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# **MEMBER PROTECTION POLICY**

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**Updated April 2010**

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## PREFACE

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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.

Diving Australia is dedicated to providing a safe and enjoyable sporting and working environment for its athletes, coaches, volunteers, officials and staff participating in Diving Australia activities and is also committed to the health, safety and general well being of all its members.

This Member Protection Policy has been developed by Diving Australia so that all who participate in diving may do so with the knowledge of the sport's commitment to ensuring an appropriate and conducive environment is provided and that appropriate protections are available if required.

All members are encouraged to read and embrace this policy to ensure all participants enjoy the sport of diving.

***Ashley Wilson***  
***Chairman***  
***March 2010***



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## PART A - NATIONAL MEMBER PROTECTION POLICY

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### 1. Introduction

#### Diving Australia's Core Values

##### ***Vision***

Diving – A united sport that works for its people. Innovative, Growing, Committed and Successful

##### ***Mission***

To provide leadership and management of Diving Australia which fosters a culture and environment which gives athletes, coaches and officials the opportunity to be the best in the world.

##### ***Long-term Objectives***

Diving Australia aims to advance the sport of Diving in Australia by achieving the following long-term objectives:

- To ensure Diving provides strong leadership and strives for effective management to ensure a sustainable organisation.
- To provide the environment to allow all stakeholders to achieve international success
- To grow the participation and interest in Diving through a range of strong development programs, that are agreed to and implemented in partnership with state Diving Associations and member clubs.
- To conduct a strong domestic competition program and successful international events
- To develop a culture based on communication, integrity, shared vision and common goals amongst stakeholders

### 2. Purpose of this policy

This Member Protection Policy (policy) aims to maintain 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 provide 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, Diving Australia and its Member Association will take disciplinary action against any person or organisation bound by this policy if they breach it.

This policy has been endorsed by the DA Board and has been incorporated into our By-Laws. This policy starts on 1 April 2010 and will operate until replaced. This policy and/or its attachments may be amended from time to time by resolution of the Board. Copies of the policy and its attachments can be obtained from the Diving Australia website [www.diving.asn.au](http://www.diving.asn.au) and from the office of Diving Australia or its Member Associations.

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

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

- Persons appointed or elected to boards, committees and sub-committees;
- Employees and contractors of Diving Australia;
- Volunteers
- Coaches;
- Athletes;
- Support personnel appointed or elected to national teams and squads (e.g. managers, physiotherapists, psychologists, masseurs, sport trainers);
- Referees, judges and other technical officials;
- Members, including life members;
- Member Associations;
- Affiliated clubs and associated organisations;
- Any other person or organisation that is a member of or affiliated to the Organisation;
- 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 Diving Australia and its Member Association if disciplinary action, relating to an allegation of child abuse against that person, has commenced.

### **4. Code of Conduct**

Diving Australia requires every individual and organisation bound by this policy to:

- 4.1 Be ethical, fair and honest in all their dealings with other people and Diving Australia;
- 4.2 Treat all persons with respect and courtesy and have proper regard for their dignity, rights and obligations;
- 4.3 Always place the safety and welfare of children above other considerations;
- 4.4 Comply with Diving Australia and its Member Associations' constitution, rules and policies including this member protection policy;
- 4.5 Operate within the rules and spirit of the sport;
- 4.6 Comply with all relevant Australian laws (Federal and State), particularly anti-discrimination and child protection laws;
- 4.7 Be responsible and accountable for their conduct; and
- 4.8 Abide by the relevant Role-Specific Codes of Conduct outlined in Part B of this policy.

### **5. Responsibilities of the Organisation**

Diving Australia, its Member Associations and their affiliated clubs must:

- 5.1 Adopt, implement and comply with this policy;
- 5.2 Make such amendments to their Constitution, Rules or Policies necessary for this policy to be enforceable;
- 5.3 Publish, distribute and promote this policy and the consequences of breaches;
- 5.4 Promote and model appropriate standards of behaviour at all times;
- 5.5 Promptly deal with any breaches or complaints made under this policy in a sensitive, fair, timely and confidential manner;
- 5.6 Apply this policy consistently;
- 5.7 Recognise and enforce any penalty imposed under this policy;
- 5.8 Ensure that a copy of this policy is available or accessible to the persons and associations to whom this policy applies;
- 5.9 Use appropriately trained people to receive and manage complaints and allegations eg. Member Protection Information Officers (MPIO's);
- 5.10 Monitor and review this policy at least annually.

## 6. Individual Responsibilities

Individuals bound by this policy are responsible for:

- 6.1 Making themselves aware of the policy and complying with its standards of behaviour;
- 6.2 Complying with our screening requirements and any state/territory Working with Children checks;
- 6.3 Placing the safety and welfare of children above other considerations;
- 6.4 Being accountable for their behaviour;
- 6.5 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
- 6.6 Complying with any decisions and/or disciplinary measures imposed under this policy.

## 7. Policy Position Statements

### 7.1 Child Protection Policy

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

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

- Prohibiting any form of abuse against children;
- Ensuring people have completed a satisfactory Working with Children Check where the relevant state/territory law requires this [*state/territory requirements are summarised in Part C of this policy*];
- Carefully selecting and screening people over the age of 16 years who work, coach or have regular unsupervised contact with children;
- Promoting and enforcing our codes of behaviour, particularly for roles associated with juniors;
- Responding to all reports and complaints of abuse promptly, seriously and confidentially;
- Making information about child protection available, particularly for roles associated with children;
- Adopting practices that reduce risks and provide the greatest opportunity of having a child safe environment.

Anyone who reasonably suspects that a child has been or is being abused by someone within our sport is to report it immediately to the police or relevant government agency and the MPIO or CEO of Diving Australia. Descriptions of the sorts of activity which may be abuse are in the Dictionary at clause 11.

If anyone suspects that a child is being abused by his or her parent/s, they are advised to contact the relevant government department for youth, family and community services in their state/territory.

A person will not be victimised for reporting possible child abuse and the privacy of all persons concerned will be respected. Our procedures for handling allegations of child abuse are outlined in attachment E3 of this policy.

### 7.2 Taking Images of Children

Images of children cannot be used inappropriately or illegally. Diving Australia 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 Diving Australia 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.

We require our members, member associations and clubs to do likewise.

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

Diving Australia 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 11, 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 Diving Australia will deal with the problem.

### **7.4 Sexual Relationships Policy**

Diving Australia 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, Diving Australia and/or its Member Associations 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 Diving Australia's MPIO or complaints officer or other designated person if they feel harassed. Our complaints procedure is outlined in Attachment D1 of this policy.

### **7.5 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.

Diving Australia 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.

## **7.6 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 11.

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

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

Diving Australia 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 Diving Australia.

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.

## **8. Complaints Procedures**

### **8.1 Complaints**

Diving Australia 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 or CEO of Diving Australia.

In all cases, the lowest level at which a matter can be dealt with shall always be preferred (eg. if the club can deal with the complaint, then it should; if not, then if the State body can deal with the complaint, then it should). Only in the most serious cases should the matter be referred to the national body, unless the matter has arisen at or relates to the national level. 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
- behaviour or an incident that occurred at the 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.

A complaint may be dealt with informally or formally. The complainant usually decides this unless the MPIO or CEO 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. Our complaint procedures are outlined in attachment D1 of this policy.

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

## **8.2 Vexatious Complaints & Victimisation**

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

Diving Australian 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.

## **8.3 Mediation**

Diving Australian aim 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 or CEO will, in consultation with the complainant, 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.

## **8.4 Tribunals**

A Tribunal may be convened to hear a formal complaint if:

- referred to it by the MPIO or CEO;
- referred to it or escalated by a state association because of the serious nature of the complaint, or unable to be resolved at the state level, or the state policy directs it to be; and/or
- for an alleged breach of this policy.

Our Tribunal procedure is outlined in attachment D5.

A respondent may lodge an appeal only to the Appeal Tribunal in respect of a Tribunal decision. The decision of the Appeal Tribunal is final and binding on the people involved. Our appeals process is outlined in attachment D5.

Every organisation bound by this policy will recognise and enforce any decision made, and form of discipline imposed, by an Appeals Tribunal under this policy.

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

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

- 9.1 Breaching the Codes of Behaviour (attachment D to this policy);
- 9.2 Bringing the sport or Diving Australia into disrepute, or acting in a manner likely to bring the sport and Diving Australia into disrepute;
- 9.3 Failing to follow Diving Australia policies (including this policy) and procedures for the protection, safety and welfare of children;
- 9.4 Appointing or continuing to appoint a person to a role that involves working with children and young people contrary to this policy;
- 9.5 Discriminating against, harassing or bullying (including cyber bullying) any person;
- 9.6 Victimising another person for reporting a complaint;
- 9.7 Engaging in a sexually inappropriate relationship with a person that they supervise, or have influence, authority or power over;

- 9.8 Verbally or physically assaulting another person, intimidating another person or creating a hostile environment within the sport;
- 9.9 Disclosing to any unauthorised person or organisation any Diving Australia or its Member Associations information that is of a private, confidential or privileged nature;
- 9.10 Making a complaint they **knew** to be untrue, vexatious, malicious or improper;
- 9.11 Failing to comply with a penalty imposed after a finding that the individual or organisation has breached this policy; or
- 9.12 Failing to comply with a direction given to the individual or organisation during the discipline process.

## 10. Disciplinary Measures

If an individual or organisation to which this policy applies breaches this policy, one or more forms of discipline may be imposed. These may include making a verbal or written apology, paying a fine, being suspended or de-registered or having a person's appointment or employment terminated. More information on the range of disciplinary measures and the factors that will be considered before imposing discipline is at attachment D6 of this policy.

## 12. Dictionary

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

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

**Affiliated clubs** means organisations (whether incorporated, unincorporated or otherwise) affiliated as members of Member States (whether known as clubs or otherwise).

**CEO** means Chief Executive Officer

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

**Child abuse** relates to children at risk of harm (usually by adults, sometimes by other children) and often by those they know and trust. It can take many forms 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 (eg. hitting, shaking or other physical harm; giving a child alcohol or drugs; giving bad nutritional advice; or training that exceeds the child's development or maturity).
- Sexual abuse by adults or other children where a child is encouraged or forced to watch or engage in sexual activity or where a child is subject to any other inappropriate conduct of a sexual nature (eg. sexual intercourse, masturbation, oral sex, pornography including child pornography or inappropriate touching or conversations).
- Emotional abuse by ill-treating a child (eg. humiliation, taunting, sarcasm, yelling, negative criticism, name calling, ignoring or placing unrealistic expectations on a child).
- Neglect (eg. 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 8.1 of this policy.

**Complainant** means the 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 are:

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

Some States and Territories include additional characteristics.

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

#### **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 junior athlete is overlooked 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 contract worker is harassed when employees 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:** An athlete 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 athletes on one team because of his race.
- **Sex:** Specialist coaching is only offered to male athletes in a mixed team.

**Harassment** is any type of behaviour that the other person does not want and that is offensive, abusive, belittling, intimidating or threatening – whether this is face-to-face, indirectly or via communication technologies such as mobile phone and computers. The behaviour is unwelcome and of a type that a reasonable person would recognise as being unwelcome and likely to cause the recipient to feel offended, humiliated or intimidated.

Unlawful harassment includes the above but is either sexual or targets a person because of their race, sex, pregnancy, marital status, sexual orientation or some other characteristic (see characteristic list under discrimination).

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

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 athlete 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 females 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: an athlete is ostracised by her male coach for complaining about his sexist behaviour or for supporting another athlete 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.

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

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

**Member** has the same meaning as in the Diving Australia Constitution.

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

- protecting those who are involved in sport activities from harassment, abuse, discrimination and other forms of inappropriate behavior;
- adopting appropriate measures to ensure the right people are involved in an organisation, particularly in relation to those involved with juniors; and
- providing education.

**Member Protection Information Officer (MPIO)** means a person trained to be the first point of contact for a person reporting a complaint under, or a breach of, this policy.

**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 parties need to be heard and all relevant submissions considered
- irrelevant matters should not be taken into account
- no person may judge their own case
- the decision maker/s must be unbiased, fair and just
- the penalties imposed must not outweigh the 'crime'

**Organisation** means Diving Australia Inc

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

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

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

**Role-specific codes of conduct** means standards of conduct required of certain roles (eg. coaches).

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

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

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

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

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

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

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

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



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## **PART B - CODES OF BEHAVIOUR**

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- B1: General Code of Conduct**
- B2: Administrator (volunteer) Code of Conduct**
- B3: Coach Code of Conduct**
- B4: Official Code of Conduct**
- B5: Athlete Code of Conduct**
- B6: Parent Code of Conduct**
- B7: Spectator Code of Conduct**

## ***B1: GENERAL CODE OF BEHAVIOUR***

As a member of Diving Australia, a member association or an affiliated club or a person required to comply with Diving Australia's member protection policy, you must meet the following requirements in regard to your conduct during any activity held or sanctioned by Diving Australia, a member association or an affiliated club and in any role you hold within Diving, a member association or an affiliated club:

1. Respect the rights, dignity and worth of others.
2. Be fair, considerate and honest in all dealing with others.
3. Be professional in, and accept responsibility for, your actions.
4. Make a commitment to providing quality service.
5. Be aware of, and maintain an uncompromising adherence to, Diving's standards, rules, regulations and policies.
6. Operate within the rules of the sport including national and international guidelines which govern Diving, the member associations and the affiliated clubs.
7. Do not use your involvement with Diving, a member association or an affiliated club to promote your own beliefs, behaviours or practices where these are inconsistent with those of Diving Australia, a member association or an affiliated club.
8. Demonstrate a high degree of individual responsibility especially when dealing with persons under 18 years of age, as your words and actions are an example.
9. Avoid unaccompanied and unobserved activities with persons under 18 years of age, wherever possible.
10. Refrain from any form of harassment of others.
11. Refrain from any behaviour that may bring Diving Australia, a member association or an affiliated club into disrepute.
12. Provide a safe environment for the conduct of the activity.
13. Show concern and caution towards others who may be sick or injured.
14. Be a positive role model.
15. Understand the repercussions if you breach, or are aware of any breaches of, this code of behaviour.

## ***B2: ADMINISTRATOR CODE OF CONDUCT***

In addition to Diving Australia's General Code of Behaviour, you must meet the following requirements in regard to your conduct during any activity held by or under the auspices of Diving Australia, a member association or an affiliated club and in your role as an administrator of Diving, a member association or an affiliated club:

1. Resolve conflicts fairly and promptly through established procedures.
2. Maintain strict impartiality.
3. Be aware of your legal responsibilities

### **B3: COACH CODE OF CONDUCT**

In addition to Diving Australia's General Code of Behaviour, you must meet the following requirements in regard to your conduct during any activity held or sanctioned by Diving Australia, a member association or an affiliated club and in your role as a coach appointed by Diving Australia, a member association or an affiliated club:

1. Do not tolerate acts of aggression.
2. Provide feedback to athletes and other participants in a manner sensitive to their needs. Avoid overly negative feedback.
3. Recognise players' rights to consult with other coaches and advisers. Cooperate fully with other specialists (for example, sports scientists, doctors and physiotherapists).
4. Treat all players fairly within the context of their sporting activities, regardless of gender, race, place of origin, athletic potential, colour, sexual orientation, religion, political beliefs, socio-economic status and other conditions.
5. Encourage and facilitate players' independence and responsibility for their own behaviour, performance, decisions and actions.
6. Involve the players in decisions that affect them.
7. Encourage players to respect one another and to expect respect for their worth as individuals regardless of their level of play.
8. Ensure that the tasks and/or training set are suitable for age, experience, ability, and physical and psychological conditions of the players.
9. Ensure any physical contact with players is appropriate to the situation and necessary for the player's skill development.
10. Be acutely aware of the power that you as a coach develop with your players in the coaching relationship and avoid any sexual intimacy with players that could develop as a result.
11. Avoid situations with your players that could be construed as compromising.
12. Actively discourage the use of performance enhancing drugs, and the use of alcohol, tobacco and illegal substances.
13. Do not exploit any coaching relationship to further personal, political or business interests at the expense of the best interest of your players.
14. Accept and respect the role of officials in ensuring that competitions are conducted fairly and according to established rules.
15. Know and abide by rules, regulations and standards, and encourage players to do likewise. Accept both the letter and the spirit of the rules.
16. Be honest and ensure that qualifications are not misrepresented.

#### ***B4: TEAM OFFICIALS AND VOLUNTEERS CODE OF CONDUCT***

In addition to Diving Australia's General Code of Behaviour, you must meet the following requirements in regard to your conduct during any activity held or sanctioned by Diving Australia, a member association or an affiliated club and in your role as an official appointed by Diving Australia, a member association or an affiliated club:

1. Place the safety and welfare of the athletes/participants above all else.
2. Accept responsibility for all actions taken.
3. Be impartial.
4. Avoid any situation which may lead to a conflict of interest.
5. Be courteous, respectful and open to discussion and interaction.
6. Value the individual in sport.
7. Be aware of your legal responsibilities.
8. Resolve conflicts fairly and promptly through established procedures.

#### ***B5: ATHLETE CODE OF CONDUCT***

In addition to Diving Australia's General Code of Behaviour, you must meet the following requirements in regard to your conduct during any activity held or sanctioned by Diving Australia, a member association or an affiliated club and in your role as a player/participant in any activity held by or under the auspices of Diving Australia, a member association or an affiliated club:

1. Respect the rights, dignity and worth of fellow athletes, coaches, officials and spectators.
2. Do not tolerate acts of aggression.
3. Respect the talent, potential and development of fellow athletes and competitors.
4. Care for and respect the equipment provided to you as part of your program.
5. Be frank and honest with your coach concerning illness and injury and your ability to train fully within the program requirements.
6. At all times avoid intimate relationships with your coach.
7. Conduct yourself in a professional manner relating to language, temper and punctuality.
8. Maintain high personal behaviour standards at all times.
9. Abide by the rules and respect the decision of the official, making all appeals through the formal process and respecting the final decision.
10. Be honest in your attitude and preparation to training. Work equally hard for yourself and your team.
11. Cooperate with coaches and staff in development of programs to adequately prepare you for competition at the highest level.

## ***B6: PARENT CODE OF CONDUCT***

As a parent/guardian of an athlete/participant in any activity held by or under the auspices of Diving Australia, a member association or an affiliated club, you must meet the following requirements in regard to your conduct during any such activity or event:

1. Respect the rights, dignity and worth of others.
2. Remember that your child participates in sport for their own enjoyment, not yours.
3. Focus on your child's efforts and performance rather than winning or losing.
4. Never ridicule or yell at your child and other children for making a mistake or losing a competition.
5. Show appreciation for good performance and skilful plays by all players (including opposing players).
6. Demonstrate a high degree of individual responsibility especially when dealing with or in the vicinity of persons under 18 years of age, as your words and actions are an example.
7. Respect officials' decisions and teach children to do likewise.
8. Do not physically or verbally abuse or harass anyone associated with the sport (athlete, coach, judge, official and so on).
9. Respect the rights, dignity and worth of every young person regardless of their gender, ability, cultural background or religion.
10. Be a positive role model.
11. Understand the repercussions if you breach, or are aware of any breaches of, this code of behaviour.

## ***B7: SPECTATOR CODE OF CONDUCT***

As a spectator in any activity held by or under the auspices of Diving Australia, a member association or an affiliated club, you must meet the following requirements in regard to your conduct during any such activity or event:

1. Respect the decisions of officials and teach young people to do the same.
2. Never ridicule or scold a young athlete for making a mistake. Positive comments are motivational.
3. Condemn the use of violence in any form, whether it is by other spectators, coaches, officials or athletes.
4. Show respect for your team's opponents - without them there would be no game.
5. Do not use violence, harassment or abuse in any form (that is, do not use foul language, sledge or harass athletes, coaches, officials or other spectators).
6. Respect the rights, dignity and worth of every person regardless of their gender, ability, cultural background or religion.



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## **PART C - WORKING WITH CHILDREN CHECK REQUIREMENTS**

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### **Background**

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

Working with Children Check (WWCC) laws aim to prevent people who pose a risk from working with children as paid employees or volunteers. In New South Wales, Queensland, Western Australia, Victoria and South Australia 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 Northern Territory Government has passed a new law and screening will be compulsory from January 2010. 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.

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 Policy.

The following attachments provide:

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

## ATTACHMENT C1: WORKING WITH CHILDREN CHILD PROTECTION REQUIREMENTS

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The following information was updated in April 2009. It is subject to change at any time.

### 1. QUEENSLAND

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

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

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

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

For more information on the blue card, including current forms:

- [www.ccytg.qld.gov.au](http://www.ccytg.qld.gov.au)
- 1800 113 611

### 2. NEW SOUTH WALES

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 (WWCC). Child related employment is work which primarily involves direct unsupervised contact with children. The WWCC involves three components:

1. **Ensuring** all paid and unpaid employees sign a [Prohibited Employment Declaration](#) which states they are not prohibited from working with children.
2. **Submitting** all applicants for **paid** employment to NSW Sport and Recreation for a WWCC background check. NSW Sport and Recreation only carries out checks for paid employees.
3. **Reporting** relevant employment proceedings for any paid and unpaid employees to the Commission for Children and Young People. A relevant employment proceeding involves any reportable conduct committed outside of work as well as in the workplace with or in the presence of a child/ren.

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

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

For more information, including the required forms:

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

### 3. WESTERN AUSTRALIA

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

Applicants will be issued with either:

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

There are set obligations and strong penalties for non-compliance including for employers and volunteer co-coordinators.

For more information:

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

### 4. VICTORIA

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

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

For more information:

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

### 5. SOUTH AUSTRALIA

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

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

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

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

For more information:

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

## **6. NORTHERN TERRITORY**

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

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

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

## **ATTACHMENT C2: DIVING AUSTRALIA MEMBER PROTECTION DECLARATION**

Diving Australia, its Member Associations and their affiliated clubs have a duty of care to its members and to the general public who interact with its employees, volunteers, members and others involved with Diving Australia and its Member Associations' and clubs' activities. As part of this duty of care and as a requirement of the Diving Australia's Member Protection Policy, Diving Australia, its Member Associations and affiliated clubs must enquire into the background of those applying for, undertaking or remaining in any work (paid or voluntary) that involves regular contact with people under the age of 18 years.

I ..... of .....  
(name) (address)  
...../...../.....  
(DOB)

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, acts of violence, narcotics or driving offences.
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, acts of violence, intimidation or other forms of harassment.
4. I have never been sanctioned for an anti-doping rule violation under any anti-doping policy applicable to me.
5. I will not participate in, facilitated or encouraged any practice prohibited by the World Anti-Doping Agency Code or any other anti-doping policy applicable to me.
6. To my knowledge there is no other matter that the Diving Australia or its Member Associations may consider to constitute a risk to its members, employees, volunteers, athletes or reputation by engaging me.
7. I will notify the MPIO or 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 for whatever reason.

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

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

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

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

Name: .....

Signature: .....

Date: ...../...../.....

## **ATTACHMENT C3: SCREENING REQUIREMENTS**

(For states/territories without Working With Children Checks such as ACT and Tasmania)

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

Diving Australia will, and also requires state associations and clubs 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.



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## **PART D - DIVING AUSTRALIA'S COMPLAINT HANDLING PROCEDURES**

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To ensure consistency and that the principles of natural justice are followed in all aspects of handling or conducting complaints, allegations, investigations, tribunals and disciplinary measures, Diving Australia and its Member Associations will follow and implement the following procedures:

- D1: Overview of Complaints Procedure
- D2: Mediation Procedure
- D3: Investigation Procedure
- D4: Investigation Procedure for allegations of child abuse
- D5: Hearings and Appeals Tribunal Procedure
- D6: Disciplinary Measures

## ***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, Diving Australia may have difficulty assisting you to resolve your complaint. Procedural fairness (natural justice) means that Diving Australia 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 and appropriate)**

As a first step you (the complainant) should try to sort out the problem with the person or people involved if you feel able to do so.

#### **Step 2: Contact a Member Protection Information Officer (MPIO) or CEO**

Talk with an MPIO or CEO if:

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

A list of MPIOs can be found on the ASC website –  
[www.ausport.gov.au/supporting/ethics/member\\_protection/member\\_protection\\_officers](http://www.ausport.gov.au/supporting/ethics/member_protection/member_protection_officers)

The MPIO or CEO will:

- take notes about your complaint (which the MPIO and/or CEO will keep in a secure and confidential place);
- try to sort 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;
- explain how our complaints procedure works;
- act as a support person if you so wish;
- refer you to an appropriate person to help you resolve the problem, if necessary;
- inform the relevant government authorities and/or police if required by law to do so; and
- maintain strict confidentiality.

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

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 work out your own resolution (with or without a support person such as a MPIO); or
- to seek an informal mediated resolution with the help of a third person (such as a mediator);
- to seek a formal approach.

## FORMAL APPROACHES

### Step 4: Making a formal approach

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

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

On receiving the formal complaint and based on the material you have provided, the CEO 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 appoint a person to **investigate** the complaint;
- to refer the complaint to an informal or formal mediation session;
- to refer the complaint to a hearings tribunal;
- to refer the matter to the police or other appropriate authority; and/or
- to implement any interim administrative or other arrangements that will apply until the complaint process set out in these Procedures is completed.

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

- whether they have had any personal involvement in the circumstances which means that someone else should handle the complaint;
- whether, due to the nature of the complaint, specific expertise or experience may be required to manage 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);
- 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 CEO is the appropriate person to handle the complaint they will, to the extent that these steps are necessary:

- put the information they've received from you to the person/people you're complaining about and ask them to provide their side of the story;
- decide whether 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 appointed under Step 4 will conduct an investigation and provide a written report to the CEO who will determine what further action to take;
- 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 a hearings tribunal, the hearing will be conducted in accordance with Attachment D5;
- If the complaint is referred to the police or other appropriate authority, Diving Australia 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 CEO reconsider the complaint in accordance with **Step 3**.

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 CEO will document the complaint, the process followed 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 may be a range of external options available to you 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 (eg. 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 Diving Australia.

1. If mediation is chosen, the CEO will, under the direction of Diving Australia and in consultation with the complainant and the respondent(s), arrange for a mediator.
2. 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.
3. 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.
4. 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.
5. If the complaint is not resolved by mediation, the complainant may:
  - a. Write to the CEO to request that the CEO reconsider the complaint in accordance with **Step 3**; *or*
  - b. Approach an external agency such as an anti-discrimination commission.
6. Mediation will **not** be recommended if:
  - a. The respondent has a completely different version of the events and will not deviate from these;
  - b. The complainant or respondent are unwilling to attempt mediation;
  - c. 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
  - d. The matter involves proven serious allegations, regardless of the wishes of the Complainant.

## **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:
  - a. Interview the complainant and record the interview in writing.
  - b. Convey full details of the complaint to the respondent (s) so that they can respond.
  - c. Interview the respondent to allow them to answer the complaint, and record the interview in writing.
  - d. Obtain statements from witnesses and other relevant evidence to assist in a determination, if there is a dispute over the facts
  - e. 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.
  - f. Provide a report to the CEO 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 (eg.CEO, MPIO or other person).
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 Diving Australia 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 dispute 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 Diving Australia 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 CEO will assess the risks and take interim action to ensure the child's/children's safety. Action Diving Australia 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 CEO will consider the kind of support that the children and parents may need (eg. counselling, help lines, support groups)
- The CEO will address the support needs of the alleged offender.
- The CEO 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 Diving Australia]
- Irrespective of the findings of the child protection and/or police inquiries, Diving Australia 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 the CEO or Tribunal of Diving Australia 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 10 of the policy will be followed.
- If disciplinary action is taken, Diving Australia 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**

The following will be followed by hearings tribunals established by Diving Australia to hear national member protection related complaints.

### **Preparation for Tribunal Hearing**

1. A Tribunal Panel will be constituted following the rules outlined in Diving Australia's Constitution, to hear a complaint that has been referred to it by the CEO. 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 and sent by the CEO relating to the complaint/allegations.
3. The Tribunal 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 will not include any person who has any actual or perceived conflict of interest, or bias regarding the matter.
5. The CEO 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 (eg. investigation report findings) will also be provided to the respondent.

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

6. The CEO will notify the complainant in writing that a tribunal hearing will take place. The notice will outline:
  - That the person has a right to appear at the tribunal hearing to support their complaint;
  - Details of the complaint, including any relevant rules or regulations the respondent is accused of breaching
  - The date, time and venue of the tribunal hearing;
  - That they can make either verbal or written submissions to the Tribunal;
  - That they may arrange for witnesses to attend the Tribunal in support of their position (or provide statutory declarations from witnesses unable to attend); and
  - That legal representation will not be allowed. If the 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 (eg. 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 CEO 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 (eg. 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 CEO of the need to reschedule, and the CEO 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 (penalty).
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 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 that there is any unreasonable or intimidating behaviour from anyone the Chairperson may stop 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.

24. Within 48 hours, the Tribunal Chairperson will:
- Forward to the CEO a copy 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 a Complaints Manager, the outcome of mediation or a Tribunal decision can lodge one appeal to Diving Australia 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 provided to the Complaints Manager/Mediator/Tribunal;
27. A person wanting to appeal in accordance with clause 25 must lodge a letter setting out the basis for their appeal with the CEO within 7 days of the relevant decision. An appeal fee of \$100 shall be included with the letter of intention to appeal.
28. If the letter of appeal is not received by the CEO within the time period the right of appeal lapses. If the letter of appeal is received but the appeal fee is not received by the relevant time, the appeal lapses.
29. The letter of appeal and copy of tribunal decision report will be forwarded to the Diving Australia Appeals Committee to review and decide whether there are sufficient grounds for the appeal to proceed. The Diving Australia Appeals Committee may invite any witnesses to the meeting it believes are required to make an informed decision.
30. If the appellant has not shown sufficient grounds for appeal in accordance with clause 25, then the appeal will be rejected. The appellant will be notified with reasons. The appeal fee will be forfeited.
31. If the appeal is accepted an Appeal Tribunal with a new panel will be convened to rehear the complaint, and the appeal fee will be refunded.
32. The Tribunal Procedure shall be followed for the appeal.
33. The decision of an Appeal Tribunal will be final.

## **ATTACHMENT D6: DISCIPLINARY MEASURES**

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 our Constitution, By Laws, this policy and/or Rules of the sport.

### **Individual**

Subject to contractual and employment requirements, if a finding is made that an individual has breached the Diving Australia Member Protection Policy, one or more of the following forms of discipline may be imposed:

1. A direction that the individual make a verbal and/or written apology;
2. A written warning;
3. A direction that the individual attend counselling to address their behaviour;
4. A withdrawal of any awards, placings, records, achievements bestowed in any tournaments, activities or events held or sanctioned by Diving Australia and its Member Associations;
5. A demotion or transfer of the individual to another location, role or activity
6. A suspension of the individual's membership or participation or engagement in a role or activity;
7. Termination of the individual's membership, appointment or engagement;
8. A recommendation that Diving Australia terminate the individual's membership, appointment or engagement;
9. 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;
10. A fine;
11. Any other form of discipline that the CEO or tribunal considers appropriate.

### **Organisation**

If a finding is made that a Diving Australia Member Association or an affiliated club of a Member Association has breached the Diving Australia Member Protection Policy, one or more of the following forms of discipline may be imposed by the CEO or tribunal:

1. A written warning;
2. A fine;
3. A direction that any rights, privileges and benefits provided to that organisation by the national body or other peak association be suspended for a specified period;
4. A direction that any funding granted or given to it by Diving Australia or a Member Association cease from a specified date;
5. A direction that Diving Australia or its Member Association cease to sanction events held by or under the auspices of that organisation;
6. A recommendation to Diving Australia or its Member Association that its membership of Diving Australia or its Member Association be suspended or terminated in accordance with the relevant constitution or rules; and/or
7. Any other form of discipline that Diving Australia or its Member Association considers to be appropriate.

### **Factors to consider when imposing discipline**

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 concerned knew or should have known that the behaviour was a breach;
- Level of contrition;
- The effect of the proposed disciplinary measures on the respondent(s) 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.



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## **PART E - REPORTING DOCUMENTS/FORMS**

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What they are going to do now	
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This record and any notes must be kept in a confidential place – do not enter it on a computer system. If the issue becomes a formal complaint, this record is to be sent to the MPIO and/or CEO.

**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/athlete <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 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).



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 in Diving: Signature: / /
Signed by	Complainant (if not a child)

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

**ATTACHMENT E4: RECORD OF MEDIATION**

Present at Mediation	
Date of mediation	
Venue of mediation	
Mediator	
Summary of mediation (minutes attached)	
Outcome of mediation	
Follow-up to occur (if required)	
Completed by: (signature)	
Signed by: Complainant (signature) Respondent (signature)	

If Diving Australia related issue, copy to be stored in DA Office. If Member Association or Club related issue, copy to be stored with the relevant Member Association or club.



Support person (if any)	
Tribunal Members	
Tribunal Hearing Date and venue	
Tribunal Decision (attach report)	
Action recommended and any follow up report required	
Decision Appealed Date of Appeal lodged	
Appeal Hearing Date	
Appeal Decision (attach report)	
Action Recommended	
Completed by	Name: Position in Diving: Signature: / /
Signed by:	Complainant  Respondent