

NSWISA Inc.

MEMBER PROTECTION POLICY

Effective from 10 September 2003

PREFACE

Members of the New South Wales Ice Skating Association, Inc. (NSWISA) have the right to participate in association sponsored activities without fear of harassment or discrimination. Harassment in sport denies people the right to be treated with respect, dignity and fairness.

Harassment is detrimental to the health, safety and well-being of individuals. NSWISA has produced this Member Protection Policy to provide a structured approach to dealing with allegations of harassment, discrimination, and breaches of Codes of Behaviour. Information contained in this document will create a framework and provide direction for staff, officials, coaches, volunteers, members and parents of children and young people involved in NSWISA, and affiliated clubs. It will help deliver a consistent approach to harassment at all levels of the sport.

In addition, development of a Member Protection Policy provides NSWISA with a risk management tool for developing prevention strategies and for the effective management of harassment, discrimination and behaviour issues within the sport.

CONTENTS

Page

PART I – INTRODUCTION

1.	What is the Purpose of this Policy?	1
2.	Who does this Policy Apply to?	1
3.	What is the Status of this Policy?	1
4.	What do Words in this Policy Mean?	2
5.	Responsibilities under this Policy.....	2

PART II – PREVENTATIVE ACTION

6.	What is Screening?.....	3
7.	Prohibited Person Declaration.....	5

PART III – BREACHES

8.	What is Harassment?.....	6
9.	What is Discrimination?	9
10.	What Other Misconduct is a Breach?.....	10
11.	Codes of Behaviour.....	10
12.	What is a Breach of this Policy?.....	10
13.	Victimisation?	10
13.	Complaint Resolution Procedure	11
14.	Informal Complaint Resolution Procedure	11
15.	Formal Complaint Resolution Procedure	12
16.	Suspected Breaches	13
17.	Determinations.....	14
18.	What Penalties may be Imposed?.....	14

ATTACHMENTS

Attachment A	Policy Definitions	16
Attachment B	Preventative Action (clauses 6 and 7) Flow Diagram	18
Attachment C	Complaint Resolution Procedure (clauses 14 and 15) Flow Diagram	19
Attachment D	Codes of Behaviour	20

PART I – INTRODUCTION

This Part sets out the purpose of this Policy, who it applies to, when it commences, what words mean and who has responsibilities under the Policy.

1 What is the Purpose of this Policy?

- 1.1 The purpose of this Policy is to provide guidelines for the protection of the health, safety and well being of all NSWISA members and those who participate in the activities of NSWISA and Affiliated Clubs.
- 1.2 This Policy sets out the procedures to be followed in dealing with Harassment and other forms of inappropriate behaviour in an effective, appropriate and timely manner. The Policy provides a procedure for informal and formal resolution of complaints.

2 Who does this Policy Apply to?

- 2.1 This Policy applies to the following organisations and individuals:
 - (a) persons appointed or elected to the council, executives and/or committees (including sub-committees) of NSWISA and Affiliated Clubs;
 - (b) employees of NSWISA and Affiliated Clubs;
 - (c) officials appointed or elected by NSWISA and Affiliated Clubs in relation to skaters and/or teams which represent such organisations including team management and accompanying persons;
 - (d) coaches (including assistant coaches and eligible coaches) who:
 - (i) are appointed and/or employed by NSWISA and Affiliated Clubs (whether paid or unpaid); or
 - (ii) have an agreement (whether or not in writing) with NSWISA or an Affiliated Club to coach at a facility owned or managed by such organisation;
 - (e) judges and other officials involved in the regulation of the sport appointed by NSWISA or an Affiliated Club;
 - (f) skaters who enter any competition, activity or events (including camps, training sessions, etc) which are held or sanctioned by NSWISA or an Affiliated Club;
 - (g) Affiliated Clubs;
 - (h) any other person or organisation, who or which is, a member of, or affiliated to, NSWISA or an Affiliated Club (including life members);
 - (i) any other person or organisation (for example, a parent/guardian, spectator or sponsor) who or which agrees, in writing or otherwise (whether on a ticket, entry form, etc) to be bound by this Policy.

3 What is the Status of this Policy?

- 3.1 This Policy is issued by the NSWISA Risk Management Committee, under the authority of the NSWISA Council.
- 3.2 Except to the extent outlined in clause 3.3, this Policy comes into force on 10th September 2003.
- 3.3 The reference to Complaints in Part III shall only include Complaints which arise out of incident(s) occurring on or after 10th September 2003, **unless** the Complaint is of Harassment in which case it must arise out of an incident(s) which occurred on or after 1st January 2001.
- 3.4 This Policy may be changed from time to time by a resolution of the NSWISA Council.

4 What do Words in this Policy Mean?

4.1 In this Policy, words appearing with a capital shall have the meaning set out in Attachment A and Attachment A will form part of this Policy.

5 Responsibilities under this Policy

5.1 NSWISA must:

- (a) adopt and comply with this Policy;
- (b) recognise and enforce any penalty imposed under this Policy;
- (c) publish, distribute and promote this Policy (and any amendments made to it from time to time) to their members in the manner required by NSWISA and make this Policy available for inspection, or provide a copy;
- (d) make such amendments to the rules and regulations and/or by-laws in order for this Policy to be enforceable, as required by NSWISA;
- (e) use any forms, contracts and clauses prescribed by NSWISA in order to give effect to this Policy in such documents as contracts, entry forms and skater registration forms, as directed by NSWISA;
- (f) appoint and train at least one Member Protection Officer and one Mediator or have access to such persons in another sport to fulfil the functions set out in clauses 14, 15 and 16, and to publish and display the names and contact details of such persons to their members;

5.2 Affiliated Clubs must:

- (a) adopt and comply with this Policy;
- (b) recognise and enforce any penalty imposed under this Policy;
- (c) publish, distribute and promote this Policy (and any amendments made to it from time to time) to their members in the manner required by NSWISA and make this Policy available for inspection, or provide a copy;
- (d) make such amendments to their constitution, rules or by-laws in order for this Policy to be enforceable, as required by NSWISA;
- (e) use any forms, contracts and clauses prescribed by NSWISA in order to give effect to this Policy in such documents as contracts, entry forms and skater registration forms, as directed by NSWISA.

5.3 All other organisations and persons (for example, administrators, employees, officials, coaches, skaters, parents) to which this Policy applies, must:

- (a) comply with this Policy;
- (b) comply with the Codes of Behaviour (as applicable).

5.4 The NSWISA Council and Affiliated Clubs are responsible for taking all reasonable steps to ensure implementation, compliance and enforcement of this Policy.

PART II – PREVENTATIVE ACTION

This Part sets out the requirement for mandatory screening and declarations for certain roles.

6 What is Screening?

- 6.1 One of the ways NSWISA and Affiliated Clubs seek to protect the health, safety and well being of people participating in their activities is to screen people for certain roles.
- 6.2 Screening (as set out in clause 6.4) is **mandatory** for NSWISA and Affiliated Clubs for Preferred Applicants and Existing Appointees in the following types of roles:
- (a) coaches who are appointed or seeking appointment (whether employed, contracted or otherwise) by NSWISA or Affiliated Clubs for **reward**;
 - (b) volunteer personnel appointed or seeking appointment by NSWISA or Affiliated Clubs, who will or are likely to travel away with teams of skaters **under** 18 years of age; and
 - (c) persons appointed or seeking appointment by NSWISA or an Affiliated Club to a role in which that person is likely to have individual and unsupervised contact with skaters **under** 18 years of age.
- 6.3 Screening is **highly recommended**, but not mandatory, for Preferred Applicants and Existing Appointees in the following types of roles:
- (a) volunteer coaches appointed or seeking appointment by NSWISA or an Affiliated Club who will or are likely to travel away with teams of skaters **over** 18 years of age; and
 - (b) persons appointed or seeking appointment by NSWISA or an Affiliated Club to a role in which that person is likely to have contact with skaters **under** 18 years of age but where such contact is supervised at all times by another adult.
- 6.4 For the purposes of this Policy, screening shall mean:
- (a) Checking the Preferred Applicant's referees;
 - (b) Interviewing the Preferred Applicant as to their suitability for the proposed role and their suitability for involvement with children under 18 years of age; and
 - (c) Obtaining a Police Check of Preferred Applicants and Existing Appointees or screening by an approved screening agency that undertakes a Police Check (eg Department of Sport and Recreation).
- 6.5 Checking the Preferred Applicant's referees includes making verbal or written inquiries of their nominated referees (preferably at least 2) as to the Preferred Applicant's suitability for the proposed role and their suitability for involvement with children under 18 years of age.
- 6.6 The purpose of a Police Check is to see whether the person has any previous relevant criminal convictions. If the Police Check reveals that the person has committed any criminal offences then the following applies:

- (a) If the offence (whenever it occurred) is one involving a serious sex offence (see clause 7.2), assault against a person or an offence which in any way involved persons under 18 years of age, then:
 - (i) in the case of a Preferred Applicant, they must not be appointed to the role;
 - (ii) in the case of an Existing Appointee, steps must be taken to transfer the person to another role which is not set out in clause 6.2 or if no such alternatives exist, to end the appointment of the person. **Note: legal advice should be sought before the process of termination begins.**
- (b) If the offence is one other than those in clause 6.6(a), such as an offence to property or a minor traffic offence, then the Preferred Applicant may be appointed, subject to satisfaction of any other criteria for the role.

- 6.7 All persons to whom this Policy applies must agree to NSWISA or the relevant Affiliated Club obtaining a Police Check of them if they apply for or currently hold a role of the type set out in clause 6.2. The Police Check must be obtained, in the case of:
- (a) a Preferred Applicant, prior to the appointment;
 - (b) an Existing Appointee, by 10th September 2003.
- 6.8 Where a Police Check has been obtained under this Policy, another organisation which is required to screen may, for the purposes of clause 6.4, obtain a copy of the Police Check, provided the consent of the person is obtained and the Police Check was obtained in the last 3 years.
- 6.9 If a Preferred Applicant or Existing Appointee is not willing to agree to a screening, NSWISA or the relevant Affiliated Club shall:
- (a) in the case of a Preferred Applicant, not appoint the person to any of the roles;
 - (b) in the case of an Existing Appointee, steps must be taken to transfer the person to another role which is not set out in clause 6.2 or if no such alternatives exist, to end the appointment of the person. **Note: legal advice should be sought before the process of termination begins.**
- 6.10 All information obtained during the course of screening (including any Police Check) must be kept confidential to the persons or committee within NSWISA or the Affiliated Club who has been delegated the task of investigating and/or making the appointment for the role. Information collected during screening about a person who is not appointed to the role must be returned to the Preferred Applicant and not retained unless the Preferred Applicant agrees.
- 6.11 Successful Preferred Applicants or Existing Appointees must immediately advise, in writing, the President (or in their absence their Nominee) of the organisation that appointed them if they are convicted of a criminal offence.
- 6.12 Screening under this Policy is **not** a replacement for any similar requirement prescribed by law. If State screening legislation sets an equivalent or higher standard of screening to that set under this Policy, the requirement to screen under this Policy need not be followed as it would be superseded by any similar requirement prescribed by law.

7 Prohibited Person Declaration (to be read with NSWISA Inc Child Protection Policy)

7.1 In addition to screening, NSWISA and the Affiliated Clubs require a Prohibited Person Declaration of all Preferred Applicants and Existing Appointees appointed to a role set out in clause 7.3.

7.2 In this Policy, the following words shall mean:

'Prohibited Person' means a person who has been convicted of a Serious Sex Offence.

'Prohibited Person Declaration' means a declaration in relation to Serious Sex Offences as set out in the NSWISA Inc Child Protection Policy, Prohibited Person Declaration.

'Serious Sex Offence' means an offence involving sexual activity or acts of indecency including but not limited to:

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

7.3 It is **mandatory** for NSWISA and Affiliated Clubs to obtain a Prohibited Person Declaration from Preferred Applicants and Existing Appointees in the following types of roles:

- (a) coaches who are appointed or seeking appointment (whether employed, contracted or otherwise) by NSWISA or Affiliated Clubs for **reward**;
- (b) volunteer personnel appointed or seeking appointment by NSWISA or Affiliated Clubs, who will or are likely to travel away with teams of skaters **under** 18 years of age; and
- (c) persons appointed or seeking appointment by NSWISA or an Affiliated Club to a role in which that person is likely to have individual and unsupervised contact with skaters **under** 18 years of age.

7.4 It is a breach of this Policy for a Prohibited Person to work or seek work in the roles set out in clause 7.3.

7.5 It is also a breach of this Policy for NSWISA or an Affiliated Club to:

- (a) in the case of a Preferred Applicant, appoint the Preferred Applicant in any of the roles set out in clause 7.3 without first obtaining a Prohibited Person Declaration or to appoint a Preferred Applicant who is a Prohibited Person;
- (b) in the case of an Existing Appointee, to continue to appoint a Prohibited Person in the roles set out in clause 7.3.

- 7.6 The Prohibited Person Declaration must be obtained, in the case of:
- (a) a Preferred Applicant, prior to the appointment;
 - (b) an Existing Appointee, by 10th September 2003.
- 7.7 If the Prohibited Person Declaration is not provided in accordance with clause 7.6, or the Prohibited Person Declaration reveals that the person is a Prohibited Person, NSWISA or the relevant Affiliated Club must:
- (a) in the case of a Preferred Applicant, not appoint the person to any of the roles set out in clause 7.3;
 - (b) in the case of an Existing Appointee, steps must be taken to transfer the person to another role which is not set out in clause 7.3 or if no such alternatives exist, to end the appointment of the person. **Note: legal advice should be sought before the process of termination begins.**
- 7.8 All information in the Prohibited Person Declaration must be kept confidential to the persons or committee within NSWISA or the Affiliated Club who has been delegated the task of requesting and reviewing the Prohibited Person Declaration.
- 7.9 Successful Preferred Applicants or Existing Appointees must immediately advise, in writing, the President (or in their absence their Nominee) of the organisation that appointed them, upon becoming a Prohibited Person.
- 7.10 Obtaining a Prohibited Person Declaration under this Policy is **not** a replacement for any similar requirement prescribed by law. If State legislation sets an equivalent or higher standard to that set under this Policy the requirement to obtain a Prohibited Person Declaration under this Policy need not be followed as it would be superseded by any similar requirement prescribed by law.

PART III – BREACHES

This Part outlines what constitutes a breach of this Policy.

8 What is Harassment?

- 8.1 Harassment is any behaviour by a person or organisation to whom this Policy applies which is offensive, abusive, belittling or threatening and which is directed at a person or a group of people because of a particular characteristic of that person or group of people. The behaviour must be unwelcome and the sort of behaviour a reasonable person would recognise as being unwelcome and likely to cause the recipient to feel offended, humiliated or intimidated. Whether or not the behaviour is Harassment is determined from the point of view of the person receiving the Harassment.
- 8.2 Harassment includes:
- (a) Sexual Harassment (clauses 8.3 to 8.6);
 - (b) Racial Harassment (clauses 8.7 and 8.8);
 - (c) Sexuality Harassment (clauses 8.9 to 8.11);
 - (d) Disability Harassment (clauses 8.12 and 8.13);
 - (e) Abuse (clauses 8.14 to 8.16);
 - (f) Vilification (clause 8.18); and
 - (g) Discrimination (clause 9).

8.3 Sexual Harassment includes:

- (a) an unwelcome sexual advance; or
- (b) an unwelcome request for sexual favours; or
- (c) any unwelcome conduct of a sexual nature (including a statement, orally or in writing, of a sexual nature),

where the person being harassed felt offended, humiliated or intimidated and this was reasonable in the circumstances.

8.4 Sexual Harassment is often, but need not be, behaviour which either:

- (a) involves blackmail, in that the harassment is accompanied by a direct or implied threat, promise or benefit. For example, a coach who implies that a skater's selection to a team is dependent on compliance with a sexual proposition; or
- (b) creates a hostile or sexually permeated environment, in that the harassment consists of crude remarks, jokes, the display of offensive material or makes the environment uncomfortable.

8.5 Examples of Sexual Harassment may include:

- Uninvited touching, kissing, embracing, massaging;
- Staring, leering, ogling;
- Smutty jokes and comments;
- Persistent or intrusive questions about people's private lives;
- Repeated invitations to go out, especially after prior refusal;
- The use of promises or threats to coerce someone into sexual activity;
- The display of sexually explicit material, eg Internet use, computer screen savers, calendars, posters;
- Getting undressed in front of others of the opposite sex;
- Invading the privacy of others while showering or toileting;
- Photographing others while undressing, showering or toileting.

8.6 Sexual Harassment may be a criminal offence, for example indecent assault, rape, obscene telephone calls or letters. If you believe that a criminal offence may have been committed you may seek advice from the relevant State or Territory authority that administers the relevant law (eg. the Anti-Discrimination Board in NSW) or legal advice and/or notify the police. You can do this without divulging the name or identity of the complainant.

8.7 Sexual behaviour of any kind between an adult and a minor must be reported to the appropriate authorities.

8.8 Racial Harassment includes harassment based on colour, descent, national or ethnic origin, cultural activity and religion.

8.9 Examples of Racial Harassment include:

- Jokes in which race is a significant characteristic of the 'butt' of the joke;
- Hostile comments about food eaten, dress or religious or cultural practices;
- Inferences that all members of a racial or cultural group have particular negative characteristics, such as laziness, drunkenness, greed or sexual promiscuity;
- Parodying accents.

- 8.10 Sexuality Harassment includes harassment based on actual or assumed homosexuality, heterosexuality, bi-sexuality or transsexuality.
- 8.11 Examples of Sexuality Harassment include:
- Jokes in which sexuality is a significant characteristic of the 'butt' of the joke;
 - Hostile comments about assumed sexual practices or social activities.
- 8.12 In severe cases, such as threats or acts of violence against a homosexual person, Sexuality Harassment may be a criminal offence. If you believe that a criminal offence may have been committed you may seek advice from the relevant State or Territory authority that administers the relevant law (eg. the Anti-Discrimination Board in NSW) or legal advice and/or notify the police. You can do this without divulging the name or identity of the complainant.
- 8.13 Disability Harassment includes harassment based on physical, mental or psychological disability or harassment of an associate or aide of a person with a disability.
- 8.14 Examples of Disability Harassment include:
- Jokes where a particular disability is a significant characteristic of the 'butt' of the joke;
 - Interfering with a disability aid, (eg hearing aid);
 - Obstructing a person in a manner that compounds his or her disability, (eg putting obstacles in the path of a person with a vision impairment);
 - Mocking a person's disability;
 - Hostility based on assumed AIDS or HIV infection.
- 8.15 Abuse may be a form of Harassment. It includes:
- (a) physical abuse, (eg assault);
 - (b) emotional abuse, (eg blackmail, repeated requests or demands, excluding someone or 'bastardisation' practices);
 - (c) neglect, (eg failure to provide the basic physical and emotional necessities of life);
 - (d) abuse of power.
- Examples of relationships in (d) that involve a power disparity include a coach-skater, manager-skater, employer-employee, doctor-patient. People in such positions of power need to be particularly wary not to exploit that power.
- 8.16 Examples of abusive behaviour include:
- Bullying and humiliation of skaters by coaches;
 - Verbal abuse and insults directed by skaters or parents at competitors;
 - Verbal and/or physical abuse of judges or officials by skaters, coaches, and parents;
 - Verbal and/or physical abuse of coaches by skaters, judges or officials and parents.
- 8.17 Some forms of Abuse may constitute a criminal offence, for example assault and child abuse. If you believe that a criminal offence may have been committed you may seek advice from the relevant State or Territory authority that administers the relevant law (eg. the Anti-Discrimination Board in NSW) or legal advice and/or notify the police.
- 8.18 Racial Vilification involves a person inciting hatred towards, serious contempt for, or severe ridicule of, a person or group of persons by public act. Public acts that may amount to vilification include any form of communication to the public and any conduct observable by the public.
- 8.19 Racial or other forms of Vilification are breaches of this Policy where they are based on any of the attributes or characteristics set out in clause 9.2.

9 What is Discrimination?

- 9.1 Discrimination is treating or proposing to treat a person less favourably than someone else in certain areas of public life on the basis of an attribute or personal characteristic they have.
- 9.2 The applicable attributes or characteristics are:
- Age;
 - Disability/illness;
 - Marital status;
 - Parental/Carer status;
 - Physical features;
 - Political belief/activity;
 - Pregnancy;
 - Race;
 - Religious belief/activity;
 - Sex or gender;
 - Lawful sexual orientation;
 - Transgender orientation.
- 9.3 The areas in which Discrimination under this Policy are not permitted are in:
- (a) employment (including unpaid employment) by NSWISA or an Affiliated Club;
 - (b) the provision of goods and services by NSWISA or an Affiliated Club;
 - (c) the selection or otherwise of any person for competition or a team interstate or national) by or on behalf of NSWISA or an Affiliated Club;
 - (d) the entry or otherwise of any skater or other person to any competition held or sanctioned by NSWISA or an Affiliated Club;
 - (e) obtaining or retaining membership (including the rights and privileges of membership) of NSWISA or an Affiliated Club;
 - (f) standing for election as a member of council;
 - (g) becoming a judge or official.
- 9.4 Not only is Discrimination unlawful, but NSWISA and the Affiliated Clubs also consider it is unjust because it may deny people a chance by judging them on the basis of stereotypes or assumptions about what they can or cannot achieve.
- 9.5 Discrimination includes direct Discrimination and indirect Discrimination. Direct Discrimination occurs if a person treats, or proposes to treat, someone with an attribute or characteristic (as outlined in clause 9.2) less favourably than the person treats or would treat, someone without that attribute or characteristic, in the same or similar circumstances. Indirect Discrimination occurs where a person imposes or intends to impose a requirement, condition or practice which on its face value is not discriminatory, but has the effect of discriminating against a person(s) with a particular attribute.
- 9.6 Requesting, assisting, instructing, inducing or encouraging another person to engage in Discrimination, is also Discrimination.
- 9.7 Any behaviour or conduct that is Discrimination under any Federal or State legislation is also Discrimination for the purposes of this Policy.

10 What Other Misconduct is a Breach?

- 10.1 Conduct by persons or organisations to whom this Policy applies which is not Harassment and which (if committed) is a breach of this Policy, (referred to as 'Other Misconduct') means and includes the following:
- a. Conduct which occurs on the ice or on the site of any competition, event or activity held or sanctioned by NSWISA or an Affiliated Club and which brings the sport and/or NSWISA or an Affiliated Club into disrepute;
 - b. Damage to property which occurs during or in connection with a competition, event or activity held or sanctioned by NSWISA or an Affiliated Club;
 - c. If the person is under 18 years of age, consuming alcohol during or in connection with a competition, event or activity held or sanctioned by NSWISA or an Affiliated Club;
 - d. Being drunk and disorderly during or in connection with a competition, event or activity held or sanctioned by NSWISA or an Affiliated Club;
 - e. Consuming, or aiding and abetting the consumption of, illegal drugs during or in connection with a competition, event or activity held or sanctioned by NSWISA or an Affiliated Club, provided that this clause does not apply to doping offences which are covered by the Ice Skating Australia Inc. Anti-Doping Policy;
 - f. If the person is under 18 years of age, breaching a curfew or geographic boundaries imposed by NSWISA or an Affiliated Club (or their representatives) during a competition, event or activity held or sanctioned by NSWISA or an Affiliated Club;
 - g. Disruptive or disorderly behaviour during or in connection with a competition, event or activity held or sanctioned by NSWISA or an Affiliated Club;
 - h. Committing any criminal offence or any other unlawful activity during or in connection with a competition, event or activity held or sanctioned by NSWISA or an Affiliated Club;
 - i. Incurring debts (eg telephone or accommodation charges) on behalf of NSWISA or an Affiliated Club during or in connection with a competition, event or activity held or sanctioned by NSWISA or an Affiliated Club where such debts were or are not authorised by NSWISA or an Affiliated Club.
- 10.2 **Victimisation** occurs where a person is subject to, or is threatened to suffer, any detriment or unfair treatment, because that person has or intends to pursue their legal rights under anti-harassment or anti-discrimination legislation or under this Policy.

11 Codes of Behaviour

- 11.1 To protect the health, safety and well being of all the people participating in the activities of NSWISA and Affiliated Clubs, NSWISA has developed and issued Codes of Behaviour. The Codes of Behaviour are set out in Attachment D and Attachment D will form part of this Policy.

12 What is a Breach of this Policy?

- 12.1 It is a breach of this Policy for any person or organisation to whom this Policy applies to:
- (a) Fail to comply with any of the responsibilities set out in clause 5;
 - (b) Breach any part of the Codes of Behaviour;
 - (c) Appoint, or continue to appoint, a person to a role set out in clause 6.2:
 - (i) without first undertaking screening (see clause 6.4); and
 - (ii) where the Police Check reveals the person has committed an offence of the type set out in clause 6.6(a);
 - (d) Appoint, or continue to appoint, a person to a role set out in clause 7.3:
 - (i) without first obtaining a Prohibited Person Declaration; or
 - (ii) where the Prohibited Person Declaration reveals the person is a Prohibited Person;
 - (e) Where the person is a Prohibited Person, to work or seek work in the roles set out in clause 7.3;
 - (f) Engage in any form of Harassment;
 - (g) Engage in behaviour set out in clause 10;
 - (h) Make a frivolous, vexatious or malicious Complaint under this Policy;
- 12.2 Any circumstances that may be a breach of the MPP may be the subject of a Complaint.

13 Complaint Resolution Procedure

- 13.1 Any person or organisation may make a complaint about a person or organisation to whom this Policy applies, if they consider that person or organisation has, or may have, committed a breach of any part of this Policy (a 'Complaint').
- 13.2 **The Complaint always belongs to the complainant**, who will determine how their Complaint is dealt with. The Complaint will not be divulged to another person without the complainant's agreement, except in the case where a person is required by law to report the matter to governmental authorities (for example, in the case of suspected child abuse).
- 13.3 It is recommended that Complaints are handled, as far as possible, at an informal level. A commonsense, low-key approach is often far more satisfactory to the complainant and to the person complained about.
- 13.4 The **four principles of case handling** will apply at every stage of these procedures. This means that all responsible persons will handle all cases:
- promptly,
 - seriously,
 - sensitively and
 - confidentially.

14 Informal Complaint Resolution Procedure

- 14.1 A person or organisation that has a Complaint ('a complainant') may seek to resolve the Complaint informally. It is hoped the complainant will make an initial approach to a Member Protection Officer within NSWISA or within the sports industry.

If the complainant makes an approach to:

- (a) the President (or in their absence their Nominee) of NSWISA or an Affiliated Club; or
 - (b) another appropriate person within the organisation (eg team manager, coach etc)
- then it is desirable that the person also seeks the advice of an MPO who has been especially trained for this purpose.

If there are no trained (or available) MPOs on staff or within the organisation's membership, it is recommended access to a trained MPO working in an allied sport be obtained via the Australian Sports Commission Ethics in Sport Unit.

14.3 Member Protection Officers will:

- (a) listen to the complainant in an empathetic, supportive manner;
- (b) inform the complainant about their possible options; and/or
- (c) act as a support person for the complainant, including supporting them through any mediation process undertaken to resolve the Complaint, if the complainant wishes.

14.4 The Member Protection Officer will:

- (a) keep the matter confidential and only discuss it with those people whom the complainant has authorised them to speak to about the Complaint; and/or
- (b) inform the relevant governmental authority, if required by law; and
- (c) consult by seeking advice from the relevant State or Territory authority that administers the relevant law (eg the Anti-Discrimination Board in NSW).

14.5 If the complainant wishes to try and resolve the Complaint by mediation, the Member Protection Officer will, in consultation with the complainant, arrange for a mediator (the Mediator of NSWISA) to mediate the Complaint.

14.6 While there are some trained Mediators in most States and Territories, organisations are encouraged to access mediation skills from their community (eg. alternative dispute resolution services), to seek advice from the relevant State or Territory authority that administers the relevant law (eg. the Anti-Discrimination Board in NSW) or to contact the ASC where a case presents particular difficulties. The Australian Sports Commission Ethics in Sport Unit can provide access to trained Mediators from a range of sporting organisations.

14.7 The Mediator shall:

- (a) notify the person complained about that an informal Complaint has been made and provide them with details of the Complaint;
- (b) attempt to mediate a resolution between the complainant and the person complained about.

14.8 If an agreed resolution is reached between the complainant and the person complained about, the Complaint shall be deemed to have been resolved and no further action in relation to that Complaint may be taken (except for that which is agreed) under this Policy.

14.9 If following the process in clause 14.6 the Complaint is not resolved informally, the complainant may make a formal Complaint under clause 15.

14.10 Nothing in this Policy prevents the complainant taking action under State or Federal legislation.

14.11 It is not necessary to provide a written Complaint under Clause 14.

15 Formal Complaint Resolution Procedure

- 15.1 In order for a Complaint to be dealt with in accordance with this clause, a Complaint is usually made in writing (however it need not be called or referred to as a Complaint).
- 15.2 A written Complaint must be made to one of the following people:
- (a) a Member Protection Officer of NSWISA (A list of the Member Protection Officers must be made available to any person requesting such list and shall be displayed at the premises of NSWISA and Affiliated Clubs); or
 - (b) the President (or in their absence their Nominee) of NSWISA, the relevant Member Association or the relevant Affiliated Club.
- 15.3 If a person listed in clause 15.2 receives a Complaint and that Complaint alleges Harassment or Discrimination, then they should ensure that the complainant is offered the services of a Member Protection Officer who will offer services as set out in clauses 14.3 and 14.4.
- 15.4 If the complainant wishes to proceed to resolve the Complaint by formal mediation, the Member Protection Officer shall immediately notify the Mediator of NSWISA that a Complaint has been made and provide them with a copy of the written Complaint. If an attempt to mediate informally was made under clause 14.5, the Mediator under this clause cannot be the same person.
- 15.5 The Mediator shall:
- (a) notify the person complained about, in writing, that a Complaint has been made and provide them with a copy of the written Complaint;
 - (b) attempt to mediate a formal resolution between the complainant and the person complained about.
- 15.6 If an agreed resolution is reached between the complainant and the person complained about, the Complaint shall be deemed to have been resolved and no further action in relation to that Complaint may be taken (except for that which is agreed) under this Policy.
- 15.7 If following the process in clause 15.5 an agreed resolution is **not** reached, the Mediator, in consultation with the complainant and following their wishes, will:
- (a) refer the Complaint to the relevant Affiliated Club for them to resolve or arbitrate as they see fit; or
 - (b) refer the Complaint to the relevant State or Territory authority that administers the relevant law (eg. the Anti-Discrimination Board in NSW); or
 - (c) close the Complaint because that is the wish of the complainant.
- 15.8 If a complainant withdraws the Complaint (which alleges Harassment), no further action in relation to that Complaint may be taken (unless required by law) under this Policy.
- 15.9 Nothing in this Policy prevents the complainant taking action under State or Federal legislation.

16 Suspected Breaches

- 16.1 If a Complaint is not received, but the President or in their absence their Nominee or a Member Protection Officer of NSWISA receives information (whether or not in writing) which gives them reasonable cause to suspect that a breach of this Policy may have been committed, if the information gives them reasonable cause to suspect a breach of this Policy involving Harassment or Discrimination, then such person shall use their reasonable endeavours to advise the person who is suspected of being subject to Harassment, of the complaints procedures under this Policy, including the services provided by a Member Protection Officer.
- 16.2 Except as otherwise provided in this Policy, all information obtained by the President, their Nominee, the Member Protection Officer, the Mediator or the Hearings Convener in accordance with this clause must be kept confidential.

17 Determinations

- 17.1 Upon receipt of the Complaint or the information, the responsible officer shall as soon as possible determine what needs to be done. They will do this by:
- (a) consulting with the complainant and with any Member Protection Officers or Mediators who have already been involved and if relevant, with the person complained about;
 - (b) making a determination on the case which may include, but is not limited to, the following:
 - (i) refer the Complaint to the relevant State or Territory authority that administers the relevant law (eg. the Anti-Discrimination Board in NSW);
 - (ii) disciplinary action or imposition of a penalty (see clause 18);
 - (iii) a new, or further, attempt at mediation;
 - (iv) closure; or
 - (v) any other relevant determination;
 - (c) provided that any persons involved in the determinations do not include a person who would, by reason of their relationship with the complainant or the person complained about, be reasonably considered to be other than impartial.
- 17.2 **Frivolous, vexatious or malicious Complaints** are unlawful. If, at any point in the Complaint proceedings, it is determined that the Complaint was, indeed, frivolous, vexatious or malicious, then the matter will be referred to the NSWISA Council and the responsible officer will make a determination as at clause 17.1(b). Such a determination will always consider referral to the State or Territory authority which administers the relevant law (noting that in all jurisdictions such unlawful actions are punishable by a fine or gaol sentence).

18 What Penalties may be Imposed?

18.1 If the NSWISA and/or responsible officer considers that a person or organisation to whom this Policy applies, has breached this Policy, it may impose any one or more of the following penalties:

18.1.1 For breaches committed by individual persons:

- (a) direct that the offender attend counselling to address their conduct;
- (b) recommend that NSWISA or the relevant Affiliated Club terminate the appointment of the role which the offender holds with such organisation;
- (c) where there has been damage to property, direct that the offender pay compensation to the relevant organisation which controls or has possession of the property;
- (d) impose a monetary fine;
- (e) impose a warning;
- (f) in the case of a coach, direct the relevant organisation to de-register the accreditation of the coach for a period or indefinitely;
- (g) withdraw any awards, placings, records won in any competitions, activities or events held or sanctioned by NSWISA or an Affiliated Club;
- (h) direct the offender to repay all or part of any financial assistance (excluding any fee for service, wages or expenses) given to them by the Australian Sports Commission, any Federal or State funding agency, the Australian Olympic Committee, Ice Skating Australia, NSWISA, an Affiliated Club or any other organisation which has provided funding;
- (i) any other such penalty as the organisation considers appropriate.

18.1.2 For breaches committed by organisations:

- (a) direct that any funding granted or given to it by NSWISA cease from a specified date;
- (b) impose a monetary fine;
- (c) impose a warning;
- (d) recommend to NSWISA that its membership of such organisation be suspended or terminated in accordance with their applicable constitution;
- (e) direct that any rights, privileges and benefits provided to that organisation by NSWISA be suspended for a specified period and/or terminated;
- (f) direct that NSWISA cease to sanction events held by or under the auspices of that organisation;
- (g) any other such penalty as the organisation considers appropriate.

ATTACHMENT A POLICY DEFINITIONS

'Abuse' means a form of Harassment, as more specifically set out in clauses 8.15 to 8.17.

'Affiliated Clubs' means those clubs or organisations (howsoever described), which are a member of, or affiliated to NSWISA.

'Australian Sports Commission' means the government agency established under the Australian Sports Commission Act 1989 and includes the Australian Institute of Sport.

'Codes of Behaviour' means the codes of behaviour developed and issued by NSWISA as set out in Attachment D.

'Complaint' means a complaint made under clauses 13 to 15.

'Constitution' means the statement of purposes and rules or constitution of NSWISA as amended from time to time.

'Disability Harassment' means a form of Harassment, as more specifically set out in clauses 8.13 and 8.14.

'Discrimination' means a form of Harassment, as more specifically set out in clause 9.

'Existing Appointee' means a person currently elected, appointed or holding a position, whether by way of employment, contract or otherwise and whether paid or unpaid.

'Harassment' has the meaning set out in clause 8.

'Mediator' means a person appointed in accordance with clause 5.1(f) to mediate disputes and concerns in relations to Complaints under this Policy.

'Member Protection Officer' means a person appointed in accordance with clause 5.1(f), who may be the first point of contact for someone bringing a Complaint under this Policy.

'Police Check' means a police records check which conducts a search on a national basis.

'Policy' and **'this Policy'** means this Member Protection Policy.

'Preferred Applicant' means a person short listed for a position, whether by way of employment, contract or otherwise and whether paid or unpaid.

'Racial Harassment' means a form of Harassment, as more specifically set out in clauses 8.8 and 8.9.

'Sexual Harassment' means a form of Harassment, as more specifically set out in clauses 8.3 to 8.6.

'Sexuality Harassment' means a form of Harassment, as more specifically set out in clauses 8.10 to 8.12.

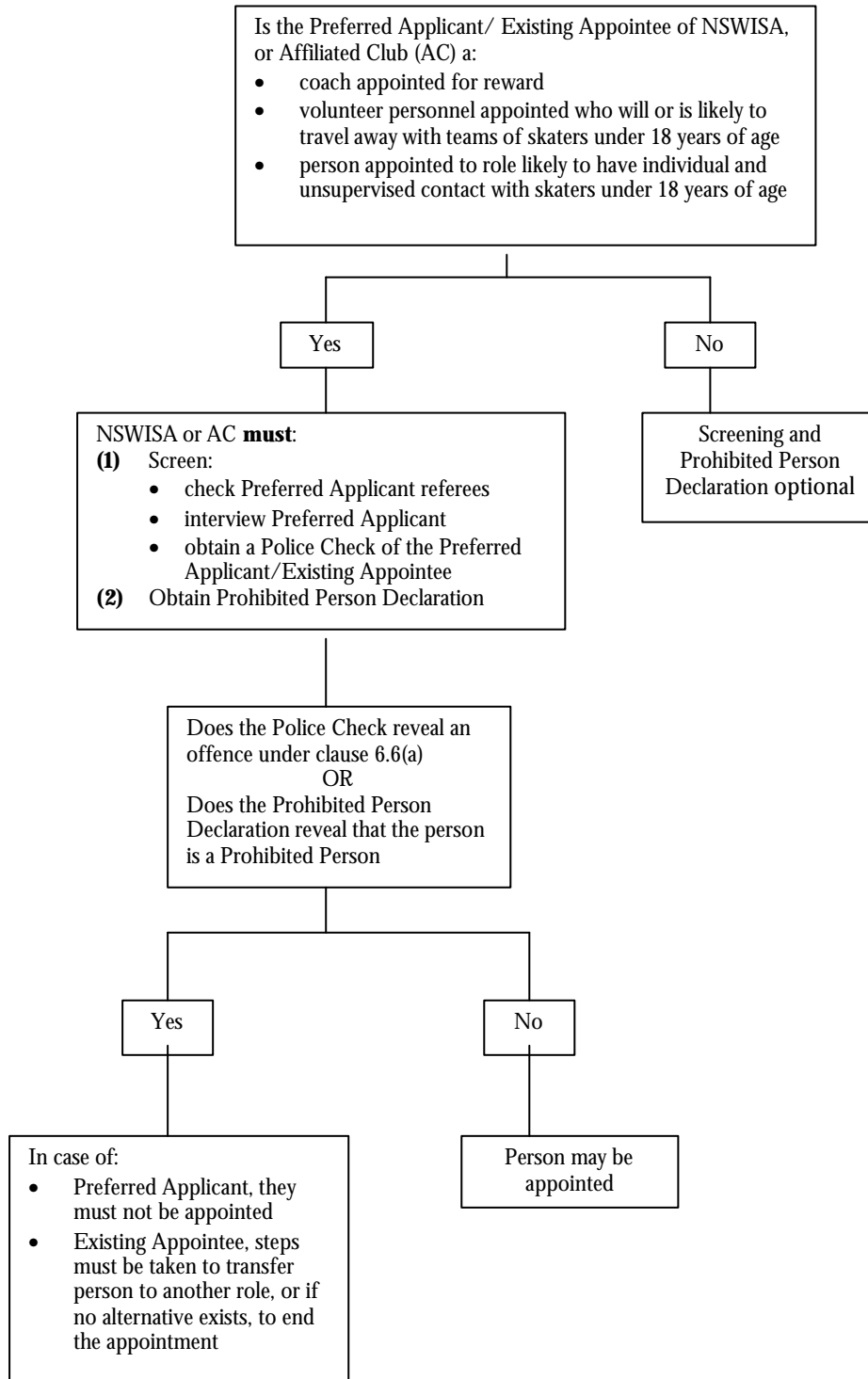
'their Nominee' means the person who is, under the constitution of the relevant organisation, empowered to act in the President's absence.

'Vilification' may constitute a form of Harassment or Discrimination, as more specifically set out in clause 8.18.

ATTACHMENT B

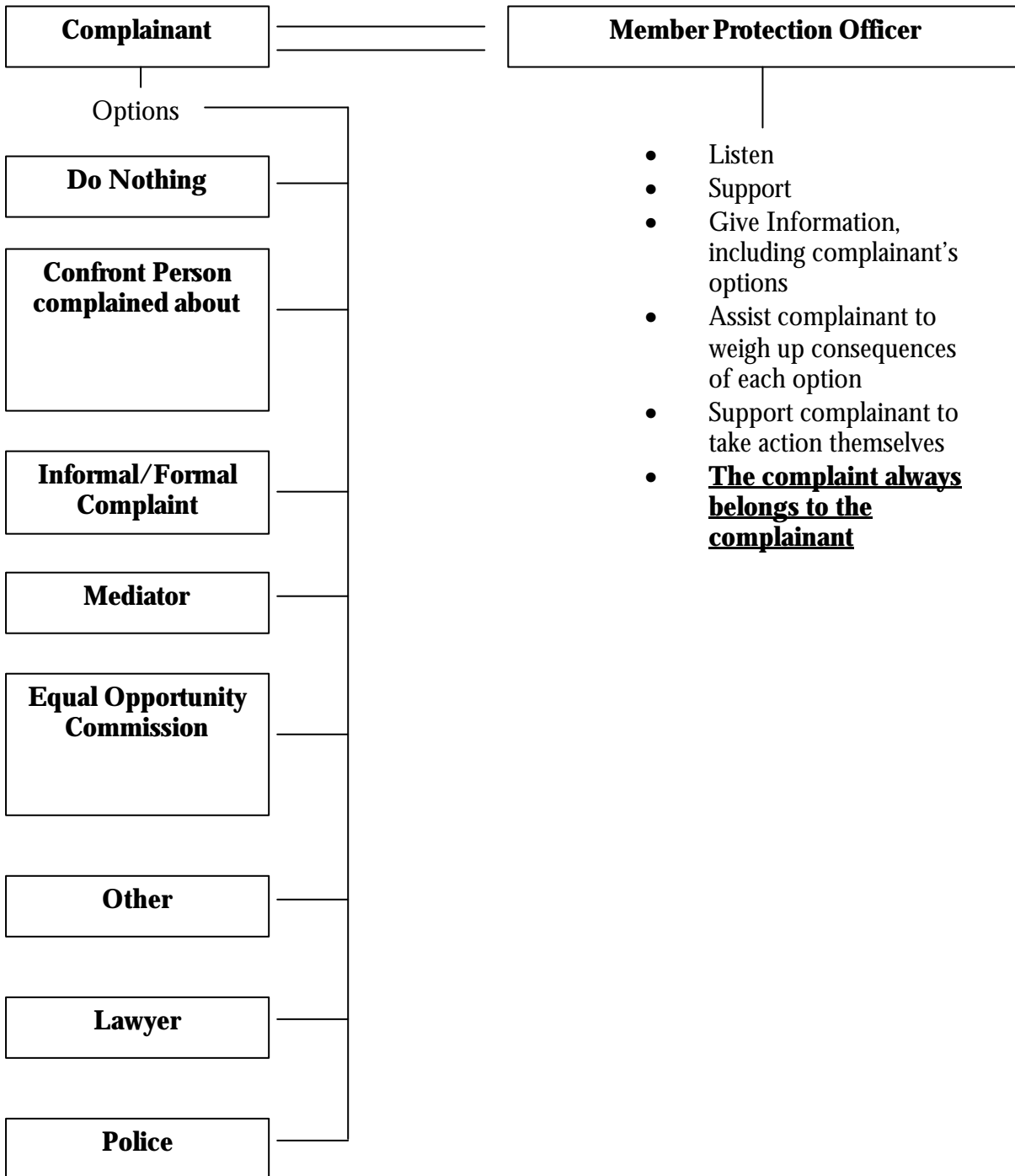
PREVENTATIVE ACTION (CLAUSES 6 AND 7) FLOW DIAGRAM

Attachment B has been included in this Policy by way of summary and it is not to be used for the interpretation of this Policy.



ATTACHMENT C

MODEL FOR COMPLAINTS RESOLUTION
For Adult Complainants



ATTACHMENT D

General Code of Behaviour

As a member of the NSWISA or an Affiliated Club or a person required to comply with this Policy, you must meet the following requirements in regard to your conduct during any activity held or sanctioned by NSWISA or an Affiliated Club and in any role you hold within NSWISA or an Affiliated Club:

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

Administrator Code of Behaviour

In addition to NSWISA's General Code of Behaviour, you must meet the following requirements in regard to your conduct during any activity held by or under the auspices of NSWISA or an Affiliated Club and in your role as an administrator of NSWISA or an Affiliated Club:

1. Be fair, considerate and honest in all dealing with others.
2. Be professional in, and accept responsibility for your actions. Your language, presentation, manners and punctuality should reflect high standards.
3. Resolve conflicts fairly and promptly through established procedures.
4. Maintain strict impartiality.
5. Be aware of your legal responsibilities.

Coach Code of Behaviour

In addition to NSWISA's General Code of Behaviour, you must meet the following requirements in regard to your conduct during any activity held or sanctioned by NSWISA or an Affiliated Club and in your role as a coach appointed by NSWISA or an Affiliated Club:

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

Skater Code of Behaviour

In addition to NSWISA's General Code of Behaviour, as a skater/participant in any activity held by or under the auspices of NSWISA or an Affiliated Club you must meet the following requirements in regard to your conduct during any such activity or event:

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

Judge Code of Behaviour

In addition to NSWISA's General Code of Behaviour, you must meet the following requirements in regard to your conduct during any activity held or sanctioned by NSWISA or an Affiliated Club and in your role as an official appointed by NSWISA or an Affiliated Club:

1. Place the safety and welfare of the skaters/participants above all else.
2. Accept responsibility for all actions taken.
3. Be impartial.
4. Avoid any situation that may lead to a conflict of interest.
5. Be courteous, respectful and open to discussion and interaction.
6. Value the individual in sport.
7. Encourage inclusivity and access to all areas of officiating.
8. Be on time.
9. Review all current and applicable rules.
10. Be modest and unassuming.
11. Do not make disparaging remarks about a skater to a coach.
12. A good judge is not necessarily a good teacher. Leave teaching to the coaches.
13. Praise may be given publicly after the event; criticism if given at all, should be offered privately and only when requested by those concerned. Arguments should be avoided.
14. Concentrate on the skater. Forget the audience, surroundings and other judges except for the demands of courtesy.
15. Mark what you see at the time, not what you think the skater is capable of doing.
16. Be prepared to talk to the skaters.
17. A judge should never criticize another judge.
18. Remember, this sport is for the skaters. As judges, act as "facilitators" and aid their development within the sport. Do this by providing fair and objective appraisals of their performance.

Parent/Guardian Code of Behaviour

In addition to NSWISAs General Code of Behaviour, as a parent/guardian of a skater/participant in any activity held by or under the auspices of NSWISA or an Affiliated Club, you must meet the following requirements in regard to your conduct during any such activity or event:

1. Remember that your child participates in sport for their own enjoyment, not yours.
2. Focus on your child's efforts and performance rather than winning or losing.
3. Never ridicule or yell at your child and other children for making a mistake or losing a competition.
4. Show appreciation for good performance and skilful plays by all skaters (including fellow competitors).
5. Respect officials' decisions and teach children to do likewise.
6. Do not physically or verbally abuse or belittle anyone associated with the sport (skater, coach, judge, etc).
7. Respect the rights, dignity and worth of every person regardless of their gender, ability, cultural background, ~~or~~ religion or sexual orientation.
8. Support all efforts to remove verbal and physical abuse from sporting activities.

Spectator Code of Behaviour

In addition to NSWISAs General Code of Behaviour, as a spectator in any activity held by or under the auspices of NSWISA or an Affiliated Club, you must meet the following requirements in regard to your conduct during any such activity or event:

1. Applaud good performance and efforts from all skaters and teams. Congratulate all skaters on their performance regardless of the game's outcome.
2. Respect the decisions of officials and teach young people to do the same.
3. Never ridicule or scold a skater for making a mistake. Positive comments are motivational.
4. Condemn the use of violence in any form, whether it is by other spectators, coaches, officials or skaters.
5. Show respect for all competitors.
6. Encourage skaters to follow the rules and the officials' decisions.
7. Do not use violence, harassment or abuse in any form (ie do not use foul language, sledge or harass skaters, coaches, officials or other spectators).
8. Respect the rights, dignity and worth of every person regardless of their gender, ability, cultural background or religion.

