



# **MEMBER PROTECTION BYLAW**

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**Boxing Australia Inc.**

As amended December 2009

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# **MEMBER PROTECTION BYLAW**

## **PART A – GENERAL PROVISIONS**

### **1. Purpose of this bylaw**

This member protection bylaw aims to ensure that every person involved in our sport is treated with respect and dignity, and is safe and protected from abuse. It also ensures that everyone involved in our sport is aware of his or her legal and ethical rights and responsibilities.

The association will take disciplinary action against any person or organisation bound by this bylaw if they breach it. Copies of this bylaw can be obtained from Boxing Australia's website <http://boxing.org.au>

### **2. To Whom this Bylaw Applies**

This bylaw applies to Boxing Australia Inc (BAI) and to each of its state/territory member associations, including the following personnel whether in a paid or unpaid/voluntary capacity:

- Individuals sitting on boards, committees and sub-committees;
- Employees and volunteers;
- Support personnel (e.g. managers, masseurs);
- Coaches and assistant coaches;
- Athletes;
- Referees, judges, timekeepers and other officials;
- Members of affiliated state/territory member associations, including life members;
- Clubs and organisations affiliated to state/territory member associations;
- Parents, guardians, spectators and sponsors to the extent that is possible.

This bylaw will continue to apply to a person even after they have stopped their association or employment with BAI or a state/territory member association, if investigations relating to an allegation of child abuse against that person have commenced.

### **3. Code of Conduct**

BAI requires every individual and organisation bound by this bylaw to abide by the Code of Conduct outlined in this Bylaw.

### **4. Organisational Responsibilities**

BAI and its state/territory member associations must:

- Adopt, implement and comply with this bylaw;
- Publish this bylaw and the consequences for breaching it;
- Promptly deal with any breaches of or complaints made under this bylaw;
- Recognise and enforce any penalty imposed under this bylaw;
- Appoint or arrange access to appropriately trained people to receive and handle complaints and allegations and display the names and contact details in a way that is readily accessible.

### **5. Children**

#### **5.1 Child Protection**

BAI acknowledges that our staff and volunteers provide a valuable contribution to the positive experiences of our children. BAI 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 F2 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 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 to BAI's Member Protection Officer. Descriptions of the sorts of activity which may be abuse are in the Dictionary at clause 12. 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 Part F3

## **5.2 Taking Images of Children**

Images of children can be used inappropriately or illegally. BAI requires that individuals and associations, wherever possible, obtain permission from a child's parent/guardian before taking an image of a child that is not their own and ensure that the parent/guardian 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 BAI 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 Member Associations and clubs to do likewise.

## **6. Anti-Discrimination and Harassment**

BAI recognises that all those involved in its activities cannot enjoy themselves, perform to their best, or be effective or fully productive if they are being treated unfairly, discriminated against or harassed. BAI is opposed to all such harassment or discriminatory treatment.

Any person who feels they are being harassed or discriminated against by another person or organisation bound by this bylaw should contact a member protection officer to lodge a complaint.

## **7. Sexual Relationships**

While sexual relationships between coaches and athletes aged 16 years and above are not necessarily unlawful, BAI takes the position that they such relationships should be avoided. 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 tend to be intentionally or unintentionally exploitative because there is usually a disparity between coaches and athletes in terms of authority, power, maturity, status and dependence.

Where BAI or a member association become aware of a sexual relationship between an athlete and coach, the matter is to be referred to BAI for investigation. If it is determined that the sexual relationship is inappropriate, action may be taken to stop the coaching relationship with the athlete.

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.

## **8. Gender Identity**

BAI is committed to providing an inclusive sporting environment where transgender or transsexual people involved in its activities are able to contribute and participate. BAI expects everyone who is bound by this policy to treat people who identify as transgender or transsexual fairly and with dignity and respect.

BAI recognises there is debate over whether a male to female transgender person obtains any physical advantage over other female participants. This debate is reflected in the divergent discrimination laws across the country. If issues of performance advantage arise, BAI will seek advice on the application of those laws in the particular circumstances.

BAI is aware that the International Olympic Committee (IOC) has established criteria for selection and participation in the Olympic Games. Where a transgender or transsexual person intends competing at an elite level they should seek advice about the IOC's criteria.

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

## **9. Pregnancy**

While many sporting activities are safe for pregnant women to participate in, it is self-evident there are particular risks that apply in boxing to women during pregnancy.

Pregnant women should be aware that their own health and wellbeing, and that of their unborn children, should be of the utmost importance in their decision making about their participation in our sport.

BAI wishes to emphasise to pregnant women that there are risks involved for themselves and their unborn child if they box and strongly encourages them to obtain medical advice about those risks.

## **10. Complaints Procedures**

### **10.1 Complaints**

Any person (complainant) may make a complaint about a person or organisation bound by this bylaw if they reasonably believe that this bylaw has been breached. A complaint should be reported to a Member Protection Officer. The procedure for complaints is detailed in this bylaw.

### **10.2 Vexatious Complaints & Victimisation**

BAI aims to ensure our complaints procedure has integrity and is free of unfair repercussions or victimisation. If at any point in the complaint process it is considered that a complainant has knowingly made an untrue complaint or the complaint is vexatious, disciplinary action may be taken against the complainant.

BAI will also take all necessary steps to make sure that people involved in a complaint are not victimised by anyone for coming forward with a complaint or for helping to sort it out. Disciplinary measures will be imposed on anyone who victimises another person for making a complaint.

### **10.3 Mediation**

In many cases, complaints can be sorted out by agreement between the people involved with no need for disciplinary action. The people involved in a complaint - the complainant and the person complained about (respondent) - may also seek the assistance of a neutral third person or a mediator. Lawyers are not able to negotiate on behalf of the complainant and/or respondent.

### **10.4 Member Protection Committees**

Any formal complaint is referred to BAI whose Board of Directors may refer the matter for investigation by a Member Protection Committee. The Member Protection Committee may recommend to the Council of BAI that disciplinary penalties be imposed.

Members of Member Protection Committees will be indemnified by BAI against any claim for loss, compensation or damages, and for costs incurred defending a claim made against them, because of their function as a member of a Member Protection Committee.

## **11. Breach of this bylaw**

Any breach of this Bylaw may result in disciplinary action.

## **12. Dictionary**

This Dictionary sets out the meaning of words used in this bylaw.

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

**BAI** means Boxing Australia Incorporated.

**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 this bylaw.

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

**Conviction** means a finding of guilt by a court even if a conviction is not recorded.

**Discrimination** means 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 or are thought to have.

**Direct discrimination** is treating, or proposing to treat someone less favourably because of a characteristic (such as race, sex, age etc), in the same or similar circumstances.

**Indirect discrimination** is imposing or intending to impose a requirement, condition or practice that is the same for everyone but which has an unequal or disproportionate effect on particular individuals or groups.

**Harassment** is any type of unwelcome behaviour that a reasonable person would recognise as being unwelcome and likely to cause the recipient to feel offended, humiliated or intimidated

**Mediator** means a person appointed to mediate complaints made under this bylaw.

**MPD** means Member Protection Declaration.

**Member protection** is a term used to describe the practices and procedures that protect individual members, member organisations such as clubs and state associations, and the national body, from harassment, abuse, discrimination and other forms of inappropriate behaviour

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

**Natural justice** incorporates the following principles:

a person who is the subject of a complaint must be fully informed of the allegations against them

a person who is the subject of a complaint must be given full opportunity to respond to the allegations and raise any matters in their own defence

all parties need to be heard and all relevant submissions considered

irrelevant matters should not be taken into account

no person may judge their own case

the decision makers must be unbiased, fair and just

the penalties imposed must not outweigh the seriousness of the offence

**Police check** means a national criminal history record check

**Bylaw** and **this bylaw** mean this Member Protection Bylaw.

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

**Role-specific codes of conduct** 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 offence** means a criminal offence involving sexual activity including but not limited to Rape; Sexual assault; Assault with intent to have sexual intercourse; Incest; Sexual acts with child under the age of 16; Sexual offences against people with impaired mental functioning; Abduction and detention; Procuring sexual activity by threat or fraud; Soliciting sexual acts involving children; Promoting or engaging in acts of child prostitution; Obtaining benefits from child prostitution; Possession of child pornography; Publishing child pornography.

**Vexatious** means done for the purpose of giving trouble, or without cause.

**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 or under this bylaw, or for supporting another person to make a complaint.

**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.

## **PART B - COMPLAINTS PROCEDURE**

A complaint can be about an act, behaviour, omission, situation or decision that someone thinks is unfair, unjustified, unlawful, or a breach of this bylaw.

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

You cannot be anonymous if you wish to make a complaint. BAI must follow the principles of natural justice and be fair to both sides. This means that BAI or you may be required to provide the person/people you have complained about with full details of the complaint so they have a fair chance to respond to all the allegations.

### **Step 1**

You (the complainant) should try to sort out the problem with the person or people involved if you feel able to do so.

### **Step 2**

If step 1 is not possible or not reasonable; or if you want to talk confidentially with someone and get more information about what you can do; or if the problem continues after you tried to approach the person or people involved, and then talk with one of our Member Protection Officers (MPOs).

### **Step 3**

After talking with the MPO, you may decide:

- the problem is minor and you do not wish to take the matter forward;
- to try and work out your own resolution; or
- to seek an informal mediated resolution; or
- to approach a relevant agency such as an Equal Opportunity Commission, for advice; or
- to lodge a formal complaint to BAI.

### **Step 4**

You may lodge a formal complaint in writing, with or without having attempted resolution by other methods. However, where a Member Protection Committee considers that a matter referred to it should have been resolved informally, it may order the parties to work out their own resolution.

The Member Protection Officer must refer any formal complaint to BAI which may refer it for investigation by a Member Protection Committee. The Member Protection Committee will make a decision about whether the complaint is substantiated and where appropriate may recommend administrative or disciplinary action to BAI's Council. Any Member Protection Committee hearing will be conducted in accordance with the appropriate provisions of this bylaw.

**Step 5** - The person or body which makes the final decision on a complaint will document the complaint, the process followed and the outcome. This document will be stored in a confidential and secure place.

### **External procedure**

There may be external options available to you 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 equal opportunity commission without being obliged to make a formal complaint. If the commission advises you that the problem appears to be a type of harassment that comes within its jurisdiction, you may then make a decision as to whether or not to lodge a formal complaint with that commission.

## **PART C - MEDIATION PROCESS**

Mediation is a process by which people who are in conflict can be helped to communicate with each other about what is important for them and how to make decisions about resolving their dispute. Mediators provide a supportive atmosphere and method of talking to one another, to assist in sorting out the issues, coming up with acceptable solutions and making mutually satisfactory agreements.

This part outlines the general procedure of mediation that will be followed by BAI and its member associations.

1. The people involved in a complaint (complainant and respondent) may work out their own resolution of the complaint or seek the assistance of a neutral third person or a mediator.
  2. Mediation will only be recommended:
    - After the complainant and respondent have had their chance to tell their version of events to the Member Protection Officer on their own; and
    - If the Member Protection Officer does not believe that any of the allegations warrant any form of disciplinary action. (serious allegations will not be mediated, no matter what the complainant desires); and
    - If mediation looks like it will work (i.e. the versions given by the complainant and respondent tally or almost tally).
  3. Mediation will not be recommended if:
    - The respondent has a completely different version of the events and they won't deviate from these; or
    - The complainant or respondent are unwilling to attempt mediation; or
    - The complaint is not suitable for mediation, because it may warrant disciplinary action.
  4. Where mediation is appropriate, the MPO will notify the respondent(s) that the complainant has requested the assistance of a mediator to resolve the complaint.
  5. 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.
  6. At the end of a successful mediation the mediator will prepare a document that sets out the agreement reached between the complainant and respondent(s) and it will be signed by them as their agreement.
  7. If the formal complaint is not resolved by mediation, the complainant may:
    - Make a formal complaint to BAI; or
    - Approach an external agency such as an anti-discrimination commission.
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## **PART D – PROCEDURE FOR MEMBER PROTECTION COMMITTEE**

This part outlines the process for referral and investigation of a member protection complaint.

1. BAI's Board of Directors may appoint a Member Protection Committee, comprising up to three persons, to hear a formal complaint that has been referred to it by the Board. The investigation shall follow the procedures in this part.
2. BAI's Board of Directors may appoint a Member Protection Committee, comprising up to three persons, to investigate any member protection matter which is not a complaint and to report its findings to the Board. The investigation shall follow the procedures in this bylaw to the extent that they are relevant.
3. The CEO will organise for the Member Protection Committee to be convened and provided with a copy of all the relevant correspondence, reports or information relating to the matter under investigation.
4. The Member Protection Committee hearing will be scheduled as soon as practicable, but must still allow adequate time for any person(s) or organization(s) being complained about to respond to the complaint.
5. Where the Member Protection Committee is comprised of three members, at least two of the three members are required to be present throughout the hearing process.
6. The Member Protection Committee will not include any person who has any actual or perceived conflict of interest, preconceived opinions, vested interests or personal involvement relating to the complaint.
7. If a member of the Member Protection Committee cannot continue once the hearing has commenced, and the minimum number required for the hearing is still maintained, the discontinuing member will not be replaced.
8. If the specific or minimum number is not maintained, the discontinuing member will be replaced by direction of the Member Protection Committee Chairperson.
9. The CEO of Boxing Australia will inform the complainant and respondent(s) by written notification that a Member Protection Committee hearing will take place. The written notification will outline:
  - That the complainant has a right to appear at the Member Protection Committee hearing to support their complaint;
  - That the respondent has a right to appear at the Member Protection Committee hearing to defend the complaint/allegation;
  - Details of the complaint, including any relevant rules or regulations they are accused of breaching (if there is more than one complaint these should be set out separately);
  - The date, time and venue of the Member Protection Committee hearing;
  - That they can make either verbal or written submissions to the Member Protection Committee;
  - That they may arrange for witnesses to attend the Member Protection Committee in support of their position;
  - 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.
10. A copy of any information or documents that have been given to the Member Protection Committee will also be provided to the complainant and to the respondent.
11. The respondent(s) will be allowed to participate in all BAI activities and events, pending the decision of the Member Protection Committee, including any available appeal process, unless the Board of Directors believes it is warranted to suspend the respondent(s) from all or any activities and events because of the nature of the complaint.
12. The following people will be allowed to attend the Member Protection Committee hearing:
  - The Member Protection Committee 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.
13. If the respondent(s) is not present at the designated time for the hearing, and the Member Protection Committee Chairperson considers that no valid reason has been presented for their absence, the Member Protection Committee hearing will continue provided the Member Protection Committee Chairperson is satisfied that all Member Protection Committee notification requirements have been carried out correctly.
  14. If the Member Protection Committee Chairperson considers that a valid reason for the non-attendance of the respondent(s) is presented, or that the notification requirements have been carried out correctly, then the Hearing will be rescheduled to a later date.
  15. The Member Protection Committee Chairperson will inform the CEO of any need to reschedule, and the CEO will organise for the Hearing to be reconvened.
  16. The Member Protection Committee Chairperson will read out the complaint that is to be judged, ask the respondent(s) if they understand the complaint being made against them, and if they agree or disagree with the complaint.
  17. If the person agrees with the complaint, they will be asked to provide any evidence or witnesses that should be considered by the Member Protection Committee when determining any disciplinary measures.
  18. If the person disagrees with the complaint, the complainant will be asked to describe the circumstances that lead to the complaint being made.
    - Brief notes may be referred to.
    - The complainant will be allowed to call witnesses.
    - The respondent(s) may be allowed to question the complainant and their witnesses.
  19. The respondent(s) will then be asked to respond to the complaint.
    - Brief notes may be referred to.
    - The respondent will be allowed to call witnesses.
    - The complainant may be allowed to ask questions of the respondent and their witnesses.
  20. Both the complainant and respondent will be allowed to be present when evidence is presented to the Member Protection Committee. Witnesses may be asked to wait outside the Member Protection Committee Hearing until required.
  21. The Member Protection Committee will be allowed to:
    - consider any evidence, and in any form, that it deems relevant.
    - question any person giving evidence.
    - limit the number of witnesses presented if it is agreed by all parties noted that they will support the person who requested them, but will not provide any new evidence.
  22. Video evidence, if available, may be presented. The arrangements must be made entirely by the person/s wishing to offer this type of evidence.
  23. If the Member Protection Committee considers that at any time during the Member Protection Committee hearing that there is any unreasonable or intimidating behaviour from anyone present, the Member Protection Committee Chairperson shall have the power to stop any further involvement of the person in the Member Protection Committee hearing.
  24. After all of the evidence has been presented the Member Protection Committee will make its decision in private.
  25. In relation to a formal complaint, the Member Protection Committee will make a finding that the complaint is substantiated, unsubstantiated, or unable to be determined because of lack of evidence.
  26. The Committee may recommend specific disciplinary or administrative action to the BAI Council.
  27. All decisions made by a Member Protection Committee will be based on a majority vote of its members.

28. Within 48 hours of making its decision, the Member Protection Committee Chairperson will forward to the CEO a copy of the Member Protection Committee decision including any disciplinary penalties recommended.
  29. The CEO will promptly forward a letter to the complainant(s) and respondent(s) confirming the Member Protection Committee's decision and any disciplinary penalties recommended.
  30. Where the Member Protection Committee recommends disciplinary or administrative action, the CEO shall arrange for that recommendation to be placed before the Council for decision in a timely manner.
  31. The Member Protection Committee is empowered to make any order:
    - as to the costs and/or expenses of the Member Protection Committee hearing; and as to the payment of any part or parts of such costs and/or expenses by a party or parties;
    - if a party is ordered by the Member Protection Committee to pay any such costs and/or expenses, the party so ordered will pay the same.
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## **PART E - CODE OF CONDUCT**

### **PURPOSE**

The purpose of this Code of Conduct is to declare the standard of conduct BAI expects of its members, and to declare specific behaviours BAI considers inappropriate and contrary to the interests of the sport, and which may result in disciplinary action.

### **APPLICATION**

All employees, coaches, athletes, officials, representatives, volunteers, and members of BAI and its state/territory member associations are bound by this Code.

### **STANDARDS OF CONDUCT**

BAI expects all members to:

- Be ethical, fair and honest in all their dealings;
- Treat all persons with respect and courtesy and have proper regard for their dignity, rights and obligations;
- Always place the safety and welfare of children above other considerations;
- Comply with BAI's constitution and bylaws including this Bylaw;
- Comply with all relevant federal and state laws, particularly anti-discrimination and child protection laws; and
- Be responsible and accountable for their conduct.

### **INAPPROPRIATE BEHAVIOUR**

This schedule describes behaviours which are not in the best interests of BAI or boxing in general, and which may result in disciplinary penalties.

- Discriminatory or offensive conduct towards or treatment of a person, related to their actual or presumed gender, marital status, pregnancy, parental status, race, age, disability, sexuality, transgender, religion, political belief or industrial activity.
- Sexual relationships between a coach or official and an athlete.
- Inappropriate or abusive behaviour relating to minors.
- Abusing, denigrating, harassing or attempting to intimidate any athlete, coach or official.
- Victimising a person for making a complaint.
- Making a vexatious complaint or one the person knows to be untrue.
- Disputing, criticising or interfering with the decisions of any referee or judge other than by way of a formal protest as provided for in the rules.
- Whilst a member of a state or national team, failing to follow the directions of the Head Coach and Team Manager, or acting in a way that undermines the authority of those officials.
- Creating a public disturbance at any meeting, tournament or event organised or sanctioned by BAI or its state/territory member associations.
- Creating a public disturbance at any time and in any place during an interstate or overseas trip, where the person is a representative of BAI or one of its state/territory member associations.
- Consumption of alcohol or any drug which may impair judgment, by an athlete, coach, referee, timekeeper or other official, on the day of a tournament prior to the conclusion of that person's duties.
- Consumption of alcohol by any member of a BAI team to an overseas destination for the duration of the event including all travel to and from that destination; excepting where the head coach has authorised a limited quantity of alcohol consumption as part of a team social event following the conclusion of the competition.
- Use of, or encouragement to use, banned substances to enhance or inhibit performance.
- Recklessly causing damage to another person's property during the conduct of a tournament or when representing BAI or one of its state/territory member associations.
- Failing to respect the confidentiality of personal information which a person obtains in the course of their duties or activities as an official or coach or athlete.
- Failure to act in accordance with the lawful directions of a BAI Member Protection Committee.
- Any Conduct by a member, whether or not resulting in police charges, considered to be seriously prejudicial to the sport.

## **PART F: CHILD PROTECTION**

### **Part F1: Child Protection: 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 Northern Territory government has passed new law and screening will be compulsory from January 2010. The Australian Capital Territory and Tasmania are currently reviewing their screening laws. New requirements and amendments will be added to this policy as they are introduced.

Please be aware that State and Territory WWCC requirements may also apply to individuals who visit States and Territories with screening laws. For example, if a Member 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 and Territory WWCC requirements apply regardless of our National, State, Territory or club 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 all States/Territories except NSW, which requires completion of a Prohibited Employment Declaration provided by the NSW Commission for Children and Young People)
- our screening requirements for people residing in ACT and Tasmania

## **PART F2: 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. QUEENSLAND**

A person will need a Working with Children Check, also known as the **blue card**, if they propose to work in a paid or voluntary capacity or to carry on a business in a child-related area regulated by the *Commission for Children and Young People and Child Guardian Act 2000*. Once a person is checked and approved they are issued with a "blue card." Volunteers and paid employees employed in sporting organisations generally fall under the 'churches, clubs and associations' category of regulated employment. Volunteers and paid employees employed in private businesses may fall under the 'sport and active recreation' category of regulated employment. The check is a detailed national criminal history check including charges and investigations relating to children.

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

A blue card remains current for two years. Existing card holders will be notified by the Queensland Commission for Children and Young People and Child Guardian before their card expires.

In addition to obligations regarding the blue card, **employers** must develop and implement a written child protection risk management strategy and review it each year.

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

- [www.ccytg.qld.gov.au](http://www.ccytg.qld.gov.au)
- 1800 113 611

### **2. 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:

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

### **3. WESTERN AUSTRALIA**

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

Applicants will be issued with either:

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

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)

### **4. VICTORIA**

The Working with Children (WWC) Check creates a mandatory minimum checking standard across Victoria. The *Working with Children Act 2005* requires that some people who work or volunteer in child-related work require a WWC Check. The check involves a national police records check and a review of relevant findings from prescribed professional disciplinary bodies (currently only the Victorian Institute of Teaching). There is an exemption for volunteers whose own children are involved in the particular activity; however they should still be required to complete the screening process.

A person who has no criminal or professional disciplinary history will be granted an *assessment notice*. This notice will entitle the person to undertake child-related work in Victoria and is valid for five years (unless revoked). A person deemed unsuitable to work or volunteer with children will be given a *negative notice* and cannot work in child-related work in Victoria.

For more information:

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

### **5. 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/childsafes](http://www.families.sa.gov.au/childsafes) or 08 8226 7000

## **6. NORTHERN TERRITORY**

From January 2010, all persons employed in child related work, either paid or as a volunteer, must hold a valid clearance notice issued by the SAFE NT Screening Authority. There are penalties for failure to comply. Sports coaches, trainers, team administrators, officials and volunteers of Sporting Organisations that deal with children are caught.

Clearance notices are valid for two years from date of issue unless revoked, and are transferable within employment fields. As a part of the assessment process, SAFE NT will consider the applicant's criminal history record and other relevant information.

For more information contact 1800 SAFE NT (1800 723 368)

## **7. TASMANIA AND ACT**

This part of attachment F2 sets out the screening process for people in BAI who work, coach, supervise or have regular unsupervised contact with people under the age of 18 years.

BAI will, and will also require Member Associations and clubs to:

1. Identify positions that involve working, coaching, supervising or regular unsupervised contact with people under the age of 18 years.
2. Obtain a completed *Member Protection Declaration* (MPD) (Part F4) from all people who are identified in the above step and keep it in a secure place.
3. Provide an opportunity for a person to give an explanation if a MPD isn't provided or it reveals that the person doesn't satisfactorily meet any of the clauses in the MPD. We will then make an assessment as to whether the person may be unsuitable to work with people under the age of 18 years. If unsatisfied we will not appoint them to the role/position.
4. Where possible, check a person's referees (verbal or written) about his/her suitability for the role.
5. Ask the people identified in step 1 to sign a consent form for a national police check.
6. Possibly request (or ask the person to request) a national 'Part Exclusion' police check from any relevant police jurisdiction. This check excludes irrelevant records. If the police check indicates a relevant offence, we will provide an opportunity for the person to give an explanation, and then we will make an assessment as to whether the person may pose a risk to or be unsuitable to work with people under the age of 18 years. If unsatisfied we will not appoint them to the role/position.
7. Make an assessment as to whether the person may be unsuitable to work with people under the age of 18 years if the person does not agree to a national police check after explaining why it is a requirement under our policy. If unsatisfied, we will not appoint them.
8. Decide whether to offer the person the position taking into account the result of the police check and any other information the club has available to it. Where it is not practical to complete the police check prior to the person commencing in the position, we will complete the check as soon as possible, and if necessary, act immediately on the outcome.
9. Protect the privacy of any person who is checked and maintain confidentiality of any information obtained through the checking process.
10. Return information collected during screening (such as a completed MPD form, police records and referee reports) to the relevant person if that person is not appointed to the position, or otherwise be destroyed within 28 days of the date of the decision or the expiry of any appeal period, unless within that time the person requests that the documents be returned to them. For appointed persons, information will be kept on file in a secure location.

## **PART F3: 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 BAI 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 Member Protection Officer of BAI so that he or she 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 Member Protection Officer will assess the risks and take interim action to ensure the child's/children's safety. Action BAI may implement includes redeployment of the alleged offender to a non-child related position, supervision of the alleged offender or removal/suspension from their duties until the allegations are finally determined. Please be aware it is not the Member Protection Officer's role to undertake action such as redeploying someone and seek legal advice if person is in a paid employment.
- The Member Protection Officer will consider the kind of support that the child/ren and parents may need (e.g. counselling, helplines, support groups).
- The Member Protection Officer will address the support needs of the alleged offender.
- The Member Protection Officer will also put in place measures to protect the child and the person against whom the complaint is made from victimisation and gossip. If the person is stood down, it should be made clear to any persons aware of the incident that this does not mean the respondent is guilty and a proper investigation will be undertaken.

### **Step 4 – Internal action**

- Where there is an allegation made against a person to whom this policy applies, there may be three types of investigations:
  - Criminal (conducted by police)
  - Child protection (conducted by child protection authority)
  - Disciplinary or misconduct (conducted by BAI)
- Irrespective of the findings of the child protection and/or police inquiries, the BAI 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 Member Protection Committee of BAI 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 Part B of this Bylaw will be followed.
- If disciplinary action is taken, BAI 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).

**PART F4: MEMBER PROTECTION DECLARATION**

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BAI has a duty of care to all those associated with the sport at the national level and to the individuals and organisations to whom BAI's Member Protection Policy applies. As a requirement of BAI's Member Protection Policy, BAI 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, acts of violence or procurement or supply of illicit or damaging drugs.
3. I have not had any disciplinary proceedings brought against me by an employer, sporting organisation or similar body involving child abuse, sexual misconduct or harassment, other forms of harassment or acts of violence
4. I am not currently serving a sanction for an anti-doping rule violation under an ASADA approved anti-doping policy applicable to me.
5. I will not participate in, facilitate or encourage any practice prohibited by the World Anti-Doping Agency Code or any other ASADA approved anti-doping policy applicable to me.
6. To my knowledge there is no other matter that BAI may consider to constitute a risk to its members, employees, volunteers, athletes or reputation by engaging me.
7. I will notify the President or CEO 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: .....

