



## **NEW SOUTH WALES MEMBER PROTECTION POLICY**

**Adopted March 2017**

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## **PREFACE**

Athletics New South Wales is committed to providing a safe, fair and inclusive environment for all of its members and participants engaging in Athletics New South Wales activities.

Australians greatly value the essence of sport and the positive impact it has on participants and the community in general. It is a fundamental right of our members to be treated with respect and dignity, and to be safe and protected from discrimination, harassment and abuse while participating in our sport.

The Athletics NSW Member Protection Policy ("Policy"), aligned in lock-step with the Athletics Australia, aims to ensure that all people engaging in our athletic activities, from grassroots to high performance level, maintain responsible behaviour such that everyone can participate in a positive environment and enjoy the sport.

Our policy informs our stakeholders of their legal and ethical rights and responsibilities and the standards of behaviour that are expected. It also covers the care and protection of children participating in our sport.

Beyond maintaining the standards of our society, the Policy especially reflects Athletics NSW' particular commitment to our value of Inclusiveness. In a sport with such diverse disciplines we embrace and engage with a wide range of often very different people with different backgrounds, motivations and expectations. We expect that all our members and participants will choose tolerance and consideration over division or exclusivity.

I am proud that Athletics has a good reputation around the behaviour of its members to each other and I look forward to this policy supporting continued leadership in this regard across sport in general.

Brian White

Chair

## **PART A – NATIONAL MEMBER PROTECTION POLICY**

### **1. Athletics New South Wales' Vision and Purpose**

Athletics New South Wales has a vision of making athletics within New South Wales a strong, vibrant and growing sport.

Our purpose is to foster the appreciation, enjoyment and development of athletics in New South Wales by

- Providing leadership and direction to clubs, athletes, coaches and officials
- Supporting all athletes to reach their potential. This ranges from grass roots through to elite athletes (who are competing internationally and representing Australia)
- Growing participation in a sustainable way, through the delivery of well run competitions

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

This Member Protection Policy (hereafter referred to as "Policy") aims to assist Athletics New South Wales to uphold its core values and create a safe, fair and inclusive environment for everyone associated with 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 discrimination, harassment and abuse. This Policy informs everyone involved in our sport 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, Athletics New South Wales will take disciplinary or other appropriate action against any person or body bound by this policy breaching it.

This updated Policy has been endorsed by the Board of Athletics New South Wales and incorporated into our by-laws. The amended policy takes effect from 15 March 2016 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 our website at <http://www.nswathletics.org.au> or by contacting the MPIO.

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

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

- 3.1 Individuals appointed or elected to boards, commissions, committees and sub-committees;
- 3.2 Employees and volunteers of Athletics New South Wales;
- 3.3 Support personnel (e.g. managers, physiotherapists, psychologists, masseurs, sport trainers, etc.);
- 3.4 Coaches and assistant coaches;
- 3.5 Athletes, coaches, officials and any other personnel participating in any teams, events and activities, including camps and training sessions, conducted or sanctioned by Athletics New South Wales
- 3.6 Referees, judges and other officials;
- 3.7 All Members of Athletics New South Wales covering all categories of membership;
- 3.8 Affiliated clubs and associated bodies of Athletics New South Wales
- 3.9 Peak associations and other national and state bodies engaged in any form of athletics being held under the Athletics New South Wales jurisdiction;
- 3.10 Any other person or body that is a member of or affiliated to Athletics New South Wales
- 3.11 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 ceased their membership, association or employment with Athletics New South Wales, if disciplinary action against that person has commenced and may subsequently invoked should they later seek such membership, association or employment.

### **4. Responsibilities of Athletics New South Wales**

Athletics New South Wales and its Affiliated Clubs and affiliates must:

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

### **5. Individual responsibilities**

Individuals bound by this policy must:

- 5.1 make themselves aware of the contents of this policy;
- 5.2 comply with all relevant provisions of the policy, including any codes of conduct and the steps for making a complaint or reporting possible child abuse set out in this policy;
- 5.3 consent to the screening requirements set out in this policy including a national police check, and a Working with Children Check if the person holds or applies for a role that involves regular

unsupervised contact with a child or young person under the age of 18 or where otherwise required by law;

- 5.4 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
- 5.5 place the safety and welfare of children above other considerations;
- 5.6 be accountable for their behaviour: and,
- 5.7 comply with any decisions and/or disciplinary measures imposed under this policy

## **6. Policy Position Statements**

### **6.1 Child Protection Policy**

Every person and body bound by this Policy must always when applicable place the safety and welfare of children above all other considerations.

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

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

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

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

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

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

#### **6.1.3 Choose suitable employees and volunteers**

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

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

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

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

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

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

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

We will ensure that all our employees and volunteers are able to identify and respond appropriately to children at risk of harm and that they are aware of their responsibilities under state laws to make a

report if they suspect on reasonable grounds that a child has been, or is being, abused or neglected. (Refer to the attachments in Part E of this policy.)

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

## 6.2 Taking Images of Children

Athletics New South Wales acknowledges that images of children can be used inappropriately or illegally. Athletics New South Wales 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. It also requires the privacy of others to be respected and disallows the use of camera phones, videos and cameras inside changing areas, showers and toilets.

If Athletics New South Wales uses an image of a child it will not display personal information such as residential address, email address or telephone numbers without gaining consent from the parent/guardian. Athletics New South Wales will only use appropriate images of a child and ensure that the child is suitably clothed in a manner that promotes the sport, displays its successes, etc. Where such images are used for commercial or other purposes or by a third party, Athletics New South Wales will itself, and requires others, to obtain permission for the use of such images.

Athletics New South Wales requires all others bound by this Policy to act in accordance with this clause.

Athletics New South Wales requires all photographers seeking permission or accreditation to act as a photographer at any of its events or activities which involve the participation of children to have undertaken the relevant Working with Children check (or alternatively where such check is not available in their normal place of residence, a National Police check) and upon request to provide evidence of same. In the event that Athletics New South Wales or any person or body authorised by it, is not satisfied of the applicant's suitability at any time, permission or accreditation may be denied or withdrawn.

## 6.3 Anti-Discrimination and Harassment Policy

Athletics New South Wales opposes all forms of harassment, discrimination and bullying. Subject always to any rule or regulation made by the IAAF for the appropriate governance of the sport and conduct of competition.

### 6.3.1 Discrimination

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

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

Discrimination can be either direct or indirect.

- **Direct** discrimination occurs if a person treats, or proposes to treat, a person with a protected personal characteristic unfavourably because of that personal characteristic.
- **Indirect** discrimination occurs if a person imposes, or proposes to impose, a requirement, condition or practice that will disadvantage a person with a protected personal characteristic and that requirement, condition or practice is not reasonable.

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

### 6.3.2 Harassment

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

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

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

### **6.3.3 Prohibition against discrimination and harassment**

We prohibit all forms of harassment and discrimination based on the personal characteristics listed in the “Definitions” set out in the Dictionary of Terms.

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

## **6.4 Intimate Relationships Policy**

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

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

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

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

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

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

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

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

If it is determined that an intimate relationship between a coach or official and an adult athlete is inappropriate or unprofessional we may take disciplinary action against the coach or official up to and including dismissal. Action may also be taken to stop the coaching relationship with the athlete. This could include a transfer, a request for resignation or dismissal from coaching duties.

If a coach, official or athlete believes they are being, or have been, harassed they are encouraged to seek information and support from the Member Protection Information Officer, or other official. Our complaints procedure is outlined in Part D of this policy.

The law is always the minimum standard for behaviour within Athletics New South Wales and therefore sex with a child is a criminal offence.

## **6.5 Pregnancy Policy**

Athletics New South Wales is committed to providing an inclusive sporting environment for pregnant women involved in its activities. Athletics New South Wales expects everyone bound by this policy to treat pregnant women with dignity and respect and to remove any unreasonable barriers to participation in the sport that disadvantage them. It 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 particular 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, are of utmost importance in their decision making about the extent and manner in which they participate in our sport.

Athletics New South Wales recommends that pregnant women wishing to participate in athletic competition should consult with their medical advisers, make themselves aware of the facts about pregnancy in sport, and ensure that they make informed decisions about participation.

Athletics New South Wales 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.

The provisions of the IAAF Rules and Regulations, including in particular the authority of the Medical Delegate or equivalent shall prevail over this Policy, should any conflict arise.

## **6.6 Gender Identity Policy**

Athletics New South Wales expects everyone who is bound by this Policy to 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. It will not tolerate any unlawful discrimination or harassment against a person who identifies as transgender or transsexual or who is thought to be transgender.

Athletics New South Wales recognises that the exclusion of transgender people from participation in sporting events and activities has significant implications for their health, well-being and involvement in community life. In general Athletics New South Wales will facilitate transgender persons participating in our sport of the sex with which they identify, always subject to any overriding effect of its own and/or the IAAF's Rules and Regulations.

Athletics New South Wales 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, Athletics New South Wales will apply the relevant Athletics New South Wales and/or IAAF Rules and Regulations and if appropriate seek advice on the application of those laws in the particular circumstances.



Athletics New South Wales is aware that the IAAF and the International Olympic Committee (IOC) have established criteria for selection and participation in international competition and the Olympic Games. Where a transgender person intends competing at an elite level, we will encourage them to obtain advice about the IAAF and IOC's criteria which may differ from the position taken by Athletics New South Wales for domestic competition.

Athletics New South Wales notes that 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.

Athletics New South Wales recognises change of gender and, in circumstances of a change in gender, requires the individual to undertake a gender verification test as reasonably required by the IAAF and/or Athletics New South Wales on the advice of a medical expert.

## **6.7 Alcohol Policy**

Athletics New South Wales recommends that bodies bound by this Policy, their affiliated bodies, adhere to sound and reasonable guidelines regarding the responsible consumption of alcohol.

Responsible service and consumption of alcohol should apply to any alcohol to be consumed, including

- light alcohol and soft drinks always being available; wherever possible,
- food being available to be consumed when alcohol is available;
- service being denied to children or intoxicated individuals;
- responsible transport policies, and
- appropriate persons being in attendance to ensure appropriate practices are followed.

## **6.8 Smoke Free Policy**

Athletics New South Wales will implement at events and activities it directly conducts and/or endorses the following policies in relation to providing a smoke free environment at sporting and social events:

- No smoking shall occur at or near any sporting event or competition. This policy shall apply to coaches, players, trainers, officials, volunteers and spectators;
- Social functions shall be smoke free, with smoking permitted only in designated outdoor smoking areas;
- coaches, officials, trainers, volunteers and players will refrain from smoking while they are involved in an official capacity in our sport, both on and off the field.

## **6.9 Bullying Cyber Bullying/Safety Policy**

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

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

Whilst generally characterised by repeated behaviours, one-off instances can amount to bullying.

The following types of behaviour, where repeated or occurring as part of a pattern of behaviour, would be considered bullying:

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

Bullying includes cyber-bullying which occurs through the use of technology. New technologies and communication tools, such as smart phones and social networking websites, have greatly increased the potential for people to be bullied through unwanted and inappropriate comments. Athletics New South Wales will not tolerate abusive, discriminatory, intimidating or offensive statements being made online. Frustration at a referee, teammate, coach or sporting body should never be communicated on social networking websites. These issues should instead be addressed – in a written or verbal statement or a complaint – to the relevant controlling club, league or peak sporting body.

If any person believes they are being, or have been, bullied by another person or organisation bound by this policy, he or she may make a complaint. (Refer to the attachments in Part D of this policy.)

## **6.10 Social Networking Websites Policy**

Athletics New South Wales acknowledges the enormous value of social networking to promote our sport and celebrate the achievements and success of the people involved in our sport.

Social networking refers to any interactive website or technology that enables people to communicate and/or share content via the internet. This includes social networking websites such as Facebook and Twitter.

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

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

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

## **7. Complaints Procedures**

### **7.1 Complaints**

Athletics New South Wales 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 body (a respondent) bound by this Policy if they have been discriminated against, harassed, bullied or there has been any other breach of this policy.

A complaint should be reported to MPIO, another responsible person and/or CEO of Athletics New South Wales.

In all cases, the lowest level at which a matter can be dealt with shall always be preferred (e.g. if the club can deal with the complaint, then it should; if not, then if the Member Association can deal with the complaint, then it should). Therefore, if a complaint relates to behaviour or an incident that occurred at:

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

Matters that relate to or occur at national level and the most serious cases from other levels should be referred to and handled by Athletics Australia.

A complaint may be dealt with formally or informally. The complainant usually may indicate their preferred option which will be followed unless MPIO and/or CEO of Athletics New South Wales or other authorised person, considers that the complaint falls outside this Policy and would be better dealt with another way and/or the law requires the complaint/allegation be reported to an appropriate authority.

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

## **7.2 Improper and Vexatious Complaints and Victimisation**

Athletics New South Wales aims to ensure its complaints procedure has integrity and is free of unfair repercussions or victimisation. If at any point in the complaint process the MPIO and/or CEO considers that a complainant has knowingly made an untrue complaint or the complaint is vexatious or malicious or intended to cause distress to the person complained of, the matter may be referred to the relevant entity for appropriate action which may include disciplinary action against the complainant.

Athletics New South Wales will also take necessary steps to make sure that people involved in a complaint are not victimised. Disciplinary measures may be imposed on anyone who harasses or victimises another person for making a complaint.

## **7.3 Mediation**

Athletics New South Wales aims to resolve complaints with the minimum of fuss wherever possible. In many cases, complaints can 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.

The people involved in a formal complaint - the complainant and the respondent - may also seek the assistance of a neutral third person or a mediator. Lawyers are able to negotiate on behalf of the complainant and/or respondent.

Mediation may occur either before or after an investigation of a complaint. If a complainant wishes to resolve the complaint with the assistance of a mediator, the MPIO and/or CEO will, in consultation with the complainant, arrange for a neutral third party (mediator) to mediate the complaint. More information on the mediation process is outlined in attachment D2 of this policy.

## **7.4 Tribunals**

A hearings tribunal may be formed to hear a formal complaint that has been referred by CEO or, for an alleged breach of the policy. Refer to Athletics New South Wales's By-Laws for the tribunal hearings procedure/s.

A respondent may lodge one appeal only to the tribunal in its appellate jurisdiction in respect of a decision of an original hearing tribunal. The decision of the tribunal on appeal is final and binding on the people involved to the appeal.

Everybody bound by this policy will recognise and enforce any decision made by a tribunal (acting in either an original or appellate basis) under this Policy.

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

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

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

- 8.9 making a complaint that they know to be untrue, vexatious, malicious or improper;
- 8.10 failing to comply with a penalty imposed after a finding that the individual or organisation has breached this policy; and
- 8.11 failing to comply with a direction given to the individual or organisation as part of a disciplinary process.
- 8.12 Appointing or continuing to appoint a person to a role that involves working with children and young people contrary to this Policy;
- 8.13 Being charged with an offence which would if proven amount to a breach of this Policy;
- 8.14 Being the recipient of a *Negative Notice* or equivalent documentation under any *Working with Children* or equivalent legislation and
- 8.15 Being the subject of an Apprehended Violence Order, the nature of which amounts to a breach of this Policy.

## 9. Disciplinary Measures

If an individual or body 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 deregistered or having a person's appointment or employment terminated.

Any disciplinary measure imposed under this Policy must be read in conjunction with Athletics New South Wales's Constitution and By-laws and must:

- observe and be applied consistently with any contractual and/or employment rules and requirements;
- conform to the principles of natural justice and be fair and reasonable;
- be based on the evidence and information presented and the seriousness of the breach;
- and be within the powers of the hearings tribunal and/or the CEO to impose the disciplinary measure

### 9.1 Individuals

Subject to contractual and employment requirements, if a finding is made by the CEO or a Tribunal that an individual has breached this Policy (including the Codes of Behaviour/Conduct) one or more of the following forms of discipline may be imposed by the hearings tribunal and/or the CEO:

- 9.1.1 a direction that the individual make a verbal and/or written apology;
- 9.1.2 a written warning;
- 9.1.3 a direction that the individual attend counselling to address their behaviour;
- 9.1.4 a withdrawal of any awards, scholarships, placings, records, achievements bestowed in any tournaments, activities or events held or sanctioned by Athletics New South Wales.
- 9.1.5 a demotion or transfer of the individual to another location, role or activity;
- 9.1.6 a suspension of the individual's membership or participation or engagement in a role or activity;
- 9.1.7 termination of the individual's membership, appointment or engagement;
- 9.1.8 a recommendation that Athletics New South Wales terminate the individual's membership, appointment or engagement;
- 9.1.9 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;
- 9.1.10 a fine.

### 9.2 Organisations

If a finding is made by the CEO or a Tribunal that Athletics New South Wales, or any body or affiliate has breached its own or this Policy (including the Codes of Behaviour/Conduct) one or more of the following forms of discipline may be imposed by the hearings tribunal or the CEO:

- 9.2.1 a written warning;
- 9.2.2 a fine;

- 9.2.3 a direction that any rights, privileges and benefits provided to that organisation by the state body or other peak association be suspended for a specified period;
- 9.2.4 a direction that any funding granted or given to it by Athletics New South Wales or other peak association cease from a specified date;
- 9.2.5 a direction that Athletics New South Wales and other peak associations cease to sanction events held by or under the auspices of that organisation;
- 9.2.6 a recommendation to the national body and/or association that its membership of the national body or association be suspended or terminated in accordance with the relevant constitution or rules;
- 9.2.7 any other form of discipline that the national body or peak organisation considers reasonable and appropriate.

### 9.3 Factors to consider

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

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

## 10. Dictionary of terms

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.

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

**Affiliated club** means clubs in association with Athletics New South Wales

**Child Children** means a person or persons who is/are under the age of 18 years

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

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

**CEO** means the Chief Executive Officer of Athletics New South Wales and with the guidance of the Board is authorised to represent Athletics New South Wales.

**Company** means Athletics New South Wales.

**Complaint** means a complaint made under clause D1 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 a person 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) Relevant attributes or characteristics covered by discrimination law in various Australian jurisdictions include:

- Age (except insofar that events or activities are restricted to persons of a specified age);
- Disability (except insofar that events or activities are restricted to persons of a specified disability classification);
- Marital status;
- Parental/family/carer responsibility and status
- Gender identity/transgender status (subject always to the overriding nature of the IAAF Rules and Regulations);
- Physical features;
- Political belief/activity;
- Pregnancy and breast feeding;
- Race;
- Religious belief/activity;
- Sex or gender (subject always to the overriding nature of the IAAF Rules and Regulations);  
Sexual orientation;
- Trade union membership/activity;
- Social origin
- Irrelevant medical record
- Irrelevant criminal record

Some States and Territories include additional characteristics.

### Examples of Discrimination

- **Age:** A club refuses to allow an older person to coach a team simply because of age.
- **Breastfeeding:** A member of the club who is breastfeeding a baby in the club rooms is asked to leave.
- **Disability:** A player is overlooked 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:** A player is deliberately excluded from team activities and social functions because she is single
- **Pregnancy:** A woman is dropped from a squad when she becomes pregnant.
- **Race:** An Italian referee is not permitted to referee games with a high proportion of Italian players on one team because of his race.
- **Sex:** Specialist coaching is only offered to male players in a mixed team.

**Harassment** is any type of behaviour that the other person does not want and that is offensive, abusive, belittling or threatening. The behaviour is unwelcome and 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 other personal characteristic protected by law (see characteristic list under discrimination).

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

Discrimination and harassment are not permitted in employment (including volunteer and unpaid employment); when providing sporting goods and services including access to sporting facilities; when providing education and accommodation; the selection or otherwise of any person for competition or a team (domestic or

international); the entry or otherwise of any player or other person to any competition and the obtaining or retaining membership of clubs and organisations (including the rights and privileges of membership).

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

- holding a competitive sporting activity for 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: a player is ostracised by her male coach for complaining about his sexist behaviour or for supporting another player who has made such a complaint.

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

**IAAF** means the International Association of Athletics Federations, the international governing body for the sport of athletics

**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. This person must be impartial and neutral.

**Member Association** means State or Territory Associations of Athletics Australia and **Member** means a body or person who is a member of any such Member Association or of Athletics Australia directly

**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 that are involved in sport activities from harassment, abuse, discrimination and other forms of inappropriate behaviour.
- Adopting appropriate measures to ensure the right people are involved in an organisation, particularly in relation to those involved with children, 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. The MPIO provides impartial and confidential support to the person making the complaint.

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

- both the Complainant and the Respondent must know the full details of what is being said against them and have the opportunity to respond
- all relevant submissions must be considered. 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 be fair and not outweigh the matter complained of

**Police check** means a national criminal history record check conducted as a prudent pre-employment or pre-engagement or current employment 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 (or behaviour)** means standards of conduct required of certain roles (e.g. coaches).

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

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

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

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

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

**Tribunal** means a tribunal appointed and acting pursuant to the relevant Athletics New South Wales Constitution, By-laws or policy.

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

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



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

Athletics New South Wales will approve from time to time specific codes of conduct and/or behaviour relating to the roles of various individuals and organisations that are subject to this Policy. Such current Codes of Conduct and/or Behaviour shall be posted on the Athletics New South Wales website from time to time and shall be deemed to be incorporated within Part B of this Policy

### **Code of Conduct/Behaviour**

Athletics New South Wales requires every individual and body bound by this policy to:

1. Be ethical, fair and honest in all their dealings with other people and Athletics New South Wales;
  2. Treat all persons with respect and courtesy and have proper regard for their dignity, rights and obligations;
  3. Always place the safety and welfare of children above other considerations;
  4. Comply with Athletics New South Wales', Athletics Australia's, the IAAF's, the National and International Olympic and Paralympic Committees' constitution, rules and policies including this Policy;
  5. Operate within the rules and spirit of the sport;
  6. Comply with all relevant Australian laws (federal and state), particularly anti-discrimination and child protection laws;
  7. Be responsible and accountable for their conduct; and
  8. Abide by the relevant specific Codes of Conduct applicable to the individual through any additional agreement with Athletics New South Wales.
- .

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

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

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

- criminal history checks;
- signed declarations;
- referee checks; and
- other relevant background checks to assess a person's suitability to work with children and young people.

Working with Children Check requirements vary across Australia. [Fact Sheets](#) for each state and territory are available on the Play by the Rules website: [www.playbytherules.net](http://www.playbytherules.net)

Detailed information, including the forms required to complete a Working with Children Check within New South Wales, is available from:

### **New South Wales**

Contact the Office of the Children's Guardian

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

Phone: 02 9286 7276

### **Travelling to other states or territories**

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

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

The laws providing interstate exemptions are not consistent across Australia.

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

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## ATTACHMENT C2: MEMBER PROTECTION DECLARATION

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Athletics New South Wales has a duty of care to all those associated with the sport and to the individuals and organisations to whom it's Member Protection Policy applies. As a requirement of its Member Protection Policy, Athletics New South Wales must enquire into the background of those who undertake any work, coaching or regular unsupervised contact with people under the age of 18 years.

I ..... (name) of .....

..... (address) born ...../...../.....

Sincerely declare:

1. I do not have any criminal charge pending before the courts.
2. I do not have any criminal convictions or findings of guilt for sexual offences, offences related to children or acts of violence or narcotics.
3. I have not had any disciplinary proceedings brought against me by an employer, sporting organisation or similar body involving child abuse, sexual misconduct or harassment, other forms of harassment or acts of violence, narcotics or breaches of anti-doping rules and regulations.
4. I am not currently serving a sanction for an anti-doping rule violation under an ASADA approved anti-doping policy applicable to me.
5. I will not participate in, facilitate or encourage any practice prohibited by the World Anti-Doping Agency Code or any other ASADA approved anti-doping policy applicable to me.
6. To my knowledge there is no other matter that Athletics New South Wales may consider to constitute a risk to its members, employees, volunteers, athletes or reputation by engaging me.
7. I will notify the CEO of Athletics New South Wales or the president of the organisation(s) engaging me immediately upon becoming aware that any of the matters set out in clauses 1 to 6 above has changed.

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

...../...../..... (Date)

Signature .....

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

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

Name:.....

Signature:.....

Date: .....

## **Attachment C3: WORKING WITH CHILDREN CHECK REQUIREMENTS**

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

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

- criminal history checks;
- signed declarations;
- referee checks; and
- other relevant background checks to assess a person's suitability to work with children and young people.

Working with Children Check requirements vary across Australia. [Fact Sheets](#) for each state and territory are available on the Play by the Rules website: [www.playbytherules.net](http://www.playbytherules.net)

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

### **Australian Capital Territory**

Contact the Office of Regulatory Services

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

Phone: 02 6207 3000

### **New South Wales**

Contact the Office of the Children's Guardian

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

Phone: 02 9286 7276

### **Northern Territory**

Contact the Northern Territory Screening Authority

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

Phone: 1800 SAFE NT (1800 723 368)

### **Queensland**

Contact the [Public Safety Business Agency](#) about the "Blue Card" system.

Website: [www.ccypcg.qld.gov.au](http://www.ccypcg.qld.gov.au)

Phone: 1800 113 611

### **South Australia**

Contact the Department for Education and Child Development for information

Website: [www.families.sa.gov.au/childsafe](http://www.families.sa.gov.au/childsafe)

Phone : 08 8463 6468.

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

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

### **Tasmania**

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

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

Phone: 1300 13 55 13

### **Victoria**

Contact the Department of Justice

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

Phone: 1300 652 879

### **Western Australia**

Contact the Department for Child Protection

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

Phone: 1800 883 979

### **Travelling to other states or territories**

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

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

The laws providing interstate exemptions are not consistent across Australia.

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

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

### **ATTACHMENT D1: COMPLAINTS PROCEDURE**

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

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

If a complainant wishes to remain anonymous, Athletics New South Wales may have difficulty assisting in resolving the complaint. Procedural fairness (natural justice) means that Athletics New South Wales is required to provide the person/people complained about with full details of the complaint so they have a fair chance to respond.

#### **ADVICE TO COMPLAINANTS INFORMAL APPROACHES**

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

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

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

We encourage you to talk with one of our Member Protection Information Officers (MPIOs) or designated Athletics New South Wales official if:

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

The names and contact details for our MPIOs are available at [www.nswathletics.com.au](http://www.nswathletics.com.au)

The MPIO or designated official will:

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

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

After talking with the MPIO or designated official, you may decide:

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

#### **FORMAL APPROACHES**

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

If 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 MPIO, or
- approach a relevant external agency, such as an anti-discrimination or equal opportunity commission, for advice and assistance.

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

- he or she is the most appropriate person to receive and handle the complaint;
- the nature and seriousness of the complaint requires a formal resolution procedure;
- to refer the complaint to **mediation**;
- to appoint a person to **investigate** the complaint;
- to refer the complaint to a **tribunal hearing**;
- to refer the matter to the **police or other appropriate authority**; and/or
- to implement any interim arrangements that will apply until the complaint process is completed.

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

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

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

- provide the information received from you to the other person(s) involved and ask for a response;
- decide if there is enough information to determine whether the matter alleged in your complaint did or did not occur; and/or
- determine what, if any, further action to take, including referring the matter for investigation or disciplinary action in accordance with this policy.

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

In some cases, an investigation may be required to determine the facts surrounding the complaint. Our investigations procedure is outlined in Attachment D3.

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

- If the complaint is referred to **mediation**, we will follow the steps outlined in Attachment D2 or as agreed by you, the respondent and the mediator.
- If the complaint is referred to a **tribunal hearing**, the hearing will be conducted according to the steps outlined in Attachment D4.
- If the complaint is referred to the **police or another external agency**, we will endeavour to provide all reasonable assistance required by the police or the agency.

**Please note:** it is not the role of the investigator to seek to resolve the matter, nor to impose a penalty. Any determination, finding or recommendation arising out of the investigation will be referred in the first instance to the MPIO for consideration.

Any costs incurred by Athletics New South Wales relating to the complaint process set out in this policy (e.g. investigation, mediation and/or a tribunal hearing) are to be met by the complainant, unless otherwise agreed between the parties prior to any investigation, mediation or tribunal hearing taking place.

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

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

In accordance with Athletics New South Wales' rules you or the respondent(s) may also appeal a decision made at a tribunal hearing. The grounds and process for appeals are set out in Attachment D4.

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

The MPIO will record the complaint, the steps taken to resolve it and the outcome. This information will be stored in a confidential and secure place. If the complaint was dealt with at the state/district level, the information will be stored by the state association. If the matter is of a serious nature, or if it was dealt with at the national level, the information will be stored by Athletics Australia and a copy stored by the state association.

### **Improper Complaints and related victimisation**

Athletics New South Wales aims to ensure that the Complaints Procedure has integrity and is free of unfair repercussions or victimisation against the person making the complaint. All necessary steps will be taken 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 or supporting another person's complaint.

If at any point in the complaint handling process the MPIO considers that a Complainant has knowingly made an untrue complaint, or the complaint is malicious, vexatious or intended to cause distress to the Respondent, the complaint may be rejected and the matter may be referred to the Hearing Tribunal for review and appropriate action, including possible disciplinary action against the Complainant.

### **Withholding of Information**

Respondent/s are expected to participate in an Investigation or Tribunal proceeding in good faith, and as such to ensure complete disclosure regarding the matter under investigation or being heard. If a respondent is suspected of and found to have lied or deliberately withheld information or documentation requested by an Investigator or the Tribunal, in the interest of Natural Justice, this action will be referred for substantiation to a separate hearing. If the action is verified as being either a deliberate withholding of information or documentation, or in providing testimony the Respondent has lied, the Tribunal may impose a disciplinary measure as permitted under their authority.

### **Approaching external organisations**

If you feel that you have been harassed or discriminated against, you can seek advice from your state or territory anti-discrimination or equal opportunity commission. There is no obligation to make a formal complaint. However, if the commission advises you that the issues appear to be within its jurisdiction, you may choose to lodge a formal complaint with the commission.

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

If you do lodge a complaint with the commission, an appropriate person from our organisation (e.g. an MPIO) will be available to support you during the process. You may also wish to have a legal representation, particularly if the complaint goes to a formal hearing.

**Contact details for the state and territory anti-discrimination and equal opportunity commissions** are available on the Play by the Rules website:

<http://www.playbytherules.net.au/resources/quick-reference-guide>.

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



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## 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 Athletics New South Wales.

1. If mediation is chosen, the MPIO or other designated person will, under the direction of the Athletics New South Wales 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 CEO/designated person to request that the CEO/designated person reconsider the complaint in accordance with **Step 3** set out in Attachment D1; 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 unless otherwise agreed:

1. Athletics New South Wales will provide a written brief to the investigator clarifying terms of engagement and roles and responsibilities. The investigator will:
  - 1.1 Interview the complainant and record the interview in writing.
  - 1.2 Convey full details of the complaint to the respondent (s) so that they can respond.
  - 1.3 Interview the respondent to allow them to answer the complaint, and record the interview in writing.
  - 1.4 Obtain statements from witnesses and other relevant evidence
  - 1.5 Make a finding as to whether the complaint is:
    - **substantiated** (there is sufficient evidence to support the complaint)
    - **inconclusive** (there is insufficient evidence either way);
    - **unsubstantiated** (there is sufficient evidence to show that the complaint is unfounded);
    - **mischievous, vexatious or knowingly untrue.**
  - 1.6 Provide a report to Athletics New South Wales documenting the complaint, investigation process, evidence, finding and, if requested, recommendations.
2. Athletics New South Wales 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 (e.g. MPIO or other person).
4. The complainant and the respondent(s) may have the right to a hearing by a tribunal in relation to any decision based on the investigation. Information on our hearings and tribunal process is set out in the Athletics New South Wales By-laws.

## **Attachment D4: HEARINGS & TRIBUNAL PROCEDURE**

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Any reference to a tribunal under this Policy will be conducted in accordance with the Constitution and Bylaws of Athletics New South Wales or where applicable the Constitution and By-laws of the relevant Member Association.

Where the relevant Member Association does not have such or sufficient provisions the relevant Athletics Australia provisions will apply read down to apply so as to enable that Member Association to handle the matter.



## 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"/> Athlete/player <input type="checkbox"/> Coach/Assistant Coach <input type="checkbox"/> Employee (paid) <input type="checkbox"/> Official	<input type="checkbox"/> Parent <input type="checkbox"/> Spectator <input type="checkbox"/> Support Personnel <input type="checkbox"/> Other .....
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"/> Athlete/player <input type="checkbox"/> Coach/Assistant Coach <input type="checkbox"/> Employee (paid) <input type="checkbox"/> Official	<input type="checkbox"/> Parent <input type="checkbox"/> Spectator <input type="checkbox"/> Support Personnel <input type="checkbox"/> Other
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 tribunal:  Decision  Action recommended	
Resolution	<input type="checkbox"/> Less than 3 months to resolve <input type="checkbox"/> Between 3 – 8 months to resolve <input type="checkbox"/> More than 8 months to resolve
Completed by	Name:  Position:  Signature: / /
Signed by:	Complainant:  Respondent:

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

## **Attachment E3: PROCEDURE FOR HANDLING ALLEGATIONS OF CHILD ABUSE**

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

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

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 Athletics New South Wales 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 discloses an allegation involving harm or abuse to them or another child, then it is crucial that you:

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

### **Step 2 – Report allegations**

- Immediately report any allegation or disclosure of child abuse or situation involving a child at risk of harm, to the police and/or government child protection agency. You may need to report to both.
- Contact the relevant child protection agency or police for advice if there is **any** doubt about whether the complaint should be reported (for example, the allegation may relate to poor/inappropriate practice). • If the child's parent/s is suspected of committing the abuse, you should report the allegation to the relevant government agency.
- If the allegation involves anyone to whom our policy applies, then also report the allegation to the CEO of Athletics New South 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 of Athletics New South Wales will assess the risks and take interim action to ensure the child's/children's safety. Action that may be implemented 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. *[Please be aware it is not the MPIO's role to undertake action such as redeploying someone and seek legal advice if person is in a paid employment].*
- The CEO of Athletics New South Wales will consider the kind of support that the child or children and parents may need (e.g. counselling, helplines, support groups).
- The CEO of Athletics New South Wales will address the support needs of the alleged offender.
- The CEO of Athletics New South Wales 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 Athletics New South Wales)
- Irrespective of the findings of the child protection and/or police inquiries, Athletics New South Wales 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 Board of Athletics New South Wales and it will consider all the information, including the findings of the police, government agency and/or court, and determine a finding, recommend action and explain its rationale for the action. This may be a difficult decision particularly where there is insufficient evidence to uphold any action by the police.
- If disciplinary action is to be taken, the procedures outlined in Clause 9 of this Policy will be followed.
- If disciplinary action is taken, Athletics New South Wales 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).



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

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

**Attachment E4:**

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**CONFIDENTIAL RECORD OF CHILD ABUSE ALLEGATION**

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**Before completing this form, please ensure that the steps outlined in Attachment D4 have been followed and advice has been sought from the police and/or the relevant child protection agency.**

Complainant's name (if other than the child)		Date formal complaint received:
Role/status in sport		
Child's name		Age
Child's Address		
Person's reason for suspecting abuse (e.g. observation, injury, disclosure)		
Name of person complained about		
Role/status in sport	<input type="checkbox"/> Administrator (volunteer) <input type="checkbox"/> Parent <input type="checkbox"/> Athlete/player <input type="checkbox"/> Spectator <input type="checkbox"/> Coach/Assistant Coach <input type="checkbox"/> Support Personnel <input type="checkbox"/> Employee (paid) <input type="checkbox"/> Other <input type="checkbox"/> Official	
Witnesses (if more than three witnesses, attach details to this form)	Name: Contact Details:  Name: Contact details  Name: Contact details:	
Interim action taken (if any)		
Police contacted	Who:  When:  Advice provided:	