledges the enormous value of social networking to promote our sport and celebrate the achievements and success of the people involved in our sport.

Social networking refers to any interactive website or technology that enables people to communicate and/or share content via the internet. This includes, but is not limited to, social networking websites such as Facebook and Twitter.

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

In particular, social media activity including, but not limited to, postings, blogs, status updates, and tweets:

- must not contain material which is, or has the potential to be, offensive, aggressive, defamatory, threatening, discriminatory, obscene, profane, harassing, embarrassing, intimidating, sexually explicit, bullying, hateful, racist, sexist or otherwise inappropriate;
- must not contain material which is inaccurate, misleading or fraudulent;
- must not contain material which is in breach of laws, court orders, undertakings or contracts;
- should respect and maintain the privacy of others; and
- should promote the sport in a positive way.

Further guidance on developing a Communications Policy is available at:  
<http://www.playbytherules.net.au/resources/club-toolkit>

## **7. Complaints procedures**

### **7.1 Handling complaints**

BA aims to provide a simple, confidential and trustworthy procedure for resolving complaints based on the principles of procedural fairness.

Any person (a complainant) may report a complaint about a person, people or organisation bound by this policy (respondent) if they feel they have been discriminated against, harassed, bullied or there has been any other breach of this policy.

In the first instance, complaints should be reported to the MPIO or the CEO. Matters should be dealt with at the lowest possible level.

If a complaint relates to behaviour or an incident that occurred at:

Club level, or involves people operating at Club level, then the complaint should be reported to and handled by the relevant Club in the first instance.

State level, or involves people operating at State level, then the complaint should be reported to and handled by the relevant State Association in the first instance.

Only matters that relate to, or which occurred at, the national level, as well as serious cases referred from the State and Club level, should be dealt with by BA.

A complaint may be handled informally or formally. The complainant may indicate his or her preferred option and the MPIO or CEO should consider whether that is an appropriate way to handle the particular complaint. For example, the law may require that the complaint/allegation be reported to an appropriate authority.

All complaints will be dealt with promptly, seriously, sensitively and confidentially. Our procedures for handling and resolving complaints are outlined in Attachment D1 Complaints Procedure.

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

## **7.2 Improper complaints and victimisation**

BA aims to ensure that our complaints procedure has integrity and is free of unfair repercussions or victimisation against any person making a complaint.

BA will take all necessary steps to make sure that people involved in a complaint are not victimised. Disciplinary measures may be undertaken in respect of a person who harasses or victimises another person for making a complaint or supporting another person's complaint.

If at any point in the complaint handling process MPIO or CEO considers that a complainant has knowingly made an untrue complaint, or the complaint is malicious or inappropriately intended to cause distress to the respondent, the matter may be referred in writing to the Judiciary Committee for review and appropriate action.

## **7.3 Mediation**

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

Mediation is a confidential process that allows those involved in a complaint to discuss the issues or incident in question and come up with mutually agreed solutions. It may occur before or after the investigation of a complaint.

If a complainant wishes to resolve the complaint with the help of a mediator, the MPIO and/or CEO will, in consultation with the complainant, arrange for an independent mediator where possible. BA will not allow lawyers to participate in the mediation process.

The mediation process is outlined in Attachment D2 Mediation.

## **7.4 Judiciary Committee**

In accordance with BA Disciplinary Policy a Judiciary Committee (JC) may be convened to hear a proceeding:

- referred by the CEO or other nominated official.
- referred to or escalated by a State Association due to the serious nature of the complaint where the complaint was unable to be resolved at the State level.
- for an alleged breach of this policy.

The JC procedure is outlined in the BA Disciplinary Policy.

A respondent may lodge an appeal to the Appeal Committee (AC) in respect of a JC decision. The decision of the AC is final and binding on the people involved. The BA appeals must be in accordance with the BA Disciplinary Policy.

Every organisation bound by this policy will recognise and enforce any decision of a JC or AC under this policy.

## **8. Breach of Policy**

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

- 8.1 breaching the codes of behaviour see Part B of this policy;
- 8.2 failing to follow BA policies (including this policy) and our procedures for the protection, safety and well-being of children;
- 8.3 discriminating against, harassing or bullying (including cyber-bullying) any person;
- 8.4 victimising another person for making or supporting a complaint;
- 8.5 engaging in an inappropriate intimate relationship with a person that he or she supervises, or has influence, authority or power over
- 8.6 verbally or physically assaulting another person, intimidating another person or creating a hostile environment within the sport
- 8.7 disclosing to any unauthorised person or organisation any BA information that is of a private, confidential or privileged nature;

- 8.8 making a complaint that they know to be untrue, vexatious, malicious or improper;
- 8.9 failing to comply with a penalty imposed after a finding that the individual or organisation has breached this policy; and
- 8.10 failing to comply with a direction given to the individual or organisation as part of a disciplinary process.
- 8.11 bringing BA into disrepute or acting in a manner likely to bring bowls or BA into disrepute

## **9. Disciplinary measures**

BA may impose disciplinary measures on an individual or organisation for a breach of this policy.

Any disciplinary measure imposed will be:

- fair and reasonable
- applied consistent with any contractual and employment rules and requirements
- be based on the evidence and information presented and the seriousness of the breach and
- be determined in accordance with our constituent documents, by-laws, this policy and/or the rules of the sport.

### **9.1 Individual**

Subject to contractual and employment requirements, if a finding is made by a JC that an individual has breached this policy, the BA Disciplinary Policy Clause 4.7 applies.

### **9.2 Organisation**

If a finding is made that a Member State, Associate Member or Organizational Member has breached this MPP, disciplinary action may be imposed by the JC as set out under the BA Disciplinary Policy (see clause 4.7) and in conjunction with clause 8 of the Constitution.

### 9.3 Factors to consider

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

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

## 10. Dictionary of Terms

A dictionary of Terms used in this policy and its attachments is provided at:  
HYPERLINK "http://www.ausport.gov.au/supporting/nso/member\_protection"  
[http://www.ausport.gov.au/supporting/nso/member\\_protection](http://www.ausport.gov.au/supporting/nso/member_protection).

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. Further detail or definitions that are specific to different states and territories can be sourced from the relevant child protection authorities or equal opportunity and anti-discrimination commissions.

**Abuse** is the violation of an individual's human or civil rights through the act or actions of another person or persons. Types of abuse include physical abuse, psychological or emotional abuse, sexual abuse, constraints and restrictive practices, financial abuse, legal or civil abuse and systemic abuse.

**Affiliated club** as defined by the BA Constitution Clause 5.

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

**Child abuse** involves conduct which puts a child at risk of harm and may include: physical abuse, which occurs when a child has suffered, or is at risk of suffering, non-accidental physical trauma or injury.



This may include, but is not limited to, hitting, shaking or other physical harm; giving a child alcohol or drugs; or training that exceeds the child's development or maturity.

**sexual** abuse, which occurs when an adult, other child, or adolescent uses their power or authority to involve a child in a sexual activity or 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, which occurs when a child's social, emotional, cognitive or intellectual development is impaired or threatened. Emotional abuse can include, but is not limited to, emotional deprivation due to persistent rejection or criticism, hostility, teasing/bullying, humiliation, taunting, sarcasm, yelling, name-calling or placing unrealistic expectations on a child.

**neglect**, which occurs when a child's basic necessities of life are not met and their health and development are affected. Basic needs include food, water, shelter, adequate clothing, personal hygiene, timely provision of medical treatment and adequate supervision.

**Complaint** means a complaint made under Clause 7 of this policy

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

**Complaint handler/manager** means the person appointed under this policy to investigate a complaint.

**Discrimination** occurs when someone is treated (or is proposed to be treated) unfairly or less favourably than another person in the same or similar circumstances because of one of the personal characteristics covered by anti-discrimination laws.

This is known as direct discrimination. Indirect discrimination occurs when there is (or is proposed) an unreasonable requirement, condition or practice that seems to treat everyone equally, but which has or is likely to have the effect of disadvantaging persons with a personal characteristic covered by anti-discrimination laws.

In Australia, it is against the law to discriminate against someone because of:

age

sex or gender

gender identity

intersex status

race, colour, descent, national or ethnic origin, nationality, ethno-religious origin,

immigration

disability, mental and physical impairment

family/carer responsibilities, status as a parent or carer  
marital status  
pregnancy, potential pregnancy, breastfeeding  
sexual orientation and gender identity  
physical features  
irrelevant medical record  
irrelevant criminal record, spent convictions  
political beliefs or activities  
religion, religious beliefs or activities  
national extraction or social origin  
lawful sexual activity  
profession, trade, occupation or calling  
member of association or organisation of employees or employers, industrial activity, trade union activity  
defence service  
personal association with someone who has, or is assumed to have, any of the above characteristics

Examples of discrimination are available on the Play by the Rules website:  
[www.playbytherules.net.au/legal-stuff/discrimination](http://www.playbytherules.net.au/legal-stuff/discrimination)

Some exceptions to state, territory and federal anti-discrimination law apply, including exceptions for sporting activities, such as:  
holding a competitive sporting activity for a specific age or age group (e.g. only those who are under the age of 15 years);  
excluding people on the basis of their 'sex and/or gender identity status from participation in a competitive sporting activity where the strength, stamina or physique of competitors is relevant to the specific activity (note that this does not apply to activity by children who are under the age of 12 years); and  
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.

**Harassment** is any type of unwelcome behaviour which has the effect of offending, humiliating or intimidating the person harassed. Unlawful harassment can be based on any of the personal characteristics covered by anti-discrimination law, such as a person's race, sex, pregnancy, marital status or sexual orientation (see the list under "Discrimination").

**Public acts of racial hatred** which are reasonably likely to offend, insult, humiliate or intimidate are also prohibited. This applies to spectators, participants or any other person who engages in such an act in public. Some states and territories also prohibit public acts that vilify people on other grounds such as

homosexuality, gender identity, HIV/AIDS, religion and disability (see also “Vilification”).

**Member** means a member of BA in accordance with Clause 5 of the BA Constitution.

**Member Protection Information Officer** - MPIO means a person appointed by us to be the first point of contact for a person reporting an issue or a complaint under, or a breach of, this policy.

**Procedural fairness** requires that:  
the respondent knows the full details of what is being said against him or her and they have the opportunity to respond;  
no person may judge their own case; and  
the decision-maker(s) must be unbiased, fair and just.

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

**Respondent** means the person whose behaviour is the subject of the complaint.

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

**Sexual harassment** means unwelcome behaviour of a sexual nature which could reasonably be expected to make a person feel humiliated, intimidated or offended. Sexual harassment can take many different forms and may include unwelcome physical contact, verbal comments, jokes, propositions, displays of pornographic or offensive material or other behaviour that creates a sexually hostile environment. Sexual harassment does not have to be intentional.

**Sexual offence** means a criminal offence involving sexual activity or acts of indecency. Due to differences under state and territory laws, this can include but is not limited to:

rape

indecent assault

sexual assault

assault with intent to commit sexual acts

incest

sexual penetration of child under the age of 16 years

indecent act with child under the age of 16 years

sexual relationship with child under the age of 16 years  
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 years  
bestiality  
soliciting a child under the age of 16 years to take part in an act of sexual penetration, or an indecent act  
promoting or engaging in acts of child prostitution  
obtaining benefits from child prostitution  
possession of child pornography  
publishing child pornography and indecent articles.

**Transgender** 'Transgender' is an umbrella term that refers to a person whose gender identity is different to their physical sex as recorded at birth. Transitioning refers to the process where a transgender person commences living as a member of another sex. This is sometimes referred to as the person 'affirming' their gender because transitioning means they start living in what they identify as their true gender. For people who are transitioning/affirming their gender, having their identity fully recognised in all areas of life is a crucial part of the experience of living as their affirmed gender.

**Sexual orientation:** The term 'sexual orientation' refers to a person's emotional or sexual attraction to another person, including, amongst others, the following identities: heterosexual, gay, lesbian, bisexual, pansexual, asexual or same-sex attracted.

**Gender identity:** The term 'gender identity' refers to a person's deeply held internal and individual sense of gender.

**Gender expression:** The term 'gender expression' refers to the way in which a person externally expresses their gender or how they are perceived by others.

**Intersex:** The term 'intersex' refers to people who have genetic, hormonal or physical characteristics that are not exclusively 'male' or 'female'. A person who is intersex may identify as male, female, intersex or as being of indeterminate sex.

**Victimisation:** means treating someone unfairly or unfavorably, or threatening to do so, because that person has, or intends to, pursue their right to make any complaint, including a complaint under government legislation (e.g. anti-discrimination legislation) or under this policy, or for supporting another person to make complaint.

**Vilification:** means behaviour that occurs in public which incites hatred towards, serious contempt for, or revulsion or severe ridicule of a person or group of people because that person or persons have a particular personal characteristic. Anti-discrimination laws in Australia make it unlawful to vilify a person or group of persons on the basis of race, religion, homosexuality, transgender status and HIV/AIDS status.

NOTE: Additional obligations may apply under relevant/applicable State or Territory anti-discrimination laws.

## PART B: CODES OF BEHAVIOUR

We seek to provide a safe, fair and inclusive environment for everyone involved in our organisation and in our sport.

To achieve this, BA require certain standards of behaviour of players/athletes, coaches, officials, administrators, parents/guardians (of child participants) and spectators.

Our codes of behaviour are underpinned by the following core values to:

- Act within the rules and spirit of our sport.

- Display respect and courtesy towards everyone involved in our sport

- Prevent discrimination and harassment.

- Prioritise the safety and well-being of children and young people involved in our sport.

- Encourage and support opportunities for participation in all aspects of our sport.

### RELEVANT DOCUMENTS

Coaches Code of Behaviour [www.bowlsaustralia.com.au/Club-Assist/Coaching](http://www.bowlsaustralia.com.au/Club-Assist/Coaching)

Officials Code of Behaviour [www.bowlsaustralia.com.au/Club-Assist/Coaching](http://www.bowlsaustralia.com.au/Club-Assist/Coaching)

Further information is available: [www.playbytherules.net.au/resources/club-toolkit](http://www.playbytherules.net.au/resources/club-toolkit).

## ATTACHMENTS

Attachment C1: Member Protection Declaration

Attachment C2: Working with Children Check requirements

## PART D: COMPLAINT HANDLING PROCEDURES

BA will deal with all complaints in a fair, timely and transparent manner. All complaints will be treated seriously.

BA will provide individuals with an informal and informal process to resolve the matter, along with access to an external complaint handling body, based on the nature of the complaint and our rules and regulations.

In addition, BA also provide an appeals process for those matters.

BA will maintain confidentiality where possible and as provided in this policy and seek to ensure that no one is victimised for making, supporting or providing information about a complaint.

### ATTACHMENTS

Attachment D1: Complaints procedure

Attachment D2. Mediation

Attachment D3. Investigation procedure

Attachment D4. Tribunal procedure



## PART E: REPORTING REQUIREMENTS AND DOCUMENTS/ FORMS

BA will ensure that all the complaints we receive, both formal and informal, are properly documented. This includes recording how the complaint was resolved and the outcome of the complaint.

This information, and any additional records and notes, will be treated confidentially (subject to disclosure required by law or permitted under this policy) and stored in a secure place.

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

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

### ATTACHMENTS

Attachment E1: Record of informal complaint

Attachment E2: Record of formal complaint

Attachment E3: Handling an allegation of child abuse

Attachment E4: Confidential record of child abuse allegation

Attachment C2:

**MEMBER PROTECTION DECLARATION**

BA has a duty of care to all those associated with our organisation and to the individuals and organizations to whom this policy applies. It is a requirement of our Member Protection Policy that we check the background of each person who works, coaches or has regular unsupervised contact with children and young people under the age of 18 years.

I ..... (name) of

..... (address)

DATE OF BIRTH ...../...../.....

sincerely declare:

I do not have any criminal charge pending before the courts.

I do not have any criminal convictions or findings of guilt for sexual offences, offences related to children or acts of violence or drug related offences.

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 or drug related offences.

I am not currently serving a sanction for an anti-doping rule violation under an Australian Sports Anti-Doping Authority (ASADA) approved anti-doping policy applicable to me.

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.

To my knowledge, there is no other matter that BA may consider to constitute a risk to its members, employees, volunteers, athletes or reputation by engaging me.

I will notify the CEO or nominated official of the organisation/s engaging me immediately upon becoming aware that any matter set out above has changed.

Declared in the state/territory of .....on ...../ ...../.....(date) Signature .....

Consent of parent/guardian (on behalf 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 CHECK REQUIREMENTS

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

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

- Criminal history checks;
- Signed declarations;
- Referee checks; and
- Relevant background checks to assess a person's suitability to work with children and young people.

Working with Children Check requirements vary across Australia. HYPERLINK "<http://www.playbytherules.net.au/legal-stuff/child-protection/child-protection-laws-explained/screening>" [Fact Sheets](#) for each state and territory are available on the Play by the Rules website: HYPERLINK "<http://www.playbytherules.net>" [www.playbytherules.net](http://www.playbytherules.net)

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

#### Australian Capital Territory

Contact the Office of Regulatory Services

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

Phone: 02 6207 3000

#### New South Wales

Contact the Office of the Children's Guardian

Website: HYPERLINK "<http://www.kidsguardian.nsw.gov.au>"

[www.kidsguardian.nsw.gov.au/check](http://www.kidsguardian.nsw.gov.au/check)

Phone: 02 9286 7276

#### Northern Territory

Contact the Northern Territory Screening Authority

Website: HYPERLINK "<http://www.workingwithchildren.nt.gov.au>"

[www.workingwithchildren.nt.gov.au](http://www.workingwithchildren.nt.gov.au)

Phone: 1800 SAFE NT (1800 723 368)

## Queensland

Contact the Public Safety Business Agency about the “Blue Card” system.

Website: [www.cycopcg.qld.gov.au](http://www.cycopcg.qld.gov.au) Phone: 1800 113 611

## South Australia

Contact the Department for Education and Child Development for information

Website: [www.families.sa.gov.au/childsafes](http://www.families.sa.gov.au/childsafes) Phone: 08 8463 6468.

National Police Check: [www.police.sa.gov.au/services-and-events/apply-for-a-police-record-check](http://www.police.sa.gov.au/services-and-events/apply-for-a-police-record-check)

DCSI Child Related Work Screening: <http://www.dcsi.sa.gov.au/services/screening>

## Tasmania

Contact the Department of Justice about the working with children registration system that is being phased in

Website: [www.justice.tas.gov.au/working\\_with\\_children](http://www.justice.tas.gov.au/working_with_children)

Phone: 1300 13 55 13

## Victoria

Contact the Department of Justice

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

Phone: 1300 652 879

## Western Australia

Contact the Department for Child Protection

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

Phone: 1800 883 979 Travelling to other states or territories

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

In certain jurisdictions, temporary, time limited exemptions from working with children checks may be available for interstate visitors with a Working with Children Check in their home state.

The laws providing interstate exemptions are not consistent across Australia.

If an employee or volunteer for your organisation is travelling interstate to do work that would normally require a working for children check, you will need to check the relevant requirements of that state or territory.

## Attachment D1:

### COMPLAINTS PROCEDURE

BA is committed to supporting people associated with our sport to make and resolve any complaints they may have in a fair, timely and effective way.

BA will endeavour to deal with complaints on a confidential basis. We will not provide information about the complaint to another person without the complainant's consent, except if the law requires us disclose this information or it is necessary to properly deal with the complaint. To ensure fairness for everyone involved, we will provide the full details of the complaint to the person or people against whom the complaint has been made and ask for their response. As a result, it may be difficult for us to resolve complaints made anonymously.

BA will provide informal and formal procedures to deal with complaints. Individuals and organizations can also make complaints to external organizations under anti-discrimination, child protection and other relevant laws.

#### **Informal approaches**

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

If you feel confident and comfortable to do so, you can approach the other person to discuss the issues and try and resolve the problem directly.

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

We encourage you to talk with one of our Member Protection Information Officers (MPIOs) or CEO if:

- step 1 (above) is not appropriate;
- you are not sure how to handle the problem by yourself;
- you want to talk confidentially with someone and find out what options are available to address your concern; or
- the concern continues after you approached the other person.

The names and contact details for our MPIOs are available at <http://anzsla.com/content/sports-tribunal-referral-list>

The MPIO or CEO will:

- ask how you would like your concern to be resolved and if you need support;
- seek to provide different options for you to address your concern;
- act as a support person, if you wish;
- refer you to an appropriate person (e.g. a mediator) to help you address your concern, if appropriate;
- inform the relevant government authorities and/or police, if required by law to do so;
- where possible and appropriate, maintain confidentiality.

### **Step 3: Decide how to address your concern**

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

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

## **Formal approaches**

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

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

- make a formal complaint in writing to the CEO or
- approach a relevant external agency, such as an anti-discrimination or equal opportunity commission, for advice and assistance.

After receiving a formal complaint, and based on the material you provide, the CEO will decide whether:

- he or she is the most appropriate person to receive and handle the complaint;
- the nature and seriousness of the complaint requires a formal resolution procedure;

- to refer the complaint to mediation;
- to appoint a person to investigate the complaint;
- to refer the complaint to a tribunal hearing;
- to refer the matter to the police or other appropriate authority; and/  
or
- to implement any interim arrangements that will apply until the complaint process is completed.

In dealing with your formal complaint, the CEO will take into account:

- whether he or she has had any personal involvement in the circumstances and if so, whether it is appropriate someone else should handle the complaint;
- your wishes, and the wishes of the respondent, regarding how the complaint should be handled;
- the relationship between you and the respondent (e.g. an actual or perceived power imbalance between you and the respondent);
- whether the facts of the complaint are in dispute; and
- the urgency of the complaint, including the possibility that you might face further unacceptable behaviour while the complaint process is underway.

If the CEO is the appropriate person to handle the complaint, he or she will, where appropriate and/or necessary:

- provide the information received from you to the other person(s) involved and ask for a response;
- decide if there is enough information to determine whether the matter alleged in your complaint did or did not occur; and/or
- determine what, if any, further action to take. This action may include not taking any further action, referring the matter for investigation or disciplinary action in accordance with this policy. Such decision is to be made at the CEO's sole discretion.

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

In some cases, an investigation may be required to determine the facts surrounding the complaint.

The BA investigations procedure is outlined in Attachment D3.

Following the investigation, a written report will be provided to the CEO.

If the complaint is referred to mediation, BA will follow the steps outlined in Attachment D2 or as agreed by the complainant, the respondent and the mediator.

If the complaint is referred to a JC, the hearing will be conducted according to the steps outlined in Attachment D4.

If the complaint is referred to the police or another external agency, BA will endeavour to provide all reasonable assistance required by the police or the agency.

All parties shall bear their own costs. The JC has no power to award costs.

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

If the matter is referred to mediation and is not resolved at mediation, you may request that the CEO reconsider the complaint in accordance with Step 3.

In accordance with BA policy the complainant or the respondent(s) may appeal a decision made at a JC.

The grounds and process for appeals are set out in Attachment D4.

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

The CEO will record the complaint, the steps taken to resolve it and the outcome. BA will then store this information in a confidential and secure place. If the complaint was dealt with at the STA or other level, the information will be stored by the State Association.



## **Approaching external organizations**

If an individual feels that they have been harassed or discriminated against, they can seek advice from their State or Territory Anti-Discrimination or Equal Opportunity Commission. There is no obligation to make a formal complaint. However, if the Commission advises that the issue appears to be within its jurisdiction, they may choose to lodge a formal complaint with the Commission.

The Commission may investigate the complaint. The Commission may also attempt to conciliate the complaint on a confidential basis. If this fails, or if it is not appropriate, the complaint may go to a formal hearing. The tribunal will make a finding and decide what action, if any, will be taken.

If a complaint is lodged with the commission, an appropriate person e.g. an MPIO will be available for support during the process. It is common to have legal representation, particularly if the complaint goes to a formal hearing.

Contact details for the State and Territory Anti-Discrimination and Equal Opportunity Commissions are available on the Play by the Rules website:  
HYPERLINK "http://www.playbytherules.net.au/resources/quick-reference-guide"  
<http://www.playbytherules.net.au/resources/quick-reference-guide>.

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

## **Attachment D2:**

### **MEDIATION**

Mediation is a process that seeks to resolve complaints with the assistance of an impartial person – the mediator.

The mediator does not decide who is right or wrong and does not tell either side what they must do. Instead, he or she helps those involved to discuss the issues and seeks to facilitate a mutually agreeable solution.

Our approach to mediation follows the steps set out below.

- The CEO will appoint an appropriate mediator to help resolve the complaint. This will be done under the direction of BA and in consultation with the complainant and the respondent(s). The mediator will be an independent person in the context of the complaint, however this does not preclude a person with an association with BA acting as mediator.
- The mediator will talk with the complainant and respondent(s) about how the mediation will take place and who will participate. At a minimum, the mediator will prepare an agenda of issues to be discussed.
- All issues raised during mediation will be treated confidentially. We also respect the rights of the complainant and the respondent(s) to pursue an alternative process if the complaint is not resolved.

If the complaint is resolved by mediation, where appropriate the mediator may seek to ensure the parties execute a document that sets out the agreement that has been reached.

This agreement will be signed by the complainant and the respondent(s). We expect the parties involved to respect and comply with the terms of the agreement.

If the complaint is not resolved by mediation, the complainant may:

- write to the CEO to request the complaint be reconsidered.
- approach any relevant external agency, such as an anti-discrimination or equal opportunity commission, to resolve the matter.

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

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

## **Attachment D:**

### **INVESTIGATION PROCESS**

There will be times when a complaint will need to be investigated and information gathered. An investigation helps determine the facts relating to the incident as well as possible findings and recommendations.

Any investigation we conduct will be fair to all people involved. The investigation process will be undertaken by an unbiased person.

Should BA decide that a complaint should be investigated, we will follow the steps outlined below.

BA will provide a written brief to the investigator that sets out the terms of engagement and his or her roles and responsibilities.

The investigator may:

- interview the complainant and record the interview in writing;
- provide full details of the complaint to the respondent(s) so that they can respond
- interview the respondent(s) to allow them to answer the complaint and record the interview in writing;
- obtain statements from witnesses and collect other relevant evidence;
- make a finding as to whether the complaint is:
  - substantiated (there is sufficient evidence to support the complaint)
  - inconclusive (there is insufficient evidence either way);
  - unsubstantiated (there is sufficient evidence to show that the complaint is unfounded);
- mischievous, vexatious or knowingly untrue.
- provide a report to the CEO documenting the complaint, the investigation process, the evidence,) and, if requested, any findings and recommendations.

BA will provide a report to the complainant and the respondent(s) documenting the complaint, the investigation process and summarising key points from the investigation.

The complainant and the respondent(s) will be entitled to support throughout this process from their chosen support person or adviser MPIO or other person. However a person cannot be a support person if he or she has been admitted to the practise of law or has worked as a trainee lawyer.

## JUDICIARY COMMITTEE PROCEDURES

BA will follow the steps set out below to hear formal complaints made under our Member Protection Policy. For the avoidance of any doubt, the BA Disciplinary Policy will be followed for hearings and appeals in relation to national member protection related complaints.

A copy of the BA Disciplinary Policy is available online and what follows is an overview of the process and application of that policy for member protection related complaints.

To the extent of any inconsistency between what follows and the BA Disciplinary Policy, the BA Disciplinary Policy prevails.

### Preparing for a Judiciary Committee hearing

- A JC will be established, according to the rules set out in our constituent documents, rules and by-laws, to hear a complaint that has been referred to it by the CEO under the BA Disciplinary Policy.
- The number of JC members required to be present throughout the hearing will be three (3)
- The JC members will be provided with a copy of all the relevant correspondence, reports or information received and sent by the CEO relating to the complaint.
- The JC hearing will be held in accordance with the BA Disciplinary Policy Clause 4.4.

The CEO will inform the respondent(s) in writing that a JC hearing will take place.

The notice will outline:

- that the person has a right to appear at the JC hearing to defend the complaint
- the details of the complaint and of all allegations, as well as the provision or clause of any policy, rule or regulation that has allegedly been breached
- the date, time and venue of the JC hearing

- that verbal and/or written submissions can be presented at the JC hearing
- that witnesses may attend the JC hearing to support the position of the respondent/s
- an outline of any possible penalties that may be imposed if the complaint is found to be true
- That legal representation will not be allowed. The respondent may be assisted by a support person at a JC hearing. For example, where the respondent is a minor, he or she should have a parent or guardian present. However a person cannot be a support person if he or she has been admitted to the practise of law or has worked as a trainee lawyer. A copy of any investigation report findings will be provided to the respondent(s).

In accordance with the BA Disciplinary Policy, the CEO will notify the complainant in writing that a JC hearing will take place. The notice will outline:

- that the person has a right to appear at the JC hearing to support their complaint;
- the details of the complaint, including any relevant rules or regulations the respondent is accused of breaching;
- the date, time and venue of the JC hearing;
- that verbal and/or written submissions can be presented at the JC hearing;
- that witnesses may attend the JC hearing to support the complainant's position;
- that legal representation will not be allowed. The respondent may be assisted by a support person at a JC hearing. Where the respondent is a minor, he or she should have a parent or guardian present. However, a person cannot be a support person if he or she has been admitted to practice of law or worked as a trainee lawyer.

A copy of any investigation reports will be provided to the complainant.

If the complainant believes the details of the complaint are incorrect or insufficient, he or she should inform the CEO as soon as possible so that the respondent(s) and members of the JC can be properly informed of the complaint.

If possible, the JC should include at least one person with knowledge or experience of the relevant laws/rules (e.g. anti-discrimination).

## JC hearing procedure

The procedure will be in accordance with the BA Disciplinary Policy Clause 4.5.

- If the respondent(s) is not present at the set hearing time and the JC chairperson considers that no valid reason has been presented for this absence, the JC hearing will continue subject to the chairperson being satisfied that all JC notification requirements have been met.
- If the JC chairperson considers that there is a valid reason for the non-attendance of the respondent(s), or the chairperson does not believe the JC notification requirements have been met, then the JC hearing will be rescheduled to a later date.
- If the JC chairperson wishes to reschedule the JC hearing date, the JC chairperson will inform the CEO of the need to reschedule the hearing and the CEO will arrange for the JC to be reconvened.
- The JC chairperson will read out the complaint, ask each respondent if he or she understands the complaint and if he or she agrees or disagrees with the complaint.
- 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 JC when determining any penalty.
- If the respondent disagrees with the complaint, the complainant will be asked to describe the circumstances leading to the complaint being made.
- Reference may be made to brief notes.
- The complainant may call witnesses.
- The respondent may question the complainant and any witnesses.
- The respondent 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 any witnesses.
- The complainant and respondent(s) may be present when evidence is presented to the JC. Witnesses may be asked to wait outside the hearing until they are required.

The JC may:

- consider any evidence, and in any form, that it deems relevant
- ask questions of any person giving evidence
- limit the number of witnesses including limiting witnesses to those persons who only provide new evidence
- require to the extent it has power to do so the attendance of any witness it deems relevant and
- act in an inquisitorial manner in order to establish the truth of the issue/ complaint before it.

Video evidence may be presented. Arrangements for the viewing of this evidence must be made entirely by the person(s) wishing to offer this type of evidence.

If the JC panel considers that at any time during the hearing there is any unreasonable or intimidatory behaviour from anyone, the JC chairperson may deny further involvement of that person in the hearing.

After all the evidence has been presented, the JC will make its decision in private. The JC must decide whether the complaint has, on the balance of probabilities, been substantiated.

All JC decisions will be by majority vote.

The JC chairperson may announce the decision of the JC at the conclusion of the hearing. Alternatively, he or she may reserve the decision of the JC at the conclusion of the hearing and deliver the decision at a later time.

The respondent(s) will have the opportunity to make submissions to the JC in relation to any penalty that may be imposed.

Within 48 hours of the JC delivering its decision, the JC chairperson will:

- forward a notice of the JC's decision to the CEO, including details of any penalty imposed.
- forward a letter reconfirming the JC's decision to the respondent(s), including any penalty imposed. The letter should also outline the process and grounds for an appeal, if allowed.

The JC does not need to provide reasons for its decision.



## **Appeals procedure**

The procedure will be in accordance with the BA Disciplinary Policy Clause 5.

- A complainant or a respondent(s) may lodge with BA an appeal in relation to the decision of a JC on one or more of the following grounds:
- That a decision is wrong having regard to the application of the relevant rule, regulation, policy or law of the sport;
- Where new evidence becomes available;
- That natural justice has been denied; or
- That the penalty is inconsistent with the BA Disciplinary Policy Clause 4.7.

Applications to convene an AC must be in accordance with the BA Disciplinary Policy Clause 5

The decision of the AC will be final.

All parties shall bear their own costs.

The AC has no power to award costs.

Attachment E1:  
**RECORD OF INFORMAL COMPLAINT**

Name of person receiving complaint		Date:     /     /
Complainant's Name	CT Over18 Under 18	CT
Role/status	CT Administrator (volunteer) Parent CT Athlete/player Spectator CT Coach/AssistantCoach Support Personnel CT Employee (paid) Other CT Official .....	CT  CT CT CT CT
When/where did the incident take place?		
What are the facts relating to the incident, as stated by complainant?		
What is the nature of the complaint? (category/ basis/grounds)  Tick more than one box if necessary	CT Harassment   or   CT Discrimination CT Sexual/sexist     CT Selectiondispute CT Coachingmethods Sexuality             CT Personalityclash CT Verbal abuse Race                     CT Bullying CT Physicalabuse Religion                CT Disability CT Victimisation Pregnancy             CT Child Abuse CT Unfair decision Other ..... .....	

What does the complainant want to happen to resolve the issue?	
What other information has the complainant provided?	
What is the complainant going to do now?	

This record and any notes must be kept confidential and secure. If the issue becomes a formal complaint, this record is to be given to the CEO.

**Attachment E2:  
RECORD OF FORMAL COMPLAINT**

Complainant's Name	CT Over18 CT Under18	Date Formal Complaint Received: / /
Complainant's contact details	Phone: Email:	
Complainant's role/position	CT Administrator (volunteer) CT Parent CT Athlete/player CT Spectator CT Coach/AssistantCoach CT SupportPersonnel CT Employee (paid) CT Other CT Official .....	
Name of person complained about (respondent)	CT Over18 CT Under18	

Respondent's role/position	CT Administrator (volunteer) CT Parent CT Athlete/player CT Spectator CT Coach/AssistantCoach CT SupportPersonnel CT Employee (paid) CT Other CT Official .....
Location/event of alleged incident	
Description of alleged incident	
Nature of complaint (category/basis/grounds)  Tick more than one box if necessary	CT Harassment or CT Discrimination CT Sexual/sexist CT Selectiondispute CT Coachingmethods Sexuality CT Personalityclash CT Verbal abuse Race CT Bullying CT Physical abuse Religion CT Disability CT Victimization Pregnancy CT Child Abuse CT Unfair decision Other ..... .....
Methods (if any) of attempted informal resolution	

Formal resolution procedures followed (outline)	
If investigated:	Finding
If heard by JC:	Decision  Action recommended
If mediated:	Date of mediation:  Both/all parties present  Agreement  Any other action taken
If decision was appealed	Decision  Action recommended
Resolution	CT Less than 3 months to resolve CT Between 3 – 8 months to resolve CT More than 8 months to resolve
Completed by	Name: Position: Signature: Date / /
Signed by:	Complainant:  Respondent:

This record and any notes must be kept confidential and secure. If the complaint is of a serious nature, or if it is taken to and/or dealt with at the national level, the original record must be provided to BA and a copy kept with the organisation where the complaint was first made.

## Attachment E3:

### PROCEDURE FOR HANDLING ALLEGATIONS OF CHILDABUSE

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

Fact sheets on reporting allegations of child abuse in different states and territories are available at [www.playbytherules.net.au](http://www.playbytherules.net.au)

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

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

#### **Step 1: Receive the allegation**

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

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

## **Step 2: Report the allegation**

Immediately report any allegation of child abuse or neglect, or any situation involving a child at risk of harm, to the police and/or the relevant child protection agency. You may need to make a report to both.

Contact the relevant child protection agency or police for advice if there is any doubt about whether the allegation should be reported.

If the allegation involves a person to whom this policy applies, then also report the allegation to the BA CEO so that he or she can manage the situation.

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

The CEO or nominated official will assess the immediate risks to the child and take interim steps to ensure the child's safety and the safety of any other children.

This may include redeploying the alleged offender to a position where there is no unsupervised contact with children, supervising the alleged offender or removing/suspending him or her until any investigations have been concluded.

Legal advice should be sought before any interim steps are made if the person is an employee of BA.

The CEO or nominated official will consider what services may be most appropriate to support the child and his or her parent/s.

The CEO or nominated official will consider what support services may be appropriate for the alleged offender.

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

## **Step 4: Take internal action**

At least three different investigations could be undertaken to examine allegations that are made against a person to whom this policy applies, including:

- a criminal investigation (conducted by the police)
- a child protection investigation (conducted by the relevant child protection agency)
- a disciplinary or misconduct inquiry/investigation conducted by BA.

BA will assess the allegations and determine what action should be taken in the circumstances.

Depending on the situation, action may include considering whether the alleged offender should return to his or her position, be dismissed, banned or suspended or face other disciplinary action.

If disciplinary action is undertaken, we will follow the procedures set out in Clause 9 of our Member Protection Policy.

Where required we will provide the relevant government agency with a report of any disciplinary action we take.



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

### **Australia Capital Territory**

ACT Police  
Non-urgent police assistance  
Ph: 131 444  
[www.afp.gov.au](http://www.afp.gov.au)

Office for Children, Youth and Family  
Services  
[www.dhcs.act.gov.au/ocyfs/services/  
care\\_and\\_protection](http://www.dhcs.act.gov.au/ocyfs/services/care_and_protection)  
Ph: 1300 556 729

### **New South Wales**

New South Wales Police  
Non-urgent police assistance  
Ph: 131 444  
[www.police.nsw.gov.au](http://www.police.nsw.gov.au)

Department of Family and Community  
Services  
[www.community.nsw.gov.au](http://www.community.nsw.gov.au)  
Ph: 132 111

### **Northern Territory**

Northern Territory Police  
Non-urgent police assistance  
Ph: 131 444  
[www.pfes.nt.gov.au](http://www.pfes.nt.gov.au)

Department of Children and Families  
[www.childrenandfamilies.nt.gov.au](http://www.childrenandfamilies.nt.gov.au)  
Ph: 1800 700 250

### **Queensland**

Queensland Police  
Non-urgent police assistance  
Ph: 131 444  
[www.police.qld.gov.au](http://www.police.qld.gov.au)

Department of Communities, Child Safety  
and Disability Services  
[www.communities.qld.gov.au/childsafety](http://www.communities.qld.gov.au/childsafety)  
Ph: 1800 811 810

### **South Australia**

South Australia Police  
Non-urgent police assistance  
Ph: 131 444  
[www.sapolice.sa.gov.au](http://www.sapolice.sa.gov.au)

Department for Education and Child  
Development  
[www.families.sa.gov.au/childsafes](http://www.families.sa.gov.au/childsafes)  
Ph; 131 478

**Tasmania**

Tasmania Police  
Non-urgent police assistance  
Ph: 131 444  
[www.police.tas.gov.au](http://www.police.tas.gov.au)

Department of Health  
and Human Services  
[www.dhhs.tas.gov.au/children](http://www.dhhs.tas.gov.au/children)  
Ph: 1300 737 639

**Victoria Police**

Non-urgent police assistance  
Ph: (03) 9247 6666  
[www.police.vic.gov.au](http://www.police.vic.gov.au)

Department of Human Services  
[www.dhs.vic.gov.au](http://www.dhs.vic.gov.au)  
Ph: 131 278

**Western Australia**

Non-urgent police assistance  
Ph: 131 444  
[www.police.wa.gov.au](http://www.police.wa.gov.au)

Department for Child Protection and Family  
Support  
[www.dcp.wa.gov.au](http://www.dcp.wa.gov.au)  
Ph: 08 9222 2555 or 1800 622 258