

## CODES OF BEHAVIOUR

Note: Codes of behaviour are generally not binding on non-members such as parent/guardians and spectators unless they have signed the codes or other form/document agreeing to be bound by the codes and the member protection policy.

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### Attachment B1: General Code of Conduct

The APBA and its State Associations endorse the following code of conduct for members, service providers and employees, particularly those responsible for activities involving members under the age of 18 years.

As an APBA member, service provider or employee you should meet the following standard of conduct:

- Respect the rights, dignity and worth of others.
- Be fair, considerate and honest in all dealing with others.
- Be professional in, and accept responsibility for, your actions.
- Make a commitment to providing quality service.
- Be aware of, and maintain an uncompromising adherence to the APBA's standards, rules, regulations and policies.
- Operate within the rules of the sport including national and international guidelines that govern the APBA.
- Do not use your involvement with the APBA, a State Association or an Affiliated Club to promote your own beliefs, behaviours or practices where these are inconsistent with those of the Relevant Organisation.
- Demonstrate a high degree of individual responsibility especially when dealing with persons under 18 years of age, as your words and actions are an example.
- Avoid unaccompanied and unobserved activities with persons under 18 years of age, wherever possible.
- Refrain from any form of harassment of others.
- Refrain from any behaviour that may bring the APBA, a State Association or an Affiliated Club/Class Association into disrepute.
- Provide a safe environment for the conduct of the activity.
- Show concern and caution towards others who may be sick or injured.
- Be a positive role model.
- Understand the repercussions if you breach, or are aware of any breaches of, the Member Protection Policy.

## **Attachment B2: Administrator (volunteer) Code of Conduct**

Administrators/directors/officers/employees/contractors shall:

- Agree to abide by the Code of Conduct.
- Be fair, considerate and honest in all dealing with others.
- Be professional in their actions, language, presentation, manners and punctuality in order to reflect high standards.
- Maintain confidentiality in regards to sensitive and/or commercial information.
- Resolve conflicts fairly and promptly through established procedures.
- Maintain strict impartiality in matters relating to the Member Protection Policy.
- Maintain a safe environment for others.
- Show concern and caution towards others.
- Be a positive role model for others.

## **Attachment B3: Coach and Instructors Code of Conduct**

Coaches and instructors educate participants in the fundamental techniques, skills and tactics of boating. Accredited coaches and instructors are vital to quality boating development.

Boating coaches and instructors shall:

- Agree to abide by the code of conduct.
- Become accredited and keep that accreditation up to date.
- Encourage enjoyment of boating, participation should be for pleasure, winning is only part of the fun.
- Cater for varying levels of ability so that all participants have a 'fair go' in both practice and competition.
- Provide equal encouragement to males and females to participate, acquire skills and develop confidence.
- Make opportunities available for exceptionally talented participants to develop their full boating potential.
- Prepare and conduct sessions based on sound coaching principles.
- Set realistic standards and objectives for juniors.
- Provide safe boating conditions.
- Insist that the required protective clothing is fitted and worn appropriately.
- Educate competitors and in the case of juniors, the parents on health and safety in boating.
- Abide by the World Anti-Doping Code.
- Ensure that the consequences of inappropriate behaviour are clearly understood by boating participants, and in the case of juniors, the parents.
- Keep up to date with boating coaching development.
- Operate within the rules and spirit of the sport and teach your boating participants to do the same.
- Never ridicule or yell at young boating participants for making a mistake or not coming first.
- Provide a good role model of sporting behaviour and respect the rights, dignity and worth of every competitor and boating participant regardless of their age, gender, ability, cultural background or religion.

## **Attachment B4: Boating Participant Code of Conduct**

Competitors are expected to comply with the Basic Principle outlined in the APBA Rule Book.

Powerboating. As a competitor you shall:

- Be tolerant of other users of the waterways and surrounding environs.
- Never argue with an official.
- Control your temper. Verbal abuse of officials and sledging other boating participant, deliberately distracting or provoking an opponent are not acceptable or permitted behaviour.
- Not abuse other crew members.
- Abide by the APBA Anti-Doping Code.
- Work equally hard for yourself and/or your crew. Your boat's performance will benefit and so will you.
- Be a good sport. Applaud your opponents when they get one up on you.
- Treat all participants as you like to be treated. Do not bully or try to take an unfair advantage of another competitor.
- Co-operate with your fellow boating participants, without them there would be no competition.
- Participate for your own enjoyment and benefit not just to please others.
- Respect the rights, dignity and worth of all participants regardless of their gender, ability, cultural background or religion.

## **Attachment B5: Officials Code of Conduct**

Officials shall:

- Place the safety and welfare of the participants above all else.
- Accept responsibility for their actions.
- Be impartial.
- Avoid anything which may lead to conflicts of interest.
- Be courteous, respectful and be open to discussion and interaction.
- Value the individual in sport.
- Seek continual self improvement through study, performance appraisal and regular updating of competencies.
- Encourage inclusivity and access to all areas of officiating.
- Be a positive role model in behaviour and personal appearance.

## **Attachment B6: Parent/Guardian Code of Conduct**

Parents should:

- Remember that children participate in boating for their enjoyment, not yours.
- Encourage children to participate, not force them.
- Focus on the child's efforts and performance rather than winning or losing.
- Encourage children to compete according to the rules and to settle disagreements without resorting to hostility, violence or abuse.
- Never ridicule or yell at a child for making a mistake or losing a race.
- Remember that children learn best by example. Appreciate good performances and skills displayed by all participants.
- Support all efforts to eliminate verbal and physical abuse from sport.
- Respect officials' decisions and teach children to do likewise.
- Show appreciation of the efforts of volunteer coaches, officials, administrators and other helpers as without them there would be no sport for your children to participate in.
- Respect the rights, dignity and worth of every young person regardless of their gender, ability, cultural background or religion.

## **Attachment B7: Spectator Code of Conduct**

Spectators should:

- Applaud good performance and efforts from all boating participants and teams. Congratulate all boating participants on their performance regardless of the event's outcome.
- Respect the decisions of officials and teach young people to do the same.
- Never ridicule or scold a young competitor for making a mistake. Positive comments are motivational.
- Condemn the use of violence in any form, whether it is by other spectators, coaches, officials, or boating participants.
- Show respect for your team's opponents. Without them there would be no event.
- Encourage boating participants to follow the rules and the officials' decisions.
- Do not use violence, harassment or abuse in any form (ie do not use foul language, sledge or harass competitors, coaches, officials or other spectators).
- Respect the rights, dignity and worth of every person regardless of their gender, ability, cultural background or religion.

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

### **Background**

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

Working with Children Check (WWCC) laws aim to prevent people who pose a risk from working with children as paid employees or volunteers. In New South Wales, Queensland, Western Australia, Victoria Northern Territory and South Australian laws require individuals involved in areas such as sport and recreation to undertake a check to determine their suitability to work (in a paid or volunteer capacity) with children. This is done by checking certain criminal history and other matters. In some states this also involves reviewing relevant findings from disciplinary proceedings. There are also requirements placed on organisations.

The Australian Capital Territory and Tasmania are currently reviewing their screening laws. New requirements and amendments will be added to this policy as they are introduced. There is no current screening process or formal legislation, however, individual employers or sporting organisations may require police checks at their discretion.

Please be aware that state and territory WWCC requirements may also apply to individuals who visit states with screening laws. For example, if a state association or club takes boating participants U18 into New South Wales for competition or other activities, those travelling with the teams must comply with NSW law.

The state WWCC requirements apply regardless of Member Protection policy adopted at national, state or club level.

The following attachments provide:

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

### **Please note: Working with children check exemptions**

The communiqué from the Standing Council on Community, Housing and Disability Services meeting held on 21 October 2011 outlined new arrangements for national short term exemptions to Working with Children Checks. The Commonwealth, State and Territory Ministers agreed to introduce, by late 2012, national exemptions to Working with Children Checks for paid employees and volunteers who are required to cross state or territory borders for work related purposes. These exemptions will be for up to 30 days in any 12 month period and will enable workers to participate in national and inter-jurisdictional activities on a short- term basis.

This means volunteers and workers with a valid check in their home state or territory will be able to participate in short-term activities across state and territory borders without the need for additional checks.

The full communiqué is available at

[http://www.jennymacklin.fahcsia.gov.au/statements/Pages/jm\\_c\\_livingstandards\\_21october2011.aspx](http://www.jennymacklin.fahcsia.gov.au/statements/Pages/jm_c_livingstandards_21october2011.aspx)

## **Attachment C1: SCREENING REQUIREMENTS**

for states/territories without Working With Children Checks such as ACT and Tasmania

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

The APBA will, and also requires state associations and clubs to:

1. Identify positions that involve working, coaching, supervising or regular unsupervised contact with people under the age of 18 years.
2. Obtain a completed *Member Protection Declaration* (MPD) (Attachment C2) from all people who are identified in the above step and keep it in a secure place.
3. Provide an opportunity for a person to give an explanation if a MPD isn't provided or it reveals that the person doesn't satisfactorily meet any of the clauses in the MPD. We will then make an assessment as to whether the person may be unsuitable to work with people under the age of 18 years. If unsatisfied we will not appoint them to the role/position.
4. Where possible, check a person's referees (verbal or written) about his/her suitability for the role.
5. Ask the people identified in step 1 to sign a consent form for a national police check.
6. Possibly request (or ask the person to request) a national 'Part Exclusion' police check from our relevant police jurisdiction. This check excludes irrelevant records. If the police check indicates a relevant offence, we will provide an opportunity for the person to give an explanation, and then we will make an assessment as to whether the person may pose a risk to or be unsuitable to work with people under the age of 18 years. If unsatisfied we will not appoint them to the role/position.
7. Make an assessment as to whether the person may be unsuitable to work with people under the age of 18 years if the person does not agree to a national police check after explaining why it is a requirement under our policy. If unsatisfied, we will not appoint them.
8. Decide whether to offer the person the position taking into account the result of the police check and any other information the club has available to it. Where it is not practical to complete the police check prior to the person commencing in the position, we will complete the check as soon as possible, and if necessary, act immediately on the outcome.
9. Protect the privacy of any person who is checked and maintain confidentiality of any information obtained through the checking process.
10. Return information collected during screening (such as a completed MPD form, police records and referee reports) to the relevant person if that person is not appointed to the position, or otherwise be destroyed within 28 days of the date of the decision or the expiry of any appeal period, unless within that time the person requests that the documents be returned to them. For appointed persons, information will be kept on file in a secure location.

**Attachment C2: MEMBER PROTECTION DECLARATION**

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

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

sincerely declare:

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

Declared in the State/Territory of .....  
on ...../...../.....(date) Signature .....

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

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

Name:.....  
Signature:.....  
Date: .....



## Attachment C3: WORKING WITH CHILDREN CHILD PROTECTION REQUIREMENTS

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

### 1. QUEENSLAND

A person will need a Working with Children Check ("WWC Check"), also known as a **blue card**, if they propose to work in a paid or voluntary capacity or to carry on a business in a child-related area regulated by the *Commission for Children and Young People and Child Guardian Act 2000*, for at least:

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

Once a person is checked and approved, they are issued with a blue card. Volunteers and paid employees employed in a sporting organisation generally fall under the 'churches, clubs and associations' category of regulated employment. Volunteers and paid employees employed in private businesses may fall under the 'sport and active recreation' category of regulated employment. The check is a detailed national criminal history check including charges and investigations relating to children.

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

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

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

A blue card remains current for two years. Existing card holders will be notified by the Queensland Commission for Children and Young People and Child Guardian before their card expires. It is important to note that Blue Cards issued for applicants received after 1 April 2010 will now be valid for three years, instead of two. Volunteers who are under 18 years of age do not require a Blue Card; however, employees under 18 years of age do require a blue card. In addition to obligations regarding the blue card, **employers** must develop and implement a written child protection risk management strategy and review it each year.

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

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

### 2. NEW SOUTH WALES

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

1. Excluding people with convictions for serious sex and violence crimes against children; and

2. Background checking for preferred applicants for primary child-related employment, ministers of religion and authorised carers

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

Sporting organisations are responsible for managing the WWC Check process. Individuals cannot apply for a WWC Check directly. Sporting organisations should register with the **NSW Commission for Children and Young People** providing a contact who will receive the information on the background checks. It is important to note that there are new online WWC Check forms and also clearer online employer guidelines.

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

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

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

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

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

A WWC Check is valid for employment in that position within the organisation. Short-term employees (where that person is being employed for periods of less than six months and returning for short periods throughout a 12 month period) only need to be checked **once** every 12 months. People returning from leave into the same child-related employment do not need to be re-checked. Existing employees are only checked if they are recruited to a new position with a different range of child-related contact, within the organisation.

For more information, including the required forms:

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

### 3. **WESTERN AUSTRALIA**

The Working With Children Check (“WWC Check”) is a compulsory and rigorous criminal record check for certain people who carry out ‘child-related work’ in Western Australia (WA). The *Working with Children (Criminal Record Checking) Act 2004* (the Act) aims to protect children from harm by providing a high standard of compulsory national criminal record check for people wishing to work in paid or unpaid child-related work or volunteer child-related work in WA.

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

Applicants will be issued with either:

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

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

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

For more information:

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

### 4. **VICTORIA**

The Working With Children Check (“WWC Check”) creates a mandatory minimum checking standard across Victoria. The *Working with Children Act 2005* requires that some people who work or volunteer in child-related work require a WWC Check. WWC Checks are valid for five years and must be renewed if you intend to continue to undertake ‘child-related work’ after your WWC Check Card expires. Should you require a WWC Check Card you must have applied for a WWC Check Card by the 30<sup>th</sup> of June 2011.

The check involves a national police records check and a review of relevant findings from prescribed professional disciplinary bodies (currently only the Victorian Institute of Teaching). There is an exemption for volunteers whose own children are involved in the particular activity; however they should still be required to complete the screening process.

A person who has no criminal or professional disciplinary history will be granted an *Assessment Notice*. This notice will entitle the person to undertake child-related work in Victoria and is valid for five years (unless revoked). As of the 1<sup>st</sup> of December, 2010 the *Assessment Notice* became the WWC Check Card and not the A4-Style Assessment Notice. Cardholders can now show employers and organisations who employ them in ‘child-related work’, the card itself, as legal proof that they have passed the Check.

A person deemed unsuitable to work or volunteer with children will be given a *negative notice* and cannot work in child-related work in Victoria.

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

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

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

For more information:

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

## 5. **SOUTH AUSTRALIA**

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

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

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

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

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

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

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

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

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

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

#### **Option 1**

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

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

South Australia Police require the explicit written consent of the applicant prior to the release of criminal history information. The NPC application form is available from:

[http://www.police.sa.gov.au/sapol/services/information\\_requests/national\\_police\\_certificate.jsp](http://www.police.sa.gov.au/sapol/services/information_requests/national_police_certificate.jsp)

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

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

Where an individual does have a criminal history, the organisation must assess this information in accordance with Standard 5 of the ***Standards for dealing with information obtained about the criminal history of employees and volunteers who work with children.***

See <http://www.dcsi.sa.gov.au/pub/Default.aspx?tabid=281> for details

Each assessment is conducted on its individual merits and with consideration to the inherent requirements of the position. As required by the ***Standards for dealing with information obtained about the criminal history of employees and volunteers who work with children***, principles of procedural fairness and natural justice are applied throughout the decision-making process and the individual is provided an opportunity to confirm or dispute the information contained within the report and to provide contextual information for consideration during the assessment process.

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

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

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

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

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

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

There will be no appeal to this decision.

## **Option 2**

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

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

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

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

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

### **Other evidence**

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

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

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

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

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

In accordance with guidelines the organisation concerned has agreed to exempt the following persons from the requirement to undertake a criminal history assessment, unless that person is also involved in a function or event conducted by the APBA its affiliated associations or clubs which involves the care of children in overnight accommodation.

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

For more information, visit:

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

## **6. NORTHERN TERRITORY**

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

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

The Children Clearance Screening has three components:

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

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

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

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

For more information:

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

## **7. AUSTRALIAN CAPITAL TERRITORY**

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

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

For more information including forms and fees:

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

## **8. TASMANIA**

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

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

- Child care staff;
- Home base child carers; and

- Volunteers and students, including those under 18 years of age.

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

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

For more information:

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



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

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

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

Individuals may also pursue their complaint externally under anti-discrimination, child protection or other relevant legislation. However, MPP complaints cannot be heard concurrently with any other process that is addressing the complainant's matter or similar matter.

If you wish to remain anonymous, the APBA and its State Associations may have difficulty assisting you to resolve your complaint. Procedural fairness (natural justice) means that The APBA or the relevant State Association are required to provide the person/people you have complained about with full details of the complaint so they have a fair chance to respond.

#### **INFORMAL APPROACHES**

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

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

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

Talk with one of our Member Protection Information Officers (MPIOs) if:

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

To make contact with an MPIO you should make contact with the office of your State Association or MYA.

The MPIO will:

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

The MPIO will not make any decisions in relation to the complaint being considered.

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

After talking with the MPIO, you may decide:

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

- to seek a formal approach.

## **FORMAL APPROACHES**

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

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

- make a formal complaint in writing to the Chief Executive/General Manager of your State Association; or
- approach a relevant external agency such as an anti-discrimination commission, for advice.

On receiving a formal complaint and based on the material you have provided, the Chief Executive/General Manager of your State Association will decide whether:

- they are the most appropriate person to receive and handle the complaint; or
- the nature and seriousness of the complaint warrants a formal resolution procedure; or
- to refer the complaint to mediation; or
- to appoint a person to **investigate** (gather more information on) the complaint; or
- to refer the complaint to a hearings tribunal; or
- to refer the matter to the police or other appropriate authority; or
- to implement any interim arrangements that will apply until the complaint process set out in these Procedures is completed.

In making the decision(s) outlined above, the Chief Executive/General Manager of your State Association will take into account:

- whether they have had any personal involvement in the circumstances which means that someone else should handle the complaint;
- your wishes, and the wishes of the respondent, regarding the manner in which the complaint should be handled;
- the relationship between you and the respondent (for example an actual or perceived power imbalance between you and the respondent);
- whether the facts of the complaint are in dispute; and
- the urgency of the complaint, including the possibility that you will be subject to further unacceptable behaviour while the complaint process is underway.

If Chief Executive/General Manager of your State Association is the appropriate person to handle the complaint they will, to the extent that these steps are necessary:

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

In the case of a complaint lodged with the APBA all references made in step 4 above to the Chief Executive/General Manager of your State Association shall be action by the National APBA President / Chief Executive using the same process.

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

- A person appointed under Step 3 may conduct an investigation and provide a written report to the Chief Executive/General Manager of your State Association who will determine what further action to take;
- If the complaint is referred to mediation, it will be conducted in accordance with Attachment D2 or as otherwise agreed by you and the respondent and the mediation provider;
- If the complaint is referred to a hearings tribunal, the hearing will be conducted in accordance with Attachment D5 or refer to where your hearings tribunal processes can be found;

- If the complaint is referred to the police or other appropriate authority, the APBA and/or the State Association will use its best endeavours to provide all reasonable assistance required by the police or other authority.
- It must be made clear to all parties that the investigator is not seeking to resolve the matter, nor to decide whether any breach of this Policy has occurred, nor to impose any penalty. Any decision about a Policy breach(es) must be referred to an independent tribunal, and wherever possible, mediations should be conducted by an independent mediator.

In the case of a complaint lodged with the APBA all references made in step 5 above to the Chief Executive/General Manager of your State Association shall be action by the National APBA President / Chief Executive using the same process.

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

If, under the formal complaint process, mediation is unsuccessful, you may request that the Chief Executive/General Manager of your State Association reconsider the complaint in accordance with **Step 3** or refer the matter to the APBA for consideration.

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

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

The Chief Executive/General Manager of your State Association or the National APBA President / Chief Executive will document the complaint, the process and the outcome. This document will be stored in a confidential and secure place. If the complaint was dealt with at a state level, the information will be stored in the State Association office. If the matter is of a serious nature, or if the matter was escalated to and/or dealt with at the national level, the original document will be stored at the national office with a copy stored at the state office.

## **EXTERNAL APPROACHES**

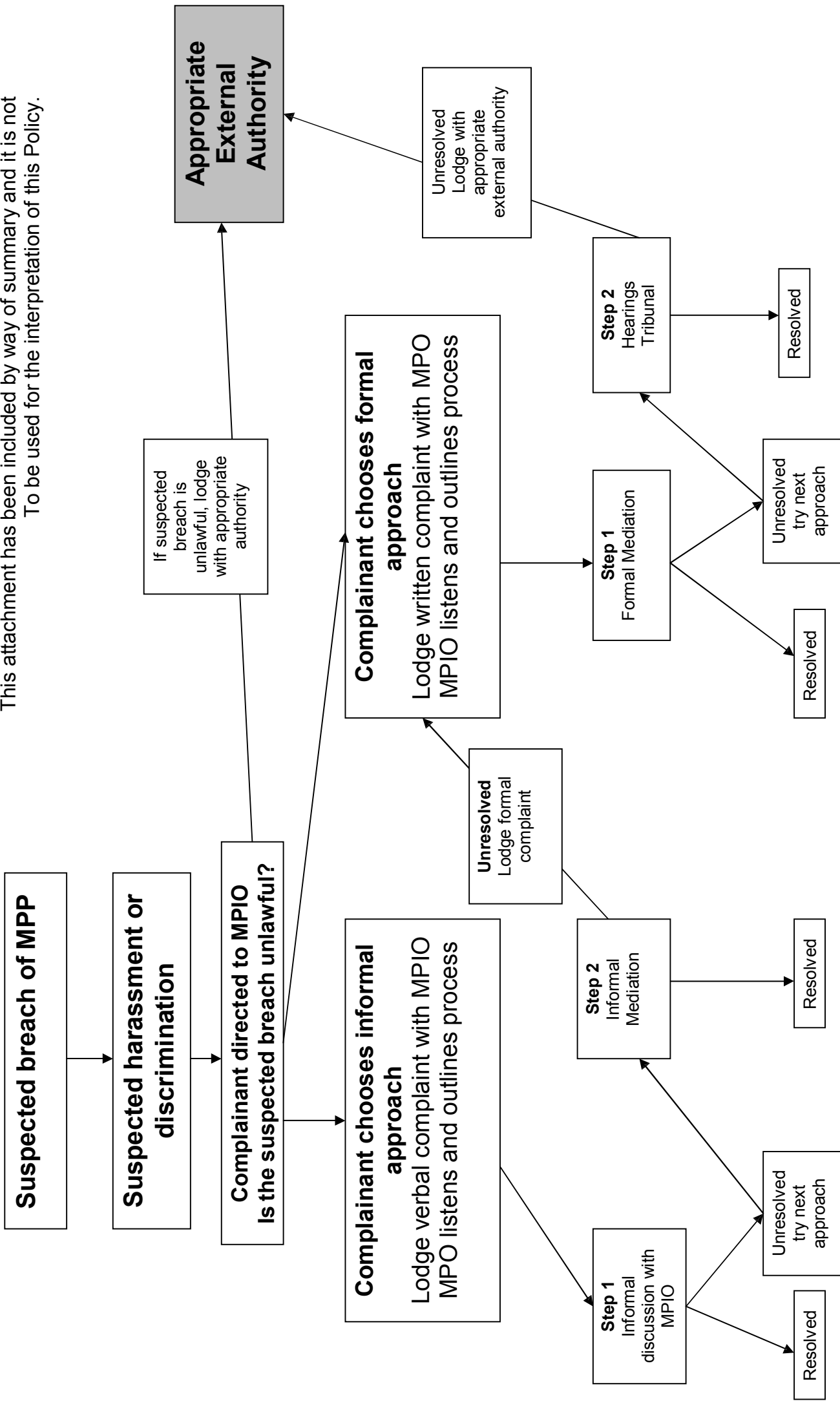
There are a range of other options available depending on the nature of your complaint. If you feel that you have been harassed or discriminated against, you can seek advice from your State or Territory anti-discrimination commission without being obliged to make a formal complaint. If the commission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

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

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

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

**ATTACHMENT: COMPLAINTS PROCEDURE**  
 This attachment has been included by way of summary and it is not  
 To be used for the interpretation of this Policy.



## Attachment D2: MEDIATION

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

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

## **Attachment D3: INVESTIGATION PROCESS**

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

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

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

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

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

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

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

### **Step 2 – Report allegations**

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

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

- The APBA Chief Executive or the Chief Executive/General Manager of the relevant State Association will assess the risks and take interim action to ensure the child's/children's safety. Action the APBA may seek to implement includes redeployment of the alleged offender to a non-child related position, supervision of the alleged offender or removal/suspension from their duties until the allegations are finally determined.
- The APBA Chief Executive or the Chief Executive/General Manager of the relevant State Association will consider the kind of support that the child/ren and parents may need (e.g. counselling, helplines, support groups).
- The APBA Chief Executive or the Chief Executive/General Manager of the relevant State Association will address the support needs of the alleged offender.
- The APBA Chief Executive or the Chief Executive/General Manager of the relevant State Association will also put in place measures to protect the child and the person against whom the complaint is made from victimisation and gossip. If the person is stood down, it should be made clear to any persons aware of the incident that this does not mean the respondent is guilty and a proper investigation will be undertaken.

#### **Step 4 – Internal action**

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



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

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The following will be followed by hearings tribunals established by the APBA or the relevant State Association to hear national member protection related complaints.

### **Preparation for Tribunal Hearing**

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

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

The respondent(s) will be allowed to participate in all the APBA or the relevant State Association activities and events, pending the decision of the Tribunal, including any available appeal process, unless the Chief Executive of the APBA or the Chief Executive/General Manager of the relevant State Association believes it is necessary to exclude the respondent(s) from all or some the APBA or the relevant State Association activities and events, after considering the nature of the complaint.

6. The Chief Executive of the APBA or the Chief Executive/General Manager of the relevant State Association will notify the complainant in writing that a tribunal hearing will take place. The notice will outline:
  - That the person has a right to appear at the tribunal hearing to support their complaint;
  - Details of the complaint, including any relevant rules or regulations the respondent is accused of breaching
  - The date, time and venue of the tribunal hearing;
  - That they can make either verbal or written submissions to the Tribunal;
  - That they may arrange for witnesses to attend the Tribunal in support of their position (or provide statutory declarations from witnesses unable to attend); and

- That legal representation will not be allowed. If complainant is a minor, they should have a parent or guardian present.

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

7. If the complainant believes the details of the complaint are incorrect or insufficient they should inform the Chief Executive of the APBA or the Chief Executive/General Manager of the relevant State Association as soon as possible so that the respondent and the Tribunal Panel members can be properly informed of the complaint.
8. It is preferable that the Tribunal include at least one person with knowledge or experience of the relevant laws/rules (e.g. Discrimination).

### **Tribunal Hearing Procedure**

9. The following people will be allowed to attend the Tribunal Hearing:
  - The Tribunal members;
  - The respondent(s);
  - The complainant;
  - Any witnesses called by the respondent;
  - Any witnesses called by the complainant;
  - Any parent / guardian or support person required to support the respondent or the complainant.
10. If the respondent(s) is not present at the set hearing time and the Tribunal Chairperson considers that no valid reason has been presented for their absence, the Tribunal Hearing will continue subject to the Tribunal Chairperson being satisfied that all Tribunal notification requirements have been met.
11. If the Tribunal Chairperson considers that a valid reason for the non-attendance of the respondent(s) has been presented, or the Tribunal Chairperson does not believe the Tribunal notification requirements have been met, then the Tribunal will be rescheduled to a later date.
12. The Tribunal Chairperson will inform the Chief Executive of the APBA or the Chief Executive/General Manager of the relevant State Association of the need to reschedule, and the Chief Executive of the APBA or the Chief Executive/General Manager of the relevant State Association will organise for the Tribunal to be reconvened.
13. The Tribunal Chairperson will read out the complaint, ask the respondent(s) if they understand the complaint and if they agree or disagree with the complaint.
14. If the respondent agrees with the complaint, he or she will be asked to provide any evidence or witnesses that should be considered by the Tribunal Panel when determining any disciplinary measures (penalty).
15. If the respondent disagrees with the complaint, the complainant will be asked to describe the circumstances that lead to the complaint being made.
  - Reference may be made to brief notes.
  - The complainant may call witnesses.
  - The respondent(s) may question the complainant and witnesses.
16. The respondent(s) will then be asked to respond to the complaint.
  - Reference may be made to brief notes.
  - The respondent may call witnesses.
  - The complainant may ask questions of the respondent and witnesses.
17. Both the complainant and respondent may be present when evidence is presented to the Tribunal. Witnesses may be asked to wait outside the hearing until required.
18. The Tribunal may:
  - consider any evidence, and in any form, that it deems relevant.
  - question any person giving evidence.
  - limit the number of witnesses presented to those who provide any new evidence.
  - Require (to the extent it has power to do so) the attendance of any witness it deems relevant;

- Act in an inquisitorial manner in order to establish the truth of the issue/case before it.
19. Video evidence, if available, may be presented. The arrangements must be made entirely by the person/s wishing to offer this type of evidence.
  20. If the Tribunal considers that at any time during the Tribunal Hearing there is any unreasonable or intimidatory behaviour from anyone, the Chairperson may deny further involvement of the person in the hearing.
  21. After all of the evidence has been presented the Tribunal will make its decision in private. The Tribunal must decide whether the complaint has been substantiated on the balance of probabilities (i.e. more probable than not). As the seriousness of the allegation increases, so too must the level of satisfaction of the Tribunal that the complaint has been substantiated. The respondent will be given an opportunity to address the Tribunal on disciplinary measures which might be imposed. Disciplinary measures imposed must be reasonable in the circumstances.
  22. All Tribunal decisions will be by majority vote.
  23. The Tribunal Chairperson will announce the decision in the presence of all those involved in the hearing and will declare the hearing closed, or may advise those present that the decision is reserved and will be handed down in written form at a later time.
  24. Within 48 hours, the Tribunal Chairperson will:
    - Forward to the Chief Executive of the APBA or the Chief Executive/General Manager of the relevant State Association a notice of the Tribunal decision including any disciplinary measures imposed.
    - Forward a letter to the respondent(s) reconfirming the Tribunal decision and any disciplinary measures imposed. The letter should also outline, if allowed, the process and grounds for an appeal. Where the matter is of unusual complexity or importance, the Tribunal Chairperson may inform the parties in writing within 48 hours that the decision will be delayed for a further 48 hours.
  25. The Tribunal does not need to provide written reasons for its decision.

### **Appeals Procedure**

The APBA and its State Associations believe it is good and fair practice to provide a process to appeal against decisions or disciplinary actions imposed.

26. A complainant or a respondent(s) who is not satisfied with the decision of the Chief Executive of the APBA or the Chief Executive/General Manager of the relevant State Association, the outcome of mediation or a Tribunal decision can lodge one appeal to the APBA or the relevant State Association Board on one or more of the following bases:
  - 26.1 That a denial of natural justice has occurred; or
  - 26.2 That the disciplinary measure(s) imposed is unjust and/or unreasonable.
  - 26.3 That the decision was not supported by the information/evidence provided to the Chief Executive of the APBA or the Chief Executive/General Manager of the relevant State Association/Mediator/Tribunal;
27. A person wanting to appeal in accordance with clause 26 must lodge a letter setting out the basis for their appeal with the President of the APBA or the relevant State Association within 7 days of the relevant decision. An appeal fee of \$500 shall be included with the letter of intention to appeal.
28. If the letter of appeal is not received by the President of the APBA or the relevant State Association within the time period the right of appeal lapses. If the letter of appeal is received but the appeal fee is not received by the relevant time, the appeal lapses.
29. The letter of appeal and notice of a tribunal decision under clause 24 will be forwarded to the Chief Executive of the APBA or the Chief Executive/General Manager of the relevant State Association to review with either the APBA President or relevant State Association President who shall decide whether there are sufficient grounds for the appeal to

proceed. The Chief Executive/General Manager of the relevant State Association may invite any witnesses to the meeting it believes are required to make an informed decision.

30. If the appellant has not shown sufficient grounds for appeal in accordance with clause 26, then the appeal will be rejected. The appellant will be notified with reasons. The appeal fee will be forfeited.
31. If the appeal is accepted an Appeal Tribunal with a new panel will be convened to rehear the complaint, and the appeal fee will be refunded.
32. The Tribunal Procedure shall be followed for the appeal.
33. The decision of an Appeal Tribunal will be final.

## PART E: REPORTING REQUIREMENT AND DOCUMENTS

The following information was updated in February 2014 and are subject to change at any time.

### QUEENSLAND

If you have a reason to suspect a child in Queensland is experiencing harm, or is at risk of experiencing harm, you need to contact [Child Safety Services](#):

- **During normal business hours** - contact the [Regional Intake Service](#).
- **After hours and on weekends** - contact the Child Safety After Hours Service Centre on **1800 177 135** or (07) 3235 9999. The service operates 24 hours a day, seven days a week.

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

Queensland Police Service has a number of child protection and investigation units across Queensland. To contact the Queensland Police Service, contact the [Police District Communication Centre](#) nearest you.

If you aren't sure who to call, or for assistance to locate your nearest child safety service centre, contact Child Safety Services' Enquiries Unit on **1800 811 810**. Child safety service centres have professionally trained child protection staff who are skilled in dealing with information about harm or risk of harm to children.

### NEW SOUTH WALES

Anyone who suspects, on reasonable grounds, that a child or young person is at risk of being neglected or physically, sexually or emotionally abused, should report it to Community Services.

Reasonable grounds is the standard that reporters must use in deciding whether or not to report to Community Services.

It does not mean that reporters are required to confirm their suspicions or provide solid proof before making a report. A useful rule of thumb is to consider whether another person, when faced with similar information, would also draw the same conclusion.

You can make a report by phoning the **Child Protection Helpline on 132 111** (TTY 1800 212 936) for the cost of a local call, 24 hours a day, 7 days a week.

### WESTERN AUSTRALIA

If you are concerned about a child's wellbeing, [contact](#) the Department for Child Protection's district office closest to where the child lives or the [Crisis Care Unit](#) after hours.

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

If you make a report or disclose relevant information to the Department for Child Protection, there is legislative protection for the notifier. These are:

- Protection of identity - with some exceptions, your identity must not be disclosed without your consent. For further information, refer to section 240 of the *Children and Community Services Act 2004*
- Legal protection – you are not subject to legal liability under State law providing the information is provided in good faith.

- Professional protection – authorised disclosure of information cannot be held to constitute unprofessional conduct or a breach of professional ethics. As a result you cannot be disciplined by your professional body or incur any formal professional negative consequences at your workplace.

When you contact the Department, the Duty Officer will gather and record information that you provide and decide how best to respond. The type of information that the officer will gather includes:

- details about the child/young person and family
- the reasons you are concerned
- the immediate risk to the child
- whether or not the child or family has support
- what may need to happen to make the child safe
- your contact details, so that the officer can call you to obtain further information if required or to provide feedback.

You do not need to have all the details about the child or family when you contact the Department for Child Protection

For more information: <http://www.dcp.wa.gov.au/ChildProtection/>

## **VICTORIA**

Some professionals such as doctors, nurses, police and school teachers are legally obliged to report suspected child abuse. In addition, any person who believes on reasonable grounds that a child needs protection can make a report to the Victorian Child Protection Service. It is the Child Protection worker's job to assess and, where necessary, further investigate if a child or young person is at risk of harm.

For more information: <http://www.dhs.vic.gov.au/>

## **SOUTH AUSTRALIA**

Staff and volunteers who work with children are mandated notifiers and have a legal obligation to report any suspicion of child abuse and/or neglect that they may form in the course of their employment or volunteer activity based on reasonable grounds. This obligation extends to persons holding a management position whose duties include direct responsibility for, or direct supervision of the provision of services to children.

Reports are made to the CHILD ABUSE HELP LINE 13 14 78

A reasonable suspicion must be based on facts, for example:

- A disclosure of abuse by a child
- Professional judgement, based on the notifier's experience and observations

The organisation has an obligation to make each affected person aware of this legal obligation.

There is no obligation that recreation or sporting organisations require mandated reporters to undertake formal external training in the recognition of child abuse.

The law also stipulates that no person shall threaten or intimidate, or cause damage, loss or disadvantage to another person because that person has made a notification or proposes to make a notification pursuant to the *Children's Protection Act 1993*.

For more information: [www.dcsi.sa.gov.au](http://www.dcsi.sa.gov.au)

## **NORTHERN TERRITORY**

In the Northern Territory any person who believes that a child is being, or has been, abused or neglected is required by law to report their concerns.

Reports should be made to the 24 hour Centralised Intake Service by using the free-call phone number **1800 700 250**.

Remember, you do not need to prove abuse or neglect, you need only report your concerns. The Care and Protection of Children Act provides legal protection against civil or criminal liability for people who make reports in good faith.

The Act also makes it clear that making a report does not breach any requirements of confidentiality or professional ethics.

For more information: [http://www.childrenandfamilies.nt.gov.au/Child\\_Protection/](http://www.childrenandfamilies.nt.gov.au/Child_Protection/)

## **AUSTRALIAN CAPITAL TERRITORY**

Care and Protection services is responsible for facilitating coordination across government for the care and protection of children and young people. Care and Protection services and an After Hours service, provide a continuum of service delivery to children and young people considered 'at risk' of serious harm.

Care and Protection Services is authorised to collect personal information under the *Children and Young People Act 2008* to ensure the safety and wellbeing of children and young people in the ACT. The information collected may be disclosed to government and non government agencies (including but not limited to the Australian Federal Police, ACT Children's Court, the Family Court, Health and Education Directorates and community organisations) to assist in ensuring the safety and wellbeing of children and young people. Information identifying a person making a child protection report is treated with the highest confidentiality and will not be disclosed except where a Court orders the disclosure.

For more information: [http://www.dhcs.act.gov.au/ocyfs/services/care\\_and\\_protection](http://www.dhcs.act.gov.au/ocyfs/services/care_and_protection)

## **TASMANIA**

Most professionals who provide services to children and families in Tasmania are 'mandatory reporters' of child abuse, under the Children, Young Persons and their Families Act 1997. This includes, but is not limited to, the following groups:

- DHHS employees
- Child Care providers
- Dentists, dental therapists or dental hygienists
- Police officers and probation officers
- Psychologists
- Registered medical practitioners and nurses
- School principals and teachers
- Volunteers and employees of any organisation that provides health, welfare, education, care or residential services and which receives government funding.

To make an urgent notification about abuse or neglect to Child Protection Services, please ring 1300 737 639 at any time.

Child Protection Services prefer to talk to a notifier in order to aid them in gathering information. However, if it is after hours and you are a mandatory reporter, an online notification can also be made.

For more information: [http://www.dhhs.tas.gov.au/children/child\\_protection\\_services](http://www.dhhs.tas.gov.au/children/child_protection_services)





## Attachment E2: CONFIDENTIAL RECORD OF FORMAL COMPLAINT

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

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

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



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

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