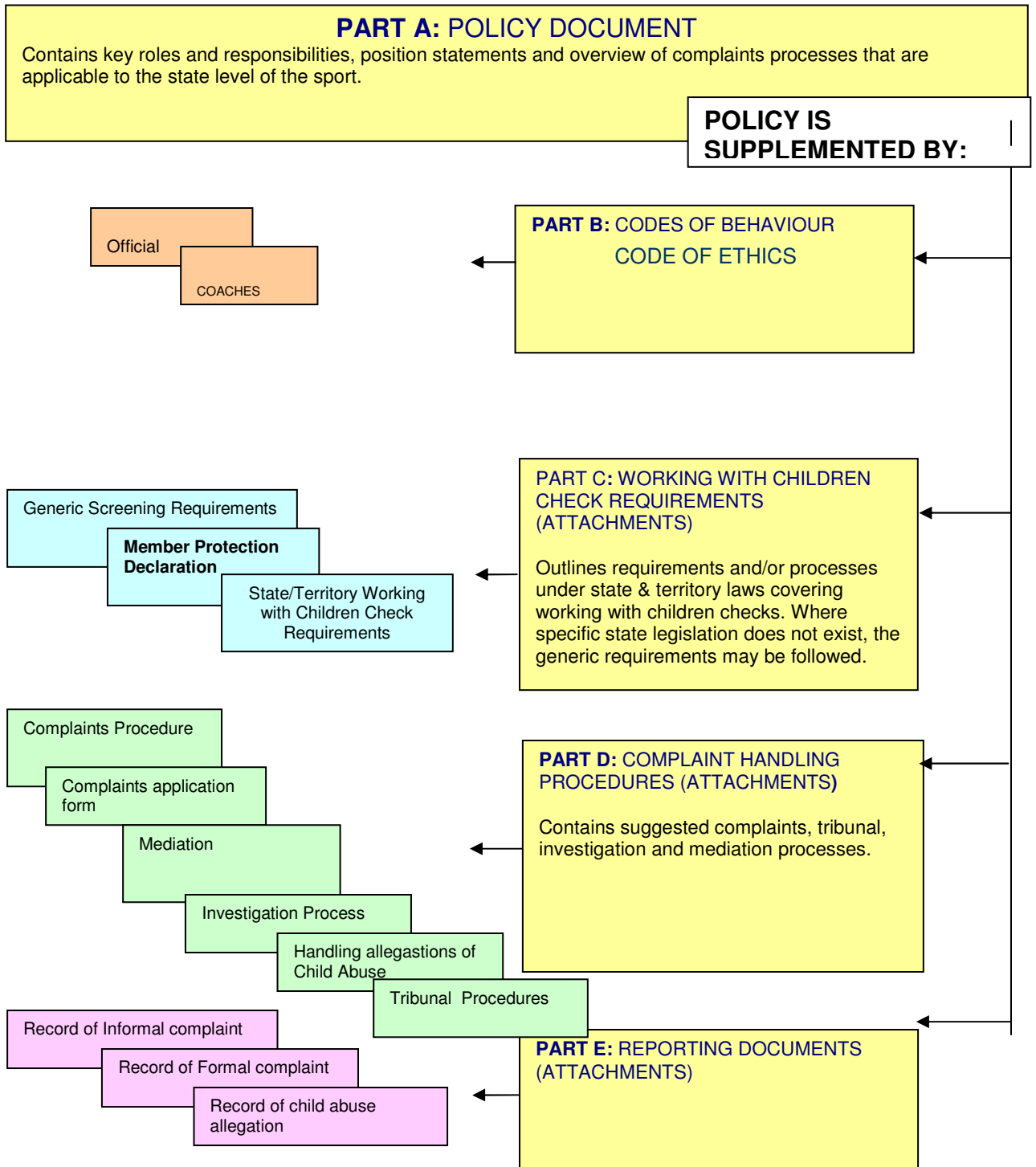




**MEMBER PROTECTION POLICY**  
**NEW SOUTH WALES PROFESSIONAL SKATERS'**  
**ASSOCIATION INCORPORATED**  
**VERSION 2 (February 2010)**

# Policy Framework: How is this policy template organised?





**NEW SOUTH WALES PROFESSIONAL SKATERS'  
ASSOCIATION INCORPORATED  
MEMBER PROTECTION POLICY**

**VERSION 2  
(February 2010)**

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**REVIEW HISTORY OF NEW SOUTH WALES PROFESSIONAL SKATERS'  
ASSOCIATION INCORPORATED MEMBER PROTECTION POLICY**

<i>Version</i>	<i>Date reviewed</i>	<i>Date endorsed</i>	<i>Content reviewed/purpose</i>
One			<ul style="list-style-type: none"><li>• Required constitution changes to be put in place</li></ul>
Two	February 2010		<ul style="list-style-type: none"><li>• Update and bring in line with the constitution</li></ul>
Three			<ul style="list-style-type: none"><li>•</li></ul>
Four			<ul style="list-style-type: none"><li>•</li></ul>

## ***PREFACE***

- New South Wales Professional Ice Skaters' Association Incorporated (herein known as NSWPSA) is committed to providing an environment that is safe for children, that is free from harassment, discrimination and abuse for everyone, and promotes respectful and positive behaviour and values.
- This policy provides a code of behaviour forming the basis of appropriate and ethical conduct which everyone must abide by.
- The President of NSWPSA is committed to ensuring that everyone associated with and in this organisation complies with this policy.

President

New South Wales Professional Ice Skaters' Association

Date:



## **PART A: STATE MEMBER PROTECTION POLICY**

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### **1. Introduction**

Striving for excellence in coaching.

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

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

The policy attachments outline the procedures that support our commitment to eliminating discrimination, harassment, child abuse and other forms of inappropriate behaviour from our sport. As part of this commitment, NSWPSA will take disciplinary action against any person or organisation bound by this policy if they breach it.

This policy has been endorsed by the Australian Professional Skaters' Association Incorporated and has been incorporated into our constitution. The policy starts on **xxxxx** and will operate until replaced. Copies of the current policy and its attachments can be obtained from the Australian Professional Skaters' Association website at [www.apsa.net.au](http://www.apsa.net.au) and from the secretary of NSWPSA at 75 Rosebery Rd, Kellyville, NSW 2155.

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

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

- 3.1 Persons appointed or elected to NSWPSA committees and sub-committees;
- 3.2 Support personnel appointed or elected to club or state teams and squads (e.g. team leaders, coaches,);
- 3.3 Club and State level coaches and assistant coaches;
- 3.4 Club and State technical specialists, and other officials involved in the regulation of the sport;
- 3.5 Members, including life members of NSWPSA;
- 3.6 Athletes, coaches, officials and other personnel participating in events and activities, including camps and training sessions, held or sanctioned by NSWPSA;
- 3.7 Any other person including spectators, parents/guardians and sponsors, who or which agrees in writing (whether on a ticket, entry form or otherwise) to be bound by this policy];

### **4. Responsibilities of the Organisation**

NSWPSA must:

- 4.1 Adopt, implement and comply with this policy;
- 4.2 Make such amendments to it's Constitution, Rules or Policies necessary for this policy to be enforceable;
- 4.3 Publish, distribute and promote this policy and the consequences of breaches;
- 4.4 Promote and model appropriate standards of behaviour at all times;
- 4.5 Promptly deal with any breaches or complaints made under this policy in a sensitive, fair, timely and confidential manner;
- 4.6 Apply this policy consistently;
- 4.7 Recognise and enforce any penalty imposed under this policy;
- 4.8 Ensure that a copy of this policy is available or accessible to the persons and associations to whom this policy applies;

- 4.9 Use appropriately trained people to receive and manage complaints and allegations (e.g MPIO, Complaints reconciliation officer, Member Protection Officer, Child Protection Officer);
- 4.10 Monitor and review this policy at least annually.

## **5. Individual Responsibilities**

Individuals bound by this policy are responsible for:

- 5.1 Making themselves aware of the policy and complying with its standards of behaviour;
- 5.2 Complying with our screening requirements and Working with Children checks;
- 5.3 Placing the safety and welfare of children above other considerations;
- 5.4 Being accountable for their behaviour;
- 5.5 Following the procedures outlined in this policy if they wish to make a complaint or report a concern about possible child abuse, discrimination, harassment or other inappropriate behaviour; and
- 5.6 Complying with any decisions and/or disciplinary measures imposed under this policy.

## **6. Position Statements**

### **6.1 Child Protection**

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

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

Anyone who reasonably suspects that a child has been or is being abused by someone within our sport, is to report it immediately to the police or relevant government agency and the NSWPSA Child Protection Officer, descriptions of the sorts of activity which may be abuse are in the Dictionary at clause 10. If anyone suspects that a child is being abused by his or her parent/s, they are advised to contact the relevant government department for youth, family and community services in their state/territory.

A person will not be victimised for reporting possible child abuse and the privacy of all persons concerned will be respected. Our procedures for handling allegations of child abuse are outlined in attachment (D5)

### **6.2 Taking Images of Children**

Images of children can be used inappropriately or illegally. NSWPSA requires that individuals, clubs and associations, wherever possible, obtain permission from a child's parent/guardian before taking an image of a child that is not their own and ensure that the parent knows the way the image will be used. We also require the privacy of others to be respected and disallow the use of camera phones, videos and cameras inside changing areas, showers and toilets.

If NSWPSA uses an image of a child it will avoid naming or identifying the child or it will, wherever possible, avoid using both the first name and surname. We will not display personal information such as residential address, email address or telephone numbers without gaining consent from the parent/guardian. We will not display information about hobbies, likes/dislikes, school, etc as this information can be used as grooming tools by pedophiles or other persons. We will only use

appropriate images of a child, relevant to our sport and ensure that the child is suitably clothed in a manner that promotes the sport, displays its successes, etc.

We require our members to do likewise.

### **6.3 Anti-Discrimination and Harassment**

NSWPSA opposes all forms of harassment, discrimination and bullying. This includes treating or proposing to treat someone less favourably because of a particular characteristic; imposing or intending to impose an unreasonable requirement, condition or practice which has an unequal or disproportionate effect on people with a particular characteristic; or any behaviour that is offensive, abusive, belittling, intimidating or threatening – whether this is face-to-face, indirectly or via communication technologies such as mobile phone and computers. Some forms of harassment, discrimination and bullying, based on personal characteristics such as those listed in the Dictionary at [clause 10], are against the law.

If any person feels they are being harassed or discriminated against by another person or organisation bound by this policy, please refer to our complaints procedure outlined in attachment [D1] of this policy. This will explain what to do about the behaviour and how NSWPSA will deal with the problem.

### **6.4 Sexual Relationships (possible disciplinary action can be taken)**

NSWPSA takes the position that sexual relationships between coaches and the adult athletes that they coach should be avoided as these relationships can have harmful effects on the individual athlete involved, on other athletes and coaches, and on the sport's public image. Such relationships may be intentionally or unintentionally exploitative due to a disparity between coaches and athletes in terms of authority, power, maturity, status, influence and dependence.

Should a sexual relationship exist between an athlete and coach, NSWPSA will consider whether any action is necessary. Factors that may be relevant in this consideration are the age and maturity of the athlete relative to the coach, the financial or emotional dependence of the athlete on the coach, and the likelihood of the relationship having any adverse impact on the athlete and/or other athletes. If it is determined that the sexual relationship is inappropriate, action may be taken to stop the coaching relationship with the athlete. Action may include transfer, a request for resignation or dismissal from coaching duties.

In the event that an athlete attempts to initiate an intimate sexual relationship, the coach must take personal responsibility for discouraging such approaches, explaining the ethical basis for such action. The coach or athlete may wish to approach NSWPSA's (MPIO or complaints officer or other designated person] if they feel harassed. Our complaints procedure is outlined in Attachment [D1] of this policy.

### **6.5 Pregnancy**

Everyone bound by this policy must treat pregnant women with dignity and respect and any unreasonable barriers to participation by them in our sport should be removed. We will not tolerate any discrimination or harassment against pregnant women.

While many sporting activities are safe for pregnant women, there may be particular risks that apply to some women during pregnancy. Those risks will depend on the nature of the sporting activity and the particular pregnant woman's circumstances. Pregnant women should be aware that their own health and wellbeing, and that of their unborn children, should be of utmost importance in their decision making about the way they participate in our sport.

NSWPSA recommends that pregnant women wanting to participate in our sport consult with their medical advisers, make themselves aware of the facts about pregnancy in sport, and ensure that they make informed decisions about participation. We will only require pregnant women to sign a disclaimer if we require other participants to sign one in similar circumstances. We will not require women to undertake a pregnancy test.

## **7. Complaints Procedures**

### **7.1 Complaints**

NSWPSA aims to provide a simple procedure for complaints based on the principles of procedural fairness (natural justice). Any person (a complainant) may report a complaint about a person/s or organisation bound by this policy (respondent). Such complaints should be reported to (the MPIO, Complaints Reconciliation Officer, Child Protection Officer or President).

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

- A rink training session then the complainant should in the first instance try to sort out the problem with the person or people involved (respondent) if you feel able to do so.
- If this is not possible then the complaint should be reported to the rink representative and rink management. The rink representative MUST advise the NSWPSA MPIO, Complaints Reconciliation Officer, Child Protection Officer or President and provide NSWPSA with a written report for their records.

A complaint may be dealt with informally or formally. The complainant usually decides this unless (the MPIO, Complaints Reconciliation Officer, President of NSWPSA) considers that the complaint falls outside this policy and would be better dealt with another way and/or the law requires the complaint/allegation to be reported to an appropriate authority.

All complaints will be dealt with promptly, seriously, sensitively and confidentially. Our complaint procedures are outlined in attachment [D1].

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

### **7.2 Vexatious Complaints & Victimisation**

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

NSWPSA will take all necessary steps to make sure that people involved in a complaint are not victimised. Disciplinary measures can be imposed on anyone who harasses or victimises another person for making a complaint.

### **7.3 Mediation**

NSWPSA aims to resolve complaints with a minimum of fuss. Complaints may be resolved by agreement between the people involved with no need for disciplinary action. Mediation allows those involved to be heard and to come up with mutually agreed solutions.

Mediation may occur before or after the investigation of a complaint. If a complainant wishes to resolve the complaint with the help of a mediator, the MPIO, Complaints Reconciliation Officer or President of NSWPSA will, in consultation with the complainant, arrange for a neutral third party mediator where possible. Lawyers are not able to negotiate on behalf of the complainant and/or the respondent. More information on the mediation process is outlined in attachment [D2].

### **7.4 Tribunal**

A Tribunal may be convened to hear a formal complaint:

- referred to it by the MPIO, Complaints Reconciliation Officer or President of NSWPSA because of the serious nature of the complaint, or the policy directs it to be and/or

- for an alleged breach of this policy.

Our Tribunal procedure is outlined in attachment [D5].

A respondent may lodge an appeal only to the Appeal Tribunal in respect of a Tribunal decision. The decision of the Appeal Tribunal is final and binding on the people involved. Our appeals process is outlined in attachment [D6].

Every organisation bound by this policy will recognise and enforce any decision of a Tribunal or Appeal Tribunal under this policy.

## 8. What is a Breach of this policy

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

- 8.1 Breaching the Codes of Behaviour (attachment B1 to this policy);
- 8.2 Breaching the Code of Ethics (attachment B2 to this policy);
- 8.3 Bringing the sport into disrepute, or acting in a manner likely to bring the sport and/or NSWPSA and the Australian Professional Skaters' Association Inc into disrepute
- 8.4 Failing to follow NSWPSA policies (including this policy) and procedures for the protection, safety and welfare of children;
- 8.5 Discriminating against, harassing or bullying (including cyber bullying) any person;
- 8.6 Victimising another person for reporting a complaint;
- 8.7 Engaging in a sexually inappropriate relationship with a person that they supervise, or have influence, authority or power over;
- 8.8 Verbally or physically assaulting another person, intimidating another person or creating a hostile environment within the sport;
- 8.9 Disclosing to any unauthorised person or organisation any NSWPSA information that is of a private, confidential or privileged nature;
- 8.10 Making a complaint they **knew** to be untrue, vexatious, malicious or improper;
- 8.11 Failing to comply with a penalty imposed after a finding that the individual or organisation has breached this policy; or
- 8.21 Failing to comply with a direction given to the individual or organisation during the discipline process.

## 9. Disciplinary Measures

If an individual or organisation to which this policy applies breaches this policy, one or more forms of discipline may be imposed. Any disciplinary measure imposed under this policy must:

- Be applied consistent with any membership requirements;
- Be fair and reasonable;
- Be based on the evidence and information presented and the seriousness of the breach; and
- Be determined in accordance with our Constitution, By Laws, this policy and/or Rules of the sport.

### 9.1 Individual

Subject to membership requirements, if a finding is made by a Tribunal that an individual has breached this policy, one or more of the following forms of discipline may be imposed:

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

- 9.1.9 In the case of a coach or official, a direction that the relevant organisation de-register the accreditation of the coach or official for a period of time or permanently;
- 9.1.10 A fine;
- 9.1.11 Any other form of discipline that the MPIO, Complaints Reconciliation Officer, Judiciary Committee or President of NSWPSA considers appropriate.

## 9.2 Organisation

If a finding is made that NSWPSA has breached this or the national Member Protection Policy, one or more of the following forms of discipline may be imposed by the President in conjunction with a Judiciary committee of the Australian Professional Skaters' Association Incorporated;

- 9.2.1 A written warning;
- 9.2.2 A fine;
- 9.2.3 A direction that any rights, privileges and benefits provided to NSWPSA by the national body or other peak association be suspended for a specified period;
- 9.2.4 A direction that any funding granted or given to it by the Australian Professional Skaters' Association Incorporated cease from a specified date;
- 9.2.5 Any other form of discipline that the national body or peak organisation considers to be reasonable and appropriate.

## 9.3 Factors to consider

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

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

## 10. Dictionary

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

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

**Child** means a person who is under the age of 18 years

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

- Physical abuse by hurting a child or a child's development (e.g. hitting, shaking or other physical harm; giving a child alcohol or drugs; or training that exceeds the child's development or maturity).
- Sexual abuse by adults or other children where a child is encouraged or forced to watch or engage in sexual activity or where a child is subject to any other inappropriate conduct of a

sexual nature (e.g. sexual intercourse, masturbation, oral sex, pornography including child pornography or inappropriate touching or conversations).

- Emotional abuse by ill-treating a child (e.g. humiliation, taunting, sarcasm, yelling, negative criticism, name calling, ignoring or placing unrealistic expectations on a child).
- Neglect (e.g. failing to give food, water, shelter or clothing or to protect a child from danger or foreseeable risk of harm or injury).

**Complaint** means a complaint made under clause 7.

**Complainant** means a person making a complaint.

**Complaints Reconciliation Officer** means a person appointed under this policy to investigate a Complaint

**Discrimination** means treating or proposing to treat someone less favourably because of a particular characteristic in the same or similar circumstances in certain areas of public life (Direct Discrimination), or imposing or intending to impose an unreasonable requirement, condition or practice that is the same for everyone, but which has an unequal or disproportionate effect on individuals or groups with particular characteristics (Indirect Discrimination). The characteristics covered by discrimination law across Australia are:

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

(Some States and Territories include additional characteristics such as physical features or association with a person with one or more of the characteristics listed above).

### **Examples of Discrimination**

- **Age:** An older person is not allowed to coach simply because of age.
- **Disability:** A person is refused membership because of mild epilepsy.
- **Family responsibilities:** A member is not considered for a role because of family commitments even though the coach is the best person for the job.
- **Homosexuality:** A coach or athlete is the target of jokes and harassment after it becomes known that she is a lesbian.
- **Marital Status:** A coach is deliberately excluded from team activities and social functions because she is single
- **Pregnancy:** A woman is dropped from a position when she becomes pregnant.
- **Race:** A coach is refused membership or the target of abuse due to their Nationality.
- **Sex:** A coaching position is appointed to a member based solely on their sex and not ability.

**Harassment** is any type of behaviour that the other person does not want and that is offensive, abusive, belittling or threatening. The behaviour is unwelcome and a reasonable person would recognise it as being unwelcome and likely to cause the recipient to feel offended, humiliated or intimidated.

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

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

Discrimination and harassment are not permitted in employment (including volunteer and unpaid employment); when providing sporting goods and services including access to sporting facilities; when providing education and accommodation; the selection or otherwise of any person for competition or a team (domestic or international); the entry or otherwise of any player or other person to any competition and the obtaining or retaining membership of clubs and organisations (including the rights and privileges of membership).

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

- holding a competitive sporting activity for females only who are under 12 years of age or of any age where strength, stamina or physique is relevant or
- not selecting a participant if the person's disability means he or she is not reasonably capable of performing the actions reasonably required for that particular sporting activity.

Requesting, assisting, instructing, inducing or encouraging another person to engage in discrimination or harassment may also be against the law.

It is also a breach of discrimination law to victimise a person who is involved in making a complaint of discrimination or harassment. Example: a player is ostracised by her male coach for complaining about his sexist behaviour or for supporting another player who has made such a complaint.

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

**Mediator** means an impartial/neutral person appointed to mediate Complaints.

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

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

- both the Complainant and the Respondent must know the full details of what is being said against them and have the opportunity to respond;
- all relevant submissions must be considered;
- no person may judge their own case;
- the decision maker/s must be unbiased, fair and just;
- the penalties imposed must be fair.

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

**This policy** means this Member Protection Policy.

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

**Role-specific codes of conduct (or behaviour)** means standards of conduct required of certain roles (e.g. coaches).

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

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

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

- Rape
- Indecent assault
- Sexual assault
- Assault with intent to have sexual intercourse
- Incest
- Sexual penetration of child under the age of 16
- Indecent act with child under the age of 16

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

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

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

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

## **ATTACHMENT B1: CODES OF BEHAVIOUR**

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### **1. Respect the rights, dignity and worth of every human being.**

Within the context of the activity, treat everyone equally regardless of sex, disability, ethnic origin or religion.

### **2. Treat each skater as an individual.**

Respect the talent, developmental stage and goals of each skater. Help each one reach their full potential.

### **3. Ensure the time spent with you is a positive experience.**

All skaters are deserving of equal attention and opportunities.

### **4. Be fair, considerate and honest with your skaters**

### **5. Be professional and accept responsibility for your actions.**

Display high standards in your language, manner, punctuality, preparation and presentation. Display control, dignity and professionalism to all involved in the sport - other coaches, officials, judges, administrators, parents, the media and spectators.

### **6. Make a commitment to provide a quality service to your skater.**

Maintain or improve your current NCAS accreditation, seek improvement through performance appraisal and ongoing coach education. Provide a training program that is planned and sequential. Maintain appropriate records.

### **7. Operate within the rules and spirit of ice skating.**

The guidelines of the national and international bodies governing the sport should be followed. Keep up to date with rules, relevant policies eg anti doping policy, selection criteria etc. Coaches should educate their skaters on drugs in sport issues in consultation with the Australian Drug agency.

### **8. Any Physical contact with skaters should be -**

- appropriate to the situation - necessary for the skater's development.

### **9. Refrain from any kind of personal abuse towards your skaters\*\*\***

This includes verbal, physical and emotional abuse.

Be alert to any forms of abuse directed towards your skaters from other sources while they are in your care.

### **10. Refrain from any form of harassment towards your skaters\*\*\***

This includes sexual and racial harassment, racial vilification and harassment on the grounds of disability. Under no circumstances initiate any form of sexual/emotional relationship with your skater. Actively discourage any attempt by them to form a relationship with you by thoroughly explaining the ethical **issues** for the refusal.

### **11. Provide a safe environment for training and competition.**

Ensure facilities and ice surface meet safety standards and that the training environment, equipment and rules are appropriate for the age and ability of the skaters.

### **12. Show concern and caution toward sick and injured skaters.**

Encourage skaters to seek medical advice when required and provide a modified training program where appropriate.

Allow further participation in training and competition only when appropriate. Maintain the same interest and support toward sick and injured skaters.

### **13. Be a positive role model for your sport and your skaters.**

### **14. Abide by the guidelines governing coach's conduct as set down by the A.S.C.**

\*\*\*\* Please refer to the Harassment Free Sport guidelines available from the Australian Sports Commission for more information these issues.

## **ATTACHMENT B2: CODES OF ETHICS**

### **NEW SOUTH WALES PROFESSIONAL SKATERS' ASSOCIATION INCORPORATED CODE OF ETHICS**

- 1. Members shall exercise the greatest care and discretion in their relationship with other professionals and their respective students.**
- 2. Members shall respect the rights of skaters to seek instruction or take Lessons, from the professional of their choice.**
- 3. Members shall not accept students for instruction unless, or until all lesson fees properly payable to another member or members have been duly paid. It is the duty of a member to check with any previous coach to ensure that all fees have been paid prior to accepting a student.**
- 4. No member shall solicit students of another member, directly or indirectly or through third parties for lessons or instruction.**
- 5. Members shall dress neatly in a clean and appropriate manner as becoming a member of their profession.**

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

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### **1. NEW SOUTH WALES**

All organisations (including clubs) within NSW that employ people in child-related employment (in a paid or unpaid capacity) must meet the requirements of the Working with Children Check (WWCC). Child related employment is work which primarily involves direct unsupervised contact with children. The WWCC involves three components:

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

Sporting organisations are responsible for managing the WWCC process. Individuals cannot apply for a WWCC directly. Sporting organisations should register with [NSW Sport and Recreation](#), providing a contact who will receive the information on the background checks.

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

For more information, including the required forms:

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

### **2. SOUTH AUSTRALIA**

There are provisions under the *Children's Protection (Miscellaneous) Amendment Act 2005* that apply to non-government and volunteer organisations that are entrusted with the care of children or who regularly come into contact with children. These provisions require organisations to have strategies in place to prevent and minimise opportunities for abuse and to appropriately respond when abuse occurs or is suspected, and to implement guidelines and processes that clearly outline effective and timely responses to child protection issues and steps of action.

Be aware that criminal history reports are likely to be introduced and mandatory for some positions in sporting organisations from 2010/2011.

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

For more information:

- [www.families.sa.gov.au/childsafe](http://www.families.sa.gov.au/childsafe) or 08 8226 7000

#### 4. **ACT**

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

NSWPSA are required 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 B2) 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 accept their membership.
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 accept their membership.
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.

## **PART C1: 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 and South Australia laws require individuals involved in areas such as sport and recreation to undertake a check to determine their suitability to work (in a paid or volunteer capacity) with children. This is done by checking certain criminal history and other matters. In some states this also involves reviewing relevant findings from disciplinary proceedings. There are also requirements placed on organisations.

The Australian Capital Territory are currently reviewing their screening laws. New requirements and amendments will be added to this policy as they are introduced.

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

The state WWCC requirements apply regardless of our state or national Member Protection Policy.

The following attachments provide:

- summary information on state and territory WWCC requirements and where to obtain more information and relevant forms
- our Member Protection Declaration for South Australia and ACT who 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.

**Attachment C3: MEMBER PROTECTION DECLARATION**

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

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

sincerely declare:

1. I do not have any criminal charge pending before the courts.
2. I do not have any criminal convictions or findings of guilt for sexual offences, offences related to children or acts of violence or narcotics.
3. I have not had any disciplinary proceedings brought against me by an employer, sporting organisation or similar body involving child abuse, sexual misconduct or harassment, other forms of harassment or acts of violence or narcotics.
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 New South Wales Professional Skaters' Association may consider to constitute a risk to its members, employees, volunteers, athletes or reputation by engaging me.
7. I will notify the President of the organisation(s) engaging me immediately upon becoming aware that any of the matters set out in clauses [1 to 6] above has changed.

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

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

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

Name:.....

Signature:.....

Date: .....

## **Attachment C4: WORKING WITH CHILDREN CHILD PROTECTION REQUIREMENTS**

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

### **1. NEW SOUTH WALES**

All organisations within NSW that employ people in child-related employment (in a paid or unpaid capacity) must meet the requirements of the Working with Children Check (WWCC). Child related employment is work which primarily involves direct unsupervised contact with children. The WWCC involves three components:

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

Sporting organisations are responsible for managing the WWCC process. Individuals cannot apply for a WWCC directly. Sporting organisations should register with [NSW Sport and Recreation](#), providing a contact who will receive the information on the background checks.

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

For more information, including the required forms:

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

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

For more information:

- [www.checkwwc.wa.gov.au](http://www.checkwwc.wa.gov.au) or call 1800 883 979 (toll free)
- [www.justice.vic.gov.au/workingwithchildren](http://www.justice.vic.gov.au/workingwithchildren) or 1300 652 879

### **2. SOUTH AUSTRALIA**

There are provisions under the *Children's Protection (Miscellaneous) Amendment Act 2005* that apply to non-government and volunteer organisations that are entrusted with the care of children or who regularly come into contact with children. These provisions require organisations to have strategies in place to prevent and minimise opportunities for abuse and to appropriately respond when abuse occurs or is suspected, and to implement guidelines and processes that clearly outline effective and timely responses to child protection issues and steps of action.

Be aware that criminal history reports are likely to be introduced and mandatory for some positions in sporting organisations from 2010/2011.

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

For more information:

- [www.families.sa.gov.au/childsafe](http://www.families.sa.gov.au/childsafe) or 08 8226 7000

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

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

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

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

If you wish to remain anonymous, the NSWPSA may have difficulty assisting you to resolve your complaint. Procedural fairness (natural justice) means that the NSWPSA is required to provide the person/people you have complained about with full details of the complaint so they have a fair chance to respond.

#### **INFORMAL APPROACHES**

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

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: Talk to the rink representative and/or rink management**

If possible talk to the rink representative and/or rink management with the person or people involved (respondent) if you feel able to do so.

##### **Step 3: Contact a Member Protection Information Officer (MPIO) or other authorised officer**

Talk with one of our MPIO, Complaints Reconciliation Officer, Child Protection Officer or the President of NSWPSA if;

- the first and/or second step is not possible/reasonable;
- you are not sure how to handle the problem by yourself;
- 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.

Contact details for the MPIO, Complaints Reconciliation Officer, Child Protection Officer and President can be found on the Australian Professional Skaters' Association website at [www.apsa.net.au](http://www.apsa.net.au).

The MPIO, Complaints Reconciliation Officer, Child Protection Officer or President of NSWPSA will:

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

##### **Step 4: Outcomes from initial contact**

After talking with the MPIO, Complaints Reconciliation Officer, Child Protection Officer or President of NSWPSA you may decide:

- there is no problem;
- the problem is minor and you do not wish to take the matter forward;

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

## **FORMAL APPROACHES**

### **Step 5: 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 MPIO, Complaints Reconciliation Officer, Child Protection Officer or the President of NSWPSA using the Complaints Application form Attachment D2.
- 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 MPIO, Complaints Reconciliation Officer, Child Protection Officer or the President of NSWPSA will decide whether:

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

In making the decision(s) outlined above, the MPIO, Complaints Reconciliation Officer, Child Protection Officer or the President of NSWPSA 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 the MPIO, Complaints Reconciliation Officer, Child Protection Officer or the NSWPSA President 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.

### **Step 6: Investigation of the complaint**

- A person appointed under Step 4 will conduct an investigation and provide a written report to the President of NSWPSA and the judiciary committee who will determine what further action to take;
- If the complaint is referred to mediation, it will be conducted in accordance with Attachment D3 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 D6.
- If the complaint is referred to the police or other appropriate authority, the NSWPSA will use its best endeavours to provide all reasonable assistance required by the police or other authority.

**[Any costs relating to the complaint process set out in this Policy (e.g. investigation and/or mediation and/or hearings tribunal) are to be met by the complainant and respondent unless otherwise stated in the relevant Attachment.]**

### **Step 7: Reconsideration of initial outcome/investigation or appeal**

If, under the formal complaint process, mediation is unsuccessful, you may request the MPIO, Complaints Reconciliation Officer, Child Protection Officer or the President of NSWPSA reconsider the complaint in accordance with **Step 4**.

You or the respondent(s) may be entitled to appeal. The grounds and process for appeals under this Policy are set out in Attachment D6.

### **Step 8: Documenting the resolution**

The MPIO, Complaints Reconciliation Officer or Child Protection Officer 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 rink or state level, the information will be stored with the state Complaints Reconciliation Officer. 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 with the national Complaints Reconciliation Officer.

## **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, Complaints Reconciliation Officer, Child Protection Officer or the President of NSWPSA) as a support person throughout the process. It is also common to have a legal representative, particularly at the hearing stage of a complaint.

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

## ATTACHMENT D2. Complaints Application Form.

The NSWPSA Complaints Application Procedure is an important function of the Association. Prior to filing a complaint refer to the procedures as set out in the NSWPSA Member Protection Policy located at [www.apsa.net.au](http://www.apsa.net.au) . To file a complaint you must send to the NSWPSA MPIO, Complaints Reconciliation Officer, Child Protection Officer or the President of NSWPSA the following:

- 
- An original complaint and two additional copies stating the factual basis for the complaint along with documentation and evidence you feel is necessary to support your complaint.
  - The signature of the party filing the complaint must be under oath , notarized and under penalty of perjury (see 7.2) . This includes the application form, complaint and each supporting document.
  - Please refer to the specific number of the Code of Behaviour / Code of Ethics that you are claiming was violated.
  - Failure to state the specific violation may result in a dismissal of the complaint.
- 

There is a \$70 filing fee. A copy of your complaint is then sent to the person against whom the complaint has been filed. That person must respond in a timely manner and a copy of their response is then forwarded to you.

After all the filings have been completed, the case will be investigated and a finding made. A notification if the action will be sent to the party filing the complaint and to the party against whom the complaint was made.

The executive of NSWPSA is authorized to change, alter or modify the above rules as occasion may require and to establish a detailed code of behaviour to supplement the above basic rules.

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To file a complaint, fill out the application below in accordance with the above requirements and send an original complaint and your documentation and an additional two copies along with a \$70 filing fee made out to New South Wales Professional Skaters' Association Inc to : The Complaints Reconciliation Officer c/- The Secretary NSWPSA 75 Rosebery Rd, Kellyville, NSW 2155.

Name: \_\_\_\_\_ Email: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_ Mobile: \_\_\_\_\_

Best time to reach you: \_\_\_\_\_

Filed Against: \_\_\_\_\_

Violation of Codes of Behaviour / Code of Ethics number: \_\_\_\_\_

Date: \_\_\_\_\_ Signature: \_\_\_\_\_

## Attachment D3: 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 NSWPSA.

1. If mediation is chosen, the MPIO, Complaints Reconciliation Officer, Child Protection Officer or the President of NSWPSA will, under the direction of NSWPSA 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 President of NSWPSA to request that the MPIO, Complaints Reconciliation Officer or Child Protection Officer reconsider the complaint 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 D4: 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 President of NSWPSA documenting the complaint, investigation process, evidence, finding and, if requested, recommendations.
2. We will provide a report to the complainant and the respondent(s) documenting the complaint, the investigation process and summarising key points that are substantiated, inconclusive, unsubstantiated and/or mischievous.
3. The complainant and the respondent(s) will be entitled to support throughout this process from their chosen support person/adviser (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 D6.

## **Attachment D5: PROCEDURE FOR HANDLING ALLEGATIONS OF CHILD ABUSE**

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

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

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

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

### **Step 2 – Report allegations**

- Immediately report any allegation or disclosure of child abuse or situation involving a child at risk of harm, to the police and/or government child protection agency. You may need to report to both.
- Contact the relevant child protection agency or police for advice if there is **any** doubt about whether the complaint should be reported (for example, the allegation may relate to poor/inappropriate practice).
- If the child's parent/s is suspected of committing the abuse, you should report the allegation to the relevant government agency.
- If the allegation involves anyone to whom our policy applies, then also report the allegation to the Child Protection Officer of NSWPSA 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 Child Protection Officer will assess the risks and take interim action to ensure the child's/children's safety. Action the NSWPSA may implement includes supervision of the alleged offender or suspension of their membership until the allegations are finally determined.
- The Child Protection Officer will consider the kind of support that the child/ren and parents may need (e.g. counselling, helplines, support groups).
- The Child Protection Officer, MPIO or President of NSWPSA will address the support needs of the alleged offender.
- The Child Protection Officer, MPIO or President of NSWPSA 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 suspended, 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 NSWPSA)

- Irrespective of the findings of the child protection and/or police inquiries, the NSWPSA 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 Child Protection Officer and the President of the NSWPSA 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 NSWPSA 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 D6: HEARINGS & APPEALS TRIBUNAL PROCEDURE**

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The following will be followed by hearings tribunals established by the NSWPSA to hear state member protection related complaints.

### **Preparation for Tribunal Hearing**

1. A Judiciary Committee constituted following the rules outlined in the NSWPSA Constitution, will form the Tribunal Panel to hear a complaint that has been referred to it by the Child Protection Officer, MPIO, Complaints Reconciliation Officer or President of NSWPSA. The number of Judiciary members to be present throughout the Tribunal hearing will be a minimum of 5.
2. The Judiciary members will be provided with a copy of all the relevant correspondence, reports or information received and sent by the Child Protection Officer, MPIO, Complaints Reconciliation Officer or the President of NSWPSA relating to the complaint/allegations.
3. The Tribunal will be scheduled as soon as practicable, but must allow adequate time for the person being complained about (respondent(s)) to prepare their case for the hearing.
4. The Judiciary committee will not include any person who has any actual or perceived conflict of interest, or bias regarding the matter.
5. The Secretary 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 Judiciary committee (e.g. investigation report findings) will also be provided to the respondent.

The respondent(s) will be allowed to participate in all NSWPSA activities and events, pending the decision of the Tribunal, including any available appeal process, unless the Child Protection Officer, MPIO, Complaints Reconciliation Officer or the President of NSWPSA believes it is necessary to exclude the respondent(s) from all or some NSWPSA activities and events, after considering the nature of the complaint.

6. The Secretary 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 Child Protection Officer, MPIO, Complaints Reconciliation Officer or President of

NSWPSA as soon as possible so that the respondent and the Judiciary committee members can be properly informed of the complaint.

8. It is preferable that the Judiciary committee 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 (Judiciary) 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 Secretary of NSWPSA of the need to reschedule, and the Secretary 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 Judiciary committee 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 Judiciary committee may:
  - consider any evidence, and in any form, that it deems relevant.
  - question any person giving evidence.
  - limit the number of witnesses presented to those who provide any new evidence.
  - Require the attendance of any witness it deems relevant;
  - Act in an inquisitorial manner in order to establish the truth of the issue/case before it.
19. Video evidence, if available, may be presented. The arrangements must be made entirely by the person/s wishing to offer this type of evidence.
20. If the Judiciary committee considers that at any time during the Tribunal Hearing that there is any unreasonable or intimidatory behaviour from anyone the Chairperson may stop further involvement of the person in the hearing.
21. After all of the evidence has been presented the Tribunal will make its decision in private. The Tribunal must decide whether the complaint has been substantiated on the balance of probabilities (i.e. more probable than not). As the seriousness of the allegation increases, so too must the level of satisfaction of the Tribunal that the complaint has been substantiated. The respondent will be

given an opportunity to address the Tribunal on disciplinary measures which might be imposed. Disciplinary measures imposed must be reasonable in the circumstances.

22. All Tribunal decisions will be by majority vote.
23. The Tribunal Chairperson will announce the decision in the presence of all those involved in the hearing and will declare the hearing closed, or may advise those present that the decision is reserved and will be handed down in written form.
24. Within 48 hours, the Tribunal Chairperson will:
  - Forward to the MPIO, Complaints Reconciliation Officer or President of NSWPSA a copy of the Tribunal decision including any disciplinary measures imposed.
  - Forward a letter to the respondent(s) reconfirming the Tribunal decision and any disciplinary measures imposed. The letter should also outline, if allowed, the process and grounds for an appeal. Where the matter is of unusual complexity or importance, the Tribunal Chairperson may inform the parties in writing within 48 hours that the decision will be delayed for a further 48 hours.
25. The Judiciary committee does not need to provide written reasons for its decision.

### **Appeals Procedure**

26. A complainant or a respondent(s) who is not satisfied with the decision of a Complaints Manager, the outcome of mediation or a Tribunal decision can lodge one appeal to the NSWPSA 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 Complaints Manager/Mediator/Tribunal;
27. A person wanting to appeal in accordance with clause 25 must lodge a letter setting out the basis for their appeal with the Secretary within 14 days of the relevant decision. An appeal fee of \$70 shall be included with the letter of intention to appeal.
28. If the letter of appeal is not received by the Secretary within the time period the right of appeal lapses. If the letter of appeal is received but the appeal fee is not received by the relevant time, the appeal lapses.
29. The letter of appeal and copy of tribunal decision report will be forwarded to the NSWPSA committee to review and decide whether there are sufficient grounds for the appeal to proceed. The NSWPSA committee may invite any witnesses to the meeting it believes are required to make an informed decision.
30. If the appellant has not shown sufficient grounds for appeal in accordance with clause 25, then the appeal will be rejected. The appellant will be notified with reasons.
31. If the appeal is accepted an Appeal Tribunal with a new panel will be convened to rehear the complaint.
32. The Tribunal Procedure shall be followed for the appeal.
33. The decision of an Appeal Tribunal will be final.



What they are going to do now	
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This record and any notes must be kept in a confidential place – do not enter it on a computer system. This record is to be sent to the relevant person (MPIO, Child Protection Officer or Complaints Reconciliation Officer)

**Attachment E2: CONFIDENTIAL RECORD OF FORMAL COMPLAINT**

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

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

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

**Attachment E3: CONFIDENTIAL RECORD OF CHILD ABUSE ALLEGATION**

Before completing, ensure the procedures outlined in attachment D5 have been followed and advice has been sought from the relevant government agency and/or police.

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

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

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