



AUSTRALIAN RUGBY UNION LIMITED  
(ACN 002 898 544)

## MEMBER PROTECTION POLICY

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NSW 2065 Australia

## **STATEMENT FROM CHIEF EXECUTIVE OFFICER**

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

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

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

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

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

## **REVIEW HISTORY OF ARU MEMBER PROTECTION POLICY**

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

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### 1. Australian Rugby Union Core Values

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Passion, integrity, discipline, respect and teamwork form Australian Rugby Union's (**ARU**) core values.

### 2. Purpose of this Policy

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

The Policy attachments provide the procedures that support the ARU's commitment to eliminating Discrimination, Harassment, Child Abuse and other forms of inappropriate behaviour from rugby. As part of this commitment, the Rugby Bodies will take disciplinary action against any person or organisation bound by this Policy if they breach it.

This Policy has been endorsed by the board of the ARU and is effective immediately and will operate until replaced. This Policy and/or its attachments may be amended from time to time by the ARU. Copies of the Policy and its attachments can be obtained from the ARU's website [www.rugby.com.au/policies](http://www.rugby.com.au/policies).

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

### 3. Who this Policy Applies To

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

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

This Policy will continue to apply to a person even after they have stopped their association or employment with the Rugby Body if disciplinary action has commenced.

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

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

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

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

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The Rugby Bodies must:

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

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

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Individuals bound by this Policy are responsible for:

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

- 6.4 Co-operating in providing a sporting environment that is free from Discrimination, Child Abuse and Harassment;
- 6.5 Understanding the possible consequences of breaching this Policy; and
- 6.6 Complying with decisions and/or disciplinary measures imposed under this Policy.

## **7. Position Statements**

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### **7.1 Child Protection**

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

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

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

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

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

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

Please see <http://www.rugby.com.au/runningrugby/PolicyRegister.aspx> for a copy of such codes.

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

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

The ARU will ensure that Working with Children Checks are conducted for all employees and volunteers who work with children, where an assessment is required by law. If a criminal history report is obtained as part of their screening process, we will handle this information confidentially and in accordance with the relevant legal requirements. (Refer to attachment B1 in Part B of this policy.)

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

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

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

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

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

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

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

#### **7.2 Taking Images of Children**

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

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

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

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

The ARU requires Rugby Bodies to do likewise.

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

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

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

##### **7.3.1 Discrimination**

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

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

Discrimination can be either direct or indirect.

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

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

### **7.3.2 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.

### **7.3.3 Prohibition against discrimination and harassment**

The ARU prohibit all forms of harassment and discrimination based on the personal characteristics listed in the "Definitions" set out in the Dictionary of Terms see clause 11.

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 C of this policy.)

### **7.4 Intimate Relationships**

The ARU 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 public image of Rugby. 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 and/or Member Protection Contact 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 disciplinary action may be taken 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 MPC if they feel harassed. The complaints procedure is outlined in Part C of this Policy.

#### **7.5 Pregnancy**

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

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

If a pregnant woman believes she is being, or has been harassed or discriminated against by another person or organisation bound by this Policy, she may make a complaint (refer to the attachments at Part C of this Policy).

#### **7.6 Gender Identity**

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

#### **7.6.1 Gender identity discrimination and harassment**

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

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

All persons, regardless of gender identity, are entitled to be treated fairly and with dignity and respect at all times. We will not tolerate any unlawful discrimination or harassment of a person because of their gender identity. This includes discrimination or harassment of a person who is transgender or transsexual, who is assumed to be transgender or transsexual or has an association with someone who has or is assumed to be transgender or transsexual.

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

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

#### **7.6.2 Participation in sport**

The ARU recognises that excluding people from participating in sporting events and activities because of their gender identity may have significant implications for their health, wellbeing and involvement in community life. The ARU are committed to supporting participation on the basis of the gender with which a person identifies. In general, Rugby Bodies will facilitate transgender or transsexual persons participating in rugby of the sex with which they identify.

If issues of performance advantage arise, we will consider whether the established discrimination exceptions for participation in sport are relevant in the circumstances.

Discrimination is unlawful unless an exception applies.

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

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

#### **7.6.3 Intersex status**

Federal anti-discrimination law, and some state and territory anti-discrimination laws, provide protection from discrimination against a person on the basis of their intersex status. (See Dictionary of Terms at clause 11).

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

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

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

In general, our policy is that:

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

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

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

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

In general, our policy is that:

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

#### **7.9 Bullying**

The ARU 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-bulling 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.

The ARU will not tolerate abusive, discriminatory, intimidating or offensive statements being made online. Frustration at a referee, team-mate, 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 Rugby 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 C of this policy.)

#### **7.10 Social Networking Websites**

The ARU 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;
- should respect and maintain the privacy of others; and
- should promote the sport in a positive way.

Further guidance on social networking communications is available at [www.playbytherules.net.au](http://www.playbytherules.net.au).

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### **8. Complaints Procedures**

#### **8.1 Complaints**

The ARU aims to provide an easy to use, confidential and trustworthy procedure for Complaints based on the principles of Natural Justice.

Any person may report a Complaint (**Complainant**) about a person/s or organisation bound by this Policy (**Respondent**) if they reasonably believe that a person/s or a Rugby Body has breached this Policy.

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

The lowest level at which a matter can be dealt with shall always be preferred. Therefore, if a complaint relates to behaviour or an incident that occurred at the:

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

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

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

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

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

#### **8.2 Improper Complaints and Victimisation**

The ARU aims to ensure the complaints procedure has integrity and is free of unfair repercussions or Victimisation against the person making the complaint.

The Rugby Body will also take all necessary steps to make sure that people involved in a Complaint are not victimised. Disciplinary measures will be imposed on anyone who victimises another person for making a Complaint or supporting another person's complaint.

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

#### **8.3 Mediation**

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

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

If a Complainant wishes to resolve the complaint with the help of a mediator, the Rugby Body Member Protection Information Officer (MPIO) or Member Protection Contact (MPC) will, in consultation with the Complainant & and the person complained about (*Respondent*), arrange for an independent mediator where possible.

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

#### **8.4 Conduct Committees**

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

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

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

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

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

- Done anything contrary to this Policy;
- Failed to follow ARU policies and procedures for the protection, safety and welfare of children;
- Appointed or continued to appoint a person to a role that involves working with children and Young People contrary to this Policy;
- Discriminated against, harassed or bullied (including cyber-bullying) any person ;
- Victimised another person for reporting or supporting a Complaint;
- Engaged in an inappropriate intimate relationship with a person that the person supervises, or has influence, authority or power over;
- Verbally or physically assaulted another person, intimidated another person or created a hostile environment within the sport;
- Made a Complaint they knew to be untrue, vexatious, malicious or improper;
- Failed to comply with a penalty imposed after a finding that the individual or organisation has breached this Policy; or
- Failed to comply with a direction given to the individual or organisation during the discipline process in relation to an alleged breach of this Policy.

## **10. Forms of Discipline**

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

Any disciplinary measure imposed under this Policy must:

- Be applied consistent with any contractual and employment rules and requirements;
- Be fair and reasonable;
- Be based on evidence and information presented and the seriousness of the breach; and
- Be determined in accordance the ARU constitution, by laws and/or this Policy.

### **10.1 Individual**

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

- A direction that the individual make a verbal and/or written apology;
- A written warning;
- A direction that the individual attend counselling to address their behaviour;
- A withdrawal of any awards, scholarships, placings, records, achievements bestowed in any tournaments, activities or events held or sanctioned by the Rugby Body;
- A demotion or transfer of the individual to another location, role or activity;

- A suspension of the individual's membership or participation or engagement in a role or activity;
- Termination of the individual's membership, appointment or engagement;
- A recommendation that the Rugby Body terminate the individual's membership, appointment or engagement;
- In the case of a coach or official, a direction that the relevant organisation de-register the accreditation of the coach or official for a period of time or permanently;
- A fine; or
- Any other form of discipline that Conduct Committee or Conduct Tribunal considers appropriate.

## **10.2 Organisation**

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

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

## **10.3 Factors to consider**

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

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

## **11. Definitions**

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

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

**Affiliated Union** means Australian Junior Rugby Football Union Ltd., Australian Rugby Football Schools Union Inc., Australian Services Rugby Union, Australian Universities Rugby Union, Australian Barbarian Rugby Club Inc., Australian Women's Rugby Football Union, Classic Wallabies Inc., and New South Wales Country Rugby Union Ltd or any other Union in affiliation with the ARU.

**ARU** means Australian Rugby Union Limited.

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

**Child Abuse** involves conduct which puts a child at risk of harm and may include:

- **Physical abuse**, which occurs when a child has suffered, or is at risk of suffering, non-accidental physical trauma or injury. This may include, but is not limited to, hitting, shaking or other physical harm; giving a child alcohol or drugs; or training that exceeds the child's development or maturity.
- **Sexual abuse**, which occurs when an adult, other child, or adolescent uses their power or authority to involve a child in a sexual activity or any other inappropriate conduct of a sexual nature (e.g. sexual intercourse, masturbation, oral sex, pornography including child pornography or inappropriate touching or conversations).
- **Emotional abuse**, which occurs when a child's social, emotional, cognitive or intellectual development is impaired or threatened. Emotional abuse can include, but is not limited to, emotional deprivation due to persistent rejection or criticism, hostility, teasing/bullying, humiliation, taunting, sarcasm, yelling, name-calling or placing unrealistic expectations on a child.
- **Neglect**, which occurs when a child's basic necessities of life are not met and their health and development are affected. Basic needs include food, water, shelter, adequate clothing, personal hygiene, timely provision of medical treatment and adequate supervision.

**Complaint** means a complaint made under this Policy.

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

**Discrimination** occurs when someone is treated (or is proposed to be treated) unfairly or less favourably than another person in the same or similar circumstances because of one of the personal characteristics covered by anti-discrimination laws. This is known as direct discrimination. Indirect discrimination occurs when there is (or is proposed) an unreasonable requirement, condition or practice that seems to treat everyone equally, but which has or is likely to have the effect of disadvantaging persons with a personal characteristic covered by anti-discrimination laws.

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

- age;

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

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

Some exceptions to state, territory and federal anti-discrimination law apply, including exceptions for sporting activities, such as:

- holding a competitive sporting activity for a specific age or age group (e.g. only those who are under the age of 15 years);
- excluding people on the basis of their sex and/or gender identity status from participation in a competitive sporting activity where the strength, stamina or physique of competitors is relevant to the specific activity (note that this does not apply to activity by children who are under the age of 12 years); and
- not selecting a participant if the person's disability means he or she is not reasonably capable of performing the actions reasonably required for that particular sporting activity.

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

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

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

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

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

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

**Mediator** means a person appointed to mediate complaints made under this Policy by helping those involved in the complaint to talk through the issues and seek to resolve the matter on mutually agreeable terms. It is preferable that the Mediator has relevant skills, qualifications and/or training in mediation.

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

**Member Protection Contact (MPC)** means a person or group of people identified by a Rugby Body as a Member’s first point of contact under this Policy. In the absence of an appointed MPC, a designated person in authority identified by a Rugby Body shall fulfil this role. The MPC provides confidential support to the Complainant. They help the Complainant deal with any emotions they may have about what has happened and operate as a sounding board as the Complainant decides what they want to do.

**Member Protection Information Officer (MPIO)** means a person “trained” to deal with complaints under, or breaches of, this Policy. The MPIO provides confidential and moral support to the Complainant. They help the Complainant deal with any emotions they may have about what has happened and operate as a sounding board as the Complainant decides what they want to do. Where required, a MPIO will also provide advice and assistance to MPCs.

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

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

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

**Procedural fairness** requires that:

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

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

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

**Sexual Harassment** means unwelcome behaviour of a sexual nature which could reasonably be expected to make a person feel humiliated, intimidated or offended. Sexual Harassment can

take many different forms and may include unwanted physical contact, verbal comments, jokes, propositions, display of pornographic or offensive material or other behaviour that creates a sexually hostile environment. Sexual harassment does not have to be intentional.

**Sexual offence** means a criminal offence involving sexual activity or acts of indecency.

Because of differences under state and territory laws, this can include but is not limited to:

- rape;
- indecent assault;
- sexual assault;
- assault with intent to commit sexual acts;
- incest;
- sexual penetration of child under the age of 16;
- 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 a child under the age of 16 years to take part in an act of sexual penetration, or an indecent act;
- promoting or engaging in acts of child prostitution;
- obtaining benefits from child prostitution;
- possession of child pornography; or
- publishing child pornography and indecent articles.

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

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

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

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

**World Rugby** means the international governing body of rugby union.

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

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

The ARU are committed to providing a child-safe environment. As part of this, the ARU will recruit staff and volunteers who do not pose a risk to children.

Employment screening and Working with Children Checks can involve criminal history checks, signed declarations, referee checks and other appropriate checks that assess a person's suitability to work with Children and Young People.

**Working with Children Check laws are currently in place in all State and Territories in Australia.**

The ARU, including our Member Unions and all Rugby Bodies, will meet the requirements of the relevant state or territory Working with Children Check laws.

Individuals travelling with Children and Young People to another state or territory in a work-related capacity must comply with the screening requirements of that particular state or territory.

### **ATTACHMENTS**

- Attachment B1: Working with Children Check requirements

## **ATTACHMENT B1: WORKING WITH CHILDREN CHECK REQUIREMENTS**

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

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

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

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

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

### **Australian Capital Territory**

Contact the Office of Regulatory Services

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

Phone: 02 6207 3000

### **New South Wales**

Contact the Commission for Children and Young People

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

Phone: 02 9286 7276

### **Northern Territory**

Contact the Northern Territory Screening Authority

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

Phone: 1800 SAFE NT (1800 723 368)

### **Queensland**

Contact the Commission for Children and Young People and Child Guardian about the "Blue Card" system.

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

Phone: 1800 113 611

### **South Australia**

Contact the Department for Education and Child Development

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

Phone: 08 8463 6468.

### **Victoria**

Contact the Department of Justice

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

Phone: 1300 652 879

**Western Australia**

Contact the Department for Child Protection

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

Phone: 1800 883 979

**Tasmania**

Contact the Department of Justice - Working with Children Registration

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

Phone: 1300 13 55 13

**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.

## **PART C: COMPLAINTS HANDLING PROCEDURES**

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

### **ATTACHMENTS**

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

## **ATTACHMENT C1: COMPLAINTS PROCEDURE**

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

**All Complaints will remain confidential.** The Rugby Body will not provide information about the Complaint to another person without the Complainant's consent, except if the law requires us disclose this information or if it is necessary to properly resolve the Complaint.

To ensure **fairness for everyone involved**, the full details of the Complaint will be provided to the person or people against whom the Complaint has been made and ask for their response. As a result, it may be difficult for us to resolve Complaints made anonymously.

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

### **Informal approaches**

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

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

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

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

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

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

The MPIO or MPC will:

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

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

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

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

### **Formal approaches**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

#### **Approaching external organisations**

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

Once a complaint is received by the commission, it will investigate the matter. If it appears that unlawful harassment or discrimination has occurred, the commission will attempt to conciliate the complaint on a confidential basis. If this fails, or if it is not appropriate, the complaint may go to a formal hearing. The tribunal will make a finding and decide what action, if any, will be taken. This could include an apology or financial compensation for distress, lost earnings or medical and counselling expenses incurred.

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

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

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

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

## **ATTACHMENT C2: PROCEDURE FOR HANDLING ALLEGATIONS OF CHILD ABUSE**

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

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

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

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

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

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

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

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

- Immediately report any allegation of child abuse or neglect, or any situation involving a child at risk of harm, to the police and/or the relevant child protection agency. You may need to make a report to both. Contact details for advice or to report an allegation of child abuse are detailed below.
- Contact the relevant child protection agency or police for advice if there is **any** doubt about whether the allegation should be reported.
- If the allegation involves a person to whom this policy applies, then also report the allegation to the matter to their Member Union's MPIO so that he or she can manage the situation.

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

- The Member Union MPIO will assess the risks and take interim action to ensure the child's/children's safety. Some options that the Member Union or Rugby Body could implement include redeployment of the alleged offender to a non-child related position, supervision of the alleged offender or removal/suspension from their duties until the allegations are finally determined.
- The Member Union MPIO will assess the immediate risks to the child and take interim steps to ensure the child's safety and the safety of any other children. This may include redeploying the alleged offender to a position where there is no unsupervised contact with children, supervising the alleged offender or removing/suspending him or her until any investigations have been concluded. Legal advice should be sought before any interim steps are made if the person is in paid employment with a Rugby Body.

- The Member Union MPIO will consider what services may be most appropriate to support the child and his or her parent/s.
- The Member Union MPIO will consider what support services may be appropriate for the alleged offender.
- The Member Union MPIO will put in place measures to protect the child and the alleged offender from possible victimisation and gossip.

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

- Up to three different investigations could be undertaken to examine allegations that are made against a person to whom this policy applies, including:
  - a criminal investigation (conducted by the police)
  - a child protection investigation (conducted by the relevant child protection agency)
  - a disciplinary or misconduct inquiry/investigation (conducted by the Conduct Committee of the Member Union).
- Regardless of the findings of the police and/or child protection agency investigations, the Member Union MPIO will assess the allegations to decide whether the alleged offender should return to his or her position, be dismissed, be banned or face any other disciplinary action.
- The Conduct Committee of the Member Union will consider all information relevant to the matter – including any findings made by the police, the child protection authority and/or court – and then set out a finding, recommend actions and the rationale for those actions.
- If disciplinary action is to be taken, follow the procedures outlined in Attachment C5 of the Policy. Complete the report form in Part D of this Policy. Retain the original in a secure place.
- The Member Union will provide the relevant government agency with a report of any disciplinary action we take, where this is required.

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

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

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

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

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

## **ATTACHMENT C3: MEDIATION PROCEDURE**

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Mediation is a process that allows the people involved in a complaint to talk through the issues with an impartial person – the Mediator – and work out a mutually agreeable solution.

The Mediator does not decide who is right or wrong and does not tell either side what they must do. Instead, he or she helps those involved to talk through the issues and makes sure that the process is as fair as possible for all concerned.

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

1. The Rugby Body will appoint a Mediator to help resolve the Complaint. This will be done under the direction of Rugby Body and in consultation with the Complainant and the Respondent(s).
2. The Mediator will talk with the Complainant and Respondent(s) about how the mediation will take place and who will participate. At a minimum, the Mediator will prepare an agenda of issues to be discussed.
3. All issues raised during mediation will be treated confidentially. Respect the rights of the Complainant and the Respondent(s) to pursue an alternative process if the Complaint is not resolved.
4. If the Complaint is resolved by mediation, the mediator will prepare a document that sets out the agreement that has been reached. This agreement will be signed by the Complainant and the Respondent(s). We expect the parties involved to respect the terms of the agreement.
5. If the Complaint is not resolved by mediation, the Complainant may:
  - write to the Rugby Body to request that the Complaint be referred to the Conduct Committee to reconsider the complaint in accordance with **Step 3**
  - approach an external agency, such as an anti-discrimination or equal opportunity commission, to resolve the matter.

The ARU recognise that there are some **situations where mediation will not be appropriate**, including:

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

## **ATTACHMENT C4: INVESTIGATION PROCESS**

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There will be times when a Complaint will need to be investigated and evidence gathered.

An investigation helps determine the facts relating to the incident, as well as possible findings and recommendations.

Any investigation that we conduct will be fair to all people involved.

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

1. Provide a written brief to the investigator that sets out the terms of engagement and his or her roles and responsibilities. The investigator will:
  - interview the Complainant and record the interview in writing;
  - provide full details of the complaint to the Respondent(s) so that they can respond;
  - interview the Respondent(s) to allow them to answer the Complaint and record the interview in writing;
  - obtain statements from witnesses and collect other relevant evidence, if there is a dispute over the facts;
  - make a finding as to whether the Complaint is:
    - **substantiated** (there is sufficient evidence to support the complaint)
    - **inconclusive** (there is insufficient evidence either way)
    - **unsubstantiated** (there is sufficient evidence to show that the complaint is unfounded)
    - **mischievous, vexatious or knowingly untrue.**
  - provide a report to the Rugby Body's Conduct Committee documenting the complaint, the investigation process, the evidence, the finding(s) and, if requested, any recommendations.
2. Provide a report to the Complainant and the respondent(s) documenting the Complaint, the investigation process and summarising key points that are substantiated, inconclusive, unsubstantiated and/or mischievous.
3. The Complainant and the Respondent(s) will be entitled to support throughout this process from their chosen support person or adviser (e.g. Rugby Body MPIO or other person).
4. The Complainant and the Respondent(s) may have the right to appeal any decision based on the investigation. Information on our appeals process is in Attachment C5.

## **ATTACHMENT C5: CONDUCT COMMITTEE AND APPEALS PROCEDURE**

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

### **Conduct Committee**

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

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

### **Appeals Procedure**

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

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

17. The decision of the ARU Conduct Tribunal will be final.

### **ARU Intervention**

18. Where the ARU receives notification of a formal Complaint from a Rugby Body, or an appeal to a Member Union under clause 13, the ARU has the right to:

- (a) declare that the investigation and hearing must be conducted by the ARU Conduct Tribunal if, in the opinion of the ARU, the Complaint negatively affects, or has potential to negatively affect, the image of the ARU or the game of Rugby; or
- (b) appoint a representative to the Conduct Committee investigating/hearing the Complaint, in place of an existing Committee member that would otherwise sit. If there is any dispute, the ARU may determine which Committee member is to be replaced by the ARU representative; or
- (c) be given the opportunity to be heard by the Conduct Committee.

19. The ARU must notify the Conduct Committee hearing the Complaint or the appeal (as applicable), of its decision whether to exercise the rights in paragraphs (a), (b) or (c) above.

20. No decision, with the exception of an interim decision, can be made by a Rugby Body (including a Member Union) until the ARU has received notice (and the opportunity to intervene under paragraph 19).

### **ARU Conduct Tribunal**

21. The ARU will establish from time to time a tribunal to investigate and conduct hearings in relation to Complaints, to impose appropriate disciplinary measures and to hear appeals from the Committee of a Member Union (**Tribunal**).

22. The Tribunal will consist of three members, to include:

- (a) as the Chairperson, a senior legal practitioner. Preference will be given to a person with prior experience in proceedings related to Rugby matters;
- (b) two other members to be selected in the ARU's absolute discretion.

23. The Tribunal will have power to regulate its own procedure. Subject to its obligation to give proper consideration to the matter before it, the Tribunal should generally conduct hearings with as little formality, and with as much expedition, as is permitted by the nature of the matter.

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

24. In addition to the Tribunal's role defined above, the Tribunal may, at the request of the ARU, review the decision of the Conduct Committee of any Rugby Body.

25. The Tribunal:

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

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

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

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

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

The ARU requires Rugby Bodies to do likewise.

### **ATTACHMENTS**

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

**ATTACHMENT D1: CONFIDENTIAL RECORD OF INFORMAL COMPLAINT**

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Name of person receiving complaint			Date:    /    /
Complainant's Name	<input type="checkbox"/> Over 18 <input type="checkbox"/> Under 18		
Role/status	<input type="checkbox"/> Administrator (volunteer) <input type="checkbox"/> Athlete/player <input type="checkbox"/> Coach/Assistant Coach <input type="checkbox"/> Employee (paid) <input type="checkbox"/> Official ..... <input type="checkbox"/> Parent <input type="checkbox"/> Spectator <input type="checkbox"/> Support Personnel <input type="checkbox"/> Other		
When/where did the incident take place?			
What are the facts relating to the incident, as stated by complainant?			
What is the nature of the complaint? (category/basis/grounds)  Tick more than one box if necessary	<input type="checkbox"/> Harassment or ..... <input type="checkbox"/> Sexual/sexist ..... <input type="checkbox"/> Sexuality ..... <input type="checkbox"/> Race ..... <input type="checkbox"/> Religion ..... <input type="checkbox"/> Pregnancy ..... <input type="checkbox"/> Other ..... <input type="checkbox"/> Discrimination ..... <input type="checkbox"/> Selection dispute ..... <input type="checkbox"/> Personality clash ..... <input type="checkbox"/> Bullying ..... <input type="checkbox"/> Disability ..... <input type="checkbox"/> Child Abuse ..... <input type="checkbox"/> Coaching methods ..... <input type="checkbox"/> Verbal abuse ..... <input type="checkbox"/> Physical abuse ..... <input type="checkbox"/> Victimisation ..... <input type="checkbox"/> Unfair decision		
What does the complainant want to happen to resolve the issue?			
What other information has the complainant provided?			
What is the complainant going to do now?			

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

**ATTACHMENT D2: CONFIDENTIAL RECORD OF FORMAL COMPLAINT**

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Complainant's Name	<input type="checkbox"/> Over 18 <input type="checkbox"/> Under 18	Date Formal Complaint Received: / /
Complainant's contact details	Phone: _____ Email: _____	
Complainant's role/position	<input type="checkbox"/> Administrator (volunteer) <input type="checkbox"/> 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/position	<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 incident		
Description of alleged incident		
Nature of complaint (category/basis/grounds)  Tick more than one box if necessary	<input type="checkbox"/> Harassment or <input type="checkbox"/> Discrimination <input type="checkbox"/> Sexual/sexist <input type="checkbox"/> Selection dispute <input type="checkbox"/> Coaching methods <input type="checkbox"/> Sexuality <input type="checkbox"/> Personality clash <input type="checkbox"/> Verbal abuse <input type="checkbox"/> Race <input type="checkbox"/> Bullying <input type="checkbox"/> Physical abuse <input type="checkbox"/> Religion <input type="checkbox"/> Disability <input type="checkbox"/> Victimisation <input type="checkbox"/> Pregnancy <input type="checkbox"/> Child Abuse <input type="checkbox"/> Unfair decision <input type="checkbox"/> Other ..... 	
Methods (if any) of attempted informal resolution		

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

**This record and any notes must be kept in a confidential and safe place.** If the complaint is of a serious nature, or if it is taken to and/or dealt with at the state level, the original record must be provided to respective Member Union and a copy kept with the organisation where the complaint was first made.

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

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

Complainant's name (if other than the child)	Date formal complaint received: / /	
Role/status in sport		
Child's name	Age:	
Child's address		
Person's reason for suspecting abuse (e.g. observation, injury, disclosure)		
Name of person complained about		
Role/status in sport	<input type="checkbox"/> Administrator (volunteer) <input type="checkbox"/> Parent <input type="checkbox"/> Athlete/player <input type="checkbox"/> Spectator <input type="checkbox"/> Coach/Assistant Coach <input type="checkbox"/> Support Personnel <input type="checkbox"/> Employee (paid) <input type="checkbox"/> Other <input type="checkbox"/> Official	
Witnesses (if more than three witnesses, attach details to this form)	Name (1): Contact details: Name (2): Contact details: Name (3): Contact details:	
Interim action taken (if any)		
Police contacted	Who: When: Advice provided:	

Child protection agency contacted	Who: When: Advice provided:
CEO contacted	Who: When:
Police investigation (if any)	Finding:
Child protection agency investigation (if any)	Finding:
Internal investigation (if any)	Finding:
Action taken	
Completed by	Name: Position: Signature: / /
Signed by	Complainant (if not a child)

**This record and any notes must be kept in a confidential and safe place.** If required, they should be provided to the police and/or the relevant child protection agency.